

Ordinance Number 2008-01

**BUSINESS LICENSE CODE OF THE
TOWN OF BAKRHILL, ALABAMA
FOR THE YEAR 2008 AND FOR EACH SUBSEQUENT YEAR**

SCHEDULE OF LICENSES AND FEES

BE IT ORDAINED BY THE TOWN COUNCIL OF BAKERHILL, ALBAMA, as follows:

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SECTION 1. Levy of Tax.

Pursuant to the *Code of Alabama*, the following is hereby declared to be and is adopted as the business license code and schedule for the Town of Bakerhill for the period beginning March 3, 2008, and for each subsequent calendar year thereafter. There is hereby levied and assessed a business license fee for the privilege of doing any kind of business, trade, profession, or other activity in the Town of Bakerhill, or the police jurisdiction thereof, by whatever name called.

SECTION 2. Definitions.

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

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

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

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

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

[5] DESIGNEE. An agent or employee of the municipality authorized to collect, or both the municipality's business license taxes, which may include another taxing jurisdiction, the

Department of Revenue, or a "private auditing or collecting firm" as defined in Section 40-2A-3 of the *Code of Alabama*.

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

- (a) Gross receipts shall include any of the following taxes collected by the business on behalf of any taxing jurisdiction or the federal government: All taxes which are imposed on the ultimate consumer, collected by the taxpayer and remitted by or on behalf of the taxpayer to the taxing authority, whether state, local or federal, including utility gross receipts levied pursuant to Article 3, Chapter 21, Title 40; or reimbursements to professional employer organizations of federal, state or local payroll taxes or unemployment insurance contributions; but no other deductions or exclusions from gross receipts shall be allowed except as provided in this article.
- (b) A different basis for calculating the business license may be used by the Town of Bakerhill with respect to certain categories of taxpayers as prescribed in Section 11-51-90B.
- (c) For a utility or other entity described in Section 11-51-129, gross receipts shall be limited to the gross receipts derived from the retail furnishing of utility services within the Town of Bakerhill during the preceding year that are taxed under Article 3 of Chapter 21 of Title 40, except that nothing herein shall affect any existing contract or agreement between the Town of Bakerhill and a utility or other entity. The gross receipts derived from furnishing of utility services shall not be subject to further business license taxation by the Town of Bakerhill.
- (d) Gross receipts shall not include dividends or other distributions received by a corporation, or proceeds from borrowing, the sale of capital asset, the repayment of the principal portion of a loan, the issuance of stock or other equity investments, or capital contributions, or the undistributed earnings of subsidiary entities.

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

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

[9] LICENSE YEAR. The calendar year.

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

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

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

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

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

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

SECTION 3. License term; minimums.

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

- (a) *Full Year*. Every person who commences business before the first day of July shall be subject to and shall pay the annual license for such business in full. Unless otherwise specified in the enclosed schedules, the minimum annual license shall be \$50.00.
- (b) *Half Year*. Every person who commences business on or after July 1st, shall be subject to and shall pay one-half (1/2) the annual license for such business for that calendar year.
- (c) *Issue Fee*. For each license issued there shall be an issue fee collected of ten dollars (\$10.00) and said issue fee shall be collected in the same manner as the license tax.
- (d) *Annual Renewal*. Except as provided in subsections (i) and (ii), the business license shall be renewed annually and are due on the 1st 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 Town of Bakerhill from time to time, the due date shall automatically be extended until the next business day.
 - (ii) Insurance company annual license renewals shall be renewed in accordance with Section 11-51-122 of the *Code of Alabama* which states that each year each insurance company shall furnish the municipality a statement in writing duly certified showing the full and true amount of gross premiums received during the preceding year and shall accompany such statement with the amount of license tax due according to the licensing schedule. Failure to furnish such statement or to pay such sum shall subject the company and its agents to those penalties as prescribed for doing business without a license as provided for in the municipal code.

(iii) On or before December 1st 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 U.S. mail to the licensee's last known address of record with the Town of Bakerhill. Licensees are required to furnish the Town of Bakerhill any address changes prior to December 1st in order for them to receive their notice.

(iv) Business license renewal payments received by the Town of Bakerhill shall be applied to the current renewal only when any and other debts the licensee owes to the Town of Bakerhill are first paid in full. No business license shall be issued if the current renewal payment does not meet said prior obligations and the current renewal. Failure to pay such sums shall subject the licensee and its agents to those penalties as prescribed for doing business without a license provided for in the municipal code.

SECTION 4. License shall be location specific.

- (a) For each place at which any business is carried on, a separate license shall be paid, and any person desiring to engage in any business for which a license is required shall designate the place at which business is carried on, and the license to be issued shall designate such place, and such license shall authorize the carrying on of such business only at the place designated.
- (b) Every person dealing in two or more of the articles, or engaging in two or more of the businesses, vocations, occupations or profession scheduled herein, shall take out and pay for a license for each line of business.
- (c) A taxpayer subject to the license authorized by this ordinance, that is engaged in business in other municipalities, may account for its gross receipts so that the part of gross receipts attributable to its branch offices will not be subject to the business license imposed by this ordinance. To establish a bona fide branch office, the taxpayer must demonstrate proof of all following criteria:
 - (i) The taxpayer must demonstrate the continuing existence of an actual facility located outside the police jurisdiction in which its principal business office is located, such as a retail store, outlet, business office, showroom, or warehouse, to which employees and/or independent contractors are assigned or located during regular normal working hours.

- (ii) The taxpayer must maintain books and records, which reasonably indicate a segregation or allocation of the taxpayer's gross receipts to the particular facility 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 license with respect to the branch office or offices have been issued.
- (d) Nothing herein shall be construed as exempting businesses from payment of a license on the basis of lack of physical location.

SECTION 5. Restriction on transfer of license fee.

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

SECTION 6. Unlawful to do business without a license.

It shall be unlawful for any person, taxpayer, or agent of a person or taxpayer to engage in business or vocations in the Town of Bakehrill for which a license is required without first having procured a license. A violation of this division of the ordinance passed hereunder fixing a license shall be punishable by a fine not to exceed the sun 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.

SECTION 7. License must be posted.

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

SECTION 8. Duty to file report.

- (a) It shall be the duty of every person subject to such license tax to render to the Town of Bakehrill on such forms as may be required, a sworn statement showing the total business done, amount of sales, gross receipts and gross sales, stack, value of furniture and other equipment, capital invested, number of helpers or employees, amount of space occupied, or other factor described in the schedule, one or several, as the case may require, for the ascertainment of the classification of such person for license taxation purposes and the correct amount of license tax to which he is subject.
- (b) If the Town of Bakerhill determines that the amount of business license tax reported on or remitted with any business license remittance form is incorrect, if no business license remittance form is filed within the time prescribed, or if the information provided on the form is insufficient to allow the taxing jurisdiction to determine the proper amount of the tax based on the most accurate and complete information reasonably obtainable and enter a preliminary assessment

for the correct amount of business license tax, including any applicable penalty and interest.

- (c) The Town of Bakerhill shall promptly mail a copy of any preliminary assessment to the taxpayer's last known address by either first class U.S. mail or certified U.S. mail with return receipt requested, or, in the sole discretion of the municipality, deliver the preliminary assessment to the taxpayer by personal delivery.
- (d) If the amount of business license tax remitted by the taxpayer is undisputed by the Town of Bakerhill, or if the taxpayer consents to the amount of any deficiency or preliminary assessment in writing, the Town of Bakerhill shall enter a final assessment for the amount of the tax due, plus any applicable penalty and interest.
- (e)
 - (1) If a taxpayer disagrees with a preliminary assessment as entered by the taxing jurisdiction, the taxpayer shall file a petition for review with the Municipal License Officer within 30 days from the date of entry of the preliminary assessment setting out the specific objections to the preliminary assessment. If a petition for review is timely filed, the Municipal License Officer of the Town of Bakerhill shall schedule a conference with the taxpayer for the purpose of allowing the taxpayer or its representatives and the representatives of the Town of Bakerhill to present their respective positions, discuss any omissions or errors, and to attempt to agree upon any changes or modifications to the assessment. The Municipal License Officer shall issue findings of fact and law within 60 days following the conference, which shall promptly upon issuance be mailed or delivered to the taxpayer, consistent with the procedures set forth in subsection (d) above.
 - (2) If the taxpayer disagrees with the Municipal License Officer's findings of fact and law, the taxpayer may appeal to the Town Council of the Town of Bakerhill, by filing a notice of appeal with the Town Clerk within 30 days after the findings have been issued. The appeal shall be in writing and shall set forth in

reasonable detail the grounds on which the taxpayer disagrees with the Municipal License Officer's findings of fact and law.

(3) If a petition for review: a) is not timely filed, or b) is timely filed, and upon further review the Municipal License Officer or the Town Council of the Town of Bakerhill, as the case may be, determines that the preliminary assessment final in the amount of business license tax due as computed by the taxing jurisdiction, which 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 more than 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 9. Duty to permit inspection and produce records.

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

- (a) Permit the Municipal License Officer of the Town of Bakerhill to enter the business and to inspect all portions of his place or places of business for the purpose of enabling said Municipal License Officer 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 Town of Bakerhill or the police jurisdiction, all books of account, invoices, papers, reports, and memoranda containing entries showing amount of purchases, sales receipts, inventory and other information from which the correct license tax classification of such person may be ascertained and the correct amount of license tax to which he is subject may be determined, including exhibition of bank deposit books, bank statements, copies of sales tax

returns to the State of Alabama, copies of Alabama income tax returns and federal income tax returns.

Section 10. Unlawful to obstruct.

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

Section 11. Privacy.

- (a) It shall be unlawful for any person connected with the administration of this ordinance to divulge any information obtained by him/her in the course of inspection and examination of the books, papers, reports and memoranda of the taxpayer made pursuant to the provisions of this ordinance, except t the Mayor, the Municipal Attorney, or others authorized by law to receive such information described herein.
- (b) It shall be unlawful for any person to print, publish, or divulge, without the written permission or approval of the taxpayer, the license form of any taxpayer or any part of the license form, or any information secured in arriving at the amount of tax or valued report, for any purpose other than the proper administration of any matter administered by the taxing jurisdiction, or upon order of any court, or as otherwise allowed in this ordinance. .
- (c) Nothing herein shall prohibit the disclosure of the fact that a taxpayer has or has not purchased a business license. Statistical information pertaining to taxes may be disclosed to the Town Council of the Town of Bakerhill upon their written request through the Mayor's office. It shall be unlawful for any person to violate the provisions of this section.

SECTION 12. Failure to file assessment.

- (a) In any case where a person subject to paying a license tax as provided herein fails to do so, the Municipal License Officer of the Town of Bakerhill shall be authorized to assess and determine the amount of license tax 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 Town Council of the Town of Bakerhill on a day named not less than twenty (20) days from the date of notice and to show cause why such assessment shall not be made final. Such appearance may be made by agent or attorney.
- (c) If no showing is made on or before the date fixed in such notice, or if showing is not sufficient in the judgment of the Town of Bakerhill, such assessment shall be made final in the amount originally fixed, or in such other amount as is determined by the Town of Bakerhill to be correct. If upon such hearing the Municipal License Officer of the Town of Bakerhill finds a different amount due than that originally assessed, he/she shall make the assessment final in the correct amount, and in all cases shall notify the taxpayer of the assessment as finally fixed.
- (d) A notice by the United States mail, addressed to the taxpayer's last known place of business, shall be sufficient. Any assessment made by the Municipal License Officer of the Town of Bakerhill shall be prima facie correct upon any appeal.

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

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

SECTION 14. Criminal penalties.

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

SECTION 15. Civil penalties.

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

SECTION 16. Penalties and interest.

- (a) All license not paid within thirty (30) days from the date they fall due shall be increased by fifteen (15) percent for the first thirty (30) days they shall be delinquent, or fraction thereof, and shall be measured by an additional fifteen (15) percent for a delinquency of sixty (60) or more days, but this provision shall not be deemed to authorize the delay of thirty (30) days in the payment of the license due, which may be enforced at once.
- (b) In the case of persons who began business on or after the first day of the calendar year, the license for such "new business" shall be increased by fifteen (15) percent for the first fifteen (15) days they shall be delinquent, and shall be measured by an additional (15) percent for forty-five (45) days or more.
- (c) All delinquent accounts (both license taxes and penalties) shall also be charged simple interest at the rate of one (1) percent per month.

SECTION 17. Prosecutions unaffected.

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

SECTION 18. Procedure for denial of new applications.

- (a) The Municipal License Officer shall have the authority to investigate all applications and may refer any application to the Town Council of the Town of Bakerhill for a determination of whether such license should or should not be issued.
- (b) If the Town Council of the Town of Bakerhill denies the issuance of any license referred to it, the Town Clerk shall promptly notify the applicant of the Town Council's decision.
- (c) If said applicant desires to appear before the Town Council of the Town of Bakerhill to show cause why said license should be issued, he shall file a written notice with the Town Clerk, said notice to be filed within two (2) weeks from the date of mailing by the Town Clerk of the notice of the denial of such license by the Town Council of the Town of Bakerhill.
- (d) Upon receipt of said notice the Town Council of the Town of Bakerhill shall promptly schedule a hearing, to be held within fifteen (15) days from the date of receipt of such notice, before the Town Council of the Town of Bakerhill and shall give the notice of the date, time and place of said hearing to the applicant.
- (e) The applicant shall be given the opportunity to appear personally, or through his counsel, or both, and the Town Council of the Town of Bakerhill shall proceed to

hear any evidence which may be presented both for and against the issuance of said license.

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

SECTION 19. Procedure for revocation or suspension of license.

- (a) Any lawful license issued to any person to conduct any business shall be subject to revocation by the Town Council of the Town of Bakerhill for the violation by the licensee, his agent, servant, or employee of any provision of this ordinance or of any ordinance of the municipality, or statute of the State of Alabama relating to the business for which such license is issued; and shall also be subject to revocation by the Town Council of the Town of Bakerhill if the licensee, his agent, servant, or employee under color of such license violates or aids or abets in violating or knowingly permits or suffers to be violated any penal ordinance of the Town of Bakerhill or any criminal law of the State of Alabama; and shall also be subject to revocation by the Town Council of the Town of Bakerhill if, in connection with the issuance or renewal of any license, the licensee or his agent filed or caused to be filed any application, affidavit, statement, certificate, book, or any other data containing any false, deceptive or other misleading information or omission of material fact.
- (b) The conditions hereinabove set forth as grounds for the revocation of a license shall also constitute grounds for refusing to renew a license.
- (c) The Town Council of the Town of Bakerhill shall set a time for hearing on the matter of revoking or refusing to renew a license; and a notice of such hearing shall be given to the licensee, or the applicant for renewal, as the case may be, at

least ten (10) days before the day set for said hearing. At the hearing Town Council shall hear all evidence offered by any party and all evidence that may be presented bearing upon the question of revocation or the refusal of renewal, as the case may be.

SECTION 20. Refunds on overpayments.

- (a) Any taxpayer may file a petition for refund with the Town of Bakerhill for any overpayment of business license tax erroneously paid to the Town of Bakerhill. If a final assessment for the tax has been entered by the Town of Bakerhill, 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 Town of Bakerhill within two years from the date of payment of the business license tax, which is the subject of the petition.
- (c) The Town of Bakerhill shall either grant or deny a petition for refund within six months from the date the petition is filed, unless the period is extended by written agreement of the taxpayer and the Town of Bakerhill. The taxpayer shall be notified of the decision of the Town Council of the Town of Bakerhill concerning the petition for refund by first class U.S. mail or by certified mail, return receipt requested, sent to the taxpayer's last known address. If the Town of Bakerhill fails to grant a full refund within the time provided herein, the refund petition shall be deemed denied.
- (d) If the petition is granted or the Town of Bakerhill or a court otherwise determine that a refund is due, the overpayment shall be promptly refunded to the taxpayer by the Town of Bakerhill, together with interest to the extent provided for in Section 11-51-92. If the Town of Bakerhill determines that a refund is due, the amount of overpayment plus any interest due thereon may

first be credited by the Town of Bakerhill against any outstanding tax liabilities due and owing by the taxpayer to the Town of Bakerhill, and the balance of any overpayment shall be promptly refunded to the taxpayer. If any refund or part thereof is credited to any other tax by the Town of Bakerhill, the taxpayer shall be provided with a written detailed statement showing the amount of overpayment, the amount credited for payments to other taxes, and the resulting amount of the refund.

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

SECTION 21. Delivery License.

- (a) In lieu of any other type of license, a taxpayer may at its option purchase for \$75.00, plus the issuance fee, a delivery license for the privilege of delivering its merchandise in the Town of Bakerhill if the taxpayer meets all the following criteria:
 - (1) Other than deliveries, the taxpayer has no other physical presence in the Town of Bakerhill or its police jurisdiction;
 - (2) The taxpayer conducts no other business in the Town of Bakerhill 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, 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 delivered;
- (6) If at any time during the current license year the taxpayer fails to meet any of the above stated criteria, within 10 days after any said criteria have been violated or exceeded, the taxpayer shall purchase all appropriate business license from the Town of Bakehrill 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 Town of Bakehrill 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 dollar (\$75,000.00) limitation described in the preceding section if the taxpayer also during the same license year sells and delivers into the Town of Bakerhill using a delivery vehicle other than a common carrier.
- (c) A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license.
- (d) The delivery license shall be calculated in arrears, based on the related gross receipts during the preceding license year.
- (e) The purchase of a delivery license shall not, in and of itself, establish nexus between the taxpayer and the Town of Bakerhill for purpose of the taxes levied by or under the authority of Title 40 of the *Code of Alabama* or other provisions of law, nor does the purchase of a delivery license conclusively determine that nexus does not exist between the taxpayer and the Town of Bakehrill.

SECTION 22. License classifications.

<u>CODE</u>	<u>2002 NAICS TITLES / BUSINESS LICENSE CODES</u>	<u>SCHEDULE</u>
111998	Farming and Crop Production -agriculture, crop production, nursery, fruit, growers	B
112990	Animal production - dairy, cattle, ranching, sheep chickens, poultry	C
113110	Forestry - logging, forestry, timber tract operation timber management	A
114119	Fishing & hunting - hunting and trapping, finfish, shellfish	B
115114	Agriculture support - cotton gins, farm mgt, post harvest	B
211111	Oil and gas extraction - natural gas liquid extraction crude extraction	C
212299	Mining - (except for oil and gas) all related mining activities	C
213112	Mining support service - for oil and gas mining activities, oil/gas wells	C
221122	Utilities - electric power or light company	D
221210	Utilities - natural gas company	D
221310	Utilities - water, sewage treatment, stream, and other	D
236220	Contractors - <u>general contractor</u> - comm. bldg, residential, subdivisions	B
237990	Contractors - <u>heavy construction</u> - highway, bridge, street, water, sewer	B
238320	Contractors - <u>specialty trade</u> - plumbing, heating, air condition	B
238320	Contractors - <u>specialty trade</u> - painting and wall covering	B
238210	Contractors - <u>specialty trade</u> - electrical contractors	B
238140	Contractors - <u>specialty trade</u> - masonry and stone contractors	B
238310	Contractors - <u>specialty trade</u> - drywall, acoustical & insulation	B
238430	Contractors - <u>specialty trade</u> - tile, marble, terrazzo & mosaic	B
238340	Contractors - <u>specialty trade</u> - carpentry contractors	B

238330	Contractors - <u>specialty trade</u> - floor coverings/all types	B
238160	Contractors - <u>specialty trade</u> - roofing, siding & sheet metal	B
238110	Contractors - <u>specialty trade</u> - concrete contractors	B
238115	Contractors - <u>specialty trade</u> - water well drilling & irrigation	B
238120	Contractors - <u>specialty trade</u> - structural steel erection	B
238150	Contractors - <u>specialty trade</u> - glass and glazing contractors	B
238910	Contractors - <u>specialty trade</u> - excavation and site development	B
238910	Contractors - <u>specialty trade</u> - wrecking and demolition	B
237990	Contractors - <u>specialty trade</u>- building equipment & mechanical install	B
238130	Contractors - <u>specialty trades contractors</u> - non-general & non-heavy	B
311991	Food mfg -meat, seafood, grain, fruit, dairy, animal, poultry processing	C
312212	Beverage mfg - all types of soft drinks, bottled water, breweries, ice	C
312121	Beer - off premise - state regulated through ABC	E
312122	Beer - on premise - state regulated through ABC	E
312132	Beer & Wine - wholesale distributor	E
312141	Alcohol - state regulated through ABC	E
313112	Textile mfg - fabric, yarn, carpet, canvas, rope, twine, fabric mills	C
314129	Other mfg - mill operations not covered in 313, rugs, linen, curtains	C
315999	Apparel mfg - women, men, children, hosiery, lingerie, outerwear accessories, and the like	C
316993	Leather and allied products mfg - shoes, luggage, handbag, related products, and the like	C
321999	Woof mfg - sawmills, wood preservation, veneer, trusses, millwork	C
322229	Paper mfg - pulp, paper, and converted products, stationary, tubes, cores	C
323110	Printing - screen, quick, digital, books, lithographic, handbills, comm.	A
324199	Petroleum and coal mfg - asphalt, grease, roofing, paving products	C
325998	Chemical mfg - of fertilizer, wood, pesticide, paint, soap, resin	C
326291	Plastic & rubber mfg - tires, pipe, hose, belts, bottles, sheet, wrap	C

	film	
327331	Nonmetallic mfg - clay, glass, cement, lime, pottery, ceramic, brick tile	C
331521	Primary metal mfg - iron, steel, aluminum, wire, copper, foundries	C
332999	Metal fabrication - cutlery, structural, ornamental, machine shop	A
333990	Machine mfg - office machinery, industrial, engines, farm, HVAC	C
334419	Computer & electronic mfg - audio, video, circuit boards, peripherals	C
335211	Appliance mfg - small appliance, lighting, electrical, battery, freezer	C
335112	Transportation mfg - mfg auto, truck, trailer, motor home, boat, ship and motorcycle	C
337129	Furniture mfg - cabinets, office, household, beds, kitchen	C
339999	Miscellaneous mfg - Misc. Manufacturing, medical, dental, jewelry sporting goods, toys, signs, all other	C
421990	Wholesale trade - <u>durable</u> , vehicle, machinery, equipment, furniture	A
422720	Wholesale trade - <u>non-durable</u> , wholesale gasoline distributor	A
4224990	Wholesale trade - <u>non-durable</u> , paper, apparel, grocery, beverages dairy	A
441310	Motor vehicle parts and accessories - auto, motorcycle, boats, parts and accessories	A
441110	Motor vehicles - new and/or used automobiles, motorcycles, boats,	A
442110	Furniture - furniture, home furnishings, stores, floor coverings, window	A
443112	Electronic & appliance store - household, radio, television, computer	A
444130	Building Materials and gardening equipment dealers - hardware, paint, home center, wallpaper, nursery	C
445120	Food & beverage stores - grocery, convenience store, markets	B
445310	Package Stores - selling beer, wine and liquor plus general mdse	C
446110	Health and personal care stores - drug, pharmacy, cosmetic, optical health food	A
447110	Gasoline Retail - selling gasoline with or without convenience store	B

448130	Clothing & accessories - men, women, children, infant, shoe, jewelry	A
451110	Sporting goods & hobbies - toy, fish, gun, books, games	A
452990	General merchandise stores - department, warehouse, club, superstores	A
453212	Used merchandise stores - books, miscellaneous, consignment, flea market	A
453220	Miscellaneous retailers - florist, gift, novelty, pet, art, and tobacco	B
454210	Non-store retailers - vending machine operators, direct selling, mail order	A
454391	Non-Store Retailer - peddlers license / local peddler	F
481111	Air transportation - airline tickets, shipping, freight, charter service	A
482110	Rail transportation - transportation, ticket offices, state regulated (11-51-124)	
483212	Water transportation - coastal, freight forwarders, inland, passenger	A
484110	Truck transportation - local, long-distance, freight, moving, storage	A
484230	Truck transportation - terminal, state regulated	(37-3-33)
485113	Passenger transportation - charter and other vehicle transit service	A
485114	Passenger transportation - bus terminals, state regulated	(37-3-33)
485320	Passenger transportation - buses, taxi cabs, limousine service, buggy charters	G
485321	Passenger transportation - number of buses, taxis, cabs, limousines, or buggies	N
487990	Sightseeing transportation - scenic and sightseeing, land, air, water special transportation	A
492110	Couriers - couriers and local messengers, services, local delivery svc	A
493110	Warehousing and storage - distribution, household, refrigerated, special	A
511110	Publishing industries (except internet) - newspaper, book, periodical databases, software	B

512131	Motion pictures - theaters, videos, recording, drive-ins, sound studios	A
515112	Broadcasting - radio and television stations	A
517310	Telecommunications - telephone local per 11-51-128	H
517320	Telecommunications - telephone long distance per 11-51-128	H
517322	Telecommunications - cellular and other wireless, paging	H
517315	Telecommunications - resellers of service	H
519190	Information services and data processing - providing, storing, processing, information access	A
522110	Bank main office - not branch location or ATM	R
522111	Bank branch or ATM - not mail office of bank	R
522120	Savings and Loans - not branch or location or ATM	R
522121	S&L branch or ATM - not mail office of S&L	R
522298	Pawn shop - whether title pawn or merchandise	C
522390	Credit services - companies and activities related to credit and mediation	C
523999	Securities, commodity - brokerage, portfolio, investment, other financial services	A
524126	Insurance company and/or its agents - casualty, fire, marine (11-51-120/123) premiums	
524128	Insurance company and/or its agents - health, allied, all other premiums (11-51-120/123)	
524210	Agent office - administration of third parties, pension funds annuities, etc	A
525990	Funds, trusts, other financial agencies - Funds, plans, and/or programs organized to pool securities or other assets for others, other than the Alabama Municipal Funding Corp.	A
531210	Real estate - offices, agents, brokers, management, appraisers	A
532310	Rental and leasing - auto, truck, trailer, RV, all tangible property	A

532230	Rental and leasing - movie and video rental	A
541110	Attorney/Lawyer - individual and/or firm professional license	A
541211	Accountant/CPA - individual and/or firm professional license	A
541310	Architect - individual and/or firm professional license	A
541111	Physician - individual and/or firm professional license	A
541210	Dentist - individual and/or firm professional license	A
541311	Chiropractor - individual and/or firm professional license	A
541320	Optometrist - individual and/or firm professional license	A
541330	Engineer - individual and/or firm professional license	A
541360	Surveyor - individual and/or firm professional license	A
541511	Computer programmer - individual and/or professional license	A
541921	Photographer - studios, portrait, commercial, services	A
541940	Veterinarian - individual and/or firm professional license	A
541990	Professional services not elsewhere classified - scientific technical	A
551990	Management companies - offices, enterprises, regional, corporate	B
561710	Exterminating services - exterminating company and its services	A
561720	Janitorial firm - janitorial cleaning services - individual or firm	A
561730	Landscaping Services - individual or firm (not professional design)	A
561499	Administration services - answering, employment, office, sec, travel	A
562998	Waste management - companies, trucks, septic tanks, landfill, services	A
611699	Educational services - technical, computer, sports, services, business	A
621491	HMO - medical centers and services	
621498	Outpatient Care Centers - all other types of services	A
621910	Ambulance - ambulance company and/or service	A
622110	Hospitals - surgical, substance abuse, psychiatric, general care, special	A
623110	Nursing care - residential care facility, day care, assisted living	A

623312	Nursing home - care for elderly and continuing care facilities	A
62110	Social assistance - shelters, vocational, child care, abuse, emergency	A
711310	Art and sports - dance, musical, teams, promoters, agents	A
711310	Special events - promoter or activity - see schedule for rates	I
712110	Museums - museums and historical sites, zoos, botanical gardens parks	B
713110	Amusement - arcades, golf clubs, marinas, fitness, bowling centers	B
721110	Accommodations - hotels, motels and similar facilities	A
721191	Accommodations - bed and breakfast inns and services	A
721214	Accommodations - trailer parks, RV parks, and travel parks	A
721310	Accommodations - rooming houses and boarding houses	A
722212	Restaurant - full service restaurant facility	A
722211	Restaurant - limited facility or service	A
722410	Caterers - and/or mobile food services	A
722410	Drinking establishment - club, lounge, bar or other	C
811118	Repairs and maintenance - auto, paint/body, carwash, other vehicular	A
811219	Repairs and maintenance - all electronic equipment	A
811412	Repairs and maintenance - all appliances, home & garden equipment	A
812199	Personal services - hair, skin, barber, beautician, diet, nail, tanning, funerals	A
812199	Fortune teller or Clairvoyant - individual reader license	J
910001	Category for number of - vending machines for all types vending	K
910002	Category for number of - pool tables	L
910003	Category for number of - amusement devices and/or games	M
920005	Category for number of - <u>employees</u> as a basis for calculating license amount	P
930006	Category for number of - <u>square feet</u> used for calculating license amount	Q
999111	Unclassified miscellaneous <u>business</u> services not elsewhere classified	A

999222 **Unclassified miscellaneous personal service not elsewhere classified** A

SECTION 23. License Fee Schedules (dollars except otherwise noted).

Schedule "A" - If gross receipts are:

More than		Less than
0	but	25,000

50 plus 1/20th of 1% of all gross receipt in excess of 25,000

Schedule "B" - If gross receipts are:

More than		Less than
0	but	25,000

50 plus 1/25th of 1% of all gross receipts in excess of 25,000

Schedule "C" - If gross receipts are:

More than		Less than
0	but	25,000

50 plus 1/10th of 1% of all gross receipts in excess of 25,000

Schedule "D" - Electric Company and Gas Company

Amount of license is state regulated (see section 11-51-129 of the *Code of Alabama* 1975). For selling or distributing current or natural gas, the annual license fee shall be an amount equal to three percent of the gross receipts of the business transacted in the Town of Bakerhill for the previous year for the sale or distribution of electrical current or natural gas from any point in or into the Town of Bakerhill.

Schedule "E" - Beer, Wine, and Liquor

<u>State of Alabama Code</u>	<u>Classification</u>	<u>Amount</u>	<u>Licensing Notes</u>
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040 (Beer On/Off Premise)	312121	75.00	
050 (Beer Off Premise Only)	312122	50.00	
060 (Table Wine On/Off Premise)	312131	75.00	
070 (Table Wine Off Premise Only)	312131	50.00	
010 (Lounge Retail Liquor Class I)	312121	75.00	All three codes are part of the package plus the business license code.
	312141	650.00	
	312131	78.00	
011 (Package Store Liquor Class II)	312122	75.00	All three codes are part of the package plus the business license code.
	312141	650.00	
	312131	75.00	
020 (Restaurant Retail Liquor)	312121	75.00	All three codes are part of the package plus the business license code.
	312141	650.00	
	312131	75.00	
032 (Club Liquor Class II)	312121	75.00	All three codes are part of the package plus the business license code.
	312141	650.00	
	312131	75.00	
110 (Wholesale Table Wine & Beer)	312132	375.00	Distributors License

Schedule "F" - Peddlers

Daily Rate	issued for a single day sales activity	\$10.00
Weekly Rate	issued for week long sales activity	\$25.00
Monthly Rate	issued for month long sales activity	\$50.00
Yearly Rate	issued for annual sales activity	\$100.00

Schedule "G" - Taxi Cabs and Limousines

In addition to the license thereto, there shall be a decal affixed to each taxi cab or limousine and the cost of said decals shall be according to the following table, provided that before a

license can be issued the Applicant shall personally appear before Town Clerk and Chief of Police and shall present proof of liability insurance pertaining to Taxi Cab drives:

1 taxi cab or limousine	\$50.00 per decal
All taxi cabs and limousines over 1	\$25.00 per decal

Schedule "H" - Telephone & Telecommunications

Telephone local per 11-51-128	\$15.00
Telephone long distance per 11-51-128	\$8.00
Telephone cellular or other wireless or paging	(Schedule "A")
Telecommunications - resellers of service	(Schedule "A")

Schedule "I" - Special Events License

Where any fee is charged for admission to any carnival, circus, side show, rodeo, concert, or exhibition, the license rate is \$25.00 per day or \$100.00 per week.

Schedule "J" - Fortune Tellers

Annual license rate is \$1000.00 and rate is reduced by \$25.00 each year until such time as the annual rate reached \$500.00 and that becomes the minimum rate thereafter.

Schedule "K" - Vending Machines

In addition to the license thereto, there shall be a decal affixed to each machine and the cost of said decals shall be according to the following table:

1 to 5 machines vending any type merchandise or product	\$10.00 per decal
5 to 10 machines vending any type merchandise or product	\$5.00 per decal
all over 10 machines vending any type merchandise or product	\$2.00 per decal

Schedule "L" - Billiard and/or Pool Tables

In addition to the license thereto, there shall be a decal affixed to each machine and the cost of said decals shall be according to the following table:

For 1 to 2 billiard or pool tables	\$50.00 per decal
All billiard or pool tables over 2	\$25.00 per decal

Schedule "M" - Amusement Devices

In addition to the license thereto, there shall be a decal affixed to each machine and the cost of said decals shall be according to the following table:

For the first 10 machines	\$25.00 per decal
All machines over 10	\$10.00 per decal

Schedule "N" - Buses, Trucks & Other Equipment

In addition to the license thereto, there shall be a decal affixed to each piece of equipment and the cost of said decals shall be in according to the following table:

From 1 to 2 buses, trucks or other equipment	\$50.00 per decal
From 2 to 5 buses, trucks or other equipment	\$25.00 per decal
Over 5 buses, trucks or other equipment	\$10.00 per decal

Schedule "P" - Number of Employees

R-1	Where personnel are from 1 to 2 people	100.00
R-2	Where personnel are from 3 to 5 people	250.00
R-3	Where personnel are from 6 to 10 people	400.00
R- 4	Where personnel are from 11 to 20 people	550.00
R-5	Where personnel are from 21 to 50 people	700.00
R-6	Where personnel are from 51 to 75 people	850.00
R-7	Where personnel are from 76 to 100 people	1,000.00

R-8 Personnel over 100 to be 1,000.00 + 50.00 per person over 100.

Schedule "Q" - Square Feet

S-1	From zero	to	5,000 Square Feet	100.00
S-2	From 5,000	to	10,000 Square Feet	200.00
S-3	From 10,000	to	20,000 Square Feet	300.00
S-4	From 20,000	to	30,000 Square Feet	400.00
S-5	From 30,000	to	40,000 Square Feet	500.00
S-6	From 40,000	to	50,000 Square Feet	600.00
S-7	From 50,000	to	60,000 Square Feet	700.00
S-8	From 60,000	to	70,000 Square Feet	800.00
S-9	From 70,000	to	80,000 Square Feet	900.00
S-10	From 80,000	to	90,000 Square Feet	1000.00
S-11	From 90,000	to	100,000 Square Feet	1200.00
S-16	From 100,000 up - 1,200.00 plus \$.01 per square foot over 100,00			

Schedule "R" - Banks/Savings & Loans

Bank ATM Location	\$10.00
Bank Branch Location	\$10.00
Bank Main Office Facility	\$125.00
Savings & Loan ATM Location	\$10.00
Savings & Loan Branch Location	\$10.00
Savings & Loan Main Office Facility	\$125.00

Schedule "S" - Delivery License

Delivery license established in Section 21	\$75.00
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Section 24. Exchange of information.

- (a) The Municipal License Officer may exchange tax returns, information, records, and other documents secured by the Town of Bakerhill, with other municipalities adopting similar ordinances for the exchange of taxpayer information, or with county or state authorities. The Municipal 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 state, county, or municipal agency.
- (c) Nothing herein shall prohibit the use of tax returns or tax information by the Town of Bakerhill in the proper administration of any matter administered by the Municipal License Officer. The Municipal License Officer may also divulge to a purchaser, prospective purchaser as defined pursuant to the regulations of the Alabama Department of Revenue, or successor of a business or stock of goods the outstanding sales, use, or rental tax liability of the seller for which the purchaser, prospective purchaser as defined pursuant to the regulations of the Alabama Department of Revenue, or successor may be liable pursuant to the Code of Alabama section 40-23-25, 40-23-82, 40-12-224.

Section 25. License fees in Police Jurisdiction.

Any person, firm, association, or corporation engaged in any business outside the corporate limits of the Town of Bakerhill but within the police jurisdiction thereof shall pay one-half of the amounts of the license imposed for like business within the corporate limits of the Town of Bakerhill. Nothing in this section shall be deemed to reduce or eliminate the issue fee established in Section 3(c).

Section 26. Effective date.

This ordinance shall become effective on or after March 3, 2008.

Section 27. Validity of previously issued license.

Any unexpired business license issued prior to the effective date of this ordinance shall be deemed valid, unless revoked or surrendered, until the effective date of this ordinance. Any license fee or issuance fee paid to the Town of Bakehill prior to the effective date of this ordinance for a 2008 business license shall be credited towards the cost of a new license fee as required by this ordinance.

Section 28. Severability.

The sections, paragraphs, sentences, clauses and phrases of this ordinance are servable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other paragraphs and sections, since the same would have been enacted by the Town Council of the Town of Bakerhill without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 29. Repealer.

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

Adopted 2/26/08 by a vote of 3 for and 1 against

