

ORDINANCE NO. 2021 - 5621

AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 2011-4016, AS AMENDED, ESTABLISHING BUSINESS LICENSE, FEES AND REGULATIONS IN THE CITY OF PELL CITY, ALABAMA.

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

SECTION 1. LEVY OF TAX.

Pursuant to § 11-51-90, *et seq.*, *Code of Alabama*, 1975, as amended, entitled "The Municipal Business License Reform Act of 2006," the following is hereby declared to be and is adopted by the City of Pell City, Alabama, as the business license code and schedule of licenses for the City of Pell City. 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 City of Pell City by whatever name called.

SECTION 2. DEFINITIONS.

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

- A. BUSINESS. Any commercial or industrial activity or any enterprise, trade, profession, occupation, or livelihood, including the leasing or rental of residential or non-residential 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 the City.
- B. BUSINESS LICENSE. An annual license issued by the City for the privilege of doing any kind of business, trade, profession, or any other activity in the City, by whatever name called, including the lease or rental of residential or non-residential real estate, whether or not carried on for gain or profit, and whether or not engaged in as a principal or as an independent contract, and 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.
- C. 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.
- D. CITY. The City of Pell City, Alabama.
- E. CONTRACTOR.
  - (1) A **CONTRACTOR** is a person who accepts orders or contracts from the owner of property to assume authority or control, or to supervise, manage, or direct the work of others, or who is delegated authority by the owner to do so, whether at a fixed price or on a cost-plus basis, for doing any work on or in any building or structure or for doing any paving or curbing or for excavating or grading earth, rock, or other material, or for constructing any sewer, street, road, bridge, dam or railroad, or for any other type structure, or for moving any building or other structure from one location to another.
  - (2) A licensed **GENERAL CONTRACTOR** is entitled to perform any and all work, or to hire laborers to perform such work, or to award subcontracts to other Contractors or Sub-contractors for the performance of such part of the work for which the other Contractor or Sub-contractor shall be licensed. A General Contractor must present a valid, current State of Alabama General Contractor License, or facsimile thereof, as evidence of his licensing limits and the scope of work for which he is approved by the Alabama Licensing Board for General

Contractors. Provided that when obtaining a building permit, each general contractor shall furnish to the Building Inspector or City Clerk a statement, in writing, listing the names and addresses of each person or firm with whom he has made or proposes to make a subcontract for the performance of any work which is part of his prime contract with owner or lessee. When sub-contractors are engaged after the initial permit has been received, the general contractor shall immediately report the names of such sub-contractors, in writing to the Building Inspector, or his or her designee.

(3) **A SUB-CONTRACTOR** is a contractor who is licensed to perform one or more types of work for which a contractor's license is required, and who performs such work under subcontract to a General Contractor. A sub-contractor shall, nonetheless, be entitled to perform such work as is authorized by his license under direct contract to the owner of property in which capacity the sub-contractor shall perform the role of contractor; except, however, that he shall be entitled to perform only the type(s) of work authorized by his license and shall not be entitled to perform other types of work for which a contractor's license is required, or to award sub-contracts to other sub-contractors.

F. **DESIGNEE.** An agent or employee of the City authorized to administer or collect, or both, the City's business license taxes, which may include another taxing jurisdiction, the Alabama Department of Revenue, or a "private auditing or collecting firm" as defined in § 40-2A-3, *Code of Alabama*, 1975.

G. **GROSS RECEIPTS.** A 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 and any other revenue which should be included in order to reflect the total gross revenue of the business for the calendar year. Provided, however, that:

(1) **INCLUSIONS.**

- a. A different basis for calculating the business license may be used by a municipality with respect to certain categories of taxpayers as prescribed in § 11-51-90.2, *Code of Alabama*, 1975, as amended.
- b. For a utility or other entity described in Section 11-51-129, *Code of Alabama*, 1975, gross receipts shall be limited to the gross receipts derived from the retained earnings of utility services within the city during the preceding year that are taxed under Section 40-21-3, *Code of Alabama*, 1975, except that nothing herein shall affect any existing contract or agreement between the city and a utility or other entity. The gross receipts derived from the retained earnings of utility services shall not be subject to further business license taxation by the city.
- c. In the case of brokers or agents who are selling goods and services on behalf of a third party, gross revenue shall include only that amount of any commission, fees or emoluments earned by the broker or agent by reason of such sales within the City.
- d. Gains realized from trading in stocks, bonds, capital assets or instruments of indebtedness or securities in the course of conducting a business when such trading is the principal business.
- e. Revenue from interest, rents, royalties, dividends earned or received in the course of conducting a business for which a license fee is required under this ordinance.
- f. The value or equivalent value of any goods or services provided by a business to an owner or lien-holder of the business for which no direct compensation is received by the business.

- g. Any type of compensation paid directly to the employee(s), owner(s), or lienholder(s) of a business which is, in fact, payment for goods or services provided by the business.
- h. In the case of manufacturers or processors in the City where finished products are not sold or consigned from the City but are shipped outside the City to another facility of the same or an associated company for sale or consignment from that facility, gross receipts shall be considered to be the wholesale market value of such goods at the time shipped from the City.
- i. Any other revenue which should be included in order to reflect the total gross revenue of the business for the calendar year.

**(2) EXCLUSIONS.**

- 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 taxes levied pursuant to Section 40-21-3, Code of Alabama, 1975; license taxes levied pursuant to Section 40-21-2, Code of Alabama, 1975; or reimbursements to professional employer organizations of federal, state or local payroll taxes or unemployment insurance contributions; but no other deductions or exclusion from gross receipts shall be allowed except as provided in this article.
- b. Gross receipts shall not include dividends or other distributions received by a corporation, or proceeds from borrowings, 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.
- c. When the reported gross revenue of a business is recorded by a method in which sales returns, deductions are included in the gross revenue figure for the year, the amount of the sales returns, deductions shall be excluded.
- d. When the reported gross revenue of a business includes transfers or exchanges of property made between divisions of the same business, the amount of such exchanges shall be allowed as an exclusion.
- e. When the reported gross revenue of a business includes transfers, exchanges of like goods and like services without profit realization, and when done as an accommodation and courtesy between separate but like business, such exchange shall be excluded from gross revenue provided that such exchanges are common business practice in that particular industry.
- f. The value, amount or equivalent value or amount, of products accepted in trade shall be excluded when such items are to be subsequently sold and only the difference paid by the purchaser shall be considered in arriving at gross revenue. When the traded-in item is sold, however, the amount of the selling price shall be included in arriving at gross revenue.
- g. Gross receipts from the sale or delivery of goods which were obtained from a point outside the City and delivered to a point outside the City and did not pass through the City.
- h. Gross receipts from that portion of business conducted outside the City by a City-based business for which it is shown that a business license was paid to another municipality.

**H. LICENSE FORM.** Any business license application form, renewal reminder notice, business license remittance form, or business license return by whatever name called.

- I. **LICENSE OFFICER OR CITY LICENSE OFFICER.** The city employee charged by the governing body of the City with the primary responsibility of administering the City's license tax and related matters.
- J. **LICENSE YEAR.** The calendar year.
- K. **MANUFACTURER:** Any individual, association, corporation, limited liability company or other entity of any kind who either, directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use any articles, substances, or commodities, including but not limited to the following: All the activities of a commercial nature whether labor or skill is applied by hand or machinery to materials so that as a result thereof a new, different, or useful article of tangible personal property or substance of trade or commerce is produced; the production or fabrication or specialty or custom-made articles; the making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, preserving, canning, preparing and freezing of fresh foods, fruits, vegetables and meats.
- L. **PERSON.** Any individual, association, estate, trust, partnership, limited liability company, corporation, or other entity of any kind, except for any non-profit corporation formed under the laws of Alabama which is operated to enable municipalities that become members of such non-profit 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 municipalities.
- M. **RETAIL; RETAIL SALES; RETAILER.** The sale of goods to a customer, including the sale of goods to another business establishment for its own use and not for resale or for processing or consummation in the manufacture of other goods for sales.
- N. **SERVICES.** The accommodating or performing of a duty or work by a person utilizing time or talents for direct or indirect remuneration.
- O. **TAXING JURISDICTION.** Any City that levies a business license tax or the Department of Revenue acting as agent on behalf of the City pursuant to § 11-51-180, *et seq.*, *Code of Alabama, 1975*, as the context requires.
- P. **TAXPAYER.** Any person subject to or liable under this Ordinance for a business license tax; any person required to file a return with respect to, or pay or remit the business license tax levied under this Ordinance 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 Ordinance, or to keep any records required by this Ordinance.
- Q. **U.S.C.** The applicable title and section of the *United States Code*, as amended from time to time.
- R. **WHOLESALE – WHOLESALE SALES – WHOLESALER.** The sale of goods to licensed retail merchants for resale or the consignment to licensed retail merchants of goods to be sold on commission or the sale of goods to manufacturers, contractors or industrial plants to be consumed in processing, fabrication, or construction of other goods, or the sale of goods to jobbers, dealers, or other wholesale merchants for further resale.
- S. **YARD SALES.** When used in this Ordinance the term “yard sale” shall refer to and include, without limitation, activities commonly known or referred to as yard sales, garage sales, attic sales, rummage sales, or estate sales.
- T. **OTHER TERMS.** Other capitalized or specialized terms used in § 11-51-90, *et seq.*, *Code of Alabama 1975*, shall have the same meanings ascribed to them in § 40-2A-3, *Code of Alabama 1975*, unless the context otherwise requires.

**SECTION 3. BUSINESS LICENSE REQUIRED.**

- A. *Levy of business license.* There is hereby levied on each of the following persons who are within the City's business license jurisdiction, or who engage in activity subject to the City's business license jurisdiction, a business license to be paid in the amount as provided elsewhere in this article:
- (1) Each person engaging in any activity listed or described in the business license classifications and schedule set forth in Sections 30 and 31 of this Ordinance.
  - (2) Each person engaged in any exhibition, trade, business, vocation, occupation, or profession; or
  - (3) Each person engaged in any activity for which *Code of Alabama* 1975, Chapter 51 of Title 11, or any other provision of the *Code of Alabama* 1975, enables the City to levy a business license.
- B. *Purposes of levy.* The levy of business licenses is in the exercise of the police power and for the purpose of raising revenue.
- C. No provision of this Ordinance shall be applied so as to impose any unlawful license or undue burden upon nor to discriminate against the conduct of interstate commerce; not to impose any unlawful license on any Federal or State Agency or activity; nor to violate any provision of the Constitution of the United States or of the Constitution or the Code of the State of Alabama.

**SECTION 4. PRIMA FACIE EVIDENCE OF ENGAGING IN BUSINESS.**

- A. *Indications of business activity.* Each of the following, without limitation, shall constitute prima facie evidence of engaging in business:
- (1) The maintenance of an office or place of business.
  - (2) Advertising, signs, web sites, promotional materials, or similar matters that promote the business.
  - (3) Maintaining books or records indicating business activity.
  - (4) Engaging in any activity which would require that the person obtain a license from the state or any county within which the city is located, or the obtaining of such a license; or the filing of a tax return with the Alabama Department of Revenue or Internal Revenue Service indicating the existence of a business.
  - (5) Engaging in any activity described in the 2002 North American Industrial Classification System.
  - (6) Engaging in any activity for which state law would enable or authorize the city to require a business license.
- B. *List not exclusive.* This section is supplemental to all other provisions of this article. No specific kind of evidence of engaging in business activity shall be required. A business license shall be required as provided in this article regardless of the quality or quantity of evidence.

**SECTION 5. EXEMPTIONS.**

- A. In addition to any other exemptions required to be provided under applicable federal and state laws, or that are otherwise provided for in this Ordinance, the following shall be exempt from the business license requirements of this article:
- (1) *Veteran's exemption.* Any person desiring to claim exemption from or commutation of City licenses as a disabled veteran, veteran of World War II, or

other person eligible for such exemptions or commutation under the laws of the State of Alabama shall file with the City Clerk a duly executed affidavit in form provided by the City Clerk attesting to such eligibility, and/or shall furnish such other proof of eligibility as may be required by the City Clerk.

- (2) *Farmer's exemption.* No City license shall be required of any farm or other individual engaged in the production of farm products for the sale or other disposition of articles produced by him. Any persons desiring to claim exemption from a City license under this provision shall file with the City Clerk a duly executed affidavit in form provided by the City Clerk attesting to such eligibility. In addition, such person shall file with the City Clerk a certificate, in form provided by the City Clerk, signed by a County Agent and certifying that said person is a bona fide grower or producer of the kind of farm products which said person proposes to sell in the City. Upon receipt of the applicant's affidavit and the County Agent's Certificate, the City Clerk shall furnish such person a "Farmer's Permit" at no cost or fee, which Permit shall be kept by the person at all times while selling articles in the City and which shall be exhibited by the person upon the request of any police officer or other authorized enforcement officer of the City. It shall be unlawful and a violation of this Ordinance for any person engaged in the production of farm products to sell in the City such products produced by him without first having obtained the Farmer's Permit prescribed by this Section.
- (3) *Exemption for school booster organizations.* No license shall be required of any bona fide nonprofit school music, academic, or athletic group, group booster, or parents' group when raising money by selling candy, ornaments, donuts, fresh fruit, or gift items, or washing cars, or like activity, where all of the profits from such sales will go to support the school band, math team, athletic team, cheerleaders, or like groups, by purchasing equipment, musical instruments, or uniforms, or to pay for transportation to and from games, tournaments, competitions, or exhibitions. If a retail sale of these items is made, an academic sponsor or parents' group would be responsible to see that any and all sales tax would be collected and paid to the City in accordance with the City's ordinances.
- (4) *Municipal Organizations.* 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 municipalities.
- (5) *Church school or daycare.* This license tax shall not apply to a school, kindergarten, nursery, or daycare facility operated by the state, county, city, or churches or other nonprofit organizations who hold a certificate issued by the Internal Revenue Service under Internal Revenue Code, section 501(a), as an organization described in section 501(c)(3). Provided, however, that this exemption shall not apply to a school, kindergarten, nursery, or daycare facility where students or individuals are regularly housed or boarded overnight.
- (6) *Churches and other religious organizations.* No license shall be required of any church or religious organization for the privilege of gathering and operating a church or religious fellowship in the City. Provided, however, that, except as expressly provided herein, an organization's status as a church or religious organization shall not exempt said organization from the requirement to obtain a business license if it engages in business activity that otherwise would be subject to licensure under this Ordinance.
- (7) *Full-Time Student exemption.* No license shall be required for a business with annual gross sales less than \$15,000.00 that is solely operated by a person enrolled as a full-time student during the calendar year at any public or private primary or secondary school, including homeschooled students. The intent of this exemption is to encourage entrepreneurship in the City's youth and to exempt traditional student business activity, such as cutting lawns and operating lemonade stands. This exemption shall not be used as a subterfuge to allow adults to conduct

businesses in the City without a license under this Ordinance.

- B. Any entity claiming exemption hereunder shall file with the City Clerk a sworn affidavit signed by an authorized representative of the entity. The affidavit shall be on a form provided by the City Clerk and shall contain (i) the name and address of the entity, (ii) whether the entity is a corporation or other form of organization, (iii) if applicable, affirmation that the entity is tax-exempt pursuant to § 501(c)(3), Internal Revenue Code, 1986, as amended, (iv) the designation or classification of its tax-exempt status; (v) the date such exempt status was granted, if applicable; and (vi) 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 the affidavit.
- C. After receipt by the City Clerk of the documents and other information required in Paragraph B and being satisfied that the entity has complied with all requirements of this section, the City Clerk shall furnish the entity a written statement that it is exempt from obtaining a license. Such exemption shall remain in effect for only so long as (i) the entity maintains its exempt status in accordance with this Ordinance. If the exempt status of the entity is revoked or the entity, for any reason, no longer claims such exempt status, the entity shall, within thirty (30) days of the loss of such exempt status, 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 thereof, in which the entity did not have an exemption in accordance with this Ordinance. 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 years.
- D. Any person making any false statement of fact in the affidavit provided for in subsection B above and to whom an exemption has been issued shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than Five Hundred Dollars (\$500.00), and may also, as additional punishment, be sentenced to jail for not more than one hundred eighty (180) days. In such an event any exemption provided under this Ordinance shall be canceled and revoked.
- E. Exemption from licensing under this section does not relieve any person from complying with other applicable City laws or ordinances, including the zoning ordinance and building codes of the City.

## **SECTION 6.            LICENSE APPLICATION PROCESS.**

- A. *Application.* Each taxpayer who is required to purchase a business license shall make application to the City's Department of Revenue utilizing forms provided by the City for that purpose. Such applications shall be sworn to by the taxpayer or its duly authorized agent. Although City staff may assist the person in determining the proper classification for the license and shall have the authority to determine the proper license classification, the taxpayer shall be responsible for obtaining a business license for the proper classification. Where a taxpayer who is already licensed under this article or whose existing business license is under renewal is adding a new line of business which requires licensing under this article, the taxpayer shall be required to make application for the new line of business.
- B. *Contact information.* All taxpayers making application for a business license shall provide sufficient contact information to the City Clerk for the purpose of receiving any notice or other documentation required to be sent to the taxpayer by the City under this chapter. The applicant shall produce a driver's license or other picture identification (VISA, passport and employment authorization card); state license and/or board certification, when applicable; corporate verification from the Alabama Secretary of State; and any other documentation as may be required by the City. This information is used solely for the purpose of determining the correct license code and is retained as strict confidential information.
- C. *Procedure.* Applications shall be processed in accordance with the procedures set forth in Section 7 of this Ordinance. Upon application for a business license, the City Clerk or her

designee shall refer said application to the building inspector and fire marshal for certification that the business will be in compliance with the zoning, building and fire safety codes. No license for a new business will be issued unless and until the building inspector and fire marshal certify that the building or buildings to be occupied by said business are in compliance with the zoning, building and fire safety codes of the City of Pell City.

- D. *Minimum license.* For any business commenced in the City after January 1 of any calendar year and which did not operate any portion of the preceding year, the license fee to be paid for the first year shall be the minimum license prescribed in Section 30 or Section 31, whichever is higher, unless otherwise set by the City Council.

**SECTION 7. PROCEDURE FOR APPROVAL OR DENIAL OF NEW APPLICATIONS.**

- A. *Definition.* For the purposes of this section, the term "suitable for licensing" or "suitability for licensing" means that the application for business licensing includes the applicant, the proposed business to be licensed, its premises, and its operation: (1) is in compliance with all applicable laws, including the zoning laws, building and other technical codes, fire codes, health codes, and this chapter; (2) has met prerequisites required for licensing; and (3) is not found to have a condition to exist which would constitute a basis for action being taken under Section 25 of this Ordinance.
- B. *Code compliance procedure.* Upon submission of a completed application for a business license and prior to the issuance of same, the City Clerk's office is authorized to investigate whether the application is suitable for licensing. Such investigation may include the recommendations of other City departments as to suitability for licensing. Such recommendations may include recommendations for approval, recommendations for disapproval stating the reasons therefor, or recommendations for approval subject to stated conditions being met which make the application suitable for licensing. Upon receipt of the recommendations of applicable departments, the City Clerk is authorized to determine suitability for licensing. The City Clerk shall not determine that an application is suitable for licensing where at least one department has recommended disapproval.
- C. *Disapproval; conditional approval.* If an application for licensing is not approved, the City Clerk's office shall provide written notice to the applicant of the disapproval and the reason for disapproval. If the application is approved with conditions, the applicant shall accept the conditions in writing and, thereafter, the business license shall be issued subject to such conditions, which shall become part of the business license and a violation of such conditions shall constitute a violation of this Ordinance. If the applicant does not accept the conditions, the application shall be disapproved and written notice thereof provided to the applicant.
- D. *Appeal of disapproval.* A person who applied for a business license that has been disapproved may appeal as follows:
- (1) Within thirty (30) days after receipt of the notice of the disapproval, the taxpayer must submit to the City Clerk's office a signed written notice that the disapproval is being appealed.
  - (2) The City Clerk's office shall set an informal administrative hearing before the City Manager or his designee, within thirty (30) days after receipt of the notice of the appeal. Notice of the date, time, and place of the hearing shall be given by the City Clerk's office to the appellant in writing at least fifteen (15) days prior to the hearing. The initial appeal hearing date may be extended by the City Manager or his designee for good cause shown, or by agreement between the City Manager and the appellant. The administrative hearing shall be controlled and conducted by the City Manager or his designee. The participants shall discuss the circumstances giving rise to the action appealed from in good faith and ascertain whether an agreement can be reached to alter, amend, mitigate, or remove the action appealed from. The City Manager or his designee shall have the final decision whether to alter, amend, mitigate, or remove the disapproval or approval with conditions and



shall notify the appellant in writing of his decision within fourteen (14) days after the close of the hearing.

- (3) If the appellant is aggrieved by the decision of the City Manager or his designee, the appellant may appeal the decision to the City Council by filing a written notice of the appeal with the City Clerk's office within fifteen (15) days after receipt of the ruling from the City Manager. The appeal shall be forwarded to the City Council which shall set a hearing thereon. The appellant shall be given at least ten (10) days advance written notice of the date, time, and place for the hearing on the appeal, and the hearing on the appeal shall be conducted by the City Council in the same manner as license revocation hearings under Section 25 of this Ordinance. In the event the appellant fails to appear at the hearing before the City Council, provided due notice has been given thereof, the appellant shall have waived any right it has to contest the action taken.
- (4) At the hearing before the City Council, the appellant shall be given the opportunity to appear personally, or through his counsel, or both, and the City Council shall proceed to hear any evidence which may be presented both for and against the issuance of said license.
- (5) The grounds set forth in Section 25 of this Ordinance for suspension or revocation of a license shall also constitute grounds for denying the issuance of a license.
- (6) Within thirty (30) days after the conclusion of the hearing the City Council shall, by resolution, decide whether to alter, amend, mitigate, or remove the disapproval or approval with conditions. Thereafter, the appellant shall be notified of the Council's decision by providing the appellant with a copy of the resolution. The City Council's decision shall be final, subject to any applicable rights of judicial review provided by state law.
- (7) Where the determination under an appeal is an approval with conditions, the applicant shall accept the conditions in writing and, thereafter, the business license shall be issued subject to such conditions, which shall become part of the business license.

E. *Code compliance not a certification of lawfulness; no cause of action.* The code compliance procedure set forth herein is entirely regulatory in nature as an exercise of the police powers of the City, and for determining whether a license shall be issued. It shall not relieve the taxpayer from compliance with all such laws, codes, ordinances, rules, and regulations. Issuance of a business license shall not constitute a certification, endorsement, finding, representation, warranty, or guarantee by the City or the City Clerk that the taxpayer is conducting a lawful business or is otherwise in compliance with such laws, codes, ordinances, rules, and regulations; or that the taxpayer or its business does not and shall not negatively impact public health, safety, or welfare. The code compliance procedure and the issuance of a business license shall not give rise to any cause of action against the City for any activity by the taxpayer or the taxpayer's business, even if the City erroneously concludes that the taxpayer is in compliance.

**SECTION 8. PURCHASE OF BUSINESS LICENSE; CLASSIFICATION OF TAXPAYERS; BUSINESSES NOT SPECIFICALLY MENTIONED.**

Every taxpayer required to purchase a business license under this ordinance shall:

- A. Purchase a business license for each location at which it does business in the City, except as otherwise provided herein.
- B. Except as provided in § 11-51-193, Code of Alabama 1975, with respect to taxpayers subject to state licensing board oversight, all businesses shall be classified into one or more of the 2002 North American Industrial Classification System (NAICS) sectors and applicable sub-sectors, industry groups, industries, and U.S. industries thereunder which are fully set out in § 11-51-90.2, *Code of Alabama, 1975*, as amended and are hereby adopted and incorporated into this Ordinance by reference.

- C. If any business is not specifically mentioned or provided for by the terms of this Ordinance, the Mayor and/or the City Clerk are authorized to require that a license be obtained for the conduct of such business and to fix the amount of such license. The Mayor and/or City Clerk shall be required, as to all such licenses, to report, in writing, to the City Council at the next meeting thereof as to the action taken.

**SECTION 9. PAYMENT OF LICENSE BY CHECK.**

Whenever a license or license receipt shall be issued in return for payment of the license by check, said license shall not be deemed valid or of any force or effect unless and until said check shall be duly honored and credited to the account of the City. The City Clerk is hereby authorized, at his/her discretion, to refuse to accept payment of license by personal check.

**SECTION 10. COMPLIANCE WITH STATE REQUIREMENTS; PREREQUISITE TO ISSUANCE OF LICENSE.**

- A. No license shall be issued for any business controlled or covered by the provision of § 22-20-5, *Code of Alabama*, 1975, as amended, dealing with public health requirements, except upon presentation, by the license applicant of a health permit issued by the St. Clair County Health Officer for the business.
- B. No license shall be issued for any business controlled or regulated by the Alcoholic Beverage Control of the State of Alabama except upon presentation by the license applicant of a license issued by the ABC Board for the business.
- C. No license shall be issued for any profession licensed by a board and/or agency except upon presentation by the license applicant of a current license by the applicant's particularly board or agency.

**SECTION 11. LICENSE TERMS – 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 herein stated schedules, the minimum annual license shall be \$50.00.
- B. **Half Year.** Every person who commences business on or after July 1<sup>st</sup> shall be subject to and shall pay one-half (1/2) the annual license for such business for that calendar year.
- C. **Issuance Fee.** For each license issued there shall be an issuance fee collected of Twelve Dollars (\$12.00) and said issuance fee shall be collected in the same manner as the license tax. The issuance fee shall be reviewed and increased every five (5) years by the Department of Revenue as prescribed in § 11-51-90(a)(2), *Code of Alabama*, 1975, as amended.
- D. **Annual Renewal.** Except as provided in subsections D(i) or (ii), the business license shall be renewed annually on or before the 31<sup>st</sup> 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 § 11-51-122, *Code of Alabama*, 1975, as amended, which provides 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 receiving 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.

- (iii) On or before December 31<sup>st</sup> 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 City. Licensees are required to furnish the City any address changes for their business prior to December 1<sup>st</sup> in order for them to receive their notice.
- (iv) Business license renewal payments received by the City shall be applied to the current renewal only when any and all other debts the licensee owes to the City 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.
- (v) With each renewal the taxpayer or applicant shall produce a State License and/or Board Certification, and a State of Alabama Registration of Certification, when applicable, of business operatives or employees; a current Driver License or photo identification (or copy) and any other documentation as may be required by the City of Pell City Revenue Department.

E. ***Non-Profit License Fee.*** Notwithstanding any other provision of this Ordinance to the contrary, the total license fee required for any entity that is recognized by the United States Internal Revenue Service as a tax-exempt, non-profit organization pursuant to § 501(c)(3), Internal Revenue Code, 1986, as amended, shall be the license issuance fee as prescribed by this Ordinance.

## **SECTION 12. 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 the business is carried on, and the license to be issued shall designate such place. Such license shall authorize the carrying on of such business only at the place designated.
- B. Every person 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, unless otherwise specified herein.
- C. A business conducted at more than one location in the City shall be considered a separate business for each such location, and a separate license shall be paid for each location, except at otherwise provided.
- D. Nothing herein shall be construed as exempting any business from payment of a license on the basis of lack of physical location.

## **SECTION 13. MULTIPLE LICENSES REQUIRED.**

A. Any person or other entity engaged in two or more businesses for which a license is required by this Ordinance shall pay a separate license for each business in which engaged except as otherwise provided.

B. In the event a business is conducted at more than one location in the City, each such location shall be considered a separate business under the provisions of this Ordinance, and a separate license shall be paid for each such location except as otherwise provided.

## **SECTION 14. COMPUTATION OF LICENSE.**

Wherever in this Ordinance it is specified that the amount of the license, or any part thereof, is to be computed upon the basis of gross receipts of the business, the gross receipts referred to shall be those of the business for the year next preceding the current license year, unless the

taxpayer first began doing business in the City during the current license year, in which event the gross receipts shall be projected by the taxpayer for the remaining portion of the current license year. If the taxpayer's actual gross receipts for the short license year are either more or less than projected, the taxpayer's annualized gross receipts used in calculating its business license tax liability for the following license year shall be increased or decreased, respectively, by the amount of the difference. Provided, further, that if said taxpayer did not operate the entire preceding year, the gross receipts used to compute the license for the renewal year shall be the prorated annual gross receipts for the preceding year determined as follows:

- A. Actual gross receipts for the period of operation during preceding year divided by the number of full months that the business operated during the preceding year multiplied by twelve (12) months.
- B. A taxpayer 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 herein. To establish a bona fide branch office, the taxpayer must provide proof of all the following criteria:
  - (i) The taxpayer must provide proof of the continuing existence of an actual facility located outside the corporate limits of the City of Pell City 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 15.        REFUNDS OF OVERPAYMENTS.**

A. Any taxpayer may file a petition for refund with the City for any overpayment of business license tax erroneously paid to the City. If a final assessment for the tax has been entered by the City, 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 (2) years from the date of payment of the subject business license tax.

C. The City shall either grant or deny a petition for refund within six (6) months from the date the petition is filed unless the period is extended by written agreement of the taxpayer and the City. The taxpayer shall be notified of the City'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 City 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 City or a court otherwise determines that a refund is due, the overpayment shall be promptly refunded to the taxpayer by the City, together with interest to the extent provided in § 11-51-92, *Code of Alabama*, 1975, as amended. Provided, however, if

the City determines that a refund is due, the amount of overpayment plus any interest due thereon may first be credited against any outstanding tax liabilities due and owing by the taxpayer, and the balance of any overpayment shall be promptly refunded to the taxpayer. In the event a refund or any part thereof is credited to any other tax, 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 St. Clair County, at Pell City. Said notice of appeal must be filed within two (2) years from the date the petition was denied. The circuit court shall have the appeal according to its own rules and procedures and shall determine the correct amount of refund due, if any.

**SECTION 16. RESTRICTIONS ON TRANSFER OF LICENSE; REFUND NOT ALLOWED.**

No license shall be transferred, except with the consent of the City Council, or the Director of Finance, or other Supervisor of Revenue, or his/her designee. No license shall be transferred to reflect a physical change of address of the taxpayer within the City 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, i.e., 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 Ordinance unless:

- (1) The changes require the taxpayer to obtain a new federal employer identification number or Department of Revenue taxpayer identification number, or
- (2) In the discretion of the City, the subject license is one for the sale of alcoholic beverages.

No license or portion thereof paid to the City and properly due the City, when paid, shall be refunded to a licensee.

**SECTION 17. LICENSE MUST BE POSTED.**

All persons shall publicly exhibit and display the license certificate issued to them by posting 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 City upon request. Any transient or non-resident person, firm or corporation doing business within the City shall carry such license either upon his person or in any vehicle or other conveyance which is used in such business, and such person shall exhibit the same to any police officer or other designated authorized agent of the City upon request.

**SECTION 18. UNLAWFUL TO DO BUSINESS WITHOUT A LICENSE; CITATION AUTHORIZED.**

A. It shall be unlawful for any person, taxpayer, or agent of a person or taxpayer to engage in business or vocation in the City for which a license is required without first having procured a license. A violation of this Section shall be punishable by a fine not to exceed the sum of Five Hundred Dollars (\$500.00) 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.

B. The City Clerk and/or the City Compliance Officer is hereby authorized to issue a citation to compel the appearance of a person before the Municipal Judge to show cause, if any, why a license has not been paid as follows:

- (1) When a business continues in operation on and after January 1<sup>st</sup> without having first paid the license fee, and there is good and sufficient reason to indicate that the business may continue in operation for at least sixty (60) days thereafter;

- (2) When a business continues in operation after sixty (60) days without having paid the license due; and
- (3) When a business commences operation without first having paid the required fee to obtain a license.

**SECTION 19. PENALTIES AND INTEREST.**

A. All licenses not paid within thirty (30) days from the due date shall be increased by fifteen percent (15%) for the first thirty (30) days, or fraction thereof, of delinquency; and shall be increased by an additional fifteen percent (15%) for a delinquency of sixty (60) or more days. But this provision shall not be deemed to authorize a delay of thirty (30) days in the payment of the license due and may be enforced immediately.

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 percent (15%) for the first fifteen (15) days of delinquency and shall be increased by an additional fifteen percent (15%) 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 percent (1%) per month.

**SECTION 20. LIEN FOR NON-PAYMENT OF LICENSE TAX.**

The City shall have a lien for such license on all property, both real and personal, used in the business, which lien shall attach as of the date when the license is due in accordance with § 11-51-44, *Code of Alabama*, 1975, as amended.

**SECTION 21. DUTY TO PERMIT INSPECTION/AUDIT AND PRODUCE RECORDS.**

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

- A. Permit the authorized representative or designee of the City to enter the business and to inspect all portions of the place or places of business for the purposes of enabling said City 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 City 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/she 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 Incomes Tax returns.
- C. It shall be the duty of any person holding a license from the City to secure, preserve, maintain and keep for a period of three (3) years the records and documents enumerated and referred to herein.

**SECTION 22. DUTY TO FILE REPORT.**

It shall be the duty of every person subject to a license tax to render to the City as sworn statement on such forms as may be required 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 tax to which he/she is subject.

**SECTION 23.           PRELIMINARY ASSESSMENTS BY CITY ON INCORRECT REPORTS; PETITION FOR REVIEW; APPEAL.**

A.     If the City determines that the amount of business license tax reported on or remitted with any business license remittance form is incorrect, or 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 City 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.

B.     The City 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 City, deliver the preliminary assessment to the taxpayer by personal delivery.

C.     If the amount of business license tax remitted by the taxpayer is undisputed by the City, or if the taxpayer consents to the amount of any deficiency or preliminary assessment in writing, the City shall enter a final assessment for the amount of the tax due, plus any applicable penalty and interest.

D.     (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 thirty (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 City to present their respective positions, discuss any omission 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 sixty (60) days following the conference and consistent with the procedures set forth herein, and shall promptly, upon issuance, mail or deliver same to the taxpayer.

(2)    If the taxpayer disagrees with the license officer's findings of fact and law, the taxpayer may appeal to the City Council by filing a notice of appeal with the City Clerk within thirty (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 facts 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 City Council, 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 that Five Hundred Dollars (\$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 24.           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 city 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 city governing body on a day named not less than twenty (20) days from the date of note 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 City, such assessment shall be made final in the amount originally fixed, or in such other amount as is determined by the City to be correct. If upon such hearing the City 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 sent via 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 City shall be *prima facie* correct upon any appeal.

**SECTION 25. PROCEDURE FOR REVOCATION OR SUSPENSION OF LICENSE.**

A. *Basis for action.* Any lawful license issued to any person to conduct any business shall be subject to revocation or suspension by the City Council after notice and hearing for any of the following reasons:

- (1) The violation by the taxpayer, its agent, servant, or employee of any provision of this Ordinance or of any ordinance of the City, or any federal or state law, rule, or regulation, relating to the license, business, business premises, or business activity, to which the license pertains, including, but not limited to, those violations occurring under color of such license or those violations occurring, in whole or in part, at any place where the licensed business is carried on.
- (2) If the taxpayer, its agent, servant, or employee, violates or aids or abets in violating or knowingly permits or suffers to be violated any criminal ordinance of the City or any federal or state criminal law on the licensed premises, or under color of license.
- (3) If any application, affidavit, return, statement, or other document filed by or on behalf of the taxpayer under this chapter contains false, deceptive, or misleading information or an omission of a material fact.
- (4) If the taxpayer, its agent, servant, or employee operates the business for which such license is issued in such a manner as to be detrimental to the public health, safety or welfare or so as to constitute a nuisance, or has done so within the twelve months preceding the issuance of notice for the revocation hearing provided in subsection (C) below.
- (5) If the taxpayer fails or has failed to pay within the time prescribed by law any business license or tax liability for which a final assessment has been entered, if one is required to be entered under this chapter, and for which all direct appeals have been exhausted or the time to appeal has expired, or for which the taxpayer is required to pay as the result of a conviction for which no further direct appeal is available, or any other liability due and owing to the City after any applicable process for judicial or administrative review has been concluded or has expired.
- (6) The taxpayer fails to meet any qualification, criteria, or credentialing standard under federal, state, or municipal law required in order to engage in the kind of business to which the license relates.
- (7) The taxpayer or its principal has been convicted of a felony within the past five years that is related to activity that tends to show that licensing of the business in question would place the health, safety, or welfare of the general public at risk.
- (8) Any other reason provided or allowed by law or rule.

B. *Non-renewal.* The conditions set forth hereinabove as grounds for suspension or revocation of a license shall also constitute grounds for refusing to renew a license by the City Clerk. In the case of non-renewal, the taxpayer may appeal the City Clerk's decision to the City Council by filing a written notice of appeal with the City Clerk's office within 15 days after receipt



of the notice of non-renewal. Upon receipt of the notice of appeal the City Clerk shall petition the City Council to set a hearing thereon in accordance with subsection (C) of this section.

C. *Process.*

- (1) The City Council, upon petition by the City Clerk, shall set a hearing on the matter of revoking, suspending, or refusing to renew a license. Notice of the hearing and grounds for the revocation, suspension, or non-renewal of the license shall be in writing and served on the taxpayer at least ten (10) calendar days prior to the hearing.
- (2) At such hearing, the taxpayer shall have the right to present evidence, the right to introduce witnesses, and the right to be represented by an attorney. The public hearing shall be recorded or transcribed for the purpose of maintaining a reasonably accurate record of the proceedings. Provided, however, the City Council shall not be required to follow rules of evidence or procedure unless specifically required by law or ordinance.
- (3) The taxpayer may elect, at any time prior to the hearing, to waive in writing the taxpayer's right to a hearing and concede the basis for action being taken against the license; in which case the City Council may proceed to take action against the license in accordance with this section. In the event the taxpayer fails to appear at the hearing, provided due notice has been given thereof, the taxpayer shall have waived any right it has to contest the basis for action being taken against the license.

D. *Council action.* Within 30 days following the close of the hearing contemplated by subsection (C) of this section the City Council shall, by resolution, take appropriate action in the matter. The City Council's decision shall be final, subject to any applicable rights of judicial review provided by state law.

E. *Notice of action.* A copy of the City Council's resolution shall be mailed to the taxpayer in the same manner as the notice of the hearing.

F. *Unlawful to violate action.* It shall be unlawful for any person to violate the terms of the revocation, suspension, or non-renewal as set forth in the resolution of the City Council.

G. *Injunction.* As an additional or alternative remedy, the City may institute injunctive proceedings in a court of competent jurisdiction against the taxpayer.

**SECTION 26. SMALL VENDOR LICENSE.**

The City shall establish a Small Vendor Business License which shall not exceed one percent (1%) of the taxpayer's gross receipts derived from within the City for the preceding license year. A "Small Vendor" shall be defined as a taxpayer that meets all the following criteria:

- A. The taxpayer purchased a business license from the City with respect to the preceding license year and made a sale or provided services within the City during each calendar quarter of the preceding license year.
- B. The taxpayer's gross receipts derived from within the City for the preceding license year did not exceed Fifteen Thousand Dollars (\$15,000.00).
- C. The taxpayer did not qualify for the special delivery license provided by § 11-51-194, *Code of Alabama*, 1975, as amended.

**SECTION 27. ROADSIDE VENDORS; DOOR-TO-DOOR SALES; SPECIAL EVENT VENDORS.**

A. *Roadside Vendors.* In addition to all other laws, ordinances, rules, and regulations, the following provisions shall apply to each person who has no permanent place of business in the City, such as an office or storefront, but who engages or conducts business in the City at a stand or roadside tent or structure during the limited periods allowed by this Ordinance ("Roadside Vendors"), excluding, however, persons engaged in Door-to-Door Sales and Special Event Vendors, as further defined in this Section, and Mobile Food Vendors and Seasonal Vendors, as

defined in Section 28 of this Ordinance.

- (1) All Roadside Vendors shall be required to obtain a business license before commencing business or solicitation.
- (2) The business license for a Roadside Vendor shall be limited to allow the person to conduct business only during the weeks of the NASCAR races held at the Talladega Superspeedway. For the weeks of the NASCAR races, the week shall begin on the Sunday prior to the race and shall end on the Sunday on which the race is held. Roadside Vendors shall not be allowed to conduct business in the City during any other periods.
- (3) Each Roadside Vendor shall pay a license fee in the amount of \$200.00 per week for the weeks of the NASCAR races, plus issuance fee.

B. *Door-to-Door Sales.* In addition to all other laws, ordinances, rules, and regulations, the following provisions shall apply to each person who has no permanent place of business in the City, such as an office or storefront, but who engages or conducts business in the City by traveling from place to place conducting door-to-door sales and solicitations (“Door-to-Door Sales”), excluding, however, Roadside Vendors and Special Event Vendors, as further defined in this Section, and Mobile Food Vendors and Seasonal Vendors, as defined in Section 28 of this Ordinance.

- (1) A person engaged in Door-to-Door Sales shall be required to obtain a business license before commencing business or solicitation.
- (2) The business license for a person engaged in Door-to-Door Sales shall allow sales for not more than 90 days during the calendar year. A person engaged in Door-to-Door Sales shall not be allowed to conduct business in the City during any other periods.
- (3) A person engaged in Door-to-Door Sales shall pay a license fee in the amount of \$270.00 per year, plus issuance fee.
- (4) A person engaged in Door-to-Door Sales must comply immediately when asked or instructed by a property owner or resident thereof to leave private property. Complaints submitted to the City by residents may result in the cancellation of the business license by the City, as well as serve as a valid basis for the City to refuse future license renewals.

C. *Special Event Vendors.* In addition to all other laws, ordinances, rules, and regulations, the following provisions shall apply to each person who has no permanent place of business in the City, such as an office or storefront, but who engages or conducts business in the City, either in one locality or by traveling from place to place, during special events recognized by resolution of the City Council (“Special Events”) as set forth herein (“Special Event Vendors”), excluding, however, Roadside Vendors and persons engaged in Door-to-Door Sales, as further defined in this Section, and Mobile Food Vendors and Seasonal Vendors, as defined in Section 28 of this Ordinance.

- (1) All Special Event Vendors shall be required to obtain a business license before commencing business or solicitation.
- (2) All Special Event Vendors shall be required to obtain a separate license for each Special Event, except as provided for by the special Chamber of Commerce license fee set forth herein.
- (3) The license fee for Special Event Vendors operating pursuant to this section shall be \$20.00 per day, \$40.00 per week, or \$80.00 per month, plus issuance fee, provided, however, that there shall be a special Chamber license fee, which shall allow Special Event Vendors operating pursuant to this section to participate in all special events sponsored by the Greater Pell City Chamber of Commerce and recognized by the City Council during a calendar year for a single charge of \$20.00

per year, plus issuance fee. The City Council shall recognize the special events that qualify for the special Chamber license fee by resolution.

D. All Roadside Vendors, persons engaged in Door-to-Door Sales, and Special Event Vendors (collectively for the remainder of this Section, "Vendors") shall comply with the following additional requirements:

- (1) *Permission.* Vendors must have written permission from the appropriate property owner(s) or lessee(s) to sell or solicit sales from private property or from the front of such property (but shall not include the right-of-way) and shall provide a copy of such written permission to the City at the time of making application for a business license.
- (2) *Hours of Operation.* Roadside Vendors and Special Event Vendors shall be permitted to sell or solicit sales Monday through Saturday between the hours of 9:00 a.m. and 8:00 p.m. and Sundays between the hours of 12:00 noon and 6:00 p.m. Provided, however, that Door-to-Door Sales shall only be conducted Monday through Friday between the hours of 9:00 a.m. and 4:30 p.m.
- (3) *Sales Tax Bond Required.* For the purpose of securing the payment of any tax, penalties, or interest due or which may become due, each Roadside Vendor, person engaged in Door-to-Door Sales, and Special Event Vendor under this section shall, before soliciting or making any sale in the City, file a cash bond with the City Clerk in the amount of \$300.00 conditioned upon the payment of any taxes, penalties, or interest due on such sales, unless exempted from said bond requirement as detailed in this section. Said bond shall be effective for a period of one year from date of issuance. Said bond, together with the application for the license, shall be filed with the City Clerk or the Clerk's designee. The cash bond shall accrue no interest. Upon proper reporting and remittance of taxes due and verification by the City Clerk, the cash bond shall be refunded upon written request by the Vendor.
- (4) *Forfeiture of Sales Tax Bond.* If any Roadside Vendor, person engaged in Door-to-Door Sales, or Special Event Vendor fails (i) to make a report of sales, (ii) remit taxes, penalties or interest due, or (iii) perform any other duty or obligations required by the City, the cash sales tax bond posted by said Vendor shall be forfeited to the City, following written notice to said Vendor at the address provided by said Vendor in connection with its license application.
- (5) *Reporting and Remitting Sales Taxes.* Vendors 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 the Vendor's solicitation or by the 20th of each month, whichever occurs first. Penalties will apply for late filing or late remittance. Vendors may use paper filing or ONESPOT.
- (6) *Waiver of Bond.* The City Council shall have the power to waive the sales tax bond required by this Section for Special Events that are recognized by Resolution of the City Council, as provided herein. A "Special Event" is a one-time or infrequently occurring event, generally lasting from a few hours to several days, that is open to the public at large, which provides significant benefit to the City by promoting the City, providing an opportunity for social interaction, or promoting the health, safety and/or general welfare of the citizens of Pell City. If the City Council waives the bond required by this Section for a Special Event, the sponsor of the Special Event is obligated to notify each Special Event Vendor participating in said event pursuant to a license issued under this Ordinance of its obligations under the City's Sales Tax ordinance. A form notice can be obtained from the City Clerk for this purpose. Any Special Event Vendor who fails to report or remit sales tax to the City within seven (7) days from the close of the Special Event shall be disqualified from obtaining a business license in the City.
- (7) *Right to Deny or Revoke Business License.* In addition to the provisions of Section 25 of this Ordinance, the failure on the part of any Roadside Vendor, person engaged in Door-to-Door Sales, or Special Event Vendor to comply with the provisions of this or other applicable City ordinances, state and federal laws or promulgated rules and

regulations shall be considered sufficient cause for the City to refuse or withhold the granting of any license, or to revoke the same, if granted.

- (8) *Goods, Wares, Stands, etc. on Streets or Sidewalks.* It shall be unlawful for any any Roadside Vendor, person engaged in Door-to-Door Sales, or Special Event Vendor to establish or keep or maintain any articles, wares or both, fruit stand or other stand for any business that projects into or covers or rests on any street or sidewalk of the City, or that retards the free passage of persons or vehicles upon or over the streets or sidewalks or any part thereof.

E. Notwithstanding anything herein to the contrary, the provisions of this Section shall not apply to any person classified as a Mobile Food Vendor or Seasonal Vendor in accordance with Section 28 of this Ordinance.

## **SECTION 28. MOBILE FOOD VENDORS AND SEASONAL VENDORS.**

A. *Mobile Food Vendors.* In addition to all other laws, ordinances, rules, and regulations, the following provisions shall apply to each person who engages in the business of mobile food vending, which is defined as a seller of foods from a mobile food preparation van, cart or other conveyance, whether upon the public streets, alleys or public property or on private property (for purposes of this Section “Mobile Food Vendor”).

- (1) All Mobile Food Vendors shall obtain an annual business license from the City. Licenses shall be issued for the period on one (1) year beginning January 1 and ending December 31 of each year. This license shall be posted in a visible location on the mobile food unit.
- (2) Written permission from the property owner for each location must be obtained and posted along with the business license on the mobile food unit.
- (3) Mobile food units shall not operate within any public right-of-way. Mobile food units shall not operate on City-owned property, including any City park, without explicit approval from the City. This excludes special events recognized by resolution of the City Council.
- (4) A Mobile Food Vendor must be in compliance with all local, state and federal regulations including any required permits from the City of Pell City, the Alabama Department of Public Health and the St. Clair County Health Department.
- (5) Mobile food units are limited to the following zoning districts: B-3 (Heavy Business District), M-1 (Light Manufacturing District) and M-2 (Heavy Manufacturing District).
- (6) Mobile food units shall not operate within one hundred fifty (150) feet of the main entrance of the nearest restaurant during the restaurant’s posted hours of operation.
- (7) Mobile food units shall not operate within one hundred fifty (150) feet of one another, unless specifically authorized for a special event.
- (8) Mobile food units are limited to a maximum of three (3) days of consecutive operation at a single location, and may not operate for more than three (3) total days within any seven (7) day period at a single location. Only one mobile food unit is allowed per parcel unless authorized for a special event.
- (9) Mobile food units shall not occupy parking spaces required to fulfill the minimum requirements of the principal use, unless the hours of operation of the principal use do not coincide with those of the mobile food unit.
- (10) Food may be served for on-site consumption. However, all seating must be located within fifteen (15) feet of the mobile unit.
- (11) All mobile food units shall be removed daily to their designated commissary.

- (12) All mobile food unit operators are responsible for the proper disposal of waste and trash associated with the operation. City trash receptacles shall not be used for this purpose. Operators shall remove all waste and trash prior to leaving each location or as needed to maintain the health and safety of the public.
- (13) All associated equipment, including trash receptacles and signage, must be within three (3) feet of the mobile food unit. Trash receptacles must be located to the rear of the unit. Signage will be limited to the sign on the unit (maximum size of 5' x 4') and one (1) portable sign (maximum size of 3' x 2' of display area per side).
- (14) *Forms Required.* In addition to the City's approved business license forms, all Mobile Food Vendors must submit the following information with their business license application:
  - a. Mobile Food Vendor Application
  - b. Declaration of Citizenship
  - c. Current food permit
  - d. Valid driver's license or other approved photo identification
  - e. Written permission from the property owner

B. *Seasonal Vendors.* In addition to all other laws, ordinances, rules, and regulations, the following provisions shall apply to each person who engages or conducts business in the City on a seasonal basis, such as a Christmas Tree vendor or a vendor who engages in the sale of fruits, vegetables, ice cream, or other seasonal items in the City at a roadside stand and who does not qualify for the Farmer's exemption set forth in Section 5 of this Ordinance (for purposes of this Section – "Seasonal Vendor").

- (1) All Seasonal Vendors shall obtain a business license from the City. Licenses shall be issued for a period not to exceed five (5) months in a calendar year beginning January 1 and ending December 31 of each year. This license shall be posted in a visible location on the structure.
- (2) Written permission from the property owner for each location must be obtained and posted along with the business license on the structure.
- (3) Seasonal Vendors shall not operate within any public right-of-way. Seasonal vendors shall not operate on City-owned property, including any City park, without explicit approval from the City of Pell City. This excludes special events recognized by resolution of the City Council.
- (4) Seasonal Vendors must be in compliance with all local, state and federal regulations including any required permits from the City of Pell City, the Alabama Department of Public Health and the St. Clair County Health Department.
- (5) Seasonal Vendors are limited to the following zoning districts: B-2 (General Business District), B-3 (Heavy Business District), M-1 (Light Manufacturing District) and M-2 (Heavy Manufacturing District).
- (6) Seasonal Vendors shall not operate within one hundred fifty (150) feet of one another, unless specifically authorized for a special event. Only one Seasonal Vendor is allowed per parcel unless authorized for a special event by resolution of the City Council.
- (7) Seasonal Vendors shall not occupy parking spaces required to fulfill the minimum requirements of the principal use, unless the hours of operation of the principal use do not coincide with those of the Seasonal Vendor.
- (8) All Seasonal Vendors are responsible for the proper disposal of waste and trash associated with the operation. City trash receptacles shall not be used for this purpose. Seasonal Vendors shall remove all waste and trash prior to leaving each location or as needed to maintain the health and safety of the public.

- (9) All associated equipment, including trash receptacles, must be within three (3) feet of the structure. Trash receptacles must be located to the rear of the structure.
- (10) Any seating associated with the Seasonal Vendor's operation must be located within fifteen (15) feet of the roadside stand.
- (11) Each Seasonal Vendor shall be allowed one (1) sign with a maximum size of 5' x 4'. Sign must be attached to structure.
- (12) *Forms Required.* In addition to the City's approved business license forms, all Seasonal Vendors must submit the following information with their business license application:
  - a. Seasonal Vendor Application
  - b. Declaration of Citizenship
  - c. Current food permit (if required by the ADPH)
  - d. Valid driver's license or other approved photo identification
  - e. Written permission from the property owner

C. *Sales Tax.* All Mobile Food Vendors and Seasonal Vendors must post a cash sales tax bond in the amount of \$300.00 and must file monthly sales tax reports and remit taxes due by the 20th of each month. Penalties will apply for late filing or late remittance. Mobile Food Vendors and Seasonal Vendors may use paper filing or ONESPOT. Non-compliance with tax regulations will result in immediate cease and desist order. When permanently ceasing business, the tax bond will be refunded if all taxes have been remitted appropriately.

D. *License Fees.* All Mobile Food Vendors and Seasonal Vendors shall pay a license fee as provided in Schedule N of Section 31 of this Ordinance, plus issuance fee.

E. *Denial, Suspension, or Revocation of License.* All provisions of this Ordinance concerning the approval, denial, suspension, or revocation of a business license shall apply to a license to operate as a Mobile Food Vendor or a Seasonal Vendor.

## **SECTION 29. DELIVERY LICENSE.**

A. In lieu of any other type of license, a taxpayer may at its option purchase a delivery license of One Hundred Dollars (\$100.00), plus the issuance fee, for the privilege of delivering its merchandise in the City provided the taxpayer meets all of the following criteria:

- (1) Other than deliveries, the taxpayer has no other physical presence within the City;
- (2) The taxpayer conducts no other business in the City 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 the City, 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 (\$75,000.00) 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; and
- (6) If at any time during the current license year the taxpayer fails to meet any of the above stated criteria, then within ten (10) days after any of said

criteria has 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 City 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 Dollars (\$75,000.00) limitation described in the preceding paragraph A if the taxpayer also during the same license year sells and delivers into the City 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 years.

E. The purchase of a delivery license shall not, in and of itself, establish nexus between the taxpayer and the City for purposes of the taxes levied by or under the authority of Title 40, *Code of Alabama*, 1975, 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 City.

**SECTION 30. LICENSE CLASSIFICATIONS.**

<b>2002 NAICS TITLES AND BUSINESS DESCRIPTION SCHEDULE</b>		
<b>Code</b>	<b>Business</b>	<b>Schedule</b>
111	<b>Farming</b> - agriculture, crop production, nursery, fruit, growers	Exempt § 11-51-105
112	<b>Animals</b> - dairy, cattle, ranching, sheep, chickens, poultry	Exempt § 11-51-105
113	<b>Forestry</b> - logging, forestry, timber track operations, timber management	Exempt
114	<b>Fishing &amp; Hunting</b> - hunting and trapping, finfish, shellfish, supplies	Exempt
115	<b>Agriculture Support</b> - cotton gins, farm management, post-harvest activities	Exempt
211	<b>Oil &amp; Gas Extraction</b> - natural gas liquid extraction, crude extraction	To be classified as needed
212	<b>Mining</b> - (except for oil & gas) all related mining activities	To be classified as needed
213	<b>Mining Support Services</b> - for oil & gas mining activities, oil/gas wells	To be classified as needed
221	<b>Utilities</b> - electric power, light co., natural gas distribution - state regulated	§ 11-51-129 3% of gross receipts
236	<b>Construction of Buildings</b> - Commercial buildings, residential, subdivision	J
237	<b>Heavy &amp; Civil Engineer Construction</b> - highway, bridge, street, water, sewer	J
238		J

	<b>Contractors (Specialty Trade) – plumbing, heating &amp; air conditioning, etc.</b>	
311	<b>Food Mfg. – meat, seafood, grain, fruit, dairy, animal, poultry processing</b>	F
312	<b>Beverage &amp; Tobacco Product Manufacturing</b>	F
313	<b>Textile Mills – fabric, yarn, carpet, canvas, rope, twine, fabric mills</b>	F
314	<b>Textile Product Mills – mill operations not covered in 313 (rugs, linen, curtains)</b>	F
315	<b>Apparel Mfg. – women, men, children, hosiery, outerwear accessories</b>	F
316	<b>Leather Mfg. – shoes, luggage, handbag, related products, footwear</b>	F
321	<b>Wood Product Mfg. – sawmills, wood preservation, veneer, trusses, millwork</b>	F
322	<b>Paper Mfg. – pulp, paper, and converted products, stationary, tubes, cores</b>	F
323	<b>Printing – screen, quick, digital, books, lithographic, handbills, etc.</b>	F
324	<b>Petroleum &amp; Coal Mfg. – asphalt, grease, roofing, paving products</b>	F
325	<b>Chemical Mfg. – fertilizer, wood, pesticide, paint, soap, resin, plastic</b>	F
326	<b>Plastic &amp; Rubber Mfg. – tires, pipe, hoses, belts, bottles, sheet, wrap, film</b>	F
327	<b>Non-metallic Mfg. – glass, cement, lime, pottery, ceramic, brick, tile</b>	F
331	<b>Primary Metal Mfg. – iron, steel, aluminum, wire, copper, foundries</b>	F
332	<b>Metal Fabrication – cutlery, structural, ornamental, machine shops</b>	F
333	<b>Machinery Mfg. – office machinery, industrial, engines, farm, HVAC</b>	F
334	<b>Computer &amp; Electronic Mfg. – audio, video, circuit boards, peripherals</b>	F
335	<b>Appliance Mfg. – small appliance, lighting, freezer</b>	F
336	<b>Transportation Mfg. – mfg. auto, truck, trailer, motor home, boat, ships</b>	F
337	<b>Furniture Mfg. – cabinets, office, household, beds, medical, kitchen</b>	F



339	Miscellaneous Mfg. – specialty mfg. not defined in separate categories	F
423	Wholesale Trade (Durable) – vehicle, machinery, equipment, furniture	D
424	Wholesale Trade – non-durable goods, wholesale gasoline distributor, etc.	E
425	Electronic Markets and Agents and Brokers	H
441	Motor Vehicle & Parts Dealers – auto, motorcycles, boats, parts and accessories	A
441	Motor Vehicles – new and/or used automobiles, motorcycles, boats, etc., dealerships and lots	B
442	Furniture – furniture, home furnishings, stores, floor coverings, window, etc.	A
443	Electronic & Appliance Store – household, radio, television, computers	A
444	Building Materials & Garden Supply Store - hardware, paint, home center	A
445	Food & Beverage Stores – grocery, convenience store, markets, specialty food	C
446	Health & Personal Care Stores – drug, pharmacy, cosmetic, optical, health food	A
447	Gasoline Retail – sell gasoline with or without convenience store	C
448	Clothing & Accessories – men, women, children, infant, shoe, jewelry	A
451	Sporting Goods, Hobby, Book & Music Stores – toy, fish, gun, books, games	A
452	General Merchandise Stores – department, warehouse clubs, superstores	A
453	Miscellaneous Retailers – florist, gift, novelty, pet, art, tobacco, and yard sales.	A
454	Non-Store Retailers – vending machine operators, direct selling, mail-order	A Plus: Vending machines dispensing drinks, foods, etc. for human consumption \$2.50 per machine
481	Air Transportation – airline tickets, shipping, freight, charter service	G
482	Rail Transportation – transportation, ticket offices, state regulated	§11-51-124(g)
483	Water Transportation – coastal, freight forwarders, inland, passenger	To be classified as needed

484	<b>Truck Transportation</b> – local, long-distance, freight, moving & storage (includes terminals)	§37-3-33
485	<b>Transit &amp; Ground Passenger Transportation</b> – charter, vehicle transit services	H
486	<b>Pipeline Transportation</b> - crude oil, natural gas, refined petroleum product	To be classified as needed
487	<b>Scenic &amp; Sightseeing Transportation</b> – land, air, water, special transportation	H
488	<b>Support Activities for Transportation</b>	G
491	<b>Postal Service</b>	Exempt
492	<b>Couriers &amp; Messengers</b> – courier & messenger services, local delivery service	G
493	<b>Warehousing &amp; Storage</b> – distribution, household, refrigerated, special	G
511	<b>Publishing Industries</b> – newspaper, book, periodical, databases, software	A
512	<b>Motion Pictures &amp; Sound Recording Industries</b> – drive-ins, broadcasting,	H
515	<b>Broadcasting</b> – radio, television, except internet	H
516	<b>Internet Publishing and Broadcasting</b>	To be classified as needed
517	<b>Telecommunications</b> – wired, wireless, resellers, local	Regulated § 11-51-128
518	<b>ISPs, Search Portals &amp; Data Processing</b> – all types of information services	To be classified as needed
519	<b>Other Information Services</b>	To be classified as needed
521	<b>Monetary Authorities</b> – central bank main office (not branch location or ATM)	§11-51-130 - §11-51-131
522	<b>Credit Intermediation and related activities</b>	G
522	<b>Commercial/Savings Bank &amp; Loans</b>	L §11-51-130 - §11-51-131 L plus \$10.00 per branch
523	<b>Securities, Commodity Contracts, Investments</b>	H
524	<b>Insurance Carriers &amp; related activities</b>	§11-51-120 through §11-51-123
525	<b>Funds, Trusts, Other Financial Vehicles</b> – agency accounts, investments	H
531	<b>Real Estate</b> – offices, agents, brokers, management, appraisers, lessors of real estate, lessors of residential or nonresidential buildings	I (Real Estate Brokers, Agents, and Appraisers) O (Lessors of Commercial and Industrial Real Property) P (Lessors of Residential Real Property, Property managers, and other activities related to real estate) §34-27-30.1

		Trailer Parks Rental - P plus: 20 spaces or less - \$60.00 21 to 40 spaces - \$90.00 Over 40 spaces - \$120.00
532	Rental & Leasing Services – auto, truck, trailer, RV, all tangible property	A
541	Professional & Technical Services – individual and/or firm professionals	I
551	Management of Companies & Enterprises	I
561	Administrative & Waste Services – support services	G
562	Waste Management & Remediation Services – companies, trucks, septic tanks, and solid waste collection	G
611	Educational Services – technical, computer, sports, services, business, training	H
621	Ambulatory Health Care Services – medical, individual or firm (professional)	I
622	Hospitals – surgical, substance abuse, psychiatric, general care, special	I
623	Nursing Care & Residential Care Facility – day care, assisted living	H
624	Social Assistance – shelters, vocational, child care, abuse, emergency	H
711	Performing Arts and Sports – dance, musical, teams, tracks, promoters, agents	H Rodeo, Corral, Livestock Arena - \$1,200.00 Flat Fee
712	Museums – museums and historical sites, zoos, botanical gardens, parks	H
713	Amusement, Recreation and Music Machines – gambling, arcades, juke box, casinos, marinas, fitness	H <ul style="list-style-type: none"> <li>• Vending/Amusement equipment dispensing no merchandise-video, pinball games – \$500.00 per machine</li> <li>• Vending/Amusement equipment dispensing merchandise - \$100.00 per machine</li> <li>• Music/vending equipment (juke box) - \$25.00 per machine</li> <li>• Bowling Alley/Bowling Ctr. - \$25.00 per lane</li> </ul>

721	Accommodations – hotels, motels and similar facilities, boarding houses	H Plus \$2.00 per bedroom
722	Food Service & Drinking Places – restaurant, club, lounge, bar, etc.	A Plus K
811	Repairs and Maintenance – auto, paint/body, carwash, other vehicular	G
812	Personal & Laundry Services – hair, skin, barber, beautician, diet, nail	I Plus \$2.50 per machine
812	Fortune Teller/Clairvoyant – individual reader license	\$2,500 min.
813	Membership Associations & Organizations	M
814	Private Households	Exempt
921	Executive, Legislative & General Government	Exempt
922	Justice, Public Order & Safety Activities	Exempt
925	Community & Housing Program Administration	Exempt
926	Administration of Economic Programs	Exempt
927	Space Research & Technology	Exempt
928	National Security & International Affairs	Exempt
999	Unclassified Miscellaneous Business – services not elsewhere classified	G
999	Unclassified Misc. Personal Service – services not elsewhere classified	H

**SECTION 31. LICENSE FEE SCHEDULE.**

**A. CLASS 1. RETAIL SALES, GENERAL AND OTHER SPECIFIED BUSINESSES.** Annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business of as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$500,000 or less	1/10 of 1% of gross receipts
\$500,001 to \$3,000,000	\$500.00 plus 1/20 of 1% of gross receipts in excess \$500,000
\$3,000,001 to \$5,000,000	\$1,249.00 plus 1/30 of 1% of gross receipts in excess of \$3,000,000
All over \$5,000,000	\$2,250.00 plus 1/50 of 1% of gross receipts in excess of \$5,000,000
Provided that the minimum license shall be \$50.00	

**EXCEPTION:** Persons conducting Yard Sales, as defined in this ordinance, shall be exempted from the above-stated license fee schedule and shall pay a flat permit fee as provided below if:

- (a) The yard sale is to be conducted by the applicant and members of the applicant's immediate household only.
- (b) Items to be offered for sale are (i) the legal property of the applicant or members of applicant's immediate household, (ii) surplus to his or their needs, and (iii) do not include any items purchased by or consigned to the applicant or members of applicant's immediate household for sale or resale.
- (c) Applicant for a yard sale must show a valid driver's license stating the correct property address to city limit residences (Pell City) where they reside or show current utilities in the Pell City - city limits. If the yard sale is being held at a location other than the applicant's city limits premises, written permission is needed from the owner.
- (d) The proposed sale shall be conducted for not more than three (3) consecutive days.
- (e) No more than three (3) yard sales have been conducted by the applicant or any member of applicant's immediate family during the twelve (12) month period immediately preceding the date of application.
- (f) Sales shall not be held on or within the rights-of-way of the city streets or federal, state or county roads within the corporate limits of the City.
- (g) Off road parking is available to minimize the danger of injury to persons or property and to prevent blockage of the free flow of traffic.
- (h) Directional signs shall not be placed within the public rights of way or upon utility poles or street sign posts and any permitted sign shall be removed not later than 9:00 p.m. on the evening of the last day of the yard sale.
- (i) A "Neighborhood Garage Sale" is conducted by two or more families at the same location if the applicant and all other participants meet the conditions set forth in (a) – (d) above.
- (j) A rummage sale is conducted by a religious, charitable, civic or service organization for the sale of goods donated to the organization for such sale when the sale shall be conducted for not more than three (3) consecutive days and when no more than three (3) other such sales have been conducted by the organization during the twelve (12) month period immediately preceding the date of application.

Provided further that any such sale exempt from the requirements of the license fee schedule under the conditions stated above shall, for the purpose of regulation only, require a license or permit for which application shall be made to the Finance Director and, upon the verification of the conditions heretofore stated, the license or permit shall be issued in exchange for a permit fee of Five Dollars (\$5.00).

**B. CLASS 2. RETAIL SALES - AUTOMOBILE.** The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$1,000,000 or less	1/10 of 1% of gross receipts
\$1,000,001 to \$10,000,000	\$1,000.00 plus 1/100 of 1% of gross receipts in excess of \$1,000,000
All over \$10,000,000	\$1,900.00 plus 1/200 of 1% of gross receipts in excess of \$10,000,000
Provided that the minimum license shall be \$300.00	

**C. CLASS 3. RETAIL SALES - SERVICE STATION.** The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$100,000 or less	1/16 of 1% of gross receipts
\$100,001 to \$300,000	\$62.50 plus 1/20 of 1% of gross receipts in excess of \$100,000
\$300,001 to \$400,000	\$162.50 plus 1/25 of 1% of gross receipts in excess of \$300,000

All over \$400,000	\$202.50 plus 1/30 of 1% of gross receipts in excess of \$400,000
Provided that the minimum license shall be \$50.00 unless otherwise provided	

**D. CLASS 4. WHOLESALE SALES - GENERAL.** The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$50,000 or less	1/5 of 1% of gross receipts
\$50,001 to \$100,000	\$100.00 plus 1/8 of 1% of gross receipts in excess of \$50,000
\$100,001 to \$300,000	\$162.50 plus 1/10 of 1% of gross receipts in excess of \$100,000
\$300,001 to \$500,000	\$362.50 plus 1/15 of 1% of gross receipts in excess of \$300,000
All over \$500,000	\$495.83 plus 1/20 of 1% of gross receipts in excess of \$500,000
Provided that the minimum license shall be \$150.00	

**E. CLASS 5. WHOLESALE SALES – PETROLEUM PRODUCTS.** The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$40,000 or less	1/5 of 1% of gross receipts
\$40,001 to \$100,000	\$80.00 plus 1/8 of 1% of gross receipts in excess of \$40,000
\$100,001 to \$300,000	\$155.00 plus 1/10 of 1% of gross receipts in excess of \$100,000
\$300,001 to \$500,000	\$335.00 plus 1/15 of 1% of gross receipts in excess of \$300,000
\$500,001 to \$1,000,000	\$488.33 plus 1/20 of 1% of gross receipts in excess of \$500,000
All over \$1,000,000	\$738.33 plus 1/25 of 1% of gross receipts in excess of \$1,000,000
Provided that the minimum license shall be \$250.00	

Provided further that this license shall be required of each person making or causing to be made deliveries of gasoline and other petroleum products to a tank or station for retail sale within the City whether or not the same person owns and/or operates, either in whole or in part, both the wholesale and retail business.

**F. CLASS 6. MANUFACTURER, ASSEMBLER, PROCESSOR.** The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$100,000 or less	\$250.00 minimum
\$100,000 to \$399,999	\$250.00 plus .0015 of gross receipts in excess of \$100,000
\$400,000 to \$999,999	\$700.00 plus .0010 of gross receipts in excess of \$400,000

\$1,000,000 to \$4,999,999	\$1,300.00 plus .0005 of gross receipts in excess of \$1,000,000
5,000,000 to \$9,999,999	\$3,300.00 plus .0004 of gross receipts in excess of \$5,000,000
\$10,000,000 to \$19,999,999	\$5,300.00 plus .0003 of gross receipts in excess of \$10,000,000
\$20,000,000 to \$39,999,999	\$8,300.00 plus .0002 of gross receipts in excess of \$20,000,000
\$40,000,000 to \$79,999,999	\$12,300.00 plus .0001 of gross receipts in excess of \$40,000,000
All \$80,000,000 and over	\$16,300.00 plus .00005 of gross receipts in excess of \$80,000,000
Provided that the minimum license shall be \$250.00	

**G. CLASS 7. BUSINESS SERVICES.** The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$20,000 or less	¼ of 1% of gross receipts
\$20,001 to \$50,000	\$50.00 plus 1/5 of 1% of gross receipts in excess of \$20,000
\$50,001 to \$100,000	\$110.00 plus 1/8 of 1% of gross receipts in excess of \$50,000
\$100,001 to \$300,000	\$162.50 plus 1/10 of 1% of gross receipts in excess of \$100,000
All over \$300,000	\$362.50 plus 1/15 of 1% of gross receipts in excess of \$300,000
Provided that the minimum license shall be \$50.00 unless otherwise provided	

**H. CLASS 8. PERSONAL SERVICES.** The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$15,000 or less	1/3 of 1% of gross receipts
\$15,001 to \$50,000	\$50.00 plus 1/4 of 1% of gross receipts in excess of \$15,000
\$50,001 to \$100,000	\$137.50 plus 1/5 of 1% of gross receipts in excess of \$50,000
\$100,001 to \$500,000	\$237.50 plus 1/6 of 1% of gross receipts in excess of \$100,000
\$500,001 to \$3,500,000	\$737.50 plus 1/7 of 1% of gross receipts in excess of \$500,000
\$3,500,001 to \$5,000,000	\$1,237.50 plus 1/8 of 1% of gross receipts in excess of \$3,500,000
All over \$5,000,000	\$1,937.50 plus 1/9 of 1% of gross receipts in excess of \$5,000,000
Provided that the minimum license shall be \$50.00	

**I. CLASS 9. PROFESSIONAL SERVICES.** The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>

\$50,000 or less	1% of gross receipts
\$50,001 to \$300,000	\$500.00 plus 1/50 of 1% of gross receipts in excess \$50,000
\$300,001 to \$1,000,000	\$550.00 plus 1/75 of 1% of gross receipts in excess of \$300,000
All over \$1,000,000	\$640.00 plus 1/100 of 1% of gross receipts in excess of \$1,000,000
Provided that the minimum license shall be \$100.00	

Each person, partnership, firm, professional corporation, professional association, or similar entity engaged in any professions, including, without limitation, accountancy, architecture landscape, architecture, law, chemistry, chiropody, chiropractic medicine, dentistry, engineering, medicine, metallurgy, ophthalmology, optometry, orthodontics, osteopathy, physical therapy, neuromuscular therapy, psychiatry, psychology, real estate broker or agent, real estate appraiser, cosmetologist, tattoo/body art or any similar profession licensed and regulated as such by the State of Alabama, shall pay a license fee based on gross receipts, as provided in this schedule.

**J. CLASS 10 & 11. CONTRACTORS AND SUBCONTRACTORS.** Each person engaged in the business of accepting orders, contracts or subcontracts for erecting, enlarging, improving, relocating any building or structure shall pay a license fee based on annual gross receipts as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$200,000 or less	\$200.00
\$200,001 to \$500,000	\$200.00 plus 1/25 of 1% of gross receipts in excess \$200,000
\$500,001 to \$1,000,000	\$320.00 plus 1/30 of 1% of gross receipts in excess of \$500,000
All over \$1,000,000	\$486.67 plus 1/50 of 1% of gross receipts in excess of \$1,000,000
Provided that the minimum license shall be \$200.00	

Each person engaged in the business of constructing houses or buildings for resale, whether on contract or otherwise, or who maintains an office in the City in connection with such construction within or outside of the City shall pay the license fee as provided in this schedule.

All general contractors shall, upon request, furnish the building inspector or license inspector or their duly authorized representative with a full and complete list showing the names, addresses and license numbers of all subcontractors to whom work has been contracted. The general contractor shall not allow any work to proceed by any subcontractor until such subcontractor has exhibited to him his current city privilege license for the work to be performed.

All contractors (general and subcontractors) shall upon request furnish the building inspector or license inspector or his duly authorized representative a signed copy of the contract or any other document necessary, authorizing the contractor to begin the construction project for which a permit is being purchased, reflecting the total gross amount of the construction project. The total gross amount reflected in the project shall be used at the beginning of a license year as a current projection of the gross receipts from the construction project for the purposes of issuing a new license to a contractor or subcontractor that does not have a license based on past gross receipts. Thereafter, said newly licensed contractor or subcontractor shall remit any additional privilege license due and payable under this Ordinance upon completion of additional construction projects during the applicable license year and no later than the end of the license year.

No permits for work of any type for which a license is required according to this Ordinance shall be issued to a contractor, subcontractor, owner or any authorized agency by the building inspection department until all privilege license taxes have been paid. Building permit fees as



required by other City ordinances are not in lieu of the business license fees required by the provisions of this Ordinance.

**K. CLASS 12. ALCOHOLIC BEVERAGE SALES.** Provided State ABC License is presented.

**Beer Wholesaler License.** Each person licensed by the board as a beer wholesaler pursuant to § 28-3A-9, *Code of Alabama*, 1975, as amended, shall pay an annual license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama.

**Wine Wholesaler License.** Each person licensed by the board as a wine wholesaler pursuant to § 28-3A-9, *Code of Alabama*, 1975, as amended, shall pay an annual license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama.

**Beer and Wine Wholesaler License.** Each person licensed as a beer and wine wholesaler pursuant to § 28-3A-9, *Code of Alabama*, 1975, as amended, shall pay an annual license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama.

**Restaurant Retail Liquor License.** Each person licensed by the board to sell alcoholic beverages in connection with the operation of a hotel or restaurant pursuant to § 28-3A-13, *Code of Alabama*, 1975, as amended, shall pay an annual license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama plus an amount equal to five (5%) percent of all liquor purchased from ABC outlets in accordance with the provisions of Ordinance No. 83-621. The fee shall be payable monthly and the payments for each month shall be due and payable on the 20<sup>th</sup> day of the succeeding month in accordance with the provisions of Ordinance No. 83-621.

**Retail Table Wine License for Off-Premises Consumption.** Each person licensed by the board to sell table wine at retail for off-premises consumption pursuant to § 28-3A-15, *Code of Alabama*, 1975, as amended, shall pay an annual license fee in an amount equal to one-half (1/2) of the license fee paid to the State of Alabama.

**Retail Table Wine License for On-Premises and/or Off-Premises Consumption.** Each person licensed by the board to sell table wine at retail for on-premises and off-premises consumption pursuant to § 28-3A-14, *Code of Alabama*, 1975, as amended, shall pay an annual license fee of Seventy-five Dollars (\$75.00).

**Retail Beer License for On-Premises and/or Off-Premises Consumption.** Each person licensed by the Board to sell beer for on-premises and off-premises consumption pursuant to § 28-3A-16, *Code of Alabama*, 1975, as amended, shall pay an annual license fee of Seventy-five Dollars (\$75.00).

**Retail Beer License for Off-Premises Consumption.** Each person licensed by the board to sell beer for off-premises consumption under § 28-3A-17, *Code of Alabama*, 1975, as amended, shall pay an annual license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama.

**Special Events Retail License.** Each person licensed by the ABC board under a special events license to sell at retail and dispense liquor, wine, table wine and beer, or any of such beverages, shall pay a license fee in an amount equal to one-half (1/2) of the license fee paid to the State of Alabama plus an amount equal to five (5%) percent of all liquor purchased from ABC outlets in accordance with the provisions of Ordinance No. 83-621. The fee shall be payable monthly and the payments for each month shall be due and payable on the 20<sup>th</sup> day of the succeeding month in accordance with the provisions of Ordinance No. 83-621.

**Special Events Retail License for Non-Profit Organizations.** Provided an entity presents an Alabama Beverage Control Board license and is recognized by the United States Internal Revenue Service as a tax-exempt, non-profit organization pursuant to § 501(c)(3), *Internal Revenue Code*, 1986, as amended, each such person, organization, or corporation licensed by the board under a special events license to sell at retail and dispense liquor, wine, table wine and beer, or any of such beverages, shall pay a license fee in the amount of Five Dollars (\$5.00) plus an amount equal to five (5%) percent of all liquor purchased from ABC outlets in accordance with the provisions of

Ordinance No. 83-621. The fee shall be payable monthly and the payments for each month shall be due and payable on the 20<sup>th</sup> day of the succeeding month in accordance with the provisions of Ordinance No. 83-621.

**Lounge Retail Liquor License – Class 1.** Each person licensed by the board for a Class 1 lounge retail license to sell at retail alcoholic beverages for both on-premises and off-premises consumption shall pay a license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama plus an amount equal to five (5%) percent on all liquor purchased from ABC outlets in accordance with the provisions of Ordinance No. 83-621. The fee shall be payable monthly and the payments for each month shall be due and payable on the 20<sup>th</sup> day of the succeeding month in accordance with the provisions of Ordinance No. 83-621.

**Lounge Retail Liquor License – Class 2.** Each person licensed by the board for a Class 2 lounge retail license to sell at retail alcoholic beverages for off-premises consumption only shall pay a license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama plus an amount equal to five (5%) percent on all liquor purchased from ABC outlets in accordance with the provisions of Ordinance No. 83-621. The fee shall be payable monthly and the payments for each month shall be due and payable on the 20<sup>th</sup> day of the succeeding month in accordance with the provisions of Ordinance No. 83-621.

**L. CLASS 13. COMMERCIAL/SAVINGS BANKING & LOANS**

State Regulated *Code of Alabama*, 1975 §11-51-130 for Bank §11-51-131 for Savings

LESS THAN \$50,000.....	\$10.00
\$50,001 - \$100,000.....	\$20.00
\$100,001 - \$150,000.....	\$30.00
\$150,001 - \$200,000.....	\$40.00
\$200,001 - \$250,000.....	\$50.00
\$300,001 - \$350,000.....	\$60.00
\$350,001 - \$400,000.....	\$70.00
\$400,001 - \$450,000.....	\$80.00
\$450,001 - \$500,000.....	\$90.00
\$500,001 - \$550,000.....	\$100.00
\$550,001 - \$600,000.....	\$110.00
ALL OVER \$600,000.....	\$125.00

**M. CLASS 14. MEMBERSHIP ASSOCIATIONS & ORGANIZATIONS**

Exempt - Businesses under this schedule are exempt from licensing by state law. This schedule is used as a business tracking mechanism and requires an application for owner and emergency information.

**N. CLASS 15. MOBILE FOOD VENDORS & SEASONAL VENDORS.**

Each Mobile Food Vendor and Seasonal Vendor as set forth in Section 28 of this Ordinance shall pay a license fee based on annual gross receipts as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$15,000 or less	\$150.00
\$15,001.00 to \$30,000	\$150.00 plus 1/4 of 1% of gross receipts in excess of \$15,000
\$30,001 to \$50,000	\$162.50 plus 1/5 of 1% of gross receipts in excess of \$30,000
\$50,001 to \$75,000	\$237.50 plus 1/6 of 1% of gross receipts in excess of \$50,000
\$75,001 to \$100,000	\$362.50 plus 1/7 of 1% of gross receipts in excess of \$75,000
All over \$100,000	\$495.83 plus 1/8 of 1% of gross receipts in excess of \$100,000

Provided that the minimum license shall be \$150.00	
---	--

**O. CLASS 16. RENTAL OF COMMERCIAL AND INDUSTRIAL REAL PROPERTY.** Each person engaged in the business of renting or leasing commercial or industrial real property shall provide to the City a list of properties rented or leased and shall pay a license tax based on gross receipts as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$50,000 or less	1% of gross receipts
\$50,001 to \$300,000	\$500.00 plus 1/50 of 1% of gross receipts in excess \$50,000
\$300,001 to \$1,000,000	\$550.00 plus 1/75 of 1% of gross receipts in excess of \$300,000
All over \$1,000,000	\$640.00 plus 1/100 of 1% of gross receipts in excess of \$1,000,000

**P. CLASS 17. RENTAL OF RESIDENTIAL REAL PROPERTY.** Each person engaged in the business of renting or leasing residential real property shall provide to the City a list of properties rented or leased and shall pay a license tax based on gross receipts as follows:

<b>GROSS RECEIPTS CALCULATIONS</b>	
<b>Gross Receipts</b>	<b>Amt. of License Fee</b>
\$10,000 or less	Exempt
All over \$10,000	1% of gross receipts

Provided, however, that each person engaged in the business of trailer park rental and categorized in NAICS codes beginning with 531 shall pay a license fee as provided in this schedule, plus a fee of \$60.00, for 20 spaces or less, \$90.00, for 21 to 40 spaces, and \$120.00, for over 40 spaces.

Notwithstanding anything herein to the contrary, any person receiving less than \$10,000.00 annually in rent from the rental of residential real estate shall not be considered as engaged in the business of renting and/or leasing and shall be exempt from this license fee. This exemption shall not apply to the rental or leasing of commercial real estate.

**SECTION 32. GROSS RECEIPTS – CONFIDENTIALITY/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 city attorney, person(s) either employed by or contracted by the City to audit the books of the City or said taxpayer, 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 by 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 written request through the Mayor’s office. It shall be unlawful for any person to violate the provisions of this section.

**SECTION 33.           EXCHANGE OF INFORMATION.**

A. The license officer may exchange tax returns, information, records, and other documents secured by the City, 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 §§ 40-23-25, 40-23-82, or 40-12-224, *Code of Alabama*, 1975, as amended.

**SECTION 34.           UNLAWFUL TO OBSTRUCT.**

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

**SECTION 35.           RULES AND REGULATIONS AUTHORIZED.**

The City Clerk is hereby empowered to promulgate such reasonable rules, regulations and forms as may be necessary and appropriate for the administration and enforcement of this ordinance, provided that such rules, regulations and forms are not inconsistent with this ordinance or with other laws of the City, the State of Alabama, or the United States. Such rules, regulations and forms so promulgated shall be binding upon all licensees and upon all city employees.

**SECTION 36.           CIVIL PENALTIES.**

In addition to the remedies provided by § 11-51-150, *et seq.*, *Code of Alabama*, 1975, as amended, the continued or recurrent performance of any act or acts within the corporate limits 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 City, as an additional or alternative remedy, may institute injunctive proceedings in a court of competent jurisdiction to abate the same.

**SECTION 37.           CRIMINAL PENALTIES.**

Any person found guilty of violating any of the provision 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 not exceeding six (6) months. Each day's operation without having first paid the required license of any business, occupation, trade, vocation or profession indicated which is named, defined or designated in this ordinance shall constitute a separate offense.

**SECTION 38. 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 ordinance 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 39. 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, such ruling shall not affect any other paragraphs and sections since the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 40. REPEAL ORDINANCES IN CONFLICT.**

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

**SECTION 41. EFFECTIVE DATE.** After adoption and publication by posting as required by § 11-45-8, *Code of Alabama*, 1975, this Ordinance shall become effective on January 1, 2021.

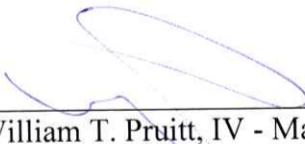
**ADOPTED AND APPROVED** this the 13th day of December, 2021.

  
\_\_\_\_\_  
W. Judge Alverson - Council President

ATTEST:

  
\_\_\_\_\_  
Sheree D. Pruitt - City Clerk

**APPROVED** this 13th day of December, 2021.

  
\_\_\_\_\_  
William T. Pruitt, IV - Mayor

ATTEST:

  
\_\_\_\_\_  
Sheree D. Pruitt - City Clerk

## CERTIFICATION

I, Sheree D. Pruitt, Clerk of the City of Pell City, hereby certify that the above Ordinance was duly adopted by the City Council of the City of Pell City at a regular meeting held on the 13<sup>th</sup> day of December, 2021, and that the same has been published by posting in accordance with §11-45-8, Ala. Code 1975, by posting a copy of the Ordinance in three public places within the municipality, one of which was the Mayor's office in the City, on this the 13<sup>th</sup> day of December, 2021. I further certify and confirm that the City shall take reasonable steps to maintain the posting for not less than 30 days. In addition, the City shall include a copy of this Ordinance on its website for 30 days.

  
City Clerk