

ORDINANCE NUMBER 3358

**BUSINESS LICENSE CODE OF THE
CITY OF BESSEMER, ALABAMA
FOR THE PERIOD BEGINNING JANUARY 1, 2008
AND
EACH SUBSEQUENT YEAR THEREAFTER**

**AN ORDINANCE TO PRESCRIBE AND FIX CERTAIN CHANGES TO THE CODE OF
ORDINANCE OF THE CITY OF BESSEMER, ALABAMA, IN ACCORDANCE WITH THE
BUSINESS LICENSE REFORM ACT OF 2006 (ACT 2006-586)**

SCHEDULE OF LICENSES AND FEES

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

<u>SECTION</u>	<u>SUBJECT</u>	<u>PAGE</u>
01	Levy of Tax	02
02	Definitions.	02
03	License Terms; Minimums	05
04	License Must be Location Specific	06
05	Restriction of Transfer of License	08
06	Unlawful to do business without a license	08
07	License must be posted	09
08	Duty to file report	09
09	Duty to permit inspection and produce records	11
10	Unlawful to obstruct	11
11	Privacy	12
12	Failure to file assessment	12
13	Lien of non payment of license tax	13
14	Criminal Penalties	13
15	Civil Penalties	14
16	Penalties and Interest	14
17	Prosecutions Unaffected	14
18	Procedure for denial of new applications	15
19	Procedure for revocation / suspension of license	16
20	Refunds on Overpayments	16
21	Delivery License	17
22	License Classification Codes	20
23	License Fee Schedules	30
24	Exchange of Information	38
25	License Fee Schedules in the Police Jurisdiction	39
26	Effective Date	39
27	Severability	39
28	Repealer	39

SECTION 1. Levy of Tax.

Pursuant to Chapter 51, Title 11, *Code of Alabama 1975, as amended* the following is hereby declared to be and is adopted as the business license code and schedule of licenses for the municipality for the calendar year beginning January 1, 2008 and for each 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 municipality, or the police jurisdiction, by whatever name called.

SECTION 2. Definitions.

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

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

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

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

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

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

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

- (a) Gross receipts shall not include any of the following taxes collected by the business on behalf of any taxing jurisdiction or the federal government: All taxes which are imposed on the ultimate consumer, collected by the taxpayer and remitted by or on behalf of the taxpayer to the taxing authority, whether state, local or federal, including utility gross receipts levied pursuant to Article 3, Chapter 21, Title 40; license taxes levied pursuant to Article 2, Chapter 21, Title 40; or reimbursements to professional employer organizations of federal, state or local payroll taxes or unemployment insurance contributions; but no other deductions or exclusions from gross receipts shall be allowed except as provided in this article.
- (b) A different basis for calculating the business license may be used by the municipality with respect to certain categories of taxpayers as prescribed in Section 11-51-90B.
- (c) For a utility or other entity described in Section 11-51-129, gross receipts shall be limited to the gross receipts derived from the retail furnishing of utility services within the municipality during the preceding year that are taxed under Article 3 of Chapter 21 of Title 40, except that nothing herein shall affect any existing contract or agreement between a municipality and a utility or other entity. The gross receipts derived from the furnishing of utility services shall not be subject to further business license taxation by the municipality.

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

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

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

[9] LICENSE YEAR. The calendar year.

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

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

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

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

that may be affected by any act or refusal to act by the taxing jurisdiction under this chapter, or to keep any required by this chapter.

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

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

SECTION 3. License term; minimums.

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

- (a) *Full Year.* Every person who commences business before the first day of July shall be subject to and shall pay the annual license for such business in full. Unless otherwise specified in the enclosed schedules, the minimum annual license shall be \$ 100.00.
- (b) *Half Year.* Every person who commences business on or after July 1st, 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) or (ii), the business license shall be renewed annually on or before the 31st day of January each year.
 - (i) If the due date for payment of any business license falls on a weekend or a holiday recognized by the municipality from time to time, the due date shall automatically be extended until the next business day.
 - (ii) Insurance company annual license renewals shall be renewed in accordance with Section 11-51-122 of the *Code of Alabama* which states that each year, each insurance company shall furnish the municipality a statement in writing duly certified showing the full and true amount of gross premiums received during the preceding year and shall

accompany such statement with the amount of license tax due according to the licensing schedule. Failure to furnish such statement or to pay such sum shall subject the company and its agents to those penalties as prescribed for doing business without a license as provided for in the municipal code.

(iii) On or before December 31 of each year, a renewal reminder shall be mailed to each licensee that purchased a business license during the current year. Said renewal notice shall be mailed via regular U.S. mail to the licensee's last known address of record with the municipality. Licensees are required to furnish the municipality any address changes for their business prior to December 1st in order for them to receive their notice.

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

SECTION 4. License shall be location specific.

- (a) For each place at which any business is carried on, a separate license shall be paid, and any person desiring to engage in any business for which a license is required shall designate the place at which business is carried on, and the license to be issued shall designate such place, and such license shall authorize the carrying on of such business only at the place designated.
- (b) Every person dealing in two or more of the articles, or engaging in two or more of the businesses, vocations, occupations, or professions scheduled herein, shall take out and pay for a license for each line of business **except** amounts covered by gross receipts. All receipts not accounted for in gross receipts are taxed at the rate charged for each line of business.

No portion is untaxed.

- (c) A taxpayer subject to the license authorized by this ordinance that is engaged in business in other municipalities may account for its gross receipts so that the part of its gross receipts attributable to its branch offices will not be subject to the business license imposed by this ordinance. To establish a bona fide branch office, the taxpayer must demonstrate proof of all following criteria:
- (i) The taxpayer must demonstrate the continuing existence of an actual facility located outside the police jurisdiction in which its principal business office is located, such as a retail store, outlet, business office, showroom, or warehouse, to which employees and/or independent contractors are assigned or located during regular normal working hours.
 - (ii) The taxpayer must maintain books and records, which reasonably indicate a segregation or allocation of the taxpayer's gross receipts to the particular facility of facilities.
 - (iii) The taxpayer must provide proof that separate telephone listings, signs, and other indications of its separate activity are in existence.
 - (iv) Billing and/or collection activities relating to the business conducted at the branch office or offices are performed by an employee or other representative, of the taxpayer who has such responsibility for the branch office.
 - (v) All business claimed by a branch office or offices must be conducted by and through said office or offices.
 - (vi) The taxpayer must supply proof that all applicable business licenses with respect to the branch office or offices have been issued.
- (d) Nothing herein shall be construed as exempting businesses from payment of a license on the basis of a lack of physical location.

SECTION 5. Restriction on transfer of license.

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

SECTION 6. Unlawful to do business without a license.

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

SECTION 7. License must be posted.

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

SECTION 8. Duty to file report.

- (a) It shall be the duty of every person subject to such license tax to render to the municipality on such forms as may be required, a sworn statement showing the total business done, amount of sales, gross receipts and gross sales, stock, value of furniture and other equipment, capital invested, number of helpers or employees, amount of space occupied, or other factor described in the schedule, one or several, as the case may require, for the ascertainment of the classification of such person for license taxation purposes and the correct amount of license tax to which he is subject.
- (b) If the municipality determines that the amount of business license tax reported on or remitted with any business license remittance form is incorrect, if no business license remittance form is filed within the time prescribed, or if the information provided on the form is insufficient to allow the taxing jurisdiction to determine the proper amount of business license tax due, the municipality shall calculate the correct amount of the tax based on the most accurate and complete information reasonably obtainable and enter a preliminary assessment for the correct amount of business license tax, including any applicable penalty and interest.
- (c) The municipality shall promptly mail a copy of any preliminary assessment to the taxpayer's last known address by either first class U.S. mail or certified U.S. mail with return receipt requested, or, in the sole discretion of the municipality, deliver the preliminary assessment to the taxpayer by personal delivery.
- (d) If the amount of business license tax remitted by the taxpayer is undisputed by the Municipality, or if the taxpayer consents to the amount of any deficiency or preliminary Assessment in writing, the municipality shall enter a final assessment for the amount of the Tax due, plus any applicable penalty and interest.

- (e) (1) If a taxpayer disagrees with a preliminary assessment as entered by the taxing jurisdiction, the taxpayer shall file a petition for review with the municipal license officer within 30 days from the date of entry of the preliminary assessment setting out the specific objections to the preliminary assessment. If a petition for review is timely filed, the license officer of the municipality shall schedule a conference with the taxpayer for the purpose of allowing the taxpayer or its representatives and the representatives of the municipality to present their respective positions, discuss any omissions or errors, and to attempt to agree upon any changes or modifications to their respective positions..
- (2) If a petition for review is not timely filed, or is timely filed, and upon further review the license officer determines that the preliminary assessment is due to be upheld in whole or in part, the municipality may make the assessment final in the amount of business license tax due as computed by the license officer, with applicable interest and penalty computed to the date of entry of the final assessment. The license officer shall, whenever practicable, complete his or her review of the taxpayer's petition for review and applicable law within 90 days following the later of the date of filing of the petition or the conference, if any.
- (3) A copy of the final assessment shall promptly be mailed to the taxpayer's last known address (i) by either first class U.S. mail or certified U.S. mail with return receipt requested in the case of assessments of business license tax of five hundred dollars (\$500.00) or less, or (ii) by certified U.S. mail with return receipt requested in the case of assessments of business license tax of more than five hundred (\$500.00). In either case, at the option of the taxing jurisdiction a copy of the final assessment may be delivered to the taxpayer by personal delivery. The final assessment shall include a statement informing the taxpayer of his or her right to

appeal the final assessment to circuit court within 30 days from the date of the entry of the final assessment.

SECTION 9. Duty to permit inspection and produce records.

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

- (a) Permit the designee of the municipality to enter the business and to inspect all portions of his place or places of business for the purposes of enabling said municipal designee to gain such information as may be necessary or convenient for determining the proper license classification, and determining the correct amount of license tax;
- (b) To furnish information during reasonable business hours, at the licensee's place of business, in the municipality or the police jurisdiction, all books of account, invoices, papers, reports and memoranda containing entries showing amount of purchases, sales receipts, inventory and other information from which the correct license tax classification of such person may be ascertained and the correct amount of license tax to which he is subject may be determined, including exhibition of bank deposit books, bank statements, copies of sales tax returns to the State of Alabama, copies of Alabama income tax returns and federal income tax returns.

SECTION 10. Unlawful to obstruct.

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

SECTION 11. Privacy.

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

SECTION 12. Failure to file assessment.

- (a) In any case where a person subject to paying a license tax as provided herein fails to do so, the municipal designee shall be authorized to assess and determine the amount of license taxes due using the best information available either by return filed or by other means.
- (b) The taxpayer shall be notified by registered or certified mail, or by personal service, of the amount of any such assessment, and of his right to appear before the municipal governing body on a day named not less than twenty (20) days from the date of notice and to show

cause why such assessment shall not be made final. Such appearance may be made by agent or attorney.

- (c) If no showing is made on or before the date fixed in such notice, or if such showing is not sufficient in the judgment of the municipality, such assessment shall be made final in the amount originally fixed, or in such other amount as is determined by the municipality to be correct. If upon such hearing the municipal designee finds a different amount due than that originally assessed, he/she shall make the assessment final in the correct amount, and in all cases shall notify the taxpayer of the assessment as finally fixed.
- (d) A notice by the United States mail, addressed to the taxpayer's last known place of business, shall be sufficient. Any assessment made by the designee of the municipality shall be prima facie correct upon any appeal.

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

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

SECTION 14. Criminal penalties.

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

SECTION 15. Civil penalties.

In addition to the remedies provided by *Code of Alabama*, Section 11-51-150 (1975) et seq., the continued or recurrent performance of any act or acts within the corporate limits or within its police jurisdiction for which a license may be revoked or suspended under this ordinance is hereby declared to

be detrimental to the health, safety, comfort and convenience of the public and is a nuisance. The municipality, as an additional or alternative remedy, may institute injunctive proceedings in a court of competent jurisdiction to abate the same.

SECTION 16. Penalties and interest.

- (a) All licenses not paid within thirty (30) days from the date they fall due shall be increased by fifteen (15) percent for the first thirty (30) days they shall be delinquent, 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 fifteen (15) percent for a delinquency of forty-five (45) days or more.

SECTION 17. Prosecutions unaffected.

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

SECTION 18. Procedure for denial of new applications.

- (a) The municipal designee shall have the authority to investigate all applications and may refer any application to the municipal governing body for a determination of whether such license should or should not be issued.
- (b) If the municipal governing body denies the issuance of any license referred to it, the municipal clerk shall promptly notify the applicant of the municipal governing body's decision.
- (c) If said applicant desires to appear before the municipal governing body to show cause why said license should be issued, he shall file a written notice with the municipal clerk, said notice to be filed within two (2) weeks from the date of mailing by the municipal clerk of the notice of the denial of such license by the municipal governing body.
- (d) Upon receipt of said notice, the municipal clerk shall promptly schedule a hearing, to be held within fifteen (15) days from the date of receipt of such notice, before the municipal governing body and shall give the notice of the date, time, and place of said hearing to the applicant.
- (e) The applicant shall be given the opportunity to appear personally, or through his counsel, or both, and the municipal governing body shall proceed to hear any evidence, which may be presented both for and against the issuance of said license.
- (f) If the municipal governing body determines from the evidence presented that in order to either provide for the safety, preserve the health, promote the prosperity, or improve the morals, order, comfort and convenience of the inhabitants of the municipality said license should not be granted, it shall enter an order to that effect; otherwise, said license shall be ordered issued upon payment of any required license fees.

SECTION 19. Procedure for revocation or suspension of license.

- (a) Any lawful license issued to any person to conduct any business shall be subject to revocation by the municipal governing body for the violation by the licensee, his agent, servant, or employee of any provision of this ordinance or of any ordinance of the municipality, or any statute of the State of Alabama relating to the business for which such license is issued; and shall also be subject to revocation by the municipal governing body if the licensee, his agent, servant, or employee under color of such license violates or aids or abets in violating or knowingly permits or suffers to be violated any penal ordinance of the municipality or any criminal law of the State of Alabama; and shall also be subject to revocation by the municipal governing body if, in connection with the issuance or renewal of any license, the licensee or his agent filed or caused to be filed any application, affidavit, statement, certificate, book, or any other data containing any false, deceptive or other misleading information or omission of material fact.
- (b) The conditions hereinabove set forth as grounds for the revocation of a license shall also constitute grounds for refusing to renew a license.
- (c) The municipal governing body shall set a time for hearing on the matter of revoking or refusing to renew a license; and a notice of such hearing shall be given to the licensee, or the applicant for renewal, as the case may be, at least ten (10) days before the day set for said hearing. At the hearing the municipal governing body shall hear all evidence offered by any party and all evidence that may be presented bearing upon the question of revocation or the refusal of renewal, as the case may be.

SECTION 20. Refunds on Overpayments

- (a) Any taxpayer may file a petition for refund with the municipality for any overpayment of business license tax erroneously paid to the municipality. If a final assessment for the tax
- (b) has been entered by the municipality, a petition for refund of all or a portion of the tax may be filed only if the final assessment has been paid in full prior to or simultaneously with the filing of the petition for refund.
- (c) A petition for refund shall be filed with the municipality within two years from the date of payment of the business license tax, which is the subject of the petition.
- (d) The municipality shall either grant or deny a petition for refund within six months from the date the petition is filed, unless the period is extended by written agreement of the taxpayer and the municipality. The taxpayer shall be notified of the municipality's decision concerning the petition for refund by first class U.S. mail or by certified U.S. mail, return receipt requested, sent to the taxpayer's last known address. If the municipality fails to grant a full refund within the time provided herein, the refund petition shall be deemed to be denied.
- (e) If the petition is granted or the municipality or a court otherwise determines that a refund is due, the overpayment shall be promptly refunded to the taxpayer by the municipality, together with interest to the extent provided for in Section 11-51-92. If the municipality determines that a refund is due, the amount of overpayment plus any interest due thereon may first be credited by the municipality against any outstanding tax liabilities due and owing by the taxpayer to the municipality, and the balance of any overpayment shall be promptly refunded to the taxpayer. If any refund or part thereof is credited to any other tax by the municipality, the taxpayer shall be provided with a written detailed statement

showing the amount of overpayment, the amount credited for payment to other taxes, and the resulting amount of the refund.

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

SECTION 21. Delivery License.

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

- (6) If at any time during the current license year the taxpayer fails to meet any of the above stated criteria, then within 10 days after any of said criteria have been violated or exceeded, the taxpayer shall purchase all appropriate business licenses from the municipality for the entire license year and without regard to this section.
- (b) Mere delivery of the taxpayer’s merchandise by common carrier shall not allow the municipality to assess a business license tax against the taxpayer, but the gross receipts derived from any sale and delivery accomplished by means of a common carrier shall be counted against the seventy-five thousand (\$75,000) limitation described in the preceding section if the taxpayer also during the same license year sells and delivers into the taxing jurisdiction using a delivery vehicle other than a common carrier.
- (c) A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license.
- (d) The delivery license shall be calculated in arrears, based on the related gross receipts during the preceding license year.
- (e) The purchase of a delivery license shall not, in and of itself, establish nexus between the taxpayer and the municipality for purposes of the taxes levied by or under the authority of Title 40 of the Code of Alabama or other provisions of law, nor does the purchase of a delivery license conclusively determine that nexus does not exist between the taxpayer and the municipality.

SECTION 22. License 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,	5A
112990	Animal Production – dairy, cattle, ranching, sheep, chickens, poultry	5I
113110	Forestry – logging, forestry, timber track operations, timber mgt,	5I

114119	Fishing & hunting – hunting and trapping, finfish, shellfish, supplies,	5I
115114	Agriculture support – cotton gins, farm mgt, post-harvest activities,	5I
211111	Oil and gas extraction – natural gas liquid extraction, crude extraction,	5I
212299	Mining - (except for oil and gas) all related mining activities,	5I
213112	Mining support services – for oil and gas mining activities, oil/gas wells,	5I
221122	Utilities – electric power or light company	State Regulated
221210	Utilities – natural gas company	State Regulated
221310	Utilities – water, sewage treatment, steam, and other	State Regulated
236220	Contractors – general contractors, comm. bldg, residential, subdivisions: General Contractor - Each person, firm or corporation which, for a fixed price, commission, fee or wage, undertakes to construct, superintend, or engage in the construction, alteration, maintenance, repair, rehabilitation, remediation, reclamation, or demolition of any building, highway, sewer, structure, site work, grading, paving or project or any improvement where the cost of the undertaking is \$50,000 in value. MUST BE LICENSED BY THE HOME BUILDERS LICENSURE BOARD OF AL. In addition, one who for a fixed price, fee, commission or wage exceeding \$5,000.00 in value undertakes the construction or superintendents of construction, repair or renovation of a swimming pool is required to have a general contractor’s license and must be licensed by the Home Builders Licensure Board. A residential home builder – one who constructs a residents or structure for sale or who, for a fixed price, commission, fee or wage undertakes or offers to undertake the construction or superintending the construction of any residents or structure which is not more than three floors in height and which does not have more than four units in an apartment complex or to repair, improve or re-improve thereof, to be used by another as a residence when the cost of the undertaking exceeds \$10,000.00. MUST BE LICENSED BY THE HOME BUILDERS LICENSURE BOARD OF ALABAMA	2A
237990	Contractors – heavy construction, highway, bridge, street, water, sewer,	2B
238220	Contractors – specialty trade – plumbing, heating & air conditioning MUST BE STATE LICENSED BY APPROPRIATE STATE BOARD	2B
238320	Contractors – specialty trade – painting and wall covering	2B
238210	Contractors – specialty trade – electrical contractors MUST BE STATE LICENSED BY APPROPRIATE STATE BOARD	2B
238140	Contractors – specialty trade – masonry and stone contractors	2B
238310	Contractors – specialty trade – drywall, acoustical & insulation	2B
238340	Contractors – specialty trade – tile, marble, terrazzo & mosaic	2B
238350	Contractors – specialty trade – carpentry contractors	2B
238330	Contractors – specialty trade – floor coverings/all types	2B
238160	Contractors – specialty trade – roofing, siding & sheet metal	2B
238110	Contractors – specialty trade – concrete contractors	2B

237110	Contractors – specialty trade – water well drilling & irrigation	2B
238120	Contractors – specialty trade – structural steel erection	2B
238150	Contractors – specialty trade – glass and glazing contractors	2B
238910	Contractors – specialty trade – excavation and site development	2B
238910	Contractors – specialty trade – wrecking and demolition	2B
238290	Contractors – specialty trade – building equipment & mechanical install	2B
238130	Contractors – specialty trades contractors- non-general & non-heavy,	2B
238990	Contractors - All other specialty contractors	2B
311991	Food mfg – meat, seafood, grain, fruit, dairy, animal, poultry processing,	5I
312212	Beverage mfg – all types of soft drinks, bottled water, breweries, ice,	5I
313112	Textile mfg – fabric, yarn, carpet, canvas, rope, twine, fabric mills,	5I
314129	Other mfg – mill operations not covered in 313, rugs, linen, curtains	5J
315999	Apparel mfg – women, men, children, hosiery, lingerie outerwear, accessories,	5I
316993	Leather and allied products mfg – shoes, luggage, handbag, related products, all footwear,	5I
321999	Wood mfg – sawmills, wood preservation, veneer, trusses, millwork,	5I
322229	Paper mfg – pulp, paper, and converted products, stationary, tubes, cores,	5I
323110	Printing – screen, quick, digital, books, lithographic, handbills, comm.	5I
324199	Petroleum and coal mfg – asphalt, grease, roofing, paving products,	5I
325998	Chemical mfg – of fertilizer, wood, pesticide, paint, soap, and resin	5I
326291	Plastic & rubber mfg – tires, pipe, hoses, belts, bottles, sheet, wrap, film,	5I
327331	Nonmetallic mfg – clay, glass, cement, lime, pottery, ceramic, brick, tile,	5I
331521	Primary metal mfg – iron, steel, aluminum, wire, copper, foundries	5I
332999	Metal fabrication – cutlery, structural, ornamental, machine shops,	5I
333990	Machinery mfg – office machinery, industrial, engines, farm, HVAC,	5I

334419	Computer & electronic mfg – audio, video, circuit boards, peripherals,	5I
335211	Appliance mfg – small appliance, lighting, electrical, battery, freezer,	5I
336112	Transportation mfg – mfg auto, truck, trailer, motor home, boat, ship and motorcycle,	5I,E
337129	Furniture mfg – cabinets, office, household, beds, kitchen,	2B
339999	Miscellaneous mfg – Misc. Manufacturing, medical, dental, jewelry, sporting goods, toys, signs, all other.	5I
421990	Wholesale trade – durable, vehicle, machinery, equipment, furniture,	5I
422490	Wholesale trade – non-durable, paper, apparel, grocery, beverages, dairy	5I
422720	Wholesale trade – non-durable, wholesale gasoline distributor	5I
441310	Motor vehicle parts and accessories – auto, motorcycles, boats, parts and accessories,	5A
441110	Motor vehicles - new and/or used automobiles, motorcycles, boats, etc ... – dealerships and lots	5A
442110	Furniture – furniture, home furnishings, stores, floor coverings, window,	5A
443112	Electronic & appliance store – household, radio, television, computers,	5A
444130	Building materials and gardening equipment dealers – hardware, paint, home center, wallpaper, nursery,	5A
445120	Food & beverage stores – grocery, convenience store, markets,	5A
445310	Package Stores – selling beer, wine and liquor plus general mdse	5A
446110	Health and personal care stores – drug, pharmacy, cosmetic, optical, health food	5A
447110	Gasoline Retail - selling gasoline with or without convenience stores	5C
448190	Clothing & accessories – men, women, children, infant, shoe, jewelry,	5A
451110	Sporting goods & hobbies – toy, fish, gun, books, games	5A
452990	General merchandise stores – department, warehouse clubs, superstores,	5H
453310	Used Merchandise Stores – books, miscellaneous, consignment	5A
453220	Miscellaneous retailers – florist, gift, novelty, pet, art, tobacco, fireworks	5A

454210	Non-store retailers – vending machine operators, direct selling, mail order	5F
454390	Other Direct Selling Establishment – FLEA MARKETS Operators	5I
454391	Non-Store Retailer – other direct selling, peddler’s license Fruit/Vegetable (temp location) selling retail on streets Temp Vendors/Commercial promoted special events	5D
481111	Air transportation – airline tickets, shipping, freight, charters service	5I
482110	Rail transportation – transportation, ticket offices, state regulated 11-51-124	5I
484110	Truck transportation – local, long-distance, freight, moving, and storage	5I
484230	Truck transportation – terminal – state regulated 37-3-33	State Regulated
485114	Passenger transportation – bus terminals state regulated 37-3-33	State Regulated
485320	Passenger transportation – buses, taxicabs, limousine service, buggy, charters,	8A
492110	Couriers – couriers and local messengers, services, local delivery services,	5I
493110	Warehousing and storage – distribution, household, refrigerated, special, (This does not include mini-warehouses & self-storage units #531130)	5I
511110	Publishing industries except internet – newspaper, book, periodical, databases, software	5A
512131	Motion pictures – theatres, videos, recording, drive-ins, sound studios,	8A
515112	Broadcasting – radio and television stations	5I
517310	Telecommunications – telephone local per Section 11-51-128 Code of AI 1975	10A
517320	Telecommunications – telephone long distance per Section 11-51-128, Code of AI 1975	10A
517212	Telecommunications – cellular and other wireless, paging,	10A
517315	Telecommunications – resellers of service	10A
517510	Cable & Other Program Distributions – cable & satellite providers	10A
519190	Information services and data processing – providing, storing, processing, access to information	5I
522110	Bank Main Office – not branch location or ATM	3A

522111	Bank Branch or ATM – not main office of bank	3A
522120	Savings and Loans – not branch location or ATM	3A
522121	S&L Branch or ATM – not main office of S&L	3A
522298	Pawn Shop – whether title pawn or merchandise	5I
522390	Credit services – companies and activities related to credit and mediation, check cashing, money order issuance, travelers check services, western union	3A
523999	Securities, commodity – brokerage, portfolio, investment, other financial services	3B
524126	Insurance Company and/or its agents – casualty, fire, and/or marine premiums 11-51-120/123	4C
524128	Insurance Company and/or its agents – health, allied and all other premiums 11-51-120/123	4D
524210	Agent Office – administration of third parties, pension funds, annuities, etc	4A
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,	3C
531110	Lessors of Residential Buildings and Dwellings – houses, apartments, duplex, mobile home, buildings. All lease/rental buildings/dwellings must comply will all applicable building and housing codes required by the City of Bessemer,AL. Failure to comply will result in the revocation of license.	7E
531120	Lessor of Nonresidential Buildings (except mini warehouses)	7A
531130	Rental and leasing - Mini warehouses and self-storage units	5I
531190	Lessor of Other Real Estate Property	7A
531210	Real estate – offices, agents, brokers, management Must hold a license issued by the Alabama Real Estate Commission	7B
532230	Rental and leasing – movie and video rental	5I
532310	Rental and leasing – auto, truck trailer, RV, all tangible property	5I
532490	Other Rental and Leasing – commercial, industrial, communication towers (Any person firm or corporation that owns any tower or structure erected for the purpose of commercially using, leasing, renting or selling antenna or dish	5I

space for the receiving and/or broadcasting or relaying of wireless telephone, television, radio, microwave, or other communication signals. All towers must be permitted under other existing city ordinances prior to being licensed.)

541110	Attorney/Lawyers – individual and/or firm professional license	6
541111	Physician – individual and/or firm professional license MUST BE LICENSED BY APPROPRIATE STATE BOARD	6
541211	Accountant/CPAs – individual and/or firm professional license MUST BE LICENSED BY APPROPRIATE STATE BOARD	6
541213	Tax Return Preparation Services	6
541310	Architect – individual and/or firm professional license MUST BE LICENSED BY APPROPRIATE STATE BOARD	6
541210	Dentist – individual and/or firm professional license MUST BE LICENSED BY APPROPRIATE STATE BOARD	6
541311	Chiropractor – individual and/or firm professional license MUST BE LICENSED BY APPROPRIATE STATE BOARD	6
541320	Optometrist – individual and/or firm professional license MUST BE LICENSED BY APPROPRIATE STATE BOARD	6
541330	Engineer – individual and/or firm professional license MUST BE LICENSED BY APPROPRIATE STATE BOARD	6
541360	Surveyor – individual and/or firm professional license (local) MUST BE LICENSED BY APPROPRIATE STATE BOARD	6
541511	Computer Programmer – individual and/or professional firm license	6
541810	Advertising Agencies	6
541921	Photographer – studios, portrait, commercial, services	6
541940	Veterinarian – individual and/or firm professional license MUST BE LICENSED BY APPROPRIATE STATE BOARD	6
541990	Professional Services Not Elsewhere Classified – scientific, technical, interpreters	6
551990	Management companies – offices, enterprises, regional, corporate,	6
561491	Repossession Services- automobiles, boats, furniture, appliances, etc.	5I
561499	Administrative services- answering, employment, office, secretary,	8A
561510	Travel Agencies – travel, tour, accommodation services	5A

561621	Security Systems Services – alarms, monitoring Must be licensed by the Alabama Electronic Security Board	5I
561622	Locksmiths – shops, services, sales, repairs Must be certified by the Alabama Electronic Security Board	5A
561623	Locksmiths – Automobile – Does not require certification.	5A
561710	Exterminating services – exterminating company and its services	8A
561720	Janitorial firm – janitorial cleaning services – individual or firm	8A
561730	Landscaping Services – installing trees, shrubs, plants, gardens, lawns, retaining walls, care and maintenance of such, MUST BE CERTIFIED BY THE DEPARTMENT OF AGRICULTURE	6
561731	Lawn Maintenance – Mowing, trimming, routine maintenance of lawns or yards	8A
562111	Solid Waste Collection – garbage pick-up and hauling services (Must have franchise with the City of Bessemer)	8A
562212	Landfills – solid waste disposal, sludge disposal, trash disposal,	5I
562991	Septic Tank- pumping, cleaning, installation, renting of portable toilets (Must be state license by Alabama on Site Waste Water Board)	2C
562998	Waste management – grease traps, sewer clean-outs, storm basin, tank cleaning, disposal services	2C
611699	Educational services – technical, computer, sports, services, business,	6
621111	Offices of Physicians- individual and/or firm - private or clinics, centers	6
621210	Offices of Dentist – individual and/or firm - private or clinics, centers	6
621310	Chiropractor – individual and/or firm – private or clinics, centers	6
621320	Optometrist – individual and/or firm- private or clinics, centers	6
621491	HMO – medical centers and services	11
621498	Outpatient Care Centers – all other types of services	11
621610	Home Healthcare Services – skilled nursing and personal care services in the home	11
621910	Ambulance – ambulance company and/or services (private operated)	8A
622110	Hospitals – surgical, substance abuse, psychiatric, general care, special,	11
623110	Nursing Care Facilities – Nursing homes - residential care facility,	11

	skilled nursing and rehabilitation care	
623312	Home for Elderly – care for elderly and continuing care facilities without skilled nursing care	11
624110	Social assistance – shelters, vocational, childcare, abuse, emergency assistant services, rehabilitation services	11
624410	Child Day Care Services – Day care center, pre-school centers	6B
711310	Arts and sports – dance companies, musical, teams, tracks, promoters, agents, boxing events, beauty pageants, rodeos, festivals, circus, non-school sports events – Special Events	5I
712110	Museums – museums and historical sites, zoos, botanical gardens, parks,	5A
713120	Amusement – arcades	5F
	Each person, firm, or corporation engaged in the business of owning or operating an arcade or game room in the City of Bessemer shall first consult with the Police Chief of the City of Bessemer and seek approval of the Bessemer City Council.	
713940	Fitness Centers, Health Spas, Recreational Sports Centers	8A
713990	All Other Musical and Recreational Industries -	8A
721110	Accommodations – hotels, motels and similar facilities	7D
721191	Accommodations – bed and breakfast inns and services	7D
721211	Accommodations – RV parks, and travel trailer parks, campsites	7E
721310	Accommodations – rooming houses and boarding houses	7D
722110	Restaurant – full service restaurant facility	5A
722211	Restaurant – limited facility or service-(fast food, drive-in)	5A
722320	Caterers – and/or mobile food services	8A
722330	Mobile Food Services- (mobile) food stands, snack stands	8A
722410	Drinking Establishment – club, lounge, bar or other	5I
811111	General Automotive Repair- engine replacement, repair	2B
811118	Repairs and maintenance – auto, paint/body, carwash, tune-up	2B
811192	Car wash, detailing	8A
811219	Repairs and maintenance – all electronic equipment	8A

811412	Repairs and maintenance – all appliances, home & garden equipment	8A
812111	Barber Shops	6B
812112	Beauty Salons	6B
812113	Nail Salons	5I
812197	Tanning Beds/Salon	5I
812199	Other Personal Services – diet center, tattoo, body piercing, massage	5I
812210	Funeral Homes & Funeral Services – Must have state license	5I
812310	Coin-Operated Laundries & Drycleaners	5A
812320	Drycleaners and Laundry Services (except coin-operated)	5A
812332	Industrial Launderers and Uniform Supply	5I
812930	Parking Lots and Garages	5I
812990	All Other Personal Services – bail bonding, wedding planner,	8A
812991	Fortune Teller or Clairvoyant – individual reader license	5I
910001	Category for number of – vending machines for all types vending	5F
910002	Category for number of – pool tables Must be approved by the City Council and operated <u>only inside the corporate limits</u>	5F
910003	Category for number of – amusement devices and/or games	\$35
920005	Category for number of – employees as a basis for calculating license	E
930006	Category for number of – square feet used for calculating license amount	S
999111	Unclassified miscellaneous business services not elsewhere classified wrecker services, meter readers, inventory computing, etc	5I
999222	Unclassified miscellaneous personal services not elsewhere classified	5I

SECTION 23. License fee Schedules.

THE LICENSE FEE SCHEDULE SHALL BE GOVERNED BY THE LICENSE CODE OF THE CITY OF BESSEMER, ALABAMA ADOPTED BY ORDINANCE NO. 2418 AND AS AMENDED BY ORDINANCE NUMBERS 2555, 2556, 2592, 2667 AND 3036.

SECTION 24. Exchange of Information

- (a) The license officer may exchange tax returns, information, records, and other documents secured by the municipality, with other municipalities adopting similar ordinances for the exchange of taxpayer information, or with county or state authorities. The license officer may charge a reasonable fee for providing such information or documents. Any tax returns, information, records, or other documents so exchanged shall remain subject to the confidentiality provisions, restrictions, and criminal penalties for unauthorized disclosure as provided under state or municipal law.
- (b) Any such exchange shall be for one or more of the following purposes:
- (1) Collecting taxes due.
 - (2) Ascertaining the amount of taxes due from any person.
 - (3) Determining whether a person is liable for, or whether there is probable cause for believing a person might be liable for, the payment of any tax to a state, county, or municipal agency.
- (c) Nothing herein shall prohibit the use of tax returns or tax information by the municipality in the proper administration of any matter administered by the license officer. The license officer may also divulge to a purchaser, prospective purchaser as defined pursuant to the regulations of the Alabama Department of Revenue, or successor of a business or stock of goods the outstanding sales, use, or rental tax liability of the seller for which the purchaser, prospective purchaser as defined pursuant to the regulations of the Alabama Department of Revenue, or successor may be liable pursuant to the Code of Alabama section 40-23-25, 40-23-82, or 40-12-224.

SECTION 25. License fees in Police jurisdiction.

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

SECTION 26. Effective date.

This ordinance shall become effective January 1, 2008.

SECTION 27. Severability.

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

SECTION 28. Repealer.

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

SECTION 29.This Ordinance shall go into effect upon passage and publication as required by law.

Adopted and approved this the 18th day of December , 2007.