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**ARTICLE I. - IN GENERAL** <sup>[15]</sup>

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**Sec. 6-1.- Levy of tax.**

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

(Ord. No. 2007-1964, § 1, 12-19-07)

## Sec. 6-2.- Definitions.

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

*Business.* Any commercial or industrial activity or any enterprise, trade, profession, occupation, or livelihood, including the leasing 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 engaged in or caused to be engaged in within the city.

*Business license.* An annual license issued by the city for the privilege of doing any kind of business, trade, profession, or any other activity in the city, by whatever name called, including the lease or rental of residential or 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 contract, 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.

No business required by this article to secure a license shall be exempt from the payment of said license fee on the grounds that such business is operated for a charitable purpose unless it is organized exclusively for religious, charitable, literary or educational purposes or for the benefit of the community, and no part of the net earning of such business or organization inures to the benefit of any private shareholder or individual.

Unless otherwise specified, a licensable entity shall include not only partnerships, corporations, and other legal entities undertaking a business activity, but also any individually conducting a business activity and not receiving a W-2 statement for all business activity performed and related monies earned within the license jurisdiction of the City of Pell City, Alabama. Examples of such licensable entities shall include but not be limited to the following:

- (1) Direct sales agents (acceptance of orders and delivery of products) of companies where said companies have no physical nexus in the City of Pell City and do not issue a W-2 statement to the individual agents handling the products within City of Pell City;
- (2) An agent for a business located within or outside the city limits when said agent is autonomous to the extent that a 1099 [form] is issued for monies paid to the agent for services rendered rather than a W-2 statement;
- (3) A cosmetologist working at a location licensed by another entity and autonomous to the extent that the licensed entity does not withhold employment taxes or issue a W-2 statement; and
- (4) An individual who provides personal services (such as childcare, housekeeping, yard maintenance, etc.) at a residence (a) as defined by the Internal Revenue Service, and (b) taxed as such through the home resident/employer is exempt from a business license if the resident of the home is required by IRS to treat the individual as a household worker and

provide a W-2 statement each year. All other providers of household services who are not specifically exempt within the IRS definition of a household worker must purchase a business license. A licensable individual would provide service as a self-employed person, controlling how the work is done and usually providing his or her own tools.

The levy of the tax, the powers authorized for administration, collection and enforcement of the City of Pell City privilege license tax and the related definitions shall be as specified not only by Section 11-49-90 et seq., Code of Alabama, 1975, as amended, but also as the same may be further amended by actions of the state legislature to include additional mandatory requirements relating to municipal business licenses.

Further, the mayor and council of the City of Pell City shall be authorized to add or amend, subsectors, industry groups and NAICS industry codes as adopted from time to time to appropriately and adequately identify and/or classify any particular category of business and to review classification formulas for license taxes to increase or decrease as the need arises.

*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.

*City.* The City of Pell City, Alabama.

*Contractors.*

- (1) A "contractor" is a person who accepts orders or contracts from the owner of property to assume authority or control, or to supervise, manage, or direct the work of others, or who is delegated authority by the owner to do so, whether at a fixed price or on a cost-plus basis, for doing any work on or in any building or structure or for doing any paving or curbing or for excavating or grading earth, rock, or other material, or for constructing any sewer, street, road, bridge, dam or railroad, or for any other type structure, or for moving any building or other structure from one (1) location to another.
- (2) A licensed "general contractor" is entitled to perform any and all work, or to hire laborers to perform such work, or to award subcontracts to other contractors or subcontractors for the performance of such part of the work for which the other contractor or subcontractor shall be licensed. A general contractor must present a valid, current State of Alabama General Contractor License, or facsimile thereof, as evidence of his licensing limits and the scope of work for which he is approved by the Alabama Licensing Board for General Contractors. Provided that when obtaining a building permit, each general contractor shall furnish to the building inspector or city clerk a statement, in writing, listing the names and addresses of each person or firm with whom he has made or proposes to make a subcontract for the performance of any work which is part of his prime contract with owner or lessee. When subcontractors are engaged after the initial permit has been received, the general contractor shall immediately report the names of such subcontractors, in writing, to the building inspector.
- (3) A "subcontractor" is a contractor who is licensed to perform one (1) or more types of work for which a contractor's license is required, and who performs such work under subcontract to a general contractor. A subcontractor shall, nonetheless, be entitled to perform such work as is authorized by his license under direct contract to the owner of property in which capacity the subcontractor shall perform the role of contractor; except, however, that he shall be entitled to perform only the type(s) of work authorized by his license and shall not be entitled to perform

other types of work for which a contractor's license is required, or to award subcontracts to other subcontractors.

*Designee.* The city clerk, revenue supervisor, compliance office and/or license clerk, the municipal employee(s) charged by the city with the primary responsibility of administration of the city's business license tax ordinance and related matters thereto.

*Gross receipts.* A measure of any and all receipts of a business from whatever source derived, to the maximum extent permitted by applicable laws and constitutional provisions, to be used in calculating the amount due for a business license and any other revenue which should be included in order to reflect the total gross revenue of the business for the calendar year; provided, however, that:

(1) *Inclusions.*

- a. A different basis for calculating the business license may be used by a municipality with respect to certain categories of taxpayers as prescribed in Section 11-51-90.2, Code of Alabama, 1975, as amended.
- b. For a utility or other entity described in Section 11-51-129, Code of Alabama, 1975, as amended, gross receipts shall be limited to the gross receipts derived from the retain furnishing of utility services within the city during the preceding year that are taxed under Section 40-21-3, Code of Alabama, 1975, as amended, except that nothing herein shall affect any existing contract or agreement between the city and a utility or other entity. The gross receipts derived from the furnishing of utility services shall not be subject to further business license taxation by the city.
- c. In the case of brokers or agents who are selling goods and services on behalf of a third party, gross revenue shall include only that amount of any commission, fees or emoluments earned by the broker or agent by reason of such sales within the city.
- d. Gains realized from trading in stocks, bonds, capital assets or instruments of indebtedness or securities in the course of conducting a business when such trading is the principal business.
- e. Revenue from interest, rents, royalties, dividends earned or received in the course of conducting a business for which a license fee is required under this article.
- f. The value or equivalent value of any goods or services provided by a business to an owner or lien holder of the business for which no direct compensation is received by the business.
- g. Any type of compensation paid directly to the employees, owner(s), or lien holders of a business which is, in fact, payment for goods or services provided by the business.
- h. In the case of manufacturers or processors in the city where finished products are not sold or consigned from the city but are shipped outside the city to another facility of the same or an associated company for sale or consignment from that facility, gross receipts shall be considered to be the wholesale market value of such goods at the time shipped from the city.
- i. Any other revenue which should be included in order to reflect the total gross revenue of the business for the calendar year.

(2) *Exclusions.*

- a. Gross receipts shall not include any of the following taxes collected by the business on behalf of any taxing jurisdiction or the federal government: All taxes which are imposed on the ultimate consumer, collected by the taxpayer, and remitted by or on behalf of the taxpayer to the taxing authority, whether state, local or federal, including utility gross receipts levied pursuant to Section 40-3-21, Code of Alabama; license taxes

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

*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 city license officer.* The city employee charged by the governing body of the city with the primary responsibility of administering the city's license tax and related matters.

*License year.* The calendar year.

*Manufacturer.* Any individual, association, corporation, limited liability company or other entity of any kind who either, directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or commercial use any articles, substances, or commodities, including but not limited to the following: All the activities of a commercial nature whether in labor or skill is applied by hand or machinery to materials so that as a result thereof a new, different, or useful article of tangible personal property or substance of trade or commerce is produced; the production or fabrication or specialty or custom-made articles; the making, fabricating, processing, refining, mixing, slaughtering, packing, aging, curing, preserving, canning, preparing and freezing of fresh foods, fruits, vegetables and meats.

*Other terms.* Other capitalized or specialized terms used in Section 11-51-90 et seq., Code of Alabama, shall have the same meanings ascribed to them in Section 40-2A-3, Code of Alabama, unless the context otherwise requires.

*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 municipalities.

*Retail; retail sales; retailer.* The sale of goods to a customer, including the sale of goods to another business establishment for its own use and not for resale or for processing or consummation in the manufacture of other goods for sales.

*Services.* The accommodating or performing of a duty or work by a person utilizing time or talents for direct or indirect remuneration.

*Taxing jurisdiction.* Any city that levies a business license tax or the Department of Revenue acting as agent on behalf of the city pursuant to Section 11-51-180 et seq., Code of Alabama, as the context requires.

*Taxpayer.* Any person subject to or liable under this article for a business license tax; any person required to file a return with respect to, or pay or remit the business license tax levied under this article 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 article, or to keep any records required by this article.

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

*Wholesale, wholesale sales, or wholesaler.* The sale of goods to licensed retail merchants for resale or the consignment to licensed retail merchants of goods to be sold on commission or the sale of goods to manufacturers, contractors or industrial plants to be consumed in processing, fabrication, or construction of other goods, or the sale of goods to jobbers, dealers, or other wholesale merchants for further resale.

*(Ord. No. 2007-1964, § 2, 12-19-07)*

### **Sec. 6-3.- Ordinance not applicable to interstate commerce.**

No provision of this article shall be applied so as to impose any unlawful license or undue burden upon nor to discriminate against the conduct of interstate commerce; not to impose any unlawful license on any federal or state agency or activity; nor to violate any provision of the Constitution of the United States or of the Constitution or the Code of the State of Alabama.

*(Ord. No. 2007-1964, § 3, 12-19-07)*

### **Sec. 6-4.- Claims for exemption for a disabled veteran, veteran of World War II or other persons eligible for such exemption.**

- (a) Any person desiring to claim exemption from or commutation of city licenses as a disabled veteran, veteran of World War II or other person eligible for such exemptions or commutation under the laws of the State of Alabama shall file with the city clerk a duly executed affidavit in form provided by the city clerk attesting to such eligibility, and/or shall furnish such other proof of eligibility as may be required by the city clerk.
- (b) No city license shall be required of any farm or other individual engaged in the production of farm products for the sale or other disposition of articles produced by him. Any persons desiring to claim

exemption from a city license under this provision shall file with the city clerk a duly executed affidavit in form provided by the city clerk attesting to such eligibility. In addition, such person shall file with the city clerk a certificate, in form provided by the city clerk, signed by a county agent and certifying that said person is a bona fide grower or producer of the kind of farm products which said person proposes to sell in the city. Upon receipt of the applicant's affidavit and the county agent's certificate, the city clerk shall furnish such person a "farmer's permit" at no cost or fee, which permit shall be kept by the person at all times while selling articles in the city and which shall be exhibited by the person upon the request of any police officer or other authorized enforcement officer of the city. It shall be unlawful and a violation of this article for any person engaged in the production of farm products to sell in the city such products produced by him without first having obtained the farmer's permit prescribed by this section.

*(Ord. No. 2007-1964, § 4, 12-19-07)*

### **Sec. 6-5.- Exemption of nonprofit organization.**

- (a) No license shall be required for any entity which is recognized by the United States Internal Revenue Service as a tax-exempt, nonprofit organization pursuant to § 501(c)(3), Internal Revenue Code, 1986, as amended.
- (b) Any entity claiming exemption hereunder shall file with the city clerk a sworn affidavit signed by an authorized representative of the entity. The affidavit shall be on a form provided by the city clerk and shall contain:
  - (1) The name and address of the entity;
  - (2) Whether the entity is a corporation or other form of organization;
  - (3) Affirmation that the entity is tax-exempt pursuant to § 501(c)3, Internal Revenue Code, 1986, as amended;
  - (4) The designation or classification of its tax-exempt status;
  - (5) The date such exempt status was granted; and
  - (6) Such other related and pertinent information as may be required by the city clerk.

A copy of the Internal Revenue Service determination letter with respect to the entity's exempt status must be attached to the affidavit.

- (c) After receipt by the city clerk of the documents and other information required in subsection (b) and being satisfied that the entity has complied with all requirements of this section, the city clerk shall furnish the entity a written statement that it is exempt from obtaining a license. Such exemption shall remain in effect for only so long as (i) the entity maintains its exempt status in accordance with § 501(c)3, Internal Revenue Code, as amended. If the exempt status of the entity is revoked or the entity, for any reason, no longer claims such exempt status, the entity shall, within thirty (30) days of the loss of such exempt status, notify the city clerk, in writing, and obtain the appropriate license otherwise specified in this article for the then current license year and for any previous license year, or portion thereof, in which the entity did not have an exemption under § 501(c)(3), Internal Revenue Code. The entity shall also be required to pay any interest, penalties or fees relating to the license for the then current license year or for any previous license year or partial license years.
- (d) Provided, however, that if any exempt entity has unrelated business income for any year as reported on Internal Revenue Service Form 990-T (or any other form which may now or hereafter be used for reporting unrelated business income), the entity shall be required to purchase a license based on its unrelated business income for any such year. The entity shall furnish the city clerk a copy of its Form 990-T or such other form. The license required under this paragraph shall be required for each calendar year following a year when Form 990-T or such other form is required to be filed with the Internal Revenue Service.

- (e) Any person making any false statement of fact in the affidavit provided for in subsection (b) above and to whom an exemption has been issued shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars (\$500.00), and may also, as additional punishment, be sentenced to jail for not more than one hundred eighty (180) days. Any exemption as a nonprofit organization shall be canceled and revoked.

*(Ord. No. 2007-1964, § 5, 12-19-07)*

### **Sec. 6-6.- Application for license for new business.**

- (a) For any business commenced in the city after January 1 of any calendar year and which did not operate any portion of the preceding year, the license fee to be paid for the first year shall be the minimum license prescribed in section 6-29.1 or section 6-29.2, whichever is higher, unless otherwise set by the city council.
- (b) The applicant for such license shall submit a written application to the Supervisor of Revenue of the city who shall, in turn, refer said application to the building inspector and fire marshal for certification that the business will be in compliance with the zoning, building and fire safety codes. No license for a new business will be issued unless and until the building inspector and fire marshal certify that the building or buildings to be occupied by said business are in compliance with the zoning, building and fire safety codes of the City of Pell City.
- (c) The applicant shall produce a driver's license or other picture identification (VISA, passport and employment authorization card); state license and/or board certification, when applicable; corporate verification from the Alabama Secretary of State; and any other documentation as may be required by the City of Pell City Revenue Department. This information is used solely for the purpose of determining the correct license code and is retained as strict confidential information.

*(Ord. No. 2007-1964, § 6, 12-19-07)*

### **Sec. 6-7.- Procedure for denial of new applications.**

- (a) The city designee shall have the authority to investigate all applications and may refer any application to the city council for a determination of whether such license should or should not be issued.
- (b) If the city council denies the issuance of any license referred to it, the city clerk shall promptly notify the applicant of the city council's decision.
- (c) If said applicant desires to appear before the city council to show cause why said license should be issued, he shall file a written notice with the city clerk within two (2) weeks from the date of mailing by the city clerk of the notice of the denial of such license by the city council.
- (d) Upon receipt of said notice, the city clerk shall promptly schedule a hearing to be held within fifteen (15) days from the date of receipt of such notice before the city council and shall give 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 city council shall proceed to hear any evidence which may be presented both for and against the issuance of said license.
- (f) If the city council 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 city, 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. 2007-1964, § 7, 12-19-07)*



**Sec. 6-8.- Purchase of business license; classification of taxpayers; businesses not specifically mentioned.**

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

- (1) Purchase a business license for each location at which it does business in the city, except as otherwise provided herein.
- (2) Except as provided in Section 11-51-193, Code of Alabama, 1975, with respect to taxpayers subject to state licensing board oversight, all businesses shall be classified into one (1) or more of the 2002 North American Industrial Classification System (NAICS) sectors and applicable subsectors, industry groups, industries, and U.S. industries thereunder which are fully set out in Section 11-51-90.2, Code of Alabama, 1975, as amended and are hereby adopted and incorporated into this article by reference.
- (3) If any business is not specifically mentioned or provided for by the terms of this article, the mayor and/or the city clerk are authorized to require that a license be obtained for the conduct of such business and to fix the amount of such license. The mayor and/or city clerk shall be required, as to all such licenses, to report, in writing, to the city council at the next meeting thereof as to the action taken.

*(Ord. No. 2007-1964, § 8, 12-19-07)*

**Sec. 6-9.- Payment of license by check.**

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

*(Ord. No. 2007-1964, § 9, 12-19-07)*

**Sec. 6-10.- Compliance with state requirements; prerequisite to issuance of license.**

- (a) No license shall be issued for any business controlled or covered by the provision of Section 22-20-5, Code of Alabama, 1975, as amended, dealing with public health requirements, except upon presentation, by the license applicant of a health permit issued by the St. Clair County Health Officer for the business.
- (b) No license shall be issued for any business controlled or regulated by the alcoholic beverage control {board} of the State of Alabama except upon presentation by the license applicant of a license issued by the ABC board for the business.
- (c) No license shall be issued for any profession licensed by a board and/or agency except upon presentation by the license applicant of a current license by the applicant's particular board or agency.

*(Ord. No. 2007-1964, § 10, 12-19-07)*

**Sec. 6-11.- License terms; minimums.**

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

- (1) *Full year.* Every person who commences business before the first day of July shall be subject to and shall pay the annual license for such business in full. Unless otherwise specified in the herein stated schedules, the minimum annual license shall be one hundred dollars (\$100.00).

- (2) *Half year.* Every person who commences business on or after July 1 shall be subject to and shall pay one-half ( $\frac{1}{2}$ ) the annual license for such business for that calendar year.
- (3) *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. The issue fee shall be reviewed and increased every five (5) years by the Department of Revenue as prescribed in Section 11-51-90(a)(2), Code of Alabama, 1975, as amended.
- (4) *Annual renewal.* Except as provided in subsections a. or b., the business license shall be renewed annually on or before January 31 of each year.
  - a. 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.
  - b. Insurance company annual license renewals shall be renewed in accordance with Section 11-51-122, Code of Alabama, 1975, as amended, which provides that each year each insurance company shall furnish the municipality a statement in writing, duly certified, showing the full and true amount of gross premiums 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.
  - c. 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 city. Licensees are required to furnish the city any address changes for their business prior to December 1 in order for them to receive their notice.
  - d. Business license renewal payments received by the city shall be applied to the current renewal only when any and [all] other debts the licensee owes to the city are first paid in full. No business license shall be issued if the current renewal payment does not meet said prior obligations and the current renewal. Failure to pay such sums shall subject the licensee and its agents to those penalties as prescribed for doing business without a license.
  - e. With each renewal the taxpayer or applicant shall produce a state license and/or board certification, and a State of Alabama Registration of Certification, when applicable, of business operatives or employees; a current driver license or photo identification (or copy) and any other documentation as may be required by the City of Pell City Revenue Department.

(Ord. No. 2007-1964, § 11, 12-19-07)

### **Sec. 6-12.- License shall be location specific.**

- (a) For each place at which any business is carried on, a separate license [fee] shall be paid, and any person desiring to engage in any business for which a license is required shall designate the place at which the business is carried on, and the license to be issued shall designate such place. Such license shall authorize the carrying on of such business only at the place designated.
- (b) Every person engaging in two (2) or more of the businesses, vocations, occupations or professions scheduled herein shall take out and pay for a license for each line of business, unless otherwise specified herein.
- (c)

A business conducted at more than one (1) location in the city shall be considered a separate business for each such location, and a separate license [fee] shall be paid for each location, except as otherwise provided.

- (d) Nothing herein shall be construed as exempting any business from payment of a license [fee] on the basis of lack of physical location.

*(Ord. No. 2007-1964, § 12, 12-19-07)*

### **Sec. 6-13.- Multiple licenses required.**

- (a) Any person or other entity engaged in two (2) or more businesses for which a license is required by this article shall pay a separate license [fee] for each business in which engaged except as otherwise provided.
- (b) In the event a business is conducted at more than one (1) location in the city, each such location shall be considered a separate business under the provisions of this article, and a separate license [fee] shall be paid for each such location except as otherwise provided.

*(Ord. No. 2007-1964, § 13, 12-19-07)*

### **Sec. 6-14.- Computation of license.**

Wherever in this article it is specified that the amount of the license, or any part thereof, is to be computed upon the basis of gross receipts of the business, the gross receipts referred to shall be those of the business for the year next preceding the current license year; provided, however, that if said business did not operate the entire preceding year, the gross receipts used to compute the license for the current year shall be the prorated annual gross receipts for the preceding year determined as follows:

- (1) Actual gross receipts for the period of operation during preceding year divided by the number of full months that the business operated during the preceding year multiplied by twelve (12) months.
- (2) A taxpayer engaged in business in other municipalities may account for its gross receipts so that the part of its gross receipts attributable to its branch offices will not be subject to the business license imposed herein. To establish a bona fide branch office, the taxpayer must provide proof of all the following criteria:
  - a. The taxpayer must provide proof of the continuing existence of an actual facility located outside the corporate limits of the City of Pell City in which its principal business office is located, such as a retail store, outlet, business office, showroom, or warehouse, to which employees and/or independent contractors are assigned or located during regular normal working hours.
  - b. The taxpayer must maintain books and records which reasonably indicate a segregation or allocation of the taxpayer's gross receipts to the particular facility or facilities.
  - c. The taxpayer must provide proof that separate telephone listings, signs, and other indications of its separate activity are in existence.
  - d. 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.
  - e. All business claimed by a branch office or offices must be conducted by and through said office or offices.
  - f. The taxpayer must supply proof that all applicable business licenses with respect to the branch office or offices have been issued.

*(Ord. No. 2007-1964, § 14, 12-19-07)*

### **Sec. 6-15.- Refunds of overpayments.**

- (a) Any taxpayer may file a petition for refund with the city for any overpayment of business license tax erroneously paid to the city. If a final assessment for the tax has been entered by the city, a petition for refund of all or a portion of the tax may be filed only if the final assessment has been paid in full prior to or simultaneously with the filing of the petition for refund.
- (b) A petition for refund shall be filed with the municipality within two (2) years from the date of payment of the subject business license tax.
- (c) The city shall either grant or deny a petition for refund within six (6) months from the date the petition is filed unless the period is extended by written agreement of the taxpayer and the city. The taxpayer shall be notified of the city's decision concerning the petition for refund by first class U.S. mail or by certified U.S. mail, return receipt requested, sent to the taxpayer's last known address. If the city fails to grant a full refund within the time provided herein, the refund petition shall be deemed to be denied.
- (d) If the petition is granted or the city or a court otherwise determines that a refund is due, the overpayment shall be promptly refunded to the taxpayer by the city, together with interest to the extent provided in Section 11-51-92, Code of Alabama, 1974, as amended; provided, however, if the city determines that a refund is due, the amount of overpayment plus any interest due thereon may first be credited against any outstanding tax liabilities due and owing by the taxpayer, and the balance of any overpayment shall be promptly refunded to the taxpayer. In the event a refund or any part thereof is credited to any other tax, the taxpayer shall be provided with a written, detailed statement showing the amount of overpayment, the amount credited for payment to other taxes, and the resulting amount of the refund.
- (e) A taxpayer may appeal from the denial in whole or in part of a petition for refund by filing a notice of appeal with the clerk of the circuit court of St. Clair County, at Pell City. Said notice of appeal must be filed within two (2) years from the date the petition was denied. The circuit court shall have the appeal according to its own rules and procedures and shall determine the correct amount of refund due, if any.

*(Ord. No. 2007-1964, § 15, 12-19-07)*

### **Sec. 6-16.- Restrictions on transfer of license; refund not allowed.**

No license shall be transferred, except with the consent of the city council, or the director of finance, or other supervisor of revenue, or his/her designee. No license shall be transferred to reflect a physical change of address of the taxpayer within the city more than once during a license year and never from one (1) taxpayer to another. Provided that a mere change in the name or ownership of a taxpayer, i.e., a corporation, partnership, limited liability company, or other form of legal entity now or hereafter recognized by the laws of Alabama shall not constitute a transfer for purposes of this article unless:

- (1) The changes 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 city, the subject license is one for the sale of alcoholic beverages.

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

*(Ord. No. 2007-1964, § 16, 12-19-07)*

**Sec. 6-17.- License must be posted.**

All persons shall publicly exhibit and display the license certificate issued to them by posting in a conspicuous place where said business, trade or occupation is carried on, and the holder of the license shall immediately show same to the designee of the city upon request. Any transient or nonresident person, firm or corporation doing business within the city shall carry such license either upon his person or in any vehicle or other conveyance which is used in such business, and such person shall exhibit the same to any police officer or other designated authorized agent of the city upon request.

*(Ord. No. 2007-1964, § 17, 12-19-07)*

**Sec. 6-18.- Unlawful to do business without a license; citation authorized.**

- (a) It shall be unlawful for any person, taxpayer, or agent of a person or taxpayer to engage in business or vocation in the city for which a license is required without first having procured a license. A violation of this section shall be punishable by a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and if a willful violation, by imprisonment not to exceed six (6) months, or both, at the discretion of the court trying the same. Each day shall constitute a separate offense.
- (b) The city clerk and/or the city compliance officer is hereby authorized to issue a citation to compel the appearance of a person before the municipal judge to show cause, if any, why a license has not been paid as follows:
  - (1) When a business continues in operation on and after January 1 without having first paid the license fee, and there is good and sufficient reason to indicate that the business may continue in operation for at least sixty (60) days thereafter;
  - (2) When a business continues in operation after sixty (60) days without having paid the license due; and
  - (3) When a business commences operation without first having paid the required fee to obtain a license.

*(Ord. No. 2007-1964, § 18, 12-19-07)*

**Sec. 6-19.- Penalties and interest.**

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

*(Ord. No. 2007-1964, § 19, 12-19-07)*

**Sec. 6-20.- Lien for nonpayment of license tax.**

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

*(Ord. No. 2007-1964, § 20, 12-19-07)*

### **Sec. 6-21.- Duty to permit inspection/audit and produce records.**

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

- (1) Permit the authorized representative or designee of the city to enter the business and to inspect all portions of the place or places of business for the purposes of enabling said city designee to gain such information as may be necessary or convenient for determining the proper license classification, and determining the correct amount of license tax.
- (2) To furnish information during reasonable business hours at the licensee's place of business in the city all books of account, invoices, papers, reports, and memoranda containing entries showing amount of purchases, sales receipts, inventory, and other information from which the correct license tax classification of such person may be ascertained and the correct amount of license tax to which he/she is subject may be determined, including exhibition of bank deposit books, bank statements, copies of sales tax returns to the State of Alabama, copies of Alabama Income Tax returns and Federal Income Tax returns.
- (3) It shall be the duty of any person holding a license from the city to secure, preserve, maintain and keep for a period of three (3) years the records and documents enumerated and referred to herein.

*(Ord. No. 2007-1964, § 21, 12-19-07)*

### **Sec. 6-22.- Duty to file report.**

It shall be the duty of every person subject to a license tax to render to the city a sworn statement on such forms as may be required showing the total business done, amount of sales, gross receipts and gross sales, stock, value of furniture and other equipment, capital invested, number of helpers or employees, amount of space occupied, or other factor described in the schedule, one (1) or several, as the case may require, for the ascertainment of the classification of such person for license taxation purposes and the correct amount of tax to which he/she is subject.

*(Ord. No. 2007-1964, § 22, 12-19-07)*

### **Sec. 6-23.- Preliminary assessments by city on incorrect reports; petition for review; appeal.**

- (a) If the city determines that the amount of business license tax reported on or remitted with any business license remittance form is incorrect, or if no business license remittance form is filed within the time prescribed, or if the information provided on the form is insufficient to allow the taxing jurisdiction to determine the proper amount of business license tax due, the city shall calculate the correct amount of the tax based on the most accurate and complete information reasonably obtainable and enter a preliminary assessment for the correct amount of business license tax, including any applicable penalty and interest.
- (b) The city shall promptly mail a copy of any preliminary assessment to the taxpayer's last known address by either first class U.S. mail or certified U.S. mail with return receipt requests, or, in the sole discretion of the city, deliver the preliminary assessment to the taxpayer by personal delivery.
- (c) If the amount of business license tax remitted by the taxpayer is undisputed by the city, or if the taxpayer consents to the amount of any deficiency or preliminary assessment in writing, the city shall enter a final assessment for the amount of the tax due, plus any applicable penalty and interest.
- (d) Petition for review.

- (1) If a taxpayer disagrees with a preliminary assessment as entered by the taxing jurisdiction, the taxpayer shall file a petition for review with the municipal license officer within thirty (30) days from the date of entry of the preliminary assessment setting out the specific objections to the preliminary assessment. If a petition for review is timely filed, the license officer of the municipality shall schedule a conference with the taxpayer for the purpose of allowing the taxpayer or its representatives and the representatives of the city to present their respective positions, discuss any omission or errors, and to attempt to agree upon any changes or modifications to the assessment. The license officer shall issue findings of fact and law within sixty (60) days following the conference and consistent with the procedures set forth in subsection (d) above, shall promptly, upon issuance, mail or deliver same to the taxpayer.
- (2) If the taxpayer disagrees with the license officer's findings of fact and law, the taxpayer may appeal to the city council by filing a notice of appeal with the city clerk within thirty (30) days after the findings have been issued. The appeal shall be in writing and shall set forth in reasonable detail the grounds on which the taxpayer disagrees with the license officer's findings of facts and law.
- (3) If a petition for review: (a) is not timely filed, or (b) is timely filed, and upon further review the license officer or city council, as the case may be, determines that the preliminary assessment is due to be upheld in whole or in part, the taxing jurisdiction shall make the assessment final in the amount of business license tax due as computed by the taxing jurisdiction with applicable penalty and interest.
- (4) A copy of the final assessment shall promptly be mailed to the taxpayer's last known address (i) by either first class U.S. mail or certified U.S. mail with return receipt requested in the case of assessments of business license tax of five hundred dollars (\$500.00) or less; or (ii) by certified U.S. mail with return receipt requested in the case of assessments of business license tax of more than five hundred dollars (\$500.00). In either case, at the option of the taxing jurisdiction, a copy of the final assessment may be delivered to the taxpayer by personal delivery.

*(Ord. No. 2007-1964, § 23, 12-19-07)*

#### **Sec. 6-24.- Failure to file assessment.**

- (a) In any case where a person subject to paying a license tax as provided herein fails to do so, the city designee shall be authorized to assess and determine the amount of license taxes due using the best information available either by return filed or by other means.
- (b) The taxpayer shall be notified by registered or certified mail or by personal service of the amount of any such assessment and of his right to appear before the city governing body on a day named not less than twenty (20) days from the date of note and to show cause why such assessment shall not be made final. Such appearance may be made by agent or attorney.
- (c) If no showing is made on or before the date fixed in such notice, or if such showing is not sufficient in the judgment of the city, such assessment shall be made final in the amount originally fixed, or in such other amount as is determined by the city to be correct. If upon such hearing the city designee finds a different amount due than that originally assessed, he/she shall make the assessment final in the correct amount, and in all cases shall notify the taxpayer of the assessment as finally fixed.
- (d) A notice sent via the United States mail, addressed to the taxpayer's last known place of business, shall be sufficient. Any assessment made by the designee of the city shall be prima facie correct upon any appeal.

*(Ord. No. 2007-1964, § 24, 12-19-07)*

**Sec. 6-25.- 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 city council for the violation by the licensee, his agent, servant, or employee of any provision of this article or of any ordinance of the city, or any statute of the State of Alabama relating to the business for which such license is issued.
- (b) A license 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 city or any criminal law of the State of Alabama.
- (c) A license shall also be subject to revocation by the city council 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.
- (d) The condition hereinafter set forth as grounds for the revocation of a license shall also constitute grounds for refusing to renew a license.
- (e) The city council shall set a time for hearing on the matter of revoking or refusing to renew a license. 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 city council shall hear all evidence offered by any party and all evidence that may be presented bearing upon the question of revocation or the refusal of renewal, as the case may be.

(Ord. No. 2007-1964, § 25, 12-19-07)

**Sec. 6-26.- Small vendor license.**

The city shall establish a small vendor business license which shall not exceed one (1) per cent of the taxpayer's gross receipts derived from within the city for the preceding license year. A "small vendor" shall be defined as a taxpayer that meets all the following criteria:

- (1) The taxpayer purchased a business license from the city with respect to the preceding license year and made a sale or provided services within the city during each calendar quarter of the preceding license year.
- (2) The taxpayer's gross receipts derived from within the city for the preceding license year did not exceed fifteen thousand dollars (\$15,000.00).
- (3) The taxpayer did not qualify for the special delivery license provided by Section 11-51-194, Code of Alabama, 1975, as amended.

(Ord. No. 2007-1964, § 26, 12-19-07)

**Sec. 6-27.- Itinerant dealers (local or nonlocal); vendors and other persons making door-to-door sales.**

- (a) *License and bond required.* Each person, firm, corporation, company, association, partnership, agency or business who or which has no regular place of business in the city (hereinafter collectively referred to as "vendor"), and (i) who engaged or conducts in the city, either in one (1) locality or by traveling from place to place, including door-to-door sales and solicitations, a temporary or transient business of selling or soliciting orders for the sale of goods or merchandise or personal services with the intention of continuing in said business in the city for a period of not more than three hundred sixty-five (365) days; (ii) who advertise by carrying signs or any other form of advertising, or (iii) who distribute handbills or other forms of advertising materials, shall be required to obtain a business



license and post a bond or to deposit cash in an amount specified in section 6-28 before commencing such business or solicitation.

- (b) *Application.* At least five (5) days prior to the holding of any sale or solicitation, every vendor shall furnish a completed license application in such form as required and containing such information as may be prescribed by the city clerk.
- (c) *Permission.*
  - (1) A vendor must have written permission from the appropriate property owner(s) or lessee(s) to sell or solicit sales from private property or from the front of such property (but shall not include the right-of-way) and shall provide a copy of such written permission to the city at the time of making application.
  - (2) With respect to door-to-door salespersons, such salespersons must comply immediately when asked or instructed by the property owner or resident thereof to leave such private property. Complaints submitted to the city by residents may result in the cancellation of the business license by the city council and forfeiture of the bond, as well as serve as sufficient basis for the city to refuse future license renewals.
- (d) *Hours of operation.* All vendors shall be permitted to sell or solicit sales Monday through Saturday between the hours of 9:00 a.m. and 8:00 p.m. and Sundays between the hours of 12:00 noon and 6:00 p.m., except in the case of door-to-door salespersons who shall only sell or solicit sales Monday through Friday between the hours of 9:00 a.m. and 4:30 p.m.
- (e) *Reporting and remitting sales taxes.* A vendor shall file with the city a verified report of sales and remit all sales taxes to the city within seven (7) days from the close of business or the termination of the vendor's solicitation or otherwise forfeit the vendor's bond.
- (f) *Right to deny or revoke business license.* Failure on the part of a vendor to comply with the provisions of this or other applicable city ordinances, state's laws or promulgated rules and regulations shall be considered sufficient cause for the city council to refuse or withhold the granting of any license, or to revoke same, if granted.
- (g) *Goods, wares, stands, etc., on streets or sidewalks.* It shall be unlawful for any vendor to establish or keep or maintain any articles, wares or both, fruit stand or other stand for any business that projects into or covers or rests on any street or sidewalk of the city, or that retards the free passage of persons or vehicles upon or over the streets or sidewalks or any part thereof.
- (h) *Sale of merchandise from vehicles.* It shall be unlawful for any vendor to sell any goods, products or merchandise from the trunk of any motor vehicle.

(Ord. No. 2007-1964, § 27, 12-19-07)

### **Sec. 6-28.- Bond required for itinerant dealers, vendors and other salespersons who make door-to-door calls.**

For the purpose of securing the payment of any tax, penalties or interest due or which may become due, each dealer, vendor, or other salesperson engaged in the business of selling tangible personal property at retail (hereinafter collectively referred to as "vendor") shall, before soliciting or making any sale in the city, file a bond with the city clerk conditioned upon the payment of any taxes, penalties or interest due on such sales.

Said bond shall be effective for a period of one (1) year from date of issuance and shall be fixed in an amount equal to the tax estimated due or to become due and not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) with surety or sureties approved by the city. Said bond, together with the application for the license, shall be filed with the city clerk or his/her designee.

If such vendor fails (i) to make any report of sales, (ii) remit taxes, penalties or interest due, or (iii) perform any other duty or obligations required by the city, such bond shall be forfeited, and the city shall institute an action for the entire amount of said bond and costs, including attorney's fees.

The city clerk may, for good cause shown, permit a vendor to post a cash bond which shall be subject to the foregoing conditions and provisions to the extent that such conditions and provisions are applicable to a cash bond. The cash bond shall accrue no interest. Upon proper reporting and remittance of taxes due and verification by the city clerk, a cash bond may be refunded upon written request by the taxpayer.

*(Ord. No. 2007-1964, § 28, 12-19-07)*

### **Sec. 6-29.- Delivery license.**

- (a) In lieu of any other type of license, a taxpayer may at its option purchase a delivery license of one hundred dollars (\$100.00), plus the issuance fee, for the privilege of delivering its merchandise in the city provided the taxpayer meets all of the following criteria:
- (1) Other than deliveries, the taxpayer has no other physical presence within the city;
  - (2) The taxpayer conducts no other business in the city other than delivering merchandise and performing the requisite set-up and installation of said merchandise;
  - (3) Such delivery and set-up and installation is performed by the taxpayer's employees or agents, concerns the taxpayer's own merchandise in the city, and is done by means of delivery vehicles owned, leased, or contracted by the taxpayer.
  - (4) The gross receipts derived from the sale and any requisite set-up or installation of all merchandise so delivered shall not exceed seventy-five thousand dollars (\$75,000.00) during the license year;
  - (5) Any set-up or installation shall relate only to (i) that required by the contract between the taxpayer and the customer or as may be required by state or local law, and (ii) the merchandise so delivered; and
  - (6) If at any time during the current license year the taxpayer fails to meet any of the above stated criteria, then within ten (10) days after any of said criteria has been violated or exceeded, the taxpayer shall purchase all appropriate business licenses from the municipality for the entire license year and without regard to this section.
- (b) Mere delivery of the taxpayer's merchandise by common carrier shall not allow the city to assess a business license tax against the taxpayer, but the gross receipts derived from any sale and delivery accomplished by means of a common carrier shall be counted against the seventy-five thousand dollars (\$75,000.00) limitation described in the preceding paragraph (a) if the taxpayer also during the same license year sells and delivers into the city using a delivery vehicle other than a common carrier.
- (c) A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others, shall not be entitled to purchase a delivery license.
- (d) The delivery license shall be calculated in arrears based on the related gross receipts during the preceding license years.
- (e) The purchase of a delivery license shall not, in and of itself, establish nexus between the taxpayer and the city for purposes of the taxes levied by or under the authority of Title 40, Code of Alabama, or other provisions of law; nor does the purchase of a delivery license conclusively determine that nexus does not exist between the taxpayer and the city.

*(Ord. No. 2007-1964, § 29, 12-19-07)*

**Sec. 6-29.1.- License classifications.****2002 NAICS TITLES AND BUSINESS DESCRIPTION SCHEDULE**

Code	Business	Schedule
111	Farming—Agriculture, crop production, nursery, fruit, growers	Exempt
112	Animals—Dairy, cattle, ranching, sheep, chickens, poultry	Exempt
113	Forestry—Logging, forestry, timber track operations, timber management	Exempt
114	Fishing and Hunting—Hunting and trapping, finfish, shellfish, supplies	Exempt
115	Agriculture Support—Cotton gins, farm management, post-harvest activities	Exempt
211	Oil and Gas Extraction—Natural gas liquid extraction, crude extraction	To be classified as needed
212	Mining (except for oil and gas)—All related mining activities	To be classified as needed
213	Mining Support Services—For oil and gas mining activities, oil/gas wells	To be classified as needed
221	Utilities—Electric power, light co., natural gas distribution—State regulated	M
236	Construction of Buildings—Commercial buildings, residential, subdivision	J
237	Heavy and Civil Engineer Construction—Highway, bridge, street, water, sewer	J
238	Contractors (Specialty Trade)—Plumbing, heating and air conditioning, etc.	J
311	Food Manufacturing—Meat, seafood, grain, fruit, dairy, animal, poultry processing	F
312	Beverage & Tobacco Product Manufacturing	To be classified as needed
313	Textile Mills—Fabric, yarn, carpet, canvas, rope, twine, fabric mills	F

314	Textile Product Mills—Mill operations not covered in 313 (rugs, linen, curtains)	F
315	Apparel Manufacturing—Women, men, children, hosiery, outerwear accessories	F
316	Leather Manufacturing—Shoes, luggage, handbag, related products, footwear	F
321	Wood Product Manufacturing—Sawmills, wood preservation, veneer, trusses, millwork	F
322	Paper Manufacturing—Pulp, paper, and converted products, stationary, tubes, cores	F
323	Printing—Screen, quick, digital, books, lithographic, handbills, etc.	G
324	Petroleum and Coal Manufacturing—Asphalt, grease, roofing, paving products	F
325	Chemical Manufacturing—Fertilizer, wood, pesticide, paint, soap, resin, plastic	F
326	Plastic and Rubber Manufacturing—Tires, pipe, hoses, belts, bottles, sheet, wrap, film	F
327	Nonmetallic Manufacturing—Glass, cement, lime, pottery, ceramic, brick, tile	F
331	Primary Metal Manufacturing—Iron, steel, aluminum, wire, copper, foundries	F
332	Metal Fabrication—Cutlery, structural, ornamental, machine shops	F
333	Machinery Manufacturing—Office machinery, industrial, engines, farm, HVAC	F
334	Computer and Electronic Manufacturing—Audio, video, circuit boards, peripherals	F
335	Appliance Manufacturing—Small appliance, lighting, freezer	F
336	Transportation Manufacturing—Manufacturing autos, trucks, trailers, motor homes, boats, ships	F

337	Furniture Manufacturing— Cabinets, office, household, beds, medical, kitchen	F
339	Miscellaneous Manufacturing—Specialty manufacturing not defined in separate categories	F
423	Wholesale Trade (Durable)— Vehicle, machinery, equipment, furniture	D
424	Wholesale Trade—Nondurable goods, wholesale gasoline distributor, etc.	E
425	Electronic Markets and Agents and Brokers	To be classified as needed
441	Motor Vehicle and Parts Dealers—Automobiles, motorcycles, boats, parts and accessories	A
441	Motor Vehicles—New and/or used automobiles, motorcycles, boats, etc., dealerships and lots	A
442	Furniture—Furniture, home furnishings, stores, floor coverings, windows, etc.	A
443	Electronic and Appliance Store—Household, radio, television, computers	A
444	Building Materials and Garden Supply Store—Hardware, paint, home center	A
445	Food and Beverage Stores— Grocery stores, convenience stores, markets, specialty foods	C
446	Health and Personal Care Stores—Drug, pharmacy, cosmetic, optical, health food	A
447	Gasoline Retail—Sell gasoline with or without convenience store	C
448	Clothing and Accessories— Men, women, children, infant, shoe, jewelry	A
451	Sporting Goods, Hobby, Book and Music Stores—Toys, fish, guns, books, games	A
452	General Merchandise Stores— Department stores, warehouse clubs, superstores	A
453	Miscellaneous Retailers— Florist, gift, novelty, pet, art and tobacco	A

454	Nonstore Retailers—Vending machine operators, direct selling, mail-order	A + \$2.00 per machine
481	Air Transportation—Airline tickets, shipping, freight, charter service	G
482	Rail Transportation—Transportation, ticket offices, state regulated	§ 11-51-124(g)
483	Water Transportation—Coastal, freight forwarders, inland, passenger	To be classified as needed
484	Truck Transportation—Local, long-distance, freight, moving and storage	G
485	Transit and Ground Passenger Transportation—Charter, vehicle transit services	H
486	Pipeline Transportation—Crude oil, natural gas, refined petroleum product	To be classified as needed
487	Scenic and Sightseeing Transportation—Land, air, water, special transportation	H
488	Support Activities for Transportation	To be classified as needed
491	Postal Service	Exempt
492	Couriers and Messengers—Courier and messenger services, local delivery services	G
493	Warehousing and Storage—Distribution, household, refrigerated, special	G
511	Publishing Industries—Newspaper, book, periodical, databases, software	A
512	Motion Pictures and Sound Recording Industries—Drive-ins, broadcasting	H
515	Broadcasting—Radio, television, except internet	H
516	Internet Publishing and Broadcasting	To be classified as needed
517	Telecommunications—Wired, wireless, resellers, local	Regulated § 11-51-128
518	ISPs, Search Portals and Data Processing—All types of information services	To be classified

519	Other Information Services	as needed To be classified as needed
521	Monetary Authorities—Central bank main office (not branch location or ATM)	W
Code	Business	Schedule
522	Credit Intermediation and Related Activities	W
523	Securities, Commodity Contracts, Investments	H
524	Insurance Carriers and Related Activities	§§ 11-51-120—11-51-123
525	Funds, Trusts, Other Financial Vehicles—Agency accounts, investments	H
531	Real Estate—Offices, agents, brokers, management, appraisers	I § 34-27-30.1
532	Rental and Leasing Services—Auto, truck, trailer, RV, all tangible property	A
541	Professional and Technical Services—Individual and/or firm professionals	I
551	Management of Companies and Enterprises	I
561	Administrative and Waste Services—Support services	G
562	Waste Management and Remediation Services—Companies, trucks, septic tanks	Flat fee
611	Educational Services—Technical, computer, sports, services, business, training	H
621	Ambulatory Health Care Services—Medical, individual or firm (professional)	I
622	Hospitals—Surgical, substance abuse, psychiatric, general care, special	I
623	Nursing Care and Residential Care Facility—Day care, assisted living	H
624	Social Assistance—Shelters, vocational, child care, abuse, emergency	H
711	Performing Arts and Sports—Dance, musical, teams, tracks, promoters, agents	H

712	Museums—Museums and historical sites, zoos, botanical gardens, parks	G
713	Amusement and Recreation—Gambling, arcades, casinos, marinas, fitness	H
721	Accommodations—Hotels, motels and similar facilities, boarding houses	H
722	Food Service and Drinking Places—Restaurant, club, lounge, bar, etc.	K
811	Repairs and Maintenance—Auto, paint/body, carwash, other vehicular	G
812	Personal and Laundry Services—Hair, skin, barber, beautician, diet, nail	I
812	Fortune Teller/Clairvoyant—Individual reader license	\$2,500.00 minimum
813	Membership Associations and Organizations	Exempt
814	Private Households	Exempt
921	Executive, Legislative and General Government	Exempt
922	Justice, Public Order and Safety Activities	Exempt
925	Community and Housing Program Administration	Exempt
926	Administration of Economic Programs	Exempt
927	Space Research and Technology	Exempt
928	National Security and International Affairs	Exempt
999	Unclassified Miscellaneous Business—Services not elsewhere classified	G
999	Unclassified Miscellaneous Personal Service—Services not elsewhere classified	H

(Ord. No. 2007-1964, § 30, 12-19-07; Ord. No. 2008-2007, § 1, 6-23-08)

### Sec. 6-29.2.- License fee schedule.

- (a) *Class 1. Retail sales, general and other specified businesses.* Annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

GROSS RECEIPTS CALCULATIONS	
Gross Receipts	Amount of License Fee
\$500,000 or less	1/10 of 1% of gross receipts
\$500,001 to \$3,000,000	\$500.00 plus 1/20 of 1% of gross receipts in excess \$500,000



\$3,000,001 to \$5,000,000	\$1,249.00 plus 1/30 of 1% of gross receipts in excess of \$3,000,000
All over \$5,000,001	\$2,250.00 plus 1/50 of 1% of gross receipts in excess of \$5,000,000
Provided that the minimum license shall be \$50.00	

- (b) *Class 2. Retail sales—Automobile.* The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

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

- (c) *Class 3. Retail sales—Service station.* The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

GROSS RECEIPTS CALCULATIONS	
Gross Receipts	Amount of License Fee
\$100,000 or less	1/16 of 1% of gross receipts
\$100,001 to \$300,000	\$62.50 plus 1/20 of 1% of gross receipts in excess of \$100,000
\$300,001 to \$400,000	\$162.50 plus 1/25 of 1% of gross receipts in excess of \$300,000
All over \$400,001	\$202.50 plus 1/30 of 1% of gross receipts in excess of \$400,000
Provided that the minimum license shall be \$50.00 unless otherwise provided	

- (d) *Class 4. Wholesale sales—General.* The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

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

- (e)

*Class 5. Wholesale sales—Petroleum products.* The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

GROSS RECEIPTS CALCULATIONS	
Gross Receipts	Amount of License Fee
\$40,000 or less	1/5 of 1% of gross receipts
\$40,001 to \$100,000	\$80.00 plus 1/8 of 1% of gross receipts in excess of \$40,000
\$100,001 to \$300,000	\$155.00 plus 1/10 of 1% of gross receipts in excess of \$100,000
\$300,001 to \$500,000	\$335.00 plus 1/15 of 1% of gross receipts in excess of \$300,000
\$500,001 to \$1,000,000	\$483.33 plus 1/20 of 1% of gross receipts in excess of \$500,000
All over \$1,000,001	\$738.33 plus 1/25 of 1% of gross receipts in excess of \$1,000,000
Provided that the minimum license shall be \$250.00	

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

(f) *Class 6. Manufacturer, assembler, processor.* The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

GROSS RECEIPTS CALCULATIONS	
Gross Receipts	Amount of License Fee
\$100,000 or less	\$250.00 minimum
\$100,000 to \$399,999	\$250.00 plus .0015 of gross receipts in excess of \$100,000
\$400,000 to \$999,999	\$700.00 plus .0010 of gross receipts in excess of \$400,000
\$1,000,000 to \$4,999,999	\$1,300.00 plus .0005 of gross receipts in excess of \$1,000,000
\$5,000,000 to \$9,999,999	\$3,300.00 plus .0004 of gross receipts in excess of \$5,000,000
\$10,000,000 to \$19,999,999	\$5,300.00 plus .0003 of gross receipts in excess of \$10,000,000
\$20,000,000 to \$39,999,999	\$8,300.00 plus .0002 of gross receipts in excess of \$20,000,000
\$40,000,000 to \$79,999,999	\$12,300.00 plus .0001 of gross receipts in excess of \$40,000,000
All over \$80,000,000	\$16,300.00 plus .00005 of gross receipts in excess of \$80,000,000
Provided that the minimum license shall be \$250.00	

(g) *Class 7. Business services.* The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

GROSS RECEIPTS CALCULATIONS	
Gross Receipts	Amount of License Fee
\$20,000 or less	¼ of 1% of gross receipts
\$20,001 to \$50,000	\$50.00 plus 1/5 of 1% of gross receipts in excess of \$20,000

\$50,001 to \$100,000	\$110.00 plus 1/8 of 1% of gross receipts in excess of \$50,000
\$100,001 to \$300,000	\$162.50 plus 1/10 of 1% of gross receipts in excess of \$100,000
All over \$300,001	\$362.50 plus 1/15 of 1% of gross receipts in excess of \$300,000
Provided that the minimum license shall be \$50.00 unless otherwise provided	

- (h) *Class 8. Personal services.* The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

GROSS RECEIPTS CALCULATIONS	
Gross Receipts	Amount of License Fee
\$15,000 or less	1/3 of 1% of gross receipts
\$15,001 to \$50,000	\$50.00 plus 1/4 of 1% of gross receipts in excess of \$15,000
\$50,001 to \$100,000	\$137.50 plus 1/5 of 1% of gross receipts in excess of \$50,000
\$100,001 to \$500,000	\$237.50 plus 1/7 of 1% of gross receipts in excess of \$100,000
All over \$500,001	\$808.93 plus 1/8 of 1% of gross receipts in excess of \$500,000
Provided that the minimum license shall be \$50.00	

- (i) *Class 9. Professional services.* The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

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

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

- (j) *Class 10. Contractors.* The annual license is hereby fixed at an amount equal to a percentage of gross receipts of the business as follows:

GROSS RECEIPTS CALCULATIONS	
Gross Receipts	Amount of License Fee
\$200,000 or less	\$200.00

\$200,001 to \$500,000	\$200.00 plus 1/25 of 1% of gross receipts in excess \$200,000
\$500,001 to \$1,000,000	\$320.00 plus 1/30 of 1% of gross receipts in excess of \$500,000
All over \$1,000,001	\$486.67 plus 1/50 of 1% of gross receipts in excess of \$1,000,000
Provided that the minimum license shall be \$200.00	

(k) *Class 11. Alcoholic beverage sales provided state ABC license is presented.*

- (1) *Beer wholesaler license.* Each person licensed by the board as a beer wholesaler pursuant to Section 28-3A-9, Code of Alabama, 1975, as amended, shall pay an annual license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama.
- (2) *Wine wholesaler license.* Each person licensed by the board as a wine wholesaler pursuant to Section 28-3A-9, Code of Alabama, 1975, as amended, shall pay an annual license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama.
- (3) *Beer and wine wholesaler license.* Each person licensed as a beer and wine wholesaler pursuant to Section 28-3A-9, Code of Alabama, 1975, as amended, shall pay an annual license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama.
- (4) *Restaurant retail liquor license.* Each person licensed by the board to sell alcoholic beverages in connection with the operation of a hotel or restaurant pursuant to Section 28-3A-13, Code of Alabama, 1975, as amended, shall pay an annual license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama plus an amount equal to five (5) per cent of all liquor purchased from ABC outlets in accordance with the provisions of Ordinance No. 83-621. The fee shall be payable monthly and the payments for each month shall be due and payable on the twentieth day of the succeeding month in accordance with the provisions of Ordinance No. 83-621.
- (5) *Retail table wine license for off-premises consumption.* Each person licensed by the board to sell table wine at retail for off-premises consumption pursuant to Section 28-3A-15, Code of Alabama, 1975, as amended, shall pay an annual license fee in an amount equal to one-half (1/2) of the license fee paid to the State of Alabama.
- (6) *Retail table wine license for on-premises and off-premises consumption.* Each person licensed by the board to sell table wine at retail for on-premises and off-premises consumption pursuant to Section 28-3A-14, Code of Alabama, 1975, as amended, shall pay an annual license fee of seventy-five dollars (\$75.00).
- (7) *Retail beer license for on-premises and off-premises consumption.* Each person licensed by the Board to sell beer for on-premises and off-premises consumption pursuant to Section 28-3A-16, Code of Alabama, 1975, as amended, shall pay an annual license fee of seventy-five dollars (\$75.00).
- (8) *Retail beer license for off-premises consumption.* Each person licensed by the board to sell beer for off-premises consumption under Section 28-3A-17, Code of Alabama, 1975, as amended, shall pay an annual license fee of an amount equal to one-half (1/2) of the license fee paid to the State of Alabama.
- (9) *Special events retail license.* Each person licensed by the board under a special events license to sell at retail and dispense liquor, wine, table wine and beer, or any of such beverages, shall pay a license fee in an amount equal to one-half (1/2) of the license fee paid to the State of Alabama plus an amount equal to five (5) per cent of all liquor purchased from ABC outlets in accordance with the provisions of Ordinance No. 83-621. The fee shall be payable monthly and the payments for each month shall be due and payable on the twentieth day of the succeeding month in accordance with the provisions of Ordinance No. 83-621.

- (10) *Special events retail license for nonprofit organizations.* Provided an entity presents an Alabama Beverage Control Board license and is recognized by the United States Internal Revenue Service as a tax-exempt, nonprofit organization pursuant to Section 501(c)(3), Internal Revenue Code, 1986, as amended, each such person, organization, or corporation licensed by the board under a special events license to sell at retail and dispense liquor, wine, table wine and beer, or any of such beverages, shall pay a license fee in the amount of five dollars (\$5.00) plus an amount equal to five (5) per cent of all liquor purchased from ABC outlets in accordance with the provisions of Ordinance No. 83-621. The fee shall be payable monthly and the payments for each month shall be due and payable on the twentieth day of the succeeding month in accordance with the provisions of Ordinance No. 83-621.
- (11) *Lounge retail liquor license—Class 1.* Each person licensed by the board for a Class 1 lounge retail license to sell at retail alcoholic beverages for both on-premises and off-premises consumption shall pay a license fee of an amount equal to one-half (½) of the license fee paid to the State of Alabama plus an amount equal to five (5) per cent on all liquor purchased from ABC outlets in accordance with the provisions of Ordinance No. 83-621. The fee shall be payable monthly and the payments for each month shall be due and payable on the twentieth day of the succeeding month in accordance with the provisions of Ordinance No. 83-621.
- (12) *Lounge retail liquor license—Class 2.* Each person licensed by the board for a Class 2 lounge retail license to sell at retail alcoholic beverages for off-premises consumption only shall pay a license fee of an amount equal to one-half (½) of the license fee paid to the State of Alabama plus an amount equal to five (5) per cent on all liquor purchased from ABC outlets in accordance with the provisions of Ordinance No. 83-621. The fee shall be payable monthly and the payments for each month shall be due and payable on the twentieth day of the succeeding month in accordance with the provisions of Ordinance No. 83-621.
- (l) *Class 12. Livestock arena/corral/rodeo.* The license is hereby fixed as follows: One thousand two hundred dollar (\$1,200.00) flat fee.

(Ord. No. 2007-1964, § 31, 12-19-07)

### **Sec. 6-29.3.- Gross receipts; confidentiality/privacy.**

- (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 city attorney, person(s) either employed by or contracted by the city to audit the books of the city or said taxpayer, or others authorized by law to receive such information described herein.
- (b) It shall be unlawful for any person to print, publish, or divulge, without the written permission or approval of the taxpayer, the license form of any taxpayer or any part of the license form, or any information secured in arriving at the amount of tax or value reported, for any purpose other than the proper administration of any matter administered by the taxing jurisdiction, or upon order of any court, or as otherwise allowed by this 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 city council upon their written request through the mayor's office. It shall be unlawful for any person to violate the provisions of this section.

(Ord. No. 2007-1964, § 32, 12-19-07)

### **Sec. 6-29.4.- Exchange of information.**

- (a)

The license officer may exchange tax returns, information, records, and other documents secured by the city, with other municipalities adopting similar ordinances for the exchange of taxpayer information, or with county or state authorities. The license officer may charge a reasonable fee for providing such information or documents. Any tax returns, information, records, or other documents so exchanged shall remain subject to the confidentiality provisions, restrictions, and criminal penalties for unauthorized disclosure as provided under state or municipal law.

- (b) Any such exchange shall be for one (1) 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 Section 40-23-25, 40-23-82, or 40-12-224, Code of Alabama, 1975, as amended.

*(Ord. No. 2007-1964, § 33, 12-19-07)*

#### **Sec. 6-29.5.- Unlawful to obstruct.**

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

*(Ord. No. 2007-1964, § 34, 12-19-07)*

#### **Sec. 6-29.6.- Rules and regulations authorized.**

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

*(Ord. No. 2007-1964, § 35, 12-19-07)*

#### **Sec. 6-29.7.- Civil penalties.**

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

*(Ord. No. 2007-1964, § 36, 12-19-07)*

#### **Sec. 6-29.8.- Criminal penalties.**

Any person found guilty of violating any of the provisions of this article shall be fined in an amount not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00), and may also be sentenced to imprisonment for a period not exceeding six (6) months. Each day's operation without having first paid the required license of any business, occupation, trade, vocation or profession indicated which is named, defined or designated in this article shall constitute a separate offense.

*(Ord. No. 2007-1964, § 37, 12-19-07)*

### **Sec. 6-29.9.- Prosecutions unaffected.**

The adoption of this article 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 article; nor shall any civil action or cause of action existing prior to or at the time of the adoption of this article be affected in any manner by its adoption.

*(Ord. No. 2007-1964, § 38, 12-19-07)*

### **Sec. 6-29.10.- Carnivals.**

- (a) *Definition.* A "carnival" is hereby defined as a traveling amusement show, having rides, sideshows, games, etc.
- (b) *Carnivals prohibited.* It shall be unlawful for any person, firm, corporation or other entity to erect, operate and manage a carnival within the corporate limits of the City of Pell City, Alabama.
- (c) *Penalty.* Any individual, firm, partnership or corporation violating any provision of this section shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) or imprisoned for more than six (6) months or both, in the discretion of the court.

*(Ord. No. 2004-1732, §§ 1—3, 2-23-04)*

**Note**—See Editor's note to Art. I.

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#### FOOTNOTE(S):

<sup>(15)</sup> **Editor's note**— Ord. No. 2007-1964, adopted Dec. 19, 2007, not being specifically amendatory of the Code, has been treated as superseding the provisions of Ord. No. 2005-1805 and Ord. No. 2004-1735, which had been codified as §§ 6-1—6-28, and pertained to the same subject matter. The amendatory history of former §§ 6-1—6-28 can be found in the Code Comparative Table located at the back of this volume. Section 6-29, not having derived from deleted Ord. No. 2005-1805 or Ord. No. 2004-1735, has been retained and redesignated as § 6-29.10. ([Back](#))