

Chapter 10 LICENSES AND TAXATION

ARTICLE I. - SCHEDULE OF LICENSES AND FEES

ARTICLE II - - GASOLINE TAX

ARTICLE III. - TOBACCO TAX

ARTICLE IV. - PRIVILEGE AND EXCISE TAXES

ARTICLE V. - PROPERTY TAX

ARTICLE VI. - RENTAL TAX

ARTICLE I. SCHEDULE OF LICENSES AND FEES ¹¹

§ 10-1. Levy of tax.

§ 10-2. Definitions.

§ 10-3. License term; minimums.

§ 10-4. License shall be location specific.

§ 10-5. Restriction on transfer of license.

§ 10-6. Unlawful to do business without a license.

§ 10-7. License must be posted.

§ 10-8. Duty to file report.

§ 10-9. Duty to permit inspection and produce records.

§ 10-10. Unlawful to obstruct.

§ 10-11. Privacy.

§ 10-11.1. Failure to file assessment.

§ 10-11.2. Lien for nonpayment of license tax.

§ 10-11.3. Criminal penalties.

§ 10-11.4. Civil penalties.

§ 10-11.5. Penalties and interest.

§ 10-11.6. Prosecutions unaffected.

§ 10-11.7. Procedure for denial of new applications.

§ 10-11.8. Procedure for revocation or suspension of license.

§ 10-11.9. Refunds on overpayments.

§ 10-11.10. Delivery license.

§ 10-11.11. License classifications.

§ 10-11.12. License fee schedules.

§ 10-11.13. Exchange of information.

§ 10-11.14. License fees in police jurisdiction.

§ 10-1. Levy of tax.

Pursuant to the Code of Alabama, the following is hereby declared to be and is adopted as the business license code and schedule 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.

(Ord. No. 2007-03, § 1, 9-13-07)

§ 10-2. Definitions.

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

- (1) *Business*. Any commercial or industrial activity or any enterprise, trade, profession, occupation, or livelihood, including the lease or rental of residential or nonresidential real estate, whether or not carried on for gain or profit, and whether or not engaged in as a principal or as an independent contractor, which is engaged in, or caused to be engaged in, within a municipality.
- (2) *Business license*. An annual license issued by the municipality for the privilege of doing any kind of business, trade, profession, or any other activity in the municipality, by whatever name called, which document is required to be conspicuously posted or displayed except to the extent the taxpayer's business license tax or other financial information is listed thereon.
- (3) *Business license remittance form*. Any business license return, renewal reminder notice, or other writing on which the taxpayer calculates the business license tax liability for all or part of the license year and remits the amount so calculated with the form.
- (4) *Department or department of revenue*. The Alabama Department of Revenue, as created under § 40-2-1 et seq., [Code of Alabama, 1975].
- (5) *Designee*. An agent or employee of the municipality authorized to administer or collect, or both the municipality's business license taxes, which may include another taxing jurisdiction, the department of revenue, or a "private auditing or collecting firm" as defined in § 40-2A-3, Code of Alabama, 1975.
- (6) *Gross receipts*. The measure of any and all receipts of a business from whatever source derived, to the maximum extent permitted by applicable laws and constitutional provisions, to be used in calculating the amount due for a business license. Provided, however, that:
 - (a) Gross receipts shall not include any of the following taxes collected by the business on behalf of any taxing jurisdiction or the federal government: All taxes which are imposed on the ultimate consumer, collected by the taxpayer and remitted by or on behalf of the taxpayer to the taxing authority, whether state, local or federal, including utility gross receipts levied pursuant to Article 3, Chapter 21, Title 40 [Code of Alabama, 1975]; license taxes levied pursuant to Article 2, Chapter 21, Title 40 [, Code of Alabama, 1975]; or reimbursements to professional employer organizations of federal, state or local payroll taxes or unemployment insurance contributions; but no other deductions or 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 § 11-51-90B [, Code of Alabama, 1975].

Chapter 10 LICENSES AND TAXATION

- (c) For a utility or other entity described in § 11-51-129, [Code of Alabama, 1975], 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, Chapter 21, Title 40 [, Code of Alabama, 1975], except that nothing herein shall affect any existing contract or agreement between a municipality and a utility or other entity. The gross receipts derived from the furnishing of utility services shall not be subject to further business license taxation by the municipality.
- (d) Gross receipts shall not include dividends or other distributions received by a corporation, or proceeds from borrowing, the sale of a capital asset, the repayment of the principal portion of a loan, the issuance of stock or other equity investments, or capital contributions, or the undistributed earnings of subsidiary entities.
- (7) *License form.* Any business license application form, renewal reminder notice, business license remittance form, or business license return by whatever name called.
- (8) *License officer or municipal license officer.* The municipal employee charged by the municipality with the primary responsibility of administering the municipality's business license tax ordinance and related matters thereto.
- (9) *License year.* The calendar year.
- (10) *Municipality.* Any town or city in this state that levies a business license tax from time to time. The term shall also include the town's or city's police jurisdiction, where the business license tax is levied in the police jurisdiction.
- (11) *Person.* Any individual, association, estate, trust, partnership, limited liability company, corporation, or other entity of any kind, except for any nonprofit corporation formed under the laws of Alabama which is operated to enable municipalities that become members of such nonprofit corporation to finance or refinance capital projects and related undertakings, on a cooperative basis, and whose board of directors or other governing body consists primarily of elected officials of the municipality.
- (12) *Taxing jurisdiction.* Any municipality that levies a business license tax, whether or not a business license tax is levied within its police jurisdiction, or the department of revenue acting as agent on behalf of a municipality pursuant to § 11-51-180 et seq., [Code of Alabama, 1975], as the context requires.
- (13) *Taxpayer.* Any person subject to or liable under this chapter for any business license tax; any person required to file a return with respect to, or pay or remit the business license tax levied under this chapter or to report any information or value to the taxing jurisdiction; or any person required to obtain, or who holds any interest in, any business license issued by the taxing jurisdiction; or any person that may be affected by any act or refusal to act by the taxing jurisdiction under this chapter, or to keep any required by this chapter
- (14) *U.S.C.* The applicable title and section of the United States Code, as amended from time to time.
- (15) *Other terms.* Other capitalized or specialized terms used in this article, and not defined above, shall have the same meanings ascribed to them in § 40-2A-3, Code of Alabama, 1975, unless the context therein otherwise specifies.

(Ord. No. 2007-03, § 2, 9-13-07)

§ 10-3. License term; minimums.

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

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

Chapter 10 LICENSES AND TAXATION

- (b) *Half year.* Every person who commences business on or after July 1, shall be subject to and shall pay one-half (½) the annual license for such business for that calendar year.
- (c) *Issue fee.* For each license issued there shall be an issue fee collected of ten dollars (\$10.00) and said issue fee shall be collected in the same manner as the license tax.
- (d) *Annual renewal.* Except as provided in subsection (1) or (2), the business license shall be renewed annually on or before the thirty-first day of January each year.
 - (1) 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.
 - (2) Insurance company annual license renewals shall be renewed in accordance with § 11-51-122, Code of Alabama, 1975, 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.
 - (3) On or before December 31 of each year, a renewal reminder shall be mailed to each licensee that purchased a business license during the current year. Said renewal notice shall be mailed via regular U.S. mail to the licensee's last known address of record with the municipality. Licensees are required to furnish the municipality any address changes for their business prior to December 1 in order for them to receive their notice.
 - (4) 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. 2007-03, § 3, 9-13-07)

§ 10-4. License shall be location specific.

- (a) For each place at which any business is carried on, a separate license shall be paid, and any person desiring to engage in any business for which a license is required shall designate the place at which business is carried on, and the license to be issued shall designate such place, and such license shall authorize the carrying on of such business only at the place designated.
- (b) Every person dealing in two (2) or more of the articles, or 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.
- (c) A taxpayer subject to the license authorized by this chapter 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 chapter. To establish a bona fide branch office, the taxpayer must demonstrate proof of all following criteria:
 - (1) The taxpayer must demonstrate the continuing existence of an actual facility located outside the police jurisdiction in which its principal business office is located, such as a retail store, outlet, business office, showroom, or warehouse, to which employees and/or independent contractors are assigned or located during regular normal working hours.
 - (2) 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.

Chapter 10 LICENSES AND TAXATION

- (3) The taxpayer must provide proof that separate telephone listings, signs, and other indications of its separate activity are in existence.
 - (4) 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.
 - (5) All business claimed by a branch office or offices must be conducted by and through said office or offices.
 - (6) 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. 2007-03, § 4, 9-13-07)

§ 10-5. Restriction on transfer of license.

No license shall be transferred except with the consent of the council or other governing body of the municipality or of the director of finance or other chief revenue officer or his or her designee, and no license shall be transferred to reflect a physical change of address of the taxpayer within the municipality more than once during a license year and never from one (1) 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 (1) 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.

(Ord. No. 2007-03, § 5, 9-13-07)

§ 10-6. Unlawful to do business without a license.

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

(Ord. No. 2007-03, § 6, 9-13-07)

§ 10-7. 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. 2007-03, § 7, 9-13-07)

§ 10-8. Duty to file report.

- (a) It shall be the duty of every person subject to such license tax to render to the municipality on such forms as may be required, a sworn statement showing the total business done, amount of sales, gross receipts and gross sales, stock, value of furniture and other equipment, capital invested, number of helpers or employees, amount of space occupied, or other factor described in the schedule, one (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 license tax to which he is subject.
- (b) If the municipality determines that the amount of business license tax reported on or remitted with any business license remittance form is incorrect, if no business license remittance form is filed within the time prescribed, or if the information provided on the form is insufficient to allow the taxing jurisdiction to determine the proper amount of business license tax due, the municipality shall calculate the correct amount of the tax based on the most accurate and complete information reasonably obtainable and enter a preliminary assessment for the correct amount of business license tax, including any applicable penalty and interest.
- (c) The municipality shall promptly mail a copy of any preliminary assessment to the taxpayer's last known address by either first class U.S. mail or certified U.S. mail with return receipt requested, or, in the sole discretion of the municipality, deliver the preliminary assessment to the taxpayer by personal delivery.
- (d) If the amount of business license tax remitted by the taxpayer is undisputed by the municipality, or if the taxpayer consents to the amount of any deficiency or preliminary assessment in writing, the municipality shall enter a final assessment for the amount of the tax due, plus any applicable penalty and interest.
- (e)
 - (1) If a taxpayer disagrees with a preliminary assessment as entered by the taxing jurisdiction, the taxpayer shall file a petition for review with the municipal license officer within 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 municipality to present their respective positions, discuss any omissions 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, which shall promptly upon issuance be mailed or delivered to the taxpayer, consistent with the procedures set forth in subsection (d) above.
 - (2) If the taxpayer disagrees with the license officer's findings of fact and law, the taxpayer may appeal to the municipal governing body, by filing a notice of appeal with the municipal 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 fact 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 the administrative hearings officer or governing body of the municipality, 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 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 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. 2007-03, § 8, 9-13-07)

§ 10-9. Duty to permit inspection and produce records.

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

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

(Ord. No. 2007-03, § 9, 9-13-07)

§ 10-10. Unlawful to obstruct.

It shall be unlawful for any person, or for any agent, servant or employee of such person, to fail or refuse to perform any duty imposed by this 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. 2007-03, § 10, 9-13-07)

§ 10-11. 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 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. 2007-03, § 11, 9-13-07)

§ 10-11.1. Failure to file assessment.

- (a) In any case where a person subject to paying a license tax as provided herein fails to do so, the municipal designee shall be authorized to assess and determine the amount of license taxes due using the best information available either by return filed or by other means.
- (b) The taxpayer shall be notified by registered or certified mail, or by personal service, of the amount of any such assessment, and of his right to appear before the municipal governing body on a day

named not less than twenty (20) days from the date of notice and to show cause why such assessment shall not be made final. Such appearance may be made by agent or attorney.

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

(Ord. No. 2007-03, § 12, 9-13-07)

§ 10-11.2. Lien for nonpayment 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 § 11-51-44, Code of Alabama, 1975.

(Ord. No. 2007-03, § 13, 9-13-07)

§ 10-11.3. 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 of not exceeding six (6) months, in the discretion of the court trying the case, and violations on separate days shall each constitute a separate offense.

(Ord. No. 2007-03, § 14, 9-13-07)

§ 10-11.4. Civil penalties.

In addition to the remedies provided by § 11-51-150 et seq., Code of Alabama, 1975, 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 article 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. 2007-03, § 15, 9-13-07)

§ 10-11.5. Penalties and interest.

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

Chapter 10 LICENSES AND TAXATION

- (c) All delinquent accounts (both license taxes and penalties) shall also be charged simple interest at the rate of one (1) percent per month.

(Ord. No. 2007-03, § 16, 9-13-07)

§ 10-11.6. 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. 2007-03, § 17, 9-13-07)

§ 10-11.7. Procedure for denial of new applications.

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

(Ord. No. 2007-03, § 18, 9-13-07)

§ 10-11.8. 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 article 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,

Chapter 10 LICENSES AND TAXATION

certificate, book, or any other data containing any false, deceptive or other misleading information or omission of material fact.

- (b) The conditions hereinabove set forth as grounds for the revocation of a license shall also constitute grounds for refusing to renew a license.
- (c) The municipal governing body shall set a time for hearing on the matter of revoking or refusing to renew a license; and a notice of such hearing shall be given to the licensee, or the applicant for renewal, as the case may be, at least ten (10) days before the day set for said hearing. At the hearing the municipal governing body shall hear all evidence offered by any party and all evidence that may be presented bearing upon the question of revocation or the refusal of renewal, as the case may be.

(Ord. No. 2007-03, § 19, 9-13-07)

§ 10-11.9. 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 (2) 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 (6) 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 § 11-51-92, [Code of Alabama, 1975]. 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 (2) 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 (2) years of the date the petition was denied, then the appeal shall be dismissed for lack of jurisdiction.

(Ord. No. 2007-03, § 20, 9-13-07)

§ 10-11.10. Delivery license.

- (a) In lieu of any other type of license, a taxpayer may at its option purchase for one hundred dollars (\$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:

Chapter 10 LICENSES AND TAXATION

- (1) Other than deliveries, the taxpayer has no other physical presence within the municipality or its police jurisdiction;
 - (2) The taxpayer conducts no other business in the municipality other than delivering merchandise and performing the requisite set-up and installation of said merchandise;
 - (3) Such delivery and set-up and installation is performed by the taxpayer's employees or agents, concerns the taxpayer's own merchandise in that municipality, and is done by means of delivery vehicles owned, leased, or contracted by the taxpayer;
 - (4) The gross receipts derived from the sale and any requisite set-up or installation of all merchandise so delivered shall not exceed seventy-five thousand dollars (\$75,000.00) 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 (10) days after any of said criteria have been violated or exceeded, the taxpayer shall purchase all appropriate business licenses from the municipality for the entire license year and without regard to this section.
- (b) Mere delivery of the taxpayer's merchandise by common carrier shall not allow the municipality to assess a business license tax against the taxpayer, but the gross receipts derived from any sale and delivery accomplished by means of a common carrier shall be counted against the seventy-five thousand dollar (\$75,000.00) limitation described in the preceding section if the taxpayer also during the same license year sells and delivers into the taxing jurisdiction using a delivery vehicle other than a common carrier.
- (c) A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license.
- (d) The delivery license shall be calculated in arrears, based on the related gross receipts during the preceding license year.
- (e) The purchase of a delivery license shall not, in and of itself, establish nexus between the taxpayer and the municipality for purposes of the taxes levied by or under the authority of Title 40, Code of Alabama, 1975, or other provisions of law, nor does the purchase of a delivery license conclusively determine that nexus does not exist between the taxpayer and the municipality.

(Ord. No. 2007-03, § 21, 9-13-07)

§ 10-11.11. License classifications.

Code	2002 NAICS Titles/Business License Codes	Schedule
111100	Farming and crop production - agriculture, crop production, nursery, fruit, growers	B
112100	Animal production - dairy, cattle, ranching, sheep, chickens, poultry	B
113100	Forestry - logging, forestry, timber track operations, timber management	B

Chapter 10 LICENSES AND TAXATION

114100	Fishing and hunting - hunting and trapping, finfish, shellfish, supplies	B
115100	Agriculture support - cotton gins, farm management, post-harvest activities	B
211100	Oil and gas extraction - natural gas liquid extraction, crude extraction	D
212100	Mining - (except for oil and gas) all related mining activities	D
213100	Mining support services - for oil and gas mining activities, oil/gas wells	D
221100	Utilities - electric power or light company	O
221200	Utilities - natural gas company	P
221300	Utilities - water, sewage treatment, steam, and other	Q
236100	Contractors - general contractors, commercial building, residential, subdivisions	D
237100	Contractors - heavy construction, highway, bridge, street, water, sewer	D
237200	Contractors - specialty trade - building equipment and mechanical install	B
238100	Contractors - specialty trade - carpentry contractors	B
238150	Contractors - specialty trade - concrete contractors	B
238200	Contractors - specialty trade - drywall, acoustical and insulation	B
238250	Contractors - specialty trade - electrical contractors	B
238300	Contractors - specialty trade - excavation and site development	B
238350	Contractors - specialty trade - floor coverings/all types	B
238400	Contractors - specialty trade - glass and glazing contractors	B
238450	Contractors - specialty trade - masonry and stone contractors	B
238500	Contractors - specialty trade - painting and wall covering	B

Chapter 10 LICENSES AND TAXATION

238550	Contractors - specialty trade - plumbing, heating and air conditioning	B
238600	Contractors - specialty trade - roofing, siding and sheet metal	B
238650	Contractors - specialty trade - structural steel erection	B
238700	Contractors - specialty trade - tile, marble, terrazzo and mosaic	B
238750	Contractors - specialty trade - water well drilling and irrigation	B
238800	Contractors - specialty trade - wrecking and demolition	B
238900	Contractors - specialty trades contractors - nongeneral and nonheavy	B
311100	Food manufacturing - meat, seafood, grain, fruit, dairy, animal, poultry processing	E
312100	Beverage manufacturing - all types of soft drinks, bottled water, breweries, ice	E
313100	Textile manufacturing - fabric, yarn, carpet, canvas, rope, twine, fabric mills	E
314100	Other manufacturing - mill operations not covered in 313100, rugs, linen, curtains	E
315100	Apparel manufacturing - women, men, children, hosiery, lingerie, outerwear, accessories	E
316100	Leather and allied products manufacturing - shoes, luggage, handbags, related products, all footwear	E
321100	Wood manufacturing - sawmills, wood preservation, veneer, trusses, millwork	E
322100	Paper manufacturing - pulp, paper, and converted products, stationary, tubes, cores	E
323100	Printing - screen, quick, digital, books, lithographic, handbills, commercial	A
324100	Petroleum and coal manufacturing - asphalt, grease, roofing, paving products	E
325100	Chemical manufacturing - fertilizer, wood, pesticide, paint, soap, and resin	E

Chapter 10 LICENSES AND TAXATION

326100	Plastic and rubber manufacturing - tires, pipe, hoses, belts, bottles, sheet, wrap, film	E
327100	Nonmetallic manufacturing - clay, glass, cement, lime, pottery, ceramic, brick, tile	E
331100	Primary metal manufacturing - iron, steel, aluminum, wire, copper, foundries	E
332100	Metal fabrication - cutlery, structural, ornamental, machine shops	E
333100	Machinery manufacturing - office machinery, industrial, engines, farm, HVAC	E
334100	Computer and electronic manufacturing - audio, video, circuit boards, peripherals	E
335100	Appliance manufacturing - small appliance, lighting, electrical, battery, freezer	E
336100	Transportation manufacturing - auto, truck, trailer, motor home, boat, ship and motorcycle	E
337100	Furniture manufacturing - cabinets, office, household, beds, kitchen	E
339100	Miscellaneous manufacturing - medical, dental, jewelry, sporting goods, toys, signs, all other	E
421100	Wholesale trade - durable, vehicle, machinery, equipment, furniture	D
422100	Wholesale trade - nondurable, wholesale gasoline distributor	D
422200	Wholesale trade - nondurable, paper, apparel, grocery, beverages, dairy	D
441100	Motor vehicle parts and accessories - auto, motorcycles, boats, parts and accessories	C
441200	Motor vehicles - new and/or used automobiles, motorcycles, boats, etc. - dealerships and lots	C
442100	Furniture - furniture, home furnishings, stores, floor coverings, window	B
443100	Electronic and appliance store - household, radio, television, computers	C

Chapter 10 LICENSES AND TAXATION

444100	Building materials and gardening equipment dealers - hardware, paint, home center, wallpaper, nursery	C
445100	Food and beverage stores - grocery, convenience store, markets	C
446100	Health and personal care stores - drug, pharmacy, cosmetic, optical, health food	C
447100	Gasoline retail - selling gasoline with or without convenience stores	C
448100	Clothing and accessories - men, women, children, infant, shoe, jewelry	C
451100	Sporting goods and hobbies - toy, fish, gun, books, games	C
452100	General merchandise stores - department, warehouse clubs, superstores	C
453100	Miscellaneous retailers - florist, gift, novelty, pet, art, and tobacco	C
453200	Used merchandise stores - books, miscellaneous, consignment, flea market	C
454100	Nonstore retailers - vending machine operators, direct selling, mail order	C
454200	Nonstore retailer - peddlers license/local peddler	G
481100	Air transportation - airline tickets, shipping, freight, charters service	A
484100	Truck transportation - local, long-distance, freight, moving, and storage	A
485100	Passenger transportation - buses, taxi cabs, limousine service, buggy, charters	A
485200	Passenger transportation - charter and other vehicle transit services	A
492100	Couriers - couriers and local messengers, services, local delivery services	A
493100	Warehousing and storage - distribution, household, refrigerated, special	B
511100	Publishing industries except internet - newspaper, book, periodical, databases, software	A
512100	Motion pictures - theatres, videos, recording, drive-ins, sound studios	A

Chapter 10 LICENSES AND TAXATION

515100	Broadcasting - radio and television stations	A
517100	Telecommunications - telephone local per 11-51-128[, Code of Alabama]	J
517200	Telecommunications - telephone long distance per 11-51-128[, Code of Alabama]	J
517300	Telecommunications - cellular and other wireless, paging	J
517400	Telecommunications - resellers of service	J
519100	Information services and data processing - providing, storing, processing, access to information	A
522100	Pawn shop - whether title pawn or merchandise	C
522200	Banking services or lenders of money	M
522300	Credit services - companies and activities related to credit and mediation	B
523100	Securities, commodity - brokerage, portfolio, investment, other financial services	B
524100	Insurance company and/or its agents - casualty, fire, and/or marine premiums	11-51-120/123
524200	Insurance company and/or its agents - health, allied and all other premiums	11-51-120/123
531100	Real estate - offices, agents, brokers, management, appraisers	B
532100	Rental and leasing - auto, truck, trailer, RV, all tangible property	A
532200	Rental and leasing - movie and video rental	A
541100	Accountant/CPA - individual and/or firm professional license	D
541150	Architect - individual and/or firm professional license	D
541200	Attorney/lawyer - individual and/or firm professional license	D
541250	Chiropractor - individual and/or firm professional license	D

Chapter 10 LICENSES AND TAXATION

541300	Computer programmer - individual and/or professional firm license	D
541350	Dentist - individual and/or firm professional license	D
541400	Engineer - individual and/or firm professional license	D
541450	Optometrist - individual and/or firm professional license	D
541500	Photographer - studios, portrait, commercial, services	D
541550	Physician - individual and/or firm professional license	D
541600	Surveyor - individual and/or firm professional license	D
541650	Veterinarian - individual and/or firm professional license	D
541900	Professional services not elsewhere classified - scientific, technical	D
551100	Management companies - offices, enterprises, regional, corporate	D
561200	Exterminating services - exterminating company and its services	B
561100	Janitorial firm - janitorial cleaning services - individual or firm	A
561300	Landscaping services	B
561400	Administrative services - answering, employment, office, secretarial, travel	D
562100	Waste management - companies, trucks, septic tanks, landfill, services	C
611100	Educational services - technical, computer, sports, services, business	B
622100	Hospitals - surgical, substance abuse, psychiatric, general care, special	D
623100	Nursing care - residential care facility, day care, assisted living	A
623150	Nursing care - home-based day cares, with six or less children (pay ½ rate)	A
623200	Nursing home - care for elderly and continuing care facilities	A

Chapter 10 LICENSES AND TAXATION

624100	Social assistance - shelters, vocational, child care, abuse, emergency	A
711100	Arts and sports - dance, musical, teams, tracks, promoters, agents	B
711200	Special events - promoter or activity - see schedule for rates	K
712100	Museums - museums and historical sites, zoos, botanical gardens, parks	B
713100	Amusement - arcades, golf clubs, marinas, fitness, bowling centers	B
721100	Accommodations - hotels, motels and similar facilities	B
721200	Accommodations - bed and breakfast inns and services	B
721300	Accommodations - trailer parks, RV parks, and travel parks	B
721400	Accommodations - rooming houses and boarding houses	B
722100	Restaurant - full service restaurant facility	B
722200	Restaurant - limited facility or service	B
722300	Caterers and/or mobile food services	B
722400	Drinking establishment - club, lounge, bar or other	B
811100	Repairs and maintenance - auto, paint/body, carwash, other vehicular	A
811200	Repairs and maintenance - all electronic equipment	A
811300	Repairs and maintenance - all appliance, home and garden equipment	A
812100	Personal services - hair, skin, barber, beautician, diet, nail, tanning, funerals	A
812500	Fortune teller or clairvoyant - individual reader license	L
999100	Unclassified miscellaneous business services not elsewhere classified	B
999200	Unclassified miscellaneous personal services not elsewhere classified	A

Chapter 10 LICENSES AND TAXATION

999900	Itinerant - miscellaneous business services	H
--------	---	---

(Ord. No. 2007-03, § 22, 9-13-07)

§ 10-11.12. License fee schedules.

Schedule "A"

- Less than \$100,000.00\$75.00
- \$100,000.00—\$500,000.00\$125.00
- \$500,000.00—\$1,000,000.00\$175.00
- Over \$1,000,000.00, plus \$0.10 per million\$175.00

Schedule "B"

- Less than \$100,000.00\$100.00
- \$100,000.00—\$500,000.00\$150.00
- \$500,000.00—\$1,000,000.00\$200.00
- Over \$1,000,000.00, plus \$0.15 per million\$200.00

Schedule "C"

- Less than \$100,000.00\$100.00
- \$100,000.00—\$500,000.00\$250.00
- \$500,000.00—\$1,000,000.00\$300.00
- \$1,000,000.00—\$2,500,000.00\$400.00
- \$2,500,000.00—\$5,000,000.00\$500.00
- \$5,000,000.00—\$7,500,000.00\$600.00
- \$7,500,000.00—\$10,000,000.00\$700.00
- Over \$10,000,000.00, plus \$0.40 per million\$800.00

Schedule "D"

- Less than \$500,000.00\$200.00
- \$500,000.00—\$1,000,000.00\$250.00
- \$1,000,000.00—\$5,000,000.00\$300.00
- Over \$5,000,000.00, plus \$0.20 per million\$300.00

Chapter 10 LICENSES AND TAXATION

Schedule "E"

- Less than \$250,000.00\$100.00
- \$250,000.00—\$1,000,000.00\$150.00
- \$1,000,000.00—\$10,000,000.00\$200.00
- Over \$10,000,000.00, maximum\$300.00

Schedule "G" - Peddlers

- Daily rate, issued for single day sales activity\$100.00
- Weekly rate, issued for week long sales activity\$150.00
- Monthly rate, issued for month long sales activity\$250.00
- Yearly rate, issued for annual sales activity\$500.00

Schedule "H" - Itinerant

There shall be a license fee charged for a business not located within the city limits to establish a temporary location inside city limits and conduct business. Rates shall be as follows:

- Daily rate, per day, maximum \$2,000.00\$500.00
- Yearly rate\$2,000.00

Schedule "I" - Taxi Cabs and Limousines

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

- All taxi cabs or limousines, per decal\$25.00

Schedule "J" - Telephones and Telecommunications

Each person, firm or corporation doing business as a telephone exchange or business, shall pay a license fee of two hundred ten dollars (\$210.00) each per year. In addition to this license thereto, each person, firm or corporation operating long distance, shall pay a license fee of fifty-three dollars (\$53.00) per year.

(Code of Alabama, § 11-51-128).

Schedule "K" - Special Events Licenses

In addition to any required license thereto, there shall be a fee for all events held within the city limits or police jurisdiction, excluding events being held for community events or nonprofit organizations. The fee shall be one hundred dollars (\$100.00) per event, not exceeding three (3) days, and an additional fifty dollars (\$50.00) for each day after the third day.

Schedule "L" - Fortune Tellers

There shall be a license rate of five hundred dollars (\$500.00) each year per establishment.

Schedule "M" - Banking Services or Lenders of Money

Chapter 10 LICENSES AND TAXATION

There shall be a license fee of one hundred fifty dollars (\$150.00) each year, per establishment. This does not include State Chartered Banks, or any related financial institutions subject to state excise tax.

Schedule "N" - Buses, Trucks and Other Equipment

In addition to the license thereto, there shall be a decal affixed to each piece of equipment and the cost of said decals shall be five dollars (\$5.00) per decal.

Schedule "O" - Utilities—Electric Power or Light Company

Each person, firm or corporation operating electric light and power companies, incorporated under the laws of this state or any other state or whether incorporated at all or not, except telephone and telegraph companies, and express companies which are otherwise licensed shall pay three (3) percent of the gross receipts of the business done by the utility in the municipality during the preceding year; and, for the first year's business when an existing utility is taken over, license will be established in accordance with Code of Alabama, § 11-51-129.

Schedule "P" - Utilities—Natural Gas Company

Each person, firm or corporation operating gas companies, pipe line companies for transporting or carrying gas, gas distributing companies, whether by means of pipe lines or by tanks, drums, tubes, cylinders or otherwise, incorporated under the laws of this state or any other state or whether incorporated at all or not, except telephone and telegraph companies, and express companies which are otherwise licensed shall pay one (1) percent of the gross receipts of the business done by the utility in the municipality during the preceding year beginning January 2009; and, for the first year's business when an existing utility is taken over, license will be established in accordance with Code of Alabama, § 11-51-129.

Schedule "Q" - Utilities—Water, Sewage Treatment

Each person, firm or corporation operating waterworks companies, pipe line companies for transporting or carrying water or other commodities, heating companies or other public utilities, incorporated under the laws of this state or any other state or whether incorporated at all or not, except telephone and telegraph companies, and express companies which are otherwise licensed, shall pay one (1) percent of the gross receipts of the business done by the utility in the municipality during the preceding year, beginning in January 2009; and, for the first year's business when an existing utility is taken over, license will be established in accordance with Code of Alabama, § 11-51-129.

Schedule "X" - Delivery License

The rate for the delivery license is established in [section 10-11.10](#) and is \$100.00.

Schedule "Y" - Small Vendors

1. For the purposes of this schedule, a "small vendor" shall be defined as a taxpayer that meets all the following criteria:
 - a. The taxpayer purchased a business license from the municipality with respect to the preceding license year and made a sale or provided services within the municipality thereof during each calendar quarter of the preceding license year.
 - b. A small vendors license is only available to those taxpayers that would otherwise fall under one (1) of the following schedules: Schedule A, Schedule B, Schedule C, Schedule D or Schedule E.
 - c. A small vendors license is not available for new businesses, it is only available for an established business who purchased a license for the previous year. Also, a small vendors

Chapter 10 LICENSES AND TAXATION

licenses is not available for those businesses that fall under the following schedules: Schedule G, Schedule H, Schedule I, Schedule J, Schedule K, Schedule L, Schedule M, Schedule N, Schedule O, Schedule P, Schedule Q, or Schedule X. It is also not available for a business that qualifies for a delivery license.

- d. The taxpayer's gross receipts derived from within the municipality for the preceding license year did not exceed fifteen thousand dollars (\$15,000.00).
 - e. The taxpayer did not qualify for the special delivery license provided for by Code of Alabama, § 11-51-194.
2. The license fee for a small vendor license shall be fifty-five dollars (\$55.00) plus issuance fee.
 3. A taxpayer who qualifies for a small vendor license but whose gross receipts derived from within the municipality for the preceding license year did not exceed two thousand dollars (\$2,000.00) shall not have to pay the license fee but only the issuance fee.

(Ord. No. 2007-03, § 23, 9-13-07; Ord. No. 2007-04, §§ 1, 2, 12-13-07; Ord. No. 2008-01, §§ 1, 2, 1-22-08)

§ 10-11.13. 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 (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 § 40-23-25, 40-23-82, or 40-12-224, Code of Alabama, 1975.

(Ord. No. 2007-03, § 24, 9-13-07)

§ 10-11.14. 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 ($\frac{1}{2}$) of the amount of the license imposed for like business within the municipality.

(Ord. No. 2007-03, § 25, 9-13-07)

FOOTNOTE(S):

--- (1) ---

Editor's note— Ord. No. 2007-03, adopted Sept. 13, 2007, is being treated as superseding Art. I, which consisted of §§ 10-1—10-11, and pertained to similar subject matter. See the Code Comparative Table for amendatory history of superseded provisions. ([Back](#))

ARTICLE II - GASOLINE TAX

[§ 10-12 Gasoline Tax - Definitions](#)

[§ 10-13 Gasoline - Levy of Tax](#)

[§ 10-14 Exemptions on Purchases from Other Distributors or Sellers](#)

[§ 10-15 Written Statement Must be Filed](#)

[§ 10-16 Gasoline Tax - Payments and Penalties](#)

[§ 10-17 Gasoline Tax - Exclusion](#)

[§ 10-18 Gasoline Tax - Permit and License Tax Required When Seller or Distributor Has No Place of Business in City](#)

[§ 10-19 Gasoline Tax - Failure to File, Making False Statement an Offense](#)

[§ 10-20 Gasoline Tax - Serving Delinquent Seller or Distributor Unlawful](#)

[§ 10-21 Gasoline Tax - Duty to Furnish Information](#)

[§ 10-22 Pumps Must be Metered](#)

[§ 10-23 Gasoline Tax - Right to Assess Tax in Default, Procedure, Revocation of License](#)

[§ 10-24. Penalty for violation of article.](#)

§ 10-12 Gasoline Tax - Definitions

The following terms, as used in this article, shall have the respective meanings hereinafter set out:

- a. The term "the city" means the municipality of Fayette, Alabama.
- b. The terms "distributor" or "seller" shall include every person who shall engage in selling or delivering gasoline within the corporate limits of the city or its police jurisdiction.
- c. The term "gasoline" shall include gasoline, naphtha and all other liquid motor fuels commonly used in combustion engines, but shall not include those products known commercially as "kerosene oil," "fuel oil" or "crude oil" commonly used for lighting, heating or industrial purposes.
- d. The term "person" shall include every person, individual, partnership, company, agency, firm or association.
- e. The term "police jurisdiction" includes the territory outside the corporate limits of the city but within its police jurisdiction.

(Ord. of Nov. 7, 1966, § 1.)

§ 10-13 Gasoline - Levy of Tax

In addition to all other taxes imposed by law, every distributor or seller, who is engaged in the business of selling or delivering gasoline within the corporate limits of the city, shall pay a license tax to the city, and a license tax is hereby fixed and levied upon each such distributor or seller, which license tax shall be in an amount equal to one (1) cent for each gallon of gasoline sold or delivered within the corporate limits of the city by such distributor or seller. In addition to all other taxes imposed by law, every distributor or seller, who is engaged in the business of selling or delivering gasoline within the police jurisdiction of the said city, shall pay a license tax to the city, and a license tax is hereby fixed and levied upon each such distributor or seller, which license tax shall be in an amount equal to one-half (1/2) cent for each gallon of gasoline sold or delivered within the police jurisdiction of the city by such distributor or seller.

(Ord. of Nov. 7, 1966, § 2.)

§ 10-14 Exemptions on Purchases from Other Distributors or Sellers

Any person, engaged as such seller or distributor in selling or distributing gasoline purchased from other sellers or distributors who have paid the license tax herein imposed with respect to such gasoline, shall not be required to pay any license tax with respect to the sale or delivery of such gasoline so purchased; provided, however, that in order for any seller or distributor to obtain the exemption in this section contained, such seller or distributor must on or before the 20th day of January, 1967, and on or before the 20th day of each and every month thereafter, file with the city clerk of the city a sworn, written statement showing each and every purchase by such person of gasoline during the calendar month next preceding, as well as the name of the person from whom, the amount and the date on which purchased.

(Ord. of Nov. 21, 1966, § 3.)

§ 10-15 Written Statement Must be Filed

Each distributor or seller shall, on or before the 20th day of January, 1967, and on or before the 20th day of each month thereafter, file with the city clerk of the City of Fayette a sworn written statement, which shall be a full, true, accurate and correct statement of the following:

- a. The amount and quantity of all gasoline sold or delivered by such distributor or seller within the corporate limits of the city;
- b. The amount and quantity of all gasoline sold or delivered by such distributor or seller within the police jurisdiction of the city; and
- c. The amount and quantity of all gasoline sold and delivered to any other distributor within the corporate limits of the city, or within the police jurisdiction thereof, as the case may be.

(Ord. of Nov. 21, 1966, § 4.)

§ 10-16 Gasoline Tax - Payments and Penalties

Upon making each monthly report provided for in the next preceding section, each distributor or seller shall, at the same time, pay to the city clerk of the city the said tax with respect to the business conducted by such distributor or seller during the then next preceding calendar month; and any distributor or seller, who fails or omits to pay said license tax when due, shall be guilty of an offense against the city; such offense shall be a continuing offense, and each day, during which such distributor or seller shall engage in the business of selling gasoline while such default continues, shall constitute a separate offense.

(Ord. of Nov. 7, 1966, § 5.)

§ 10-17 Gasoline Tax - Exclusion

The provisions of this article shall not apply to any sales or deliveries which constitute interstate commerce.

(Ord. of Nov. 7, 1966, § 6.)

§ 10-18 Gasoline Tax - Permit and License Tax Required When Seller or Distributor Has No Place of Business in City

It shall be unlawful for any seller or distributor, having no place of business within the corporate limits of the city or within the police jurisdiction thereof, to make any sales or deliveries of gasoline therein, without first having obtained a permit from the city clerk of the city to do so; and such seller or distributor shall be liable for and pay the same license tax as that fixed and levied in this article; and any seller or distributor, who shall violate any provisions of this article, shall be punished as hereinafter provided.

(Ord. of Nov. 7, 1966, § 7.)

§ 10-19 Gasoline Tax - Failure to File, Making False Statement an Offense

It shall be unlawful for any seller or distributor to fail or omit to make or file any statement, herein required, within the time specified, or to make any false statement, and such an offense shall be a continuing offense against the city, and each day, during which said business or occupation is engaged in during such default, shall constitute a separate offense.

(Ord. of Nov. 7, 1966, § 8.)

§ 10-20 Gasoline Tax - Serving Delinquent Seller or Distributor Unlawful

It shall be unlawful for any person, after said license tax becomes delinquent, to act as agent, servant or employee of any person liable for such delinquent license tax under this article, in engaging in or assisting in carrying on the business for which his principal or employer is required to pay such license tax, and each day such agent, servant or employee shall engage in or assist in carrying on such business, shall constitute a separate offense.

(Ord. of Nov. 7, 1966, § 8.)

§ 10-21 Gasoline Tax - Duty to Furnish Information

Upon demand of the city clerk of the city or by his authorized deputy or representative, all such information as may be required for determination of the correct amount of license tax, to which a person is subject, shall be furnished to said city, and to that end, it shall be the duty of such person, upon such demand, to submit to the city clerk, or his authorized deputy, auditor or representative, for inspection and examination, all books of account, invoices, papers, reports and memoranda containing entries showing the amount of purchase, sales, receipts, inventory and other information from which the correct amount of license tax to which he is subject may be determined, including exhibition of bank deposit books and bank statements, and it shall be unlawful for any person to fail or refuse to submit such records for such examination and inspection upon such demand.

(Ord. of Nov. 7, 1966, § 10.)

§ 10-22 Pumps Must be Metered

It shall be the duty of every person, selling gasoline within the corporate limits of the city, or within the police jurisdiction thereof, to have a meter in good working order on each and every pump from which gasoline is dispensed and to keep an accurate record of the readings of said meter.

(Ord. of Nov. 21, 1966, § 11.)

§ 10-23 Gasoline Tax - Right to Assess Tax in Default, Procedure, Revocation of License

If any person, subject to the provisions of this article, have not in his possession or under his control true and intelligible books or accounts, invoices, papers and reports reflecting the date and information necessary for determination of the correct amount of license tax, or if, having in his possession or under his control such books, invoices, papers, reports or memoranda, he shall fail or refuse to submit and exhibit the same for inspection and examination as required hereby, then, in either event, it shall be the duty of the city clerk of the city to ascertain, from the best information and data obtainable, the correct amount of license tax due from such person, and to assess the same against such person, and to mail to such person notice of his assessment and to demand of such person immediate payment of the amount of license tax ascertained to be due from him, less any amount of license tax such person may have heretofore paid thereon.

If the amount of tax demanded be not paid within ten (10) days after the mailing of such demand, the city clerk shall notify such person by registered mail that, at a time and place specified in said notice, he will apply to the city council of the city for revocation of such person's license. At the time and place so specified, such person may appear before the city council in person or by counsel and show cause, if any there be, why said license should not be revoked. Upon any such hearing and for all other purposes, the decision and determination of the said city clerk as to the amount of license tax shall be deemed correct and final, unless and until it shall be satisfactorily shown that such decision and determination is incorrect.

(Ord. of 11-7-66, § 12)

§ 10-24. Penalty for violation of article.

Whoever shall violate any provision of this article shall, for each offense and for each and every day that such offense continues, be guilty of a misdemeanor and shall be subject to a fine not exceeding two hundred dollars (\$200.00) and to imprisonment or hard labor not exceeding six (6) months, or both.

(Ord. of 11-7-66, § 13)

ARTICLE III. TOBACCO TAX ^[2]

[§ 10-25. Tobacco tax—Definitions.](#)

[§ 10-26. Levy of tax in the city.](#)

[§ 10-27. Levy of tax in police jurisdiction.](#)

[§ 10-28. Payment of tax.](#)

[§ 10-28.1. Stamps required for cigarettes.](#)

[§ 10-28.2. Stamps; monthly statement.](#)

[§ 10-29. Affixing stamps.](#)

[§ 10-29.1. Receipt of unstamped tobacco products.](#)

[§ 10-30. Records.](#)

[§ 10-31. Unlawful acts.](#)

[§ 10-32. Construction of article.](#)

[§ 10-33. Time of payment of tax.](#)

[§ 10-33.1. Penalty.](#)

[§ 10-33.2. Severability.](#)

§ 10-25. Tobacco tax—Definitions.

The following terms, as used in this article, shall have the meanings respectively ascribed to them:

Tobacco products means cigarettes, cigars, smoking tobacco, smokeless tobacco, chewing tobacco, snuff, or any of them.

City shall mean the City of Fayette, Alabama.

Container means the original boxes from which cigars are customarily sold at retail and the individual packages or cans in which cigarettes, smoking tobacco, chewing tobacco, smokeless tobacco, or snuff are customarily sold at retail.

Dealer shall mean any wholesale dealer or retail dealer as herein defined.

Person shall mean a natural person, firm, corporation, association receiver and trustee or other person acting in a fiduciary capacity.

Police jurisdiction shall mean the territory outside but within one and one-half (1½) miles of the corporate limits of the City of Fayette, Alabama.

Retail dealer shall mean any person, other than a wholesale dealer, who sells or delivers tobacco products within the city or its police jurisdiction, and any person operating under a retail dealer's license.

Sold and sale shall mean any transfer of title or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement therefor, including rewards, prizes or premiums of tobacco products given as a result of operation on punch boards, shooting galleries or other activities.

Stamp shall mean the stamp by the use of which the taxes levied under this article are paid.

Store and stored shall refer to the storage or warehousing of tobacco products in any manner, or the withdrawal or use of the same for any purpose other than for resale or reshipment outside the City of Fayette or its police jurisdiction.

Storer shall mean a person who stores tobacco products in the City of Fayette or its police jurisdiction.

Wholesale dealer shall mean a person who sells or delivers within the City of Fayette, at wholesale only, tobacco products to retail dealers for the purpose of resale only.

(Ord. No. 1997-07, § 1, 6-16-97)

§ 10-26. Levy of tax in the city.

In addition to all taxes now imposed by law, including any license taxes levied with respect to such business in any general license code of the city, every person engaged in the business of selling, storing or delivering tobacco products within the corporate limits of the city shall pay a license tax to the city and a license tax is hereby fixed and levied for engaging in such business as follows:

- (a) An amount equal to twelve cents (\$0.12) for each individual package of cigarettes or fraction of said number contained in each package sold within the City of Fayette.

Chapter 10 LICENSES AND TAXATION

- (b) An amount equal to twelve cents (\$0.12) for each ounce, or fraction thereof, contained in each individual package or can of smoking tobacco which is sold in the City of Fayette.
- (c) An amount equal to one-fifth of twelve cents (1/5 of \$0.12) for each cigar sold within the City of Fayette.
- (d) An amount equal to twelve cents (\$0.12) for each individual package or can of smokeless tobacco, chewing tobacco, or snuff which is sold within the City of Fayette.

(Ord. No. 1997-07, § 1, 6-16-97; Ord. No. 2003-06, § 1, 8-21-03)

§ 10-27. Levy of tax in police jurisdiction.

In addition to all taxes now imposed by law, including any license taxes levied with respect to such business in any general license code of the city, every person engaged in the business of selling, storing or delivering tobacco products within the police jurisdiction shall pay a license tax to the city and a license tax is hereby fixed and levied for engaging in such business as follows:

- (a) An amount equal to six cents (\$0.06) for each individual package of cigarettes or fraction of said number contained in each package sold within the police jurisdiction.
- (b) An amount equal to six cents (\$0.06) for each ounce, or fraction thereof, contained in each individual package or can of smoking tobacco which is sold within in the police jurisdiction.
- (c) An amount equal to one-fifth of six cents (1/5 of \$0.06) for each cigar sold within the police jurisdiction.
- (d) An amount equal to six cents (\$0.06) for each individual package or can of smokeless tobacco, chewing tobacco, or snuff which is sold within the police jurisdiction.

(Ord. No. 1997-07, § 1, 6-16-97; Ord. No. 2003-06, § 2, 8-21-03)

§ 10-28. Payment of tax.

The license tax imposed by this article shall be paid on cigarettes by affixing stamps in the manner as herein set forth. The license tax imposed by this article shall be paid on tobacco products other than cigarettes by making a monthly report and remittal of tax to the city in the manner as herein set forth.

(Ord. No. 1997-07, § 1, 6-16-97; Ord. No. 1997-15, § 1, 10-20-97)

§ 10-28.1. Stamps required for cigarettes.

All cigarettes sold, stored or delivered within the corporate limits of the city or its police jurisdiction shall have stamps affixed to each container as set forth in this article.

(Ord. No. 1997-07, § 1, 6-16-97; Ord. No. 1997-15, § 2, 10-20-97)

§ 10-28.2. Stamps; monthly statement.

- (a) The city clerk shall keep on hand for sale an adequate quantity of stamps to be affixed to each container of tobacco products required to have stamps in denominations as required under this article. Each stamp shall have inscribed thereon the words "City of Fayette-Tobacco Tax" or "City of Fayette - Tax Paid - 20 cigarettes," but said words need not be arranged in the foregoing order and may be abbreviated. Said stamps may be sold to wholesale dealers only by the city clerk at the full amount of the stamp and no person shall be entitled to purchase any such number of stamps as shall cause the purchase price to include a fraction of a cent. The city clerk is hereby prohibited from selling tobacco tax stamps to any person, firm or corporation other than a wholesale dealer.

Chapter 10 LICENSES AND TAXATION

- (b) On or before the fifteenth day of each month, every wholesale dealer and/or retail dealer of tobacco products shall file with the city clerk a true and correct monthly statement in writing of all tobacco products, other than cigarettes, sold, delivered or stored within the City of Fayette or its police jurisdiction during the preceding month, for which he is or shall be liable for the payment. Taxes due on the monthly statement, if not paid on or before the fifteenth of the month shall be subject to a fifteen (15) percent penalty and interest accruing at the rate of six (6) percent per annum.

(Ord. No. 1997-07, § 1, 6-16-97; Ord. No. 1997-15, § 3, 10-20-97)

§ 10-29. Affixing stamps.

Before any tobacco products required to have stamps shall be sold, stored or delivered within the corporate limits of the city or its police jurisdiction by any dealer, such dealer shall affix to each container of tobacco products required to have stamps a stamp or stamps obtained from the city clerk in the amount set out in this article in payment of the license taxes imposed by this article. Every dealer shall, within one hour after receipt of any tobacco products required to have stamps within the city or its police jurisdiction, unless sooner offered for sale, cause stamps to the requisite amount of the tax to be affixed as herein provided and shall cause the same to be cancelled by writing or stamping with waterproof ink across the face of each stamp such registered number as shall be furnished to such dealer by the city clerk. After such stamping has been begun, it shall be continued with reasonable diligence by such dealer until all unstamped containers shall have been stamped, and the stamps cancelled as herein provided, but no stamp required to be affixed to any container shall, after the same has been affixed as herein provided, be again used in payment of any part of the tax levied under this article. Stamps in denominations equal to the amount of the tax shall be affixed to the container from or in which the tobacco products, with respect to which the stamps are affixed are normally sold at retail, and shall be so affixed in such manner that their removal will require continued application of water or steam. If stamps are required for cigars, sales of which are normally made from the original container, the stamps shall be affixed to the container in such a way that the stamps shall be torn in two or mutilated when the container is opened for sale of cigars. If stamps are required for cigarettes and smoking tobacco, which are normally sold at retail in individual packages, the stamps shall be affixed in such a way that the stamps shall be torn in two or mutilated when such package is opened. If stamps are required smokeless tobacco, chewing tobacco, snuff, etc., which are normally sold in individual packages or containers, the stamps shall be affixed to the box or container holding the individual packages in such a way that such stamps shall be torn in two or mutilated when the container is opened for the sale of individual packages or containers.

(Ord. No. 1997-07, § 1, 6-16-97; Ord. No. 1997-15, § 4, 10-20-97)

§ 10-29.1. Receipt of unstamped tobacco products.

Any person who purchases or receives in any manner whatever tobacco products which do not have stamps affixed or on which sales have not been reported and taxes paid in the manner required by this article shall, within three (3) days after receipt of such tobacco products, report the receipt and purchase thereof to the city clerk, giving the date of purchase or receipt, the name of the person from whom purchased or received and a list describing the tobacco products so purchased or received and the purchase price thereof. Such report must be made by registered mail or in person.

(Ord. No. 1997-07, § 1, 6-16-97; Ord. No. 1997-15, § 5, 10-20-97)

§ 10-30. Records.

Every wholesale dealer shall, at the time of selling or delivering tobacco products into the city or its police jurisdiction, make a true duplicate invoice of the same, which shall show full and complete details of the sale or delivery of such tobacco products and the prices thereof. Every wholesale and retail dealer shall keep a record of the purchase, sale, exchange or receipt of tobacco products. All such invoices and

cancelled checks and other memoranda pertaining to any such purchase, sale, exchange or receipt shall be retained for a period of three (3) years and shall be subject to inspection of the city clerk or a duly authorized representative, who shall have the power and authority to enter upon the premises of any dealer at all reasonable times for the purposes of examining such invoices, records, cancelled checks and other memoranda.

(Ord. No. 1997-07, § 1, 6-16-97)

§ 10-31. Unlawful acts.

Among others, the following acts and omissions shall be unlawful:

- (a) It shall be unlawful for any person who is required by this article to affix stamps to any container of tobacco products to fail to affix such stamps or to fail to cancel such stamps in the manner and within the time required by this article.
- (b) It shall be unlawful for any person to sell, offer for sale, store or deliver within the City of Fayette or its police jurisdiction any tobacco products where stamps have not been affixed and cancelled as provided in this article.
- (c) It shall be unlawful for any person to have in his possession or under his control any containers of cigarettes where stamps have not been affixed or other tobacco products on which sales have not been reported and taxes paid in the manner required by this article for more than six (6) hours after receipt of such cigarettes or other tobacco products on the premises of such person. The possession of each container of cigarettes not having proper stamps affixed or other tobacco products on which sales have not been reported and taxes paid as required by this article shall be deemed a separate offense.
- (d) It shall be unlawful to manufacture, buy, sell, offer for sale, or possess or attempt to do so any reproduction or counterfeit of the stamps provided for in this article, or to possess tools, implements, instruments or materials of any kind necessary or appropriate to reproduce or counterfeit such stamps, or to alter or cause to be altered any stamps herein provided for.
- (e) It shall be unlawful to remove from a container or otherwise prepare any stamps with intent to use or cause the same to be used, after it has already been used, or to buy, sell, offer for sale or give away any washed, removed, altered or restored stamp to any person, or to have in possession any such washed or removed or restored or altered stamps, or for the purpose of indicating payment of any tax hereunder, to reuse any stamp which has theretofore been used for the payment of any tax provided in this article, or to sell any stamp provided for herein, excepting, however, sales made by the city clerk.
- (f) It shall be unlawful to reuse or refill with tobacco products any container from which tobacco products have been removed and with respect to which the tax has theretofore been paid.
- (g) It shall be unlawful for any person who is, in this article, required to keep records to fail or omit to keep the same in the manner herein provided, or to refuse to permit the city clerk or a duly authorized representative to inspect the same at any reasonable hour, or to interfere with or obstruct the city clerk or a duly authorized representative in the making of any such inspection.
- (h) It shall be unlawful for any person who is herein required to file statements with the city clerk to fail or omit to make or file any statement herein provided within the time herein specified, or to make any false statement therein, and such offense shall be a continuing offense against the city and each day during which such person shall sell, store, or deliver tobacco products in the City of Fayette or its police jurisdiction during such default shall constitute a separate offense.
- (i) It shall be unlawful for any person who is required to pay the license tax herein provided for to fail or omit to pay the same within the time herein specified, and such offense shall be a continuing offense against the city and each day during which said person shall sell, store or deliver tobacco products in the City of Fayette or its police jurisdiction during such default shall constitute a separate offense.

Chapter 10 LICENSES AND TAXATION

(Ord. No. 1997-07, § 1, 6-16-97; Ord. No. 1997-15, § 6, 10-20-97)

§ 10-32. Construction of article.

This article shall not be construed to tax interstate commerce of any business of the United States Government or any branch or agency thereof. This article shall not be construed to apply to tobacco products stored for the purpose of resale or reshipment outside the city and its police jurisdiction and which are actually so resold or reshipped. This article shall not be construed to repeal any of the provisions of the general license code of the City of Fayette, but shall be held to be cumulative. Whenever the requisite amount of stamps has been affixed to a container of tobacco products or the required amount of taxes paid on the monthly statement for tobacco products as required in this article, this article shall not be construed to require additional stamps to be affixed thereto in case of subsequent sales, deliveries or storage; provided, that where such tobacco products have been properly stamped or the taxes paid on the monthly statement for sale, delivery or storage within the police jurisdiction, then before the same can be sold, delivered or stored in the corporate limits of the city there must be properly affixed to such tobacco products and properly canceled an equal amount of stamps to those already affixed and sales reported and taxes paid on all other tobacco products on the required monthly statement.

(Ord. No. 1997-07, § 1, 6-16-97; Ord. No. 1997-15, § 7, 10-20-97)

§ 10-33. Time of payment of tax.

The license tax imposed by this article shall be paid from time to time as stamps are purchased from the city clerk and affixed as provided herein.

(Ord. No. 1997-07, § 1, 6-16-97)

§ 10-33.1. Penalty.

Any person violating any of the provisions of this article shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500.00) and may be sentenced to serve no more than six (6) months in the county jail, or both, provided that upon conviction for a second or subsequent offense, the minimum fine imposed shall be one hundred dollars (\$100.00).

(Ord. No. 1997-07, § 1, 6-16-97)

§ 10-33.2. Severability.

Each and every provision of this article is hereby declared to be an independent provision, and the holding of any provision hereof to be void or invalid shall not affect any other provision hereof.

(Ord. No. 1997-07, § 1, 6-16-97)

FOOTNOTE(S):

--- (2) ---

Editor's note— Ord. No. 1997-07, adopted June 16, 1997, repealed Art. III in its entirety and substituted the following as herein set out. Former Art. III contained §§ 10-25—10-33 and derived from an ordinance of Sept. 1, 1955, an ordinance of Oct. 15, 1956; and Ord. No. 1987-01, adopted Jan. 5, 1987. ([Back](#))

ARTICLE IV. PRIVILEGE AND EXCISE TAXES

[§ 10-34. Privilege tax—Definitions.](#)

[§ 10-35 Privilege Tax Levied](#)

[§ 10-36. Privilege tax—Retail sales of tangible personal property, rates, exclusions, within city.](#)

[§ 10-37. Levy of privilege tax in police jurisdiction.](#)

[§ 10-38. Privilege tax—Places of amusement, entertainment, rates.](#)

[§ 10-39 Privilege Tax - Retail Machines for Mining, Manufacturing, Rates](#)

[§ 10-40 Privilege Tax - Automotive Vehicles, Rate](#)

[§ 10-41 Privilege Tax - Machines for Agricultural Production, Rate](#)

[§ 10-42. Same—Coin-operated machines, rate.](#)

[§ 10-42.1. Same—Business of furnishing rooms, lodgings or accommodations to transients.](#)

[§ 10-43. Excise tax on tangible personal property.](#)

[§ 10-44. Excise tax on machines.](#)

[§ 10-45 Excise Tax on Automotive Vehicles](#)

[§ 10-46 Excise Tax on Agricultural Machinery](#)

[§ 10-46.1. Levy of excise tax in police jurisdiction.](#)

[§ 10-47. Privilege, excise taxes—Provisions of state statutes applicable.](#)

[§ 10-48. Taxes in article cumulative.](#)

§ 10-34. Privilege tax—Definitions.

The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them, except where the context clearly indicates a different meaning:

- (a) The term "automotive vehicle" shall include a power shovel, dragline, crawler, crawler crane, ditcher or any similar machine which is self-propelled, in addition to self-propelled machines which are used primarily as instruments of conveyance.
- b. The word "business" shall include all activities engaged in, or caused to be engaged in, with the object of gain, profit, benefit or advantage, either direct or indirect, and not excepting sub-activities producing marketable commodities used or consumed in the main business activity, each of which sub-activities shall be considered business engaged in and taxable in the class in which it falls.
- c. The term "city" shall mean the City of Fayette, Alabama.
- d. The term "city clerk" shall mean the city clerk of the city.
- e. The term "gross proceeds of sales" means the value accruing from the sale of tangible personal property (including the proceeds from the sale of any property handled on consignment by the taxpayer), including merchandise of any kind and character without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid

Chapter 10 LICENSES AND TAXATION

or any other expenses and without any deduction on account of losses; provided, that cash discounts allowed and taken on sales shall not be included and gross proceeds of sales shall not include the sale price or property returned by customers when the full sales price thereof is refunded either in cash or by credit.

The term "gross proceeds of sale" shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale, which is withdrawn or used from business or stock and used or consumed in connection with said business, and shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale, which is withdrawn from the business or stock and used or consumed by any person so withdrawing the same except property which has been previously withdrawn from such business or stock and so used or consumed, and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal or private use or consumption of any person so withdrawing, using or consuming the same.

- f. The term "gross receipts" means the value accruing from the sale of tangible personal property, including merchandise and commodities of any kind and character, all receipts, actual and accrued, by reason of any business engaged in (not including, however, interest, discounts, rentals or real estate or royalties), and without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or any other expenses and without any deductions on account of losses.

The term "gross receipts" shall further mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock, and used or consumed in connection with said business, and shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn from the business or stock, and used or consumed by any person so withdrawing the same except property which has been previously withdrawn from such business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into or becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not used for the personal and private use or consumption of any person so withdrawing, using or consuming the same.

- g. The term "person" includes any individual, firm, partnership, association, corporation, receiver, trustee or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.
- h. The terms "sale at retail" or "retail sale" shall mean all sales of tangible personal property except those above defined as wholesale sales. The quantities of goods sold or prices at which sold are immaterial in determining whether or not a sale is at retail. Sales of building materials to contractors, builders or land owners for resale or use in the form of real estate are retail sales in whatever quantity sold. Sales of tangible personal property or products to manufacturers, quarry operators, mine operators or compounders, which are used or consumed by them in manufacturing, mining, quarrying or compounding and which do not become an ingredient or component part of the tangible personal property manufactured or compounded, are retail sales.
- i. The term "sale or sales" include installment, and credit sales and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale.
- j. The term "State Department of Revenue," wherever used herein, shall mean the Department of Revenue of the State of Alabama.

Chapter 10 LICENSES AND TAXATION

- k. The term "state sales tax statutes," wherever used herein, shall mean Act No. 100 adopted at the Second Extraordinary Session of 1959 of the Legislature of Alabama, as heretofore amended and supplemented.
- l. The word "taxpayer" means any person liable for taxes hereunder.
- m. The term "tax proceeds in the police jurisdiction," wherever used herein, shall mean the proceeds from the taxes herein levied with respect to business conducted within the police jurisdiction of the city but outside the corporate limits.
- n. The term "tax proceeds within the city," where-ever used herein, shall mean the proceeds from the taxes herein levied with respect to business conducted within the corporate limits of the city.
- o. The terms "truck trailer" and "semi-trailer" include all types of trailers, including house trailers.

The use within the corporate limits of the City of Fayette, or within the police jurisdiction thereof of tangible personal property by the manufacturer thereof, as building materials, in the performance of a construction contract, shall, for the purpose of this article, be considered as a retail sale thereof by such manufacturer, who shall be construed as the ultimate consumer of such materials or property, and who shall be required to report such transactions and pay the sales tax thereon, based upon the reasonable and fair market price thereof at the same time and place where same are used or consumed by him or it. The provisions of this subsection shall not apply to any tangible personal property which is specifically exempted from the tax levied in this article.

- p. The terms "wholesale sale" or "sale at wholesale" mean a sale of tangible personal property by wholesalers to licensed retail merchants, jobbers, dealers or other wholesalers for resale and do not include a sale by wholesalers to users or consumers, not for resale. The term "wholesale sale" shall include a sale of tangible personal property or products (including iron ore) to a manufacturer or compounder which enter into and become an ingredient or component part of the tangible personal property or products which he manufactures or compounds for sale and the furnished container and label thereof.

The terms "wholesale sale" or "sale at wholesale" shall also include a sale of containers intended for one time use only and the labels thereof, when such containers are sold without contents to persons who sell or furnish such containers along with the contents placed therein for sale by such persons. Moreover, such terms include a sale to a manufacturer or compounder of crowns, caps and tops intended for one time use, employed and used upon the containers in which he markets his products; but such terms do not include a sale of re-usable containers which, in the usual and ordinary course and manner of doing business, are repurchased or otherwise recovered for reuse.

(Ord. of Sept. 23, 1959, § 1.)

§ 10-35 Privilege Tax Levied

There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege of license tax against the person on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be.

(Ord. No. 1982-4, 8-2-82, § 1)

§ 10-36. Privilege tax—Retail sales of tangible personal property, rates, exclusions, within city.

A tax is levied upon every person, firm or corporation (including the State of Alabama, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such

institutions be denominational, state, county or municipal institutions and any association or other agency or instrumentality of such institutions) engaged, or continuing within the City of Fayette in business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character, (not including, however, bonds, or other evidences of debts or stocks, nor sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft and commercial fishing vessels of over five (5) tons load displacement as registered with the U.S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources), an amount equal to three (3) percent of the gross proceeds of sales of each business. Provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept, he shall pay the tax as a retailer, on the gross sales of the business.

(Ord. No. 1982-4, 8-2-82, § 1(a); Ord. No. 2008-07, § 2, 11-17-08)

§ 10-37. Levy of privilege tax in police jurisdiction.

Upon every person, firm or corporation engaged in the doing of any act, or who shall do any act, or continuing in the doing of any act, or engaged in the operation of any business, or who shall engage in the operation of any business, within the police jurisdiction of the city but beyond the corporate limits of the city, for which or upon which a privilege or license tax is in this article levied or required within the corporate limits of the city, there is hereby levied, in addition to all other taxes of every kind now imposed by law or by municipal ordinance, to be collected as herein provided for the privilege or license taxes herein levied within the corporate limits of the city, a privilege or license tax equal to one-half (½) of that provided, levied or required in this article for the doing of such act, or the engaging or continuing therein, or the engaging or continuing in the operation of such business within the corporate limits of the city. Provided further, that except for the amount of the privilege or license tax herein levied within the police jurisdiction of said city but without the corporate limits thereof, all the provisions of this article extend and apply to all the area within the police jurisdiction of the city.

(Ord. of 4-15-74, § 2; Ord. No. 1995-09, § 1, 11-20-95)

§ 10-38. Privilege tax—Places of amusement, entertainment, rates.

A tax is levied upon every person, firm or corporation engaged or continuing within the city in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudevilles, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution within the city or any athletic association thereof or other association, whether such institution or association be a denominational, a state or county, or a municipal institution or association, or a state, county or city school, or other institution, association or school), skating rinks, race tracks, golf courses or any other place at which any exhibition, display, amusement or entertainment is offered to the public, or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the city, an amount equal to two (2) percent of the gross receipts of such business.

(Ord. No. 1982-4, 8-2-82, § 1(b))

§ 10-39 Privilege Tax - Retail Machines for Mining, Manufacturing, Rates

A tax is levied upon every person, firm or corporation engaged or continuing within the city, in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, an amount equal to one-half of one (1/2%) percent of the

gross proceeds of the sale of such machines; provided, that the term "machines," as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(Ord. # 1982-4, Aug. 2, 1982, § 1(c).)

§ 10-40 Privilege Tax - Automotive Vehicles, Rate

A tax is levied upon every person, firm or corporation engaged or continuing within the city, in the business of selling at retail any automotive vehicle or truck trailer, semi-trailer or house trailer, an amount equal to one-half of one (1/2%) percent of the gross proceeds of sale of said automotive vehicle or truck trailer, semi-trailer or house trailer; provided, however, where a person, subject to the tax provided for in this subsection, withdraws from his stock in trade any automotive vehicle or truck trailer, semi-trailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee of two (\$2.00) dollars per year or part thereof during which such automotive vehicle, truck trailer, semi-trailer or house trailer shall remain the property of such person. Each such year or part thereof shall begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the twelve (12) succeeding months or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person.

Where any used automobile vehicle or truck trailer, semi-trailer or house trailer is taken in trade or in a series of trades as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

(Ord. # 1982-4, Aug. 2, 1982, § 1(d).)

§ 10-41 Privilege Tax - Machines for Agricultural Production, Rate

A tax is levied upon every person, firm or corporation engaged or continuing within the city, in the business of selling at retail, any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machinery or equipment, an amount equal to one-half of one (1/2%) percent of the gross proceeds of the sale thereof; provided, however the one-half of one (1/2%) percent rate herein prescribed with respect to parts, attachments and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities.

Where any used machine, machinery or equipment, which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms is taken in trade or in a series of trades as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.

(Ord. # 1982-4, Aug. 2, 1982, § 1(e).)

§ 10-42. Same—Coin-operated machines, rate.

A tax is levied upon every person, firm or corporation engaged or continuing within this city in the business of selling through coin-operated dispensing machines, food and food products for human

consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to two (2) percent of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.

(Ord. No. 1982-4, 8-2-82, § 1(f))

§ 10-42.1. Same—Business of furnishing rooms, lodgings or accommodations to transients.

- (a) *Levy of tax in the city.* For the privilege of engaging or continuing within the city in the business activities hereinafter referred to, there is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amounts to be determined by the application of rates against gross receipts as follows:
- (1) There is hereby levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon every person, firm or corporation engaging in the business of renting or furnishing any room or rooms, lodgings or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin or any other place in which rooms, lodgings or accommodations are regularly furnished to transients for a consideration, in an amount to be determined by the application of the rate of four (4) percent of the charge for such room, rooms, lodgings or accommodations, including the charge for use or rental of personal property and services furnished in such room. Provided, however, there is exempted from the tax levied under the provisions of this section any rentals or services taxed under the provisions of Ordinance No. 1982-04, adopted August 2, 1982, levying the two (2) percent privilege or license tax. The tax shall not apply to rooms, lodgings or accommodations supplied for a period of thirty (30) continuous days or more in any place.
- (b) *Levy of tax in the police jurisdiction.* For the privilege of engaging or continuing in the business activities hereinafter referred to within the police jurisdiction of the city outside of its corporate limits, there is hereby levied, in addition to all taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the persons on account of the business activities and in the amounts to be determined by the application of rates against gross receipts as follows:
- (1) There is hereby levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon every person, firm or corporation engaging in the business of renting or furnishing any room or rooms, lodgings or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin or any other place in which rooms, lodgings or accommodations are regularly furnished to transients for a consideration, in an amount to be determined by the application of the rate of two (2) percent of the charge for such room, rooms, lodgings or accommodations, including the charge for use or rental of personal property and services furnished in such room. Provided, however, there is exempted from the tax levied under the provisions of this ordinance any rentals or services taxed under the provisions of Ordinance No. 1995-09, adopted November 20, 1995, levying the one (1) percent privilege or license tax. The tax shall not apply to rooms, lodgings or accommodations supplied for a period of thirty (30) continuous days or more in any place.
- (c) *Provisions of state transient occupancy tax statutes applicable to this section and taxes herein levied.* This section and the taxes herein levied shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, penalties, fines, punishments and deductions that are applicable to the taxes levied by the state transient occupancy tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state lodgings tax statutes for enforcement and collection of taxes.

- (d) *Adding amount of tax to price.* Any person on whom the taxes levied by this section are imposed may add the tax herein levied to the receipts from rental of rooms, lodgings or accommodations and may collect same from the occupants of such rooms, but this section is not mandatory.
- (e) *Additional penalty and fine.* In addition to all other penalties, fines and punishments imposed hereunder, any person, firm or corporation who fails to submit a report as required by the twentieth day of each month shall pay a late fee of twenty-five dollars (\$25.00).

(Ord. No. 1995-11, §§ 1—4, 12-4-95; Ord. No. 1997-12, §§ 1, 2, 9-15-97)

§ 10-43. Excise tax on tangible personal property.

An excise tax is hereby levied on the storage, use or other consumption within the City of Fayette of tangible personal property (not including materials and supplies bought for use in fulfilling a contract for the painting, repairing, or reconditioning of vessels, barges, ships and other watercraft and commercial fishing vessels of over five (5) tons load displaced as registered with the United States Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources) purchased at retail on or after the effective date of this article, for storage, use or other consumption in the City of Fayette, except as provided in the subsections hereinafter, at the rate of three (3) percent of the sales price of such property within the corporate limits of said city.

(Ord. No. 1982-4, § 3(a), 8-2-82; Ord. No. 2008-07, § 3, 11-17-08)

§ 10-44. Excise tax on machines.

An excise tax is hereby imposed on the storage, use or other consumption in the city of any machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property purchased at retail on or after the effective date of this article, at the rate of one-half (½) of one (1) percent of the sales price of any such machine, within the corporate limits of the city; provided, that the term "machine" as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(Ord. # 1982-4, Aug. 2, 1982, § 3(b).)

§ 10-45 Excise Tax on Automotive Vehicles

An excise tax is hereby imposed on the storage, use or other consumption in the city of any automotive vehicle or truck trailer, semi-trailer or house trailer purchased at retail on or after the effective date of this article, for storage, use or other consumption in the city at the rate of one-half of one (1/2%) percent of the sales price of such automotive vehicle, truck trailer, semi-trailer or house trailer within the corporate limits of said city. Where any used automotive vehicle, truck trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

(Ord. # 1982-4, Aug. 2, 1982, § 3(c).)

§ 10-46 Excise Tax on Agricultural Machinery

An excise tax is hereby and imposed on the storage, use or other consumption in the city of any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products. or used in connection with the production of agricultural products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefor which are

made or manufactured for use on or in the operation of such machine, machinery or equipment and which are necessary to and customarily used in the operation of such machine, machinery or equipment, which is purchased at retail after the effective date of this article, for the storage, use or other consumption in the city at the rate of one-half of one (1/2%) percent of the sales price of such property within the corporate limits of said city, regardless of whether the retailer is or is not engaged in the business in this city; provided, however, the one-half of one (1/2%) percent rate herein prescribed with respect to parts, attachments and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities.

Where any used machine, machinery or equipment which is used in planting, cultivating and harvesting farm products or used in connection with the production of agricultural produce or products, livestock and poultry on farms is taken in trade, or in a series of trades, as a credit or part payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold less the credit for the used machine, machinery or equipment taken in trade.

(Ord. No. 1982-4, 8-2-82, § 3(d))

§ 10-46.1. Levy of excise tax in police jurisdiction.

An excise tax is hereby imposed on tangible personal property at one-half the rates specified in sections [10-43](#), [10-44](#), [10-45](#) and [10-46](#) of this article on the storage, use or other consumption of such tangible personal property outside the corporate limits of the city but within the police jurisdiction.

(Ord. No. 1995-09, § 2, 11-20-95)

§ 10-47. Privilege, excise taxes—Provisions of state statutes applicable.

The taxes, levied in this article, shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, discounts, penalties, fines, punishments and deductions that are applicable to the taxes levied by the state sales tax statutes and the state use tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state use tax statutes for enforcement and collections of taxes.

(Ord. No. 1982-4, 8-2-82, §§ 2, 4)

§ 10-48. Taxes in article cumulative.

This article shall not be construed to repeal any of the provisions of the general license code or ordinance of the city, but shall be held to be cumulative, and the amounts of the taxes herein levied shall be in addition to the amounts of all other license taxes imposed by the city by its general license code or ordinance.

(Ord. No. 1982-4, 8-2-82, § 5)

ARTICLE V. PROPERTY TAX

[§ 10-49. Ad valorem taxes—Equalization.](#)

[§ 10-50. Enforcement of collection of taxes.](#)

[§ 10-51. Ad valorem taxes—Assessment.](#)

[§ 10-52. Compensation for tax assessor.](#)

[§ 10-53. Ad valorem taxes—Collection.](#)

[§ 10-54. Compensation for tax collector.](#)

[§ 10-55. Ordinance not a contract.](#)

§ 10-49. Ad valorem taxes—Equalization.

The equalization of municipal taxes for the City of Fayette, Alabama, shall be made in the same manner as for state and county taxes.

(Ord. of 2-15-60, § 2)

§ 10-50. Enforcement of collection of taxes.

The enforcement of such collection, sale of property for the collection of taxes and redemption from such sale shall be made in the same manner as is done concerning state and county taxes.

(Ord. of 2-15-60, § 4)

§ 10-51. Ad valorem taxes—Assessment.

The tax assessor of Fayette County, Alabama, and his successors in office, are hereby authorized, empowered and directed to assess municipal ad valorem taxes for the City of Fayette, Alabama, including the new territory recently annexed, but not limited thereto, which is described as follows:

- a. In Township 15, Range [12](#): The North one-half of the North one-half of Section 29; the East one-half of the East one-half of Section 30; the West one-half of the East one-half and the East one-half of the West one-half of Section 32; and
- b. In Township 16, Range [12](#): The West one-half of the East one-half and the East one-half of the West one-half of Section 5; and the West one-half of the Northeast Quarter of the Northwest Quarter of Section 8,

in accordance with the laws of the State of Alabama, at the rate heretofore levied by the City of Fayette, Alabama. The assessment of the new territory described above is to be assessed commencing with the tax year commencing October 1, 1969.

(Ord. of 10-20-69, § 1)

State law reference— Similar provisions, Code of Alabama, Tit. 37, §§ 670—771.

§ 10-52. Compensation for tax assessor.

The compensation of the tax assessor of Fayette County, Alabama, and his successors in office for such services, shall be a sum of money equal to two (2) percent of the taxes collected, commencing with the tax year beginning October 1, 1967, and thereafter the same for each year, until changed by ordinance adopted by the City of Fayette, Alabama.

(Ord. of 11-20-67, § 1)

§ 10-53. Ad valorem taxes—Collection.

The tax collector of Fayette County, Alabama, and his successors in office, are hereby authorized, empowered and directed to collect taxes for the City of Fayette, Alabama, including the new territory

recently annexed, described in [section 10-51](#) hereof, but not limited thereto, in accordance with the laws of the State of Alabama, and at the rate heretofore levied by the City of Fayette, Alabama.

(Ord. of 10-20-69, § 1)

§ 10-54. Compensation for tax collector.

The compensation of the tax collector of Fayette County, Alabama, and his successors in office for such services, shall be a sum of money equal to two (2) percent of the taxes hereinabove levied for assessing said property, commencing with the tax year beginning October 1, 1967, and thereafter the same for each year, until changed by ordinance adopted by the City of Fayette, Alabama.

(Ord. of 11-20-67, § 2)

§ 10-55. Ordinance not a contract.

This ordinance shall not be considered a contract between the city and the said tax assessor and tax collector and is subject to repeal at the pleasure of the council of the City of Fayette, Alabama, as concerns any tax year.

(Ord. of 2-15-60, § 5)

ARTICLE VI. RENTAL TAX ⁽³⁾

[§ 10-56. Definitions.](#)

[§ 10-57. Tax levied within the city.](#)

[§ 10-58. Collection.](#)

[§ 10-58.1. Additional penalty and fine.](#)

[§ 10-59. Reporting cash and credit leases or rentals.](#)

[§ 10-60. Records.](#)

[§ 10-61. Tax levied within the police jurisdiction.](#)

§ 10-56. Definitions.

The following words, terms and phrases when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Person* or *company* herein used interchangeably, includes any individual, firm, copartnership, association, corporation, receiver, trustee, entity or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.
- (2) *City* means the City of Fayette.
- (3) *City license officer* shall mean the license officer of the City of Fayette.
- (4) *Business* means and shall include all activities engaged in, or caused to be engaged in, by any person with the object of gain, profit, benefit or advantage, either direct or indirect, to such person.
- (5) *Gross proceeds* means the value of the property so leased or rented, the cost of materials used, labor or service cost, interest paid or any other expenses whatsoever, and without any deductions on account of loss, but shall not include the gross proceeds accruing from the leasing or renting to

Chapter 10 LICENSES AND TAXATION

another of the same property which is to be leased or rented in a transaction subject to the provisions of this article as long as the lessee in such excluded transaction (who has leased to-rent) shall not use the same property to its own use; nor shall it include the gross proceeds accruing from any charge in respect to the use of docks and docking facilities furnished for vessels, barges, ships and other watercraft operated on waterways; nor shall it include a transaction whereunder the lessor leases a truck or tractor-trailer or semitrailer with driver furnished for operation over the public roads and highways (such transaction being deemed to constitute the rendition of service and not a leasing or rental); nor shall it include the gross proceeds accruing from charges made by operators of hotels, motels, tourist courts, tourist cabins, lodging houses, and rooming houses renting furnished rooms to transients.

- (6) *Leasing or rental* means and includes a transaction whereunder the person who owns, or controls the possession of, tangible property permits another person in the city and its police jurisdiction to have the possession or use thereof for a consideration and for the duration of a definite or indefinite period of time, without transfer of the title of such property. The detention by the user thereof of freight cars, oxygen and acetylene tanks, and similar property, in respect of which detention a demurrage or per diem charge is made against the user of such property, shall not be deemed to constitute a transaction whereunder property is leased or rented to another within the meaning of this article.
- (7) *Tangible personal property* means and includes personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance, or other contracts, or securities.

(Ord. No. 1996-06, § 1, 6-3-96)

§ 10-57. Tax levied within the city.

There is hereby levied in addition to all privilege license taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against persons on account of the business activities and in the amounts to be determined by the application of rates against gross proceeds as follows:

- (1) Upon each person engaging or continuing in the business of leasing or renting tangible personal property within the city at the rate of two (2) percent of the gross proceeds derived by the lessor therefrom; provided that the privilege license tax levied in this article shall not apply to any leasing or rental, as lessor, by the United States of America, the State of Alabama, or any municipality or county in the state.
- (2) There are exempted from the computation of the amount of the privilege license tax levied, assessed or payable under this article the gross proceeds accruing from the leasing or rental of tangible personal property which the city is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution and laws of the State of Alabama.

(Ord. No. 1996-06, §§ 2, 3, 6-3-96)

§ 10-58. Collection.

The privilege license tax levied under the provisions of this article, except as otherwise provided, shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the privilege license tax accrues. On or before the twentieth day of each month after the article shall have taken effect, every person on whom the amounts levied by this article are imposed, shall render to the city, on a form prescribed by the city, a true and correct statement showing the gross proceeds of his business, for the next preceding month, the amount of gross proceeds which are not subject to the privilege license tax, or are not to be used as a measurement of the amounts due by such person and the nature thereof, together with such other information as the city may require, and at the time of making such monthly report such person shall compute the privilege license taxes due

and shall pay to the city the amounts shown to be due. If any person subject to this article should fail to render any report required hereby or should willfully make a false statement of facts in the statements required hereunder he shall be guilty of a misdemeanor and upon conviction shall be punished as provided in [section 10-60\(c\)](#).

(Ord. No. 1996-06, § 4, 6-3-96)

§ 10-58.1. Additional penalty and fine.

In addition to all other penalties, fines and punishments imposed in this article, any person, firm or corporation who fails to submit a report as required by the twentieth day of each month shall pay a late fee of twenty-five dollars (\$25.00).

(Ord. No. 1997-13, § 1, 9-15-97)

§ 10-59. Reporting cash and credit leases or rentals.

Any person taxable under this article, making cash and credit leases or rentals, may if he desires, report such cash leases or rentals only, and he shall thereafter include in each monthly report all credit collections made during the month proceeding, and shall pay the privilege license tax due thereon at the time of filing such report.

(Ord. No. 1996-06, § 5, 6-3-96)

§ 10-60. Records.

- (a) *Keeping of records.* It shall be the duty of every person engaging or continuing in any business for which a privilege tax is imposed by this article to keep and preserve suitable records of the gross proceeds of any such business and such other books or accounts as may be necessary to determine the amount of tax for which he is liable, under the provisions of this article. And it shall be the duty of every person to keep and preserve for a period of three (3) years, all invoices of gross proceeds, proceeding or accruing from the leasing or rental herein taxed and all such books, invoices and other records shall be open for examination, at any time by the city or its agent. Any person leasing, who in addition leases for re-leasing, shall keep his books so as to show separately the gross proceeds of leasing and the gross proceeds for re-leasing.
- (b) *Open for inspection.* The books, records and accounts mentioned in subsection (a) shall at all times be open to examination by the city license officer or any person designated by him. Upon demand by the city license officer or his authorized deputy, auditor or representative, it shall be the duty of any person subject to this license tax to submit to the city license officer or his authorized deputy, auditor or representative, for inspection and examination, during reasonable business hours, in the city or the police jurisdiction thereof, all books of account. Each occurrence of a failure to keep records, or allow examination thereof shall constitute a separate offense.
- (c) *Violation; penalty.* Any person who shall fail to keep such records or who shall refuse to permit such examination thereof or who violates any other provisions hereof shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars (\$500.00) to which may be added confinement in jail for a period not exceeding six (6) months.

(Ord. No. 1996-06, §§ 6, 7, 6-3-96)

§ 10-61. Tax levied within the police jurisdiction.

There is hereby levied in addition to all licenses and taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against persons on account of the

Chapter 10 LICENSES AND TAXATION

business activities and in the amounts to be determined by the application of rates against gross proceeds as follows:

- (1) Upon each person engaging or continuing in the business of leasing or renting tangible personal property beyond the corporate limits and within the police jurisdiction of the city at the rate of one (1) percent of the gross proceeds derived by the lessor therefrom; provided that the privilege tax levied in this article shall not apply to any leasing or rental, as lessor, by the United States of America, the State of Alabama, or any municipality or county in the state.
- (2) All of the provisions of this article, other than the rate of taxation, which apply to persons engaging in business within the corporate limits of the city shall apply to and govern and be binding upon all persons engaging in such business beyond the corporate limits and within the police jurisdiction of the city.

(Ord. No. 1996-06, § 8, 6-3-96)

FOOTNOTE(S):

--- (3) ---

Editor's note— Inasmuch as Ord. No. 1996-06, adopted June 3, 1996, did not specify manner of codification, said provisions have been designated as Article VI, §§ 10-56—10-61, at the discretion of the editor. ([Back](#))