

Pursuant to the Code of Alabama, the following is hereby declared to be and is adopted as the business license code and schedule of licenses for the municipality for the year beginning January 1, 2008, and for each subsequent year thereafter. There is hereby levied and assessed a business license fee for the privilege of doing any kind of business, trade, profession or other activity in the municipality, or the police jurisdiction, by whatever name called.

The City Council of the City of Calera, Alabama, hereinafter "city," enacts this article in accordance with Code of Alabama 1975, §§ 11-51-90 to 11-51-185. The purposes of this article are to simplify the procedures for and calculation of fees for business licensing in the city and to provide a consistent and flexible structure for business license administration and compliance with the business licensing rules contained in the ordinance. All persons and entities conducting business within the corporate boundaries and the police jurisdiction of the City of Calera, Alabama shall be licensed under the applicable provisions of this article. The business license fee imposed under this ordinance shall be based on either a flat rate or the gross receipts of business conducted, as set out herein, plus the amount of an issue fee established by state law, except in instances where the license is established by Alabama law. Nothing in this article shall limit or abridge the right of the city through its city council to change, modify, or revoke any license obtained under this article.

(Ord. No. 2007-39, § 1, 11-19-07)

Sec. 5-2. Definitions of terms.

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

(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 the municipality and a utility or other entity. The gross receipts derived from the furnishing of utility services shall not be subject to further business license taxation by the municipality.

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

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 the municipality.

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.

Business license remittance form. Any business license return, renewal remainder 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.

Department or department of revenue. The Alabama Department of Revenue, as created under Section 40-2-1 et seq.

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 Code of Alabama, § 40-2A-3.

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:

License form. Any business license application form, renewal reminder notice, business license remittance form, or business license return by whatever name called.

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.

License year. The calendar year.

Municipality. The City of Calera, Alabama, 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.

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.

Taxing jurisdiction. The City of Calera, Alabama, 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 Code of Alabama, § 11-51-180 et seq., as the context requires.

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 information required by this chapter.

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

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

Business exempt from license. Any enterprise into with the primary purpose to pursue social, charitable or other benevolent activities and that is classified as a tax-exempt organization under applicable provisions of the United States Internal Revenue Code or the regulations thereunder; subsidiaries and other similar organizations of non-profit enterprise that are operated with the expectations of making a profit and are not classified as tax-exempt under applicable provisions of the Internal Revenue Code or the regulations thereunder are subject to the provisions of this ordinance, regardless of the non-profit nature of the parent organization. Citizens seventeen years of age and under and citizens 65 years of age or older who are paid for incidental lawn maintenance work, and any work on a job-by-job basis, are exempt from the annual payment of a license fee for the incidental work. Any person selling programs for an event conducted by schools under a licensing agreement with the school shall be exempt from the provisions of this section. This exemption is applicable only to natural persons; any firm, partnership, limited liability company, corporation, organization, association, membership, cooperative, agency, group or other organization, entity or association receiving any portion of the proceeds from the sales of school events programs is subject to the provisions of this section requiring the submission of an annual business license application and remittance of annual business license fee. Farmers and other engaged in the production of farm products are not required to buy a license as provided by the Code of Alabama 1975, 11-51-105. Any business desiring to claim exemption under this provision shall file with the license officer a duly executed affidavit attesting such business's eligibility for the exemption. In addition, such business shall file with the license officer a certificate signed by a county agricultural agent certifying that said business is a bona fide grower or producer of the kind of farm products which said business proposes to sell.

Transient merchant. Each person who brings merchandise into and/or performs services in the city on a temporary basis, parks a vehicle or sets up a temporary structure on a site upon authorization of the owner of the site or the owner's duly authorized agent, and sells such merchandise and/or services at the site. No such merchandise and/or services shall be sold from a site on city streets or rights-of-way of the city or its police jurisdiction. This does not preclude non-transient merchants or enclosed shopping facilities from sponsoring sales on their premises by vendors they may engage provided the engaged vendor has a license separate from the license of the sponsoring non-transient business. No transient merchant's business license will be issued without presentation of written permission from the owner of the property from which the transient merchant plans to conduct business and approval of the heads of each department of the city including the health department in the case of food.
(Ord. No. 2007-39, § 2, 11-19-07)

Sec. 5-3. License term; minimum license.

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 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 \$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 Code of Alabama, § 11-51-122 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 notice 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 1 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.

(Ord. No. 2007-39, § 3, 11-19-07)

Sec. 5-4. License shall be location specific.

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

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

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

(i) The taxpayer must demonstrate the continuing existence of an actual facility located outside the city or 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.
(Ord. No. 2007-39, § 4, 11-19-07)

Sec. 5-5. License transfer restrictions.

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. 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. The fee for transfer of a license shall be \$10.00 and must be paid before the transferee may act thereunder. Any licensee moving from one location to another shall notify the city revenue department prior to the moving date. Movement to any new location requires the licensee to obtain a certificate of occupancy from the building official.
(Ord. No. 2007-39, § 5, 11-19-07)

Sec. 5-6. 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 \$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.
(Ord. No. 2007-39, § 6, 11-19-07)

Sec. 5-7. 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.
(Ord. No. 2007-39, § 7, 11-19-07)

Sec. 5-8. Duty to file report.

No city business license shall be issued to any business that is regulated by the State of Alabama without evidence that the business owner possesses a current State of Alabama License to provide services of the type so regulated. Businesses regulated by the State of Alabama include but are not limited to: General contractors, electrical contractors, plumbing contractors, heating/air conditioning contractors, exterminators, landscapers, real estate firms and/or agents for sales/rentals, day care centers, day care homes, restaurant/catering services.

(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. No application shall be accepted without the sworn statement. Any business filing a business license application or license renewal application containing a false statement shall be liable under the penalty provisions of this article.

(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 \$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 \$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.

(Ord. No. 2007-39, § 8, 11-19-07)

Sec. 5-9. Duty to permit records inspection.

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.

(Ord. No. 2007-39, § 9, 11-19-07)

Sec. 5-10. Unlawful to obstruct municipal designee.

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 article; 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 article.

(Ord. No. 2007-39, § 10, 11-19-07)

Sec. 5-11. Privacy of information.

The public shall only have access to the listing of names and addresses of those businesses holding a business license issued by the city.

(a) It shall be unlawful for any person connected with the administration of this article 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 article, 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 article.

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

(Ord. No. 2007-39, § 11, 11-19-07)

Sec. 5-12. 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 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.

(Ord. No. 2007-39, § 12, 11-19-07)

Sec. 5-13. 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 1975, § 11-51-44.

(Ord. No. 2007-39, § 13, 11-19-07)

Sec. 5-13.1. Criminal penalties.

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

(Ord. No. 2007-39, § 14, 11-19-07)

Sec. 5-13.2. Civil penalties.

In addition to the remedies provided by Code of Alabama 1975, § 11-51-150 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.
(Ord. No. 2007-39, § 15, 11-19-07)

Sec. 5-13.3. Penalties and interest.

(a) All licenses not paid within 30 days from the date they fall due shall be increased by 15 percent for the first 30 days they shall be delinquent and shall be measured by an additional 15 percent for a delinquency of 60 or more days, but this provision shall not be deemed to authorize the delay of 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 15 percent for the first 15 days they shall be delinquent, and shall be measured by an additional 15 percent for a delinquency of 45 days or more.

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

(d) The city is authorized to reduce or waive penalties upon a determination of reasonable cause. Reasonable cause shall include, but not be limited to, those instances where the business has acted in good faith in filing a business license application or renewal application and paying any business license fee due. However, the burden of proving reasonable cause shall be on the business. In order to appeal an assessed penalty, the business must submit a formal written request for such waiver to the revenue department describing the circumstances which resulted in the penalty assessment and requesting that the assessment be waived. Such request is due to the revenue department within 30 days of the penalty assessment in question. The revenue department shall respond to the request within 30 days of the receipt of the request.

(Ord. No. 2007-39, § 16, 11-19-07)

Sec. 5-13.4. 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.

(Ord. No. 2007-39, § 17, 11-19-07)

Sec. 5-13.5. 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 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 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.

(Ord. No. 2007-39, § 18, 11-19-07)

Sec. 5-13.6. 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 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.

(Ord. No. 2007-39, § 19, 11-19-07)

Sec. 5-13.7. Refunds on overpayments.

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

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

(c) The municipality shall either grant or deny a petition for refund within six months from the date the petition is filed, unless the period is extended by written agreement of the taxpayer and the municipality. The taxpayer shall be notified of the municipality's decision concerning the

petition for refund by first class U.S. Mail or by certified U.S. Mail, return receipt requested, sent to the taxpayer's last known address. If the municipality fails to grant a full refund within the time provided herein, the refund petition shall be deemed to be denied.

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

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

(Ord. No. 2007-39, § 20, 11-19-07)

Sec. 5-13.8. 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 \$75,000.00 during the license year;

(5) Any set-up or installation shall relate only to (i) that required by the contract between the taxpayer and the customer or as may be required by state or local law, and (ii) the merchandise so delivered;

(6) If at any time during the current license year the taxpayer fails to meet any of the above stated criteria, then within ten 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 Code of Alabama, Tit. 40 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. (Ord. No. 2007-39, § 21, 11-19-07)

Sec. 5-13.9. License classifications codes.

TABLE INSET:

CODE	2002 NAICS TITLES/BUSINESS LICENSE CODES	SCHEDULE
111	Farming and crop production--Agriculture, crop production, nursery, fruit, growers	Exempt
112	Animal production--Dairy, cattle, ranching, sheep, chickens, poultry	Exempt
113	Forestry--Logging, forestry, timber track operations, timber mgt,	Exempt
114	Fishing and hunting--Hunting and trapping, finfish, shellfish, supplies	Exempt
115	Agriculture support--Cotton gins, farm mgt, post-harvest activities	Exempt
211	Oil and gas extraction--Natural gas liquid extraction, crude extraction	A
212	Mining--(Except for oil and gas) all related mining activities	A
213	Mining support services--For oil and gas mining activities, oil/gas wells	A
221	Utilities--Electric power or light company	G
221	Utilities--Natural gas company	G
221	Utilities--Water, sewage treatment, steam, and other	G
236	Contractors--General contractors, comm. bldg, residential, subdivisions	\$300.00
237	Contractors--Heavy construction, highway, bridge, street, water,	\$300.00

	sewer	
238	Contractors--Specialty trade--Plumbing, heating and air conditioning	\$150.00
238	Contractors--Specialty trade--Painting and wall covering	\$150.00
238	Contractors--Specialty trade--Electrical contractors	\$150.00
238	Contractors--Specialty trade--Masonry and stone contractors	\$150.00
238	Contractors--Specialty trade--Drywall, acoustical and insulation	\$150.00
238	Contractors--Specialty trade--Tile, marble, terrazzo and mosaic	\$150.00
238	Contractors--Specialty trade--Carpentry contractors	\$150.00
238	Contractors--Specialty trade--Floor coverings/all types	\$150.00
238	Contractors--Specialty trade--Roofing, siding & sheet metal	\$150.00
238	Contractors--Specialty trade--Concrete contractors	\$150.00
238	Contractors--Specialty trade--Water well drilling and irrigation	\$150.00
238	Contractors--Specialty trade--Structural steel erection	\$150.00
238	Contractors--Specialty trade--Glass and glazing contractors	\$150.00
238	Contractors--Specialty trade--Excavation and site development	\$150.00
238	Contractors--Specialty trade--Wrecking and demolition	\$150.00
237	Contractors--Specialty trade--Building equipment and mechanical install	\$300.00
238	Contractors--Specialty trade contractors--Non-general and non-heavy	\$150.00
311	Food mfg--Meat, seafood, grain, fruit, dairy, animal, poultry processing	A
312	Beverage mfg--All types of soft drinks, bottled water, breweries, ice	A
3121	Beer--Off premise--State regulated through ABC	\$50.00
3122	Beer--On premise--State regulated through ABC	\$75.00
3123	Wine--State regulated through ABC	\$75.00
3124	Beer and Wine--Wholesale distributor	\$375.00
3125	Alcohol--State regulated through ABC	\$650.00
313	Textile mfg--Fabric, yarn, carpet, canvas, rope, twine, fabric mills	A
314	Other mfg--Mill operations not covered in 313, rugs, linen,	A

	curtains	
315	Apparel mfg--Women, men, children, hosiery, lingerie outerwear, accessories	A
316	Leather and allied products mfg--Shoes, luggage, handbag, related products, all footwear	A
321	Wood mfg--Sawmills, wood preservation, veneer, trusses, millwork	A
322	Paper mfg--Pulp, paper, and converted products, stationary, tubes, cores	A
323	Printing--Screen, quick, digital, books, lithographic, handbills, comm.	A
324	Petroleum and coal mfg--Asphalt, grease, roofing, paving products	A
325	Chemical mfg--Of fertilizer, wood, pesticide, paint, soap, and resin	A
326	Plastic and rubber mfg--Tires, pipe, hoses, belts, bottles, sheet, wrap, film,	A
327	Nonmetallic mfg--Clay, glass, cement, lime, pottery, ceramic, brick, tile	A
331	Primary metal mfg--Iron, steel, aluminum, wire, copper, foundries	A
332	Metal fabrication--Cutlery, structural, ornamental, machine shops	A
333	Machinery mfg--Office machinery, industrial, engines, farm, HVAC	A
334	Computer and electronic mfg--Audio, video, circuit boards, peripherals	A
335	Appliance mfg--Small appliance, lighting, electrical, battery, freezer	A
336	Transportation mfg--Mfg auto, truck, trailer, motor home, boat, ship and motorcycle	A
337	Furniture mfg--Cabinets, office, household, beds, kitchen	A
339	Miscellaneous mfg--Misc. Manufacturing, medical, dental, jewelry, sporting goods, toys, signs, all other	A
421	Wholesale trade--Durable, vehicle, machinery, equipment, furniture	A

422	Wholesale trade--Non-durable, wholesale gasoline distributor	A
422	Wholesale trade--Non-durable, paper, apparel, grocery, beverages, dairy	A
441	Motor vehicle parts and accessories--Auto, motorcycles, boats, parts and accessories	A
4411	Motor vehicles--New and/or used automobiles, motorcycles, boats, etc.--Dealerships and lots	A
442	Furniture--Furniture, home furnishings, stores, floor coverings, window	A
443	Electronic and appliance store--Household, radio, television, computers	A
444	Building materials and gardening equipment dealers--Hardware, paint, home center, wallpaper, nursery	A
445	Food and beverage stores--Grocery, convenience store, markets	A
4451	Package stores--Selling beer, wine and liquor plus general mdse.	A
446	Health and personal care stores--Drug, pharmacy, cosmetic, optical, health food	A
447	Gasoline retail--Selling gasoline with or without convenience stores	A
448	Clothing and accessories--Men, women, children, infant, shoe, jewelry	A
451	Sporting goods and hobbies--Toy, fish, gun, books, games	A
452	General merchandise stores--Department, warehouse clubs, superstores	A
453	Used merchandise stores--Books, miscellaneous, consignment, flea mkt	A
4531	Miscellaneous retailers--Florist, gift, novelty, pet, art, and tobacco	A
454	Non-store retailers--Vending machine operators, direct selling, mail order	A
4541	Non-store retailer--Peddlers license/local peddler	I
481	Air transportation--Airline tickets, shipping, freight, charters service	A
482	Rail transportation--Transportation, ticket offices, state regulated	11-51-124
483	Water transportation--Coastal, freight forwarders, inland,	A

	passenger	
484	Truck transportation--Local, long-distance, freight, moving, and storage	A
4841	Truck transportation--Terminal--State regulated	37-3-33
485	Passenger transportation--Charter and other vehicle transit services	A
4851	Passenger transportation--Bus terminals state regulated	37-3-33
4852	Passenger transportation--Buses, taxi cabs, limousine service, buggy, charters	J
4853	Passenger transportation--Number of buses, taxis, cabs, limousines, or Buggys	J
487	Sightseeing--Transportation--Scenic and sightseeing, land, air, water, special trans	A
492	Couriers--Couriers and local messengers, services, local delivery services	A
493	Warehousing and storage--Distribution, household, refrigerated, special	A
511	Publishing industries except internet--Newspaper, book, periodical, databases, software	A
512	Motion pictures--Theatres, videos, recording, drive-ins, sound studios	A
515	Broadcasting--Radio and television stations	A
517	Telecommunications--Telephone local per 11-51-128	K
5171	Telecommunications--Telephone long distance per 11-51-128	K
5172	Telecommunications--Cellular and other wireless, paging	K
5173	Telecommunications--Resellers of service	K
519	Information services and data processing--Providing, storing, processing, access to information	A
522	Bank main office--Not branch location or ATM	U
5221	Bank branch or ATM--Not main office of bank	U
5222	Savings and loans--Not branch location or ATM	U
5223	S&L Branch or ATM--Not main office of S&L	U
5224	Pawn shop--Whether title pawn or merchandise	A
5225	Credit services--Companies and activities related to credit and	A

	mediation	
523	Securities, commodity--brokerage, portfolio, investment, other financial services	A
524	Insurance company and/or its agents--Casualty, fire, and/or marine premiums 11-51-120/123	
5241	Insurance company and/or its agents--Health, allied and all other premiums 11-51-120/123	
5242	Agent office--Administration of third parties, pension funds, annuities, etc.	A
525	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
531	Real estate--Offices, agents, brokers, management, appraisers	A
532	Rental and leasing--Auto, truck, trailer, RV, all tangible property	A
5321	Rental and leasing--Movie and video rental	A
541	Attorney/lawyers--Individual and/or firm professional license	\$350.00
541	Accountant/CPAs--Individual and/or firm professional license	\$350.00
541	Architect--Individual and/or firm professional license	\$350.00
541	Physician--Individual and/or firm professional license	\$350.00
541	Dentist--Individual and/or firm professional license	\$350.00
541	Chiropractor--Individual and/or firm professional license	\$350.00
541	Optometrist--Individual and/or firm professional license	\$350.00
541	Engineer--Individual and/or firm professional license	\$350.00
541	Surveyor--Individual and/or firm professional license	\$350.00
541	Computer programmer--Individual and/or professional firm license	\$350.00
541	Photographer--Studios, portrait, commercial, services	\$350.00
541	Veterinarian--Individual and/or firm professional license	\$350.00
541	Professional services not elsewhere classified--Scientific, technical	\$350.00
551	Management companies--Offices, enterprises, regional, corporate	A
561	Exterminating services--Exterminating company and its services	A

5611	Janitorial firm--Janitorial cleaning services--Individual or firm	\$150.00
5612	Landscaping services	\$150.00
5613	Administrative services--Answering, employment, office, sec., travel	\$150.00
562	Waste management--Companies, trucks, septic tanks, landfill, services	A
611	Educational services--Technical, computer, sports, services, business	A
621	HMO--Medical centers and services	A
6211	Outpatient care centers--All other types of services	A
6212	Ambulance--Ambulance company and/or services	\$300.00
622	Hospitals--Surgical, substance abuse, psychiatric, general care, special	A
623	Nursing care--Residential care facility, day care, assisted living	A
6231	Nursing home--Care for elderly and continuing care facilities	A
624	Social assistance--Shelters, vocational, child care, abuse, emergency	A
711	Arts and sports--Dance, musical, teams, tracks, promoters, agents	A
7111	Special events--Promoter or activity--See schedule for rates	
712	Museums--Museums and historical sites, zoos, botanical gardens, parks	A
713	Amusement--golf clubs, marinas, fitness, bowling centers	A
721	Accommodations--Hotels, motels and similar facilities	B
7211	Accommodations--Bed and breakfast inns and services	B
7212	Accommodations--Trailer parks, RV parks, and travel parks	C
7213	Accommodations--Rooming houses and boarding houses	B
722	Restaurant--Full service restaurant facility	A
7221	Restaurant--Limited facility or service	A
7222	Caterers--And/or mobile food services	A
7223	Drinking establishment--Club, lounge, bar or other	\$600.00
811	Repairs and maintenance--Auto, paint/body, carwash, other vehicular	A

811	Repairs and maintenance--All electronic equipment	A
811	Repairs and maintenance--All appliances, home and garden equipment	A
812	Personal services--Hair, skin, barber, beautician, diet, nail, tanning, funerals	A
8121	Fortune teller or clairvoyant--Individual reader license	M
910	Category for number of--Vending machines for all types vending	N
9101	Category for number of--Pool tables	O
9102	Category for number of--Amusement devices and/or games	P
999	Unclassified miscellaneous business services not elsewhere classified	A
9991	Unclassified miscellaneous personal services not elsewhere classified	A
923	Administration of human resource programs	A
924	Administration of environmental quality programs	A
925	Administration of housing, urban, comm.	A
926	Administration of economic programs	A
927	Space, research, and technology	A
928	National Security and International Affairs	A

(Ord. No. 2007-39, § 22, 11-19-07)

Sec. 5-13.10. License fee schedules.

Schedule "A" -- If gross receipts are:

Base of \$100.00 plus .075 of gross receipts between \$100,000.00 and \$25,000,000.00. No additional license fee for gross receipts over \$25,000,000.00

\$18,750.00 + \$100.00 = \$18,850.00

Schedule "B"--Accommodations--Hotels and motels:

TABLE INSET:

Up to 25 units	\$500.00
26 to 50 units	\$600.00
51 units or more	\$800.00

Schedule "C"--Trailer parks and RV parks:

Per space \$15.00 (with minimum license \$100.00) . . . \$15.00

Schedule "D":

Schedule "E":

Schedule "F":

Schedule "G"--Utilities:

Amount of license is state regulated. See Section 11-51-129 of the Code of Alabama 1975. For those utilities covered, the license shall not exceed an amount equal to three percent of the gross receipts of the business transacted in the municipality for the previous year

Schedule "H":

Schedule "I"--Peddlers:

TABLE INSET:

Daily rate	issued for single day sales activity	\$20.00
Weekly rate	issued for week long sales activity	\$40.00
Monthly rate	issued for month long sales activity	\$60.00
Yearly rate	issued for annual sales activity	\$150.00

Schedule "J"--Taxi cabs and limousines:

1 taxi cab or limousine . . . \$100.00

All taxi cabs or limousines over 1 . . . \$100.00

Schedule "K"--Telephones and telecommunications:

1. Cable businesses and telecommunications services; all such businesses providing services within the city shall pay a license of 5% of gross receipts in addition to any franchise fee, except as herein provided.

2. Telegraph companies; all such companies conducting business in the city shall pay an annual business license fee as provided in 11-51-127 Code of Alabama, 1975.

3. Telephone companies with exchange license; all such companies operating in the city shall pay an annual business license fee as provided in 11-51-128 Code of Alabama, 1975.

4. Telephone companies with long distance service; all such companies providing such service and conducting business in the city shall pay an annual license fee as provided in 11-51-128 Code of Alabama, 1975.

Schedule "L"--Special events licenses:

The city does not issue a special events license.

Schedule "M"--Fortune tellers:

Annual license rate is \$1,000.00 and rate is reduced by \$25.00 each year until such time as the annual rate reaches \$500.00 and that becomes the minimum rate thereafter.

Schedule "N"--Vending machines/music machines:

Vending machines (per machine) . . . \$30.00

Schedule "O"--Billiard and/or pool tables (miniature or other wise):

TABLE INSET:

First table	\$500.00
Each additional table	\$250.00

Schedule "P"--Amusement devices:

Amusement machines (per machine) . . . \$75.00

Schedule "Q"--Buses, trucks and other equipment:

Such equipment is licensed under its applicable schedule only with no additional decal requirements.

Schedule "R":

Schedule "S":

Schedule "T":

Schedule "U"--Banks/savings and loans:

Bank ATM location . . . \$10.00

Bank branch location . . . \$10.00

Bank main office facility . . . \$125.00

Savings and loan ATM Location . . . \$10.00

Savings and loan branch location . . . \$10.00

Savings and loan mail office facility . . . \$125.00

Schedule "V"--Delivery license:

The rate for the delivery license is established in section 5-13.8 and is: . . . \$100.00

(Ord. No. 2007-39, § 23, 11-19-07)

Sec. 5-13.11. 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, § 40-23-25, 40-23-82, or 40-12-224.

(Ord. No. 2007-39, § 24, 11-19-07)

Sec. 5-13.12. License fees in police jurisdiction.

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

(Ord. No. 2007-39, § 25, 11-19-07)

Sec. 5-14. Weights and measures.

(a) *State law adopted.* The provisions of the Code of Alabama 1975, sections 8-16-1 through 8-16-18, regulating weights and measures in the state are hereby adopted as a law of the city and its police jurisdiction, and the punishment for the violation thereof shall be as provided in section 1-8.

(b) *Use of false weights and measures.* If any person shall knowingly buy or sell by false weights or measures, such person shall be deemed a common cheat, and shall be punished as provided in section 1-8.

(Code 1966, §§ 23-1, 23-2)

Sec. 5-15. Reserved.

Editor's note: Ord. No. 2004-56, adopted Dec. 20, 2004, repealed § 5-15, which pertained to dancing on Sundays and derived from Code of 1966, § 8-1.

Sec. 5-16. Reserved.

Editor's note: Ord. No. 2004-56, adopted Dec. 20, 2004, repealed § 5-16, which pertained to barbershops open on Sundays and derived from Code of 1966, § 14-6.

Sec. 5-17. Reserved.

Editor's note: Ord. No. 2004-56, adopted Dec. 20, 2004, repealed § 5-17, which pertained to minors entering poolrooms and derived from Code of 1966, § 14-47.

Sec. 5-18. Reserved.

Editor's note: Ord. No. 2004-56, adopted Dec. 20, 2004, repealed § 5-18, which pertained to permitting minors to play in poolrooms and derived from Code of 1966, § 14-48.

Sec. 5-19. Banning tobacco vending machines.

(a) *Purpose.* The compelling purpose and intent of this section is to better serve public health, safety and welfare; to significantly reduce the ability of minors to illegally obtain tobacco products by banning tobacco and tobacco accessory vending machines, and to generally promote the health and welfare of all people in the community against health hazards and harmful effects of using addictive tobacco products.

(b) *Definitions.* For the purposes of this section the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words used in the singular number include the plural number. The word *shall* is always mandatory and not merely directory.

City means the City of Calera, Alabama.

Employee means any person who is employed by an employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

Employer means any person which employs one or more persons.

Minor means an individual who is less than 19 years of age.

Owner shall mean and include the lessee, sublessee, assignee, part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, managing agent, officers of the corporation or other person having the right of ownership or possession or the right to sell, rent or lease any real property.

Person means any person, firm, partnership, association, corporation, company or organization of any kind.

Tobacco accessories means any cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed primarily for the smoking or ingestion of tobacco products.

Tobacco products means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, smoking tobacco and smokeless tobacco.

Tobacco vending machines includes any machine or device designated for or used for the vending of cigarettes, cigars, tobacco, or tobacco products upon the insertion of coins, paper bills, trade checks, slugs, or credit cards.

(c) *Enforcement.* The provisions of this section are enforceable by any duty authorized municipal code enforcement officer, (revenue examiner) police officer or as otherwise allowed by law.

(d) *Sale of cigarettes and other tobacco products from vending machines prohibited.*

(1) No person shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her or its premises of any tobacco vending machine used or intended to be used for the purpose of selling or disposing of any tobacco products or tobacco accessories therefrom.

(2) Any tobacco vending machine in use on the effective date of this article shall be removed before December 31, 2000 (end of the business license year).

(e) *Violative tobacco vending machines.* Any tobacco vending machine not removed from the premises or converted to a permissible use within the time limit set forth by subsection (d)(2) shall be deemed to be a public nuisance, and may be abated by the city in a civil action or other appropriate legal proceedings.

(f) *Violation; penalty.* Any person, firm or corporation violating and provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished as stated below. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

First offense . . . \$250.00

Second offense . . . 500.00

Third Offense . . . 500.00

In addition to the fines set out above, for the third and any subsequent violations of this section, the city council shall conduct a public hearing wherein the violating party shall be examined as to the fitness of the violator continuing to do business within the City of Calera. At the conclusion of said public hearing, the city council may revoke the business license of the violator to conduct business in the city.

Repeated violations may be the basis for a review of and revocation of presently outstanding business licensed issued by the city.

(Ord. No. 2000-48, §§ 1--6, 9-18-00)