

Business License Ordinance 2020-174

BUSINESS LICENSE CODE OF THE CITY OF SMITHS STATION, ALABAMA

2612 116
Recorded in the Above
DEEDS Book & Page
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Bill English - Probate Judge
Lee County, AL

BE IT ORDAINED BY THE CITY COUNCIL OF SMITHS STATION, ALABAMA, as follows:

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SECTION 1. Levy of tax.

Pursuant to the *Code of Alabama 1975*, as amended, the following is hereby declared to be and is adopted as the business license code and schedule of licenses for the municipality for the year beginning January 1, 2021, 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, by whatever name called.

SECTION 2. Definition of terms.

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) **City.** The City of Smiths Station, Alabama, a duly incorporated Municipality within the State of Alabama.
- (5) **Day Care Center**¹. Any child-care facility receiving more than 12 children for daytime care during all or part of a day. The term includes, but is not limited to, facilities commonly called "child-care centers," "day nurseries," "nursery schools," "pre-kindergartens," "preschools," "kindergartens," and "play groups," with or without stated educational purposes. The term further includes, but is not limited to, pre-kindergarten, preschool, kindergarten, or nursery schools or other daytime programs operated as a part of a private school and receiving children younger than lawful school age for daytime care for more than four hours a day, with or without stated educational purposes. The term does not include any of the following:

¹ §38-7-2(4) *Code of Alabama 1975 as amended*

- (a) Kindergartens or nursery schools or other daytime programs operated by public elementary systems or secondary level school units or institutions of higher learning.
- (b) Kindergartens or nursery schools or other daytime programs, with or without stated educational purposes, operating no more than four hours a day, and receiving children younger than lawful school age.
- (c) Kindergartens or nursery schools or other daytime programs operated as a part of a private school and receiving children younger than lawful school age for four hours a day or less, with or without stated educational purposes.
- (d) Facilities operated for more than four hours a day in connection with a shopping center or service or other similar facility, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and readily available. The facilities shall meet local and state fire and health requirements.
- (e) Any type of day care center that is conducted on federal government premises.
- (f) Special activities programs for children of lawful school age including, but not limited to, athletics, crafts instruction and similar activities conducted on an organized and periodic basis by civic, charitable, and governmental organizations, provided local and state fire and health requirements are met.

(6) Day Care Home². A child-care facility which is a family home and which receives not more than six children for care during the day.

(7) Day Care Home (Group)³. A child-care facility which is a family home and which receives at least seven but no more than 12 children for care during part of the day where there are at least two adults present and supervising the activities.

(8) (Day) Group Home⁴. A child-care facility where at least seven but not more than 10 children are received and maintained for the purpose of providing them with care or training or both, or transitional living program services.

(9) Department or Department of Revenue. The Alabama Department of Revenue, as created under Section 40-2-1 et seq.

(10) Designee. An agent or employee of the municipality authorized to administer or collect, or both, the municipality's business license taxes, which may include another taxing jurisdiction, the Department of Revenue, or a "private auditing or collecting firm" as defined in Section 40-2A-3 *Code of Alabama 1975*, as amended.

² §38-7-2(5) *Code of Alabama 1975*, as amended

³ §38-7-2(9) *Code of Alabama 1975*, as amended

⁴ §37-7-2(10) *Code of Alabama 1975*, as amended

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(11) 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*, as amended; license taxes levied pursuant to Article 2, Chapter 21, Title 40 *Code of Alabama 1975*, as amended; or reimbursements to professional employer organizations of federal, state, or local payroll taxes or unemployment insurance contributions; but no other deductions or exclusions from gross receipts shall be allowed except as provided in this article.
- (b) A different basis for calculating the business license may be used by the municipality with respect to certain categories of taxpayers as prescribed in Section 11-51-90B *Code of Alabama 1975*, as amended.
- (c) For a utility or other entity described in Section 11-51-129 *Code of Alabama 1975*, as amended, gross receipts shall be limited to the gross receipts derived from the retail furnishing of utility services within the municipality during the preceding year that are taxed under Article 3 of Chapter 21 of Title 40 *Code of Alabama 1975*, as amended, 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.

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

(13) 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.

(14) License Year. The calendar year.

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(15) 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.

(16) NAICS - North American Industry Classification System (NAICS). The standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

The City recognizes and acknowledges NAICS Codes are revised from time to time and hereby authorizes competent City employees to access, reference and apply the most current NAICS Code(s) during the administration of a City of Smiths Station Business License when applicable.

(17) 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.

(18) Section (§). A distinct portion or provision of the *Code of Alabama* 1975, as amended.

(19) Special events retail license. A license issued to a responsible organization of good reputation, for a period not to exceed seven (7) days, upon such terms and conditions as the city council may prescribe. The license shall authorize the licensee to sell table wine and beer at retail and dispense such alcoholic beverages as are authorized by the city council to patrons, guests, or members of the organization at such locations or areas as shall be authorized by the city council upon such terms and conditions as prescribed by the city council. Such organization shall also meet the minimum requirements for a special events retail license issued by the Alabama Beverage Control Board.

(20) Special retail more than Thirty (30) Days. A license issued to a responsible organization of good reputation for a period to exceed more than thirty (30) days upon such terms and conditions as the city council may prescribe. The license shall authorize the licensee to sell table wine, liquor and beer at retail and dispense such alcoholic beverages as are authorized by the city council to patrons, guests, or members of the organization at such locations or areas as shall be authorized by the city council upon such terms and conditions as prescribed by the city council. Such organizations shall also meet the minimum requirements for a special retail more than thirty (30) days license issued by the Alabama Beverage Control Board.

(21) State. The State of Alabama.

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

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(23) 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.

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

(25) Other terms. Other capitalized or specialized terms used in this ordinance, and not defined above, shall have the same meanings ascribed to them in Section 40-2A-3, of the *Code of Alabama* 1975 as amended, unless the context therein otherwise specifies.

SECTION 3. License term; Issuance fees. Minimums.

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

- (a) **Full year.** Every person who commences business before the first day of July shall be subject to and shall pay the annual license for such business in full. Unless otherwise specified in the enclosed schedules, the minimum annual license shall be \$100.00.
- (b) **Half year.** Every person who commences business on or after the first day of July, shall be subject to and shall pay one-half (1/2) the annual license for such business for that calendar year.
- (c) **Issuance fee.** For each license whereas an issuance fee applies, the enclosed schedules shall specify such issuance fee and said issuance fee shall be collected in the same manner as the license tax, and; pursuant to *Section 11-51-90(2) Code of Alabama 1975, as amended. (2) To fix the amount of licenses, the time for which they are to run, not exceeding one license year, to provide a penalty for doing business without a license, and to charge a fee not exceeding twelve dollars (\$12) for issuing each license. The issuance fee shall be increased every five license years by the Department of Revenue by an amount equal to the percentage increase, if any, in the U.S. Department of Labor's Producer Price Index during that five-year period, rounded to the nearest dollar, with the base year being 2006. The Department of Revenue shall notify all municipalities and the Alabama League of Municipalities of any such fee increase no later than the November 30 preceding the license year for which the increase shall take effect. The failure of the Department of Revenue to so notify all municipalities and the Alabama League of Municipalities shall not, however, prohibit a municipality from increasing the issuance fee, if any increase is otherwise due pursuant to this subsection. A reasonable projection of the Producer Price Index for the months of November and December of the fifth year of the test period may be employed in this calculation.*

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- (d) **Annual renewal.** Except as provided in subsections (i) or (ii), the business license shall be renewed annually on or before the 31st day of January each year.
- (i) If the due date for payment of any business license falls on a weekend or a holiday recognized by the municipality, the due date may automatically be extended until the next business day.
- (ii) Insurance company annual license renewals shall be renewed on or before the first day of March of each year in accordance with Section 11-51-122 of the *Code of Alabama* 1975 as amended, which states that each year, each insurance company shall furnish the municipality a statement in writing, duly certified, showing the full and true total amount of premiums on new policies actually issued during the year. Where a policy is renewed and additional property or persons are insured, the renewal premium received from such a policy is subject to this tax and shall accompany such statement with the amount of license tax due according to the licensing schedule. Failure to furnish such statement or to pay such sum shall subject the company and its agents to those penalties as prescribed for doing business without a license as provided for in the municipal code.
- (iii) On or before the 31st day of December of each year, a renewal reminder shall be mailed to each licensee that purchased a business license during the current year. Said renewal notice shall be mailed via regular U.S. mail to the licensee's last known address of record with the municipality. Licensees are required to furnish the municipality any address changes for their business prior to December 1st in order for them to receive their notice.
- (iv) Business license renewal payments received by the municipality shall be applied to the current renewal only when any and other debts the licensee owes to the municipality are first paid in full. No business license shall be issued if the current renewal payment does not meet said prior obligations and the current renewal. Failure to pay such sums shall subject the licensee and its agents to those penalties as prescribed for doing business without a license provided for in the municipal code.

SECTION 4. License shall be location specific.

- (a) For each place at which any business is carried on, a separate license shall be paid, and any person desiring to engage in any business for which a license is required shall designate the place at which business is carried on, and the license to be issued shall designate such place, and such license shall authorize the carrying on of such business only at the place designated.
- (b) Every person dealing in two or more of the articles, or engaging in two or more of the businesses, vocations, occupations, or professions scheduled herein, shall take out and pay for a license for each line of business.
- (c) A taxpayer subject to the license authorized by this ordinance that is engaged in business in other municipalities, may account for its gross receipts so that the part of its gross receipts attributable to its branch offices will not be subject to the business

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license imposed by this ordinance. To establish a bona fide branch office, the taxpayer must demonstrate proof of all following criteria:

- (i) The taxpayer must demonstrate the continuing existence of an actual facility located outside the police jurisdiction in which its principal business office is located, such as a retail store, outlet, business office, showroom, or warehouse, to which employees and/or independent contractors are assigned or located during regular normal working hours.
 - (ii) The taxpayer must maintain books and records, which reasonably indicate a segregation or allocation of the taxpayer's gross receipts to the particular facility of facilities.
 - (iii) The taxpayer must provide proof that separate telephone listings, signs, and other indications of its separate activity are in existence.
 - (iv) Billing and/or collection activities relating to the business conducted at the branch office or offices are performed by an employee or other representative, of the taxpayer who has such responsibility for the branch office.
 - (v) All business claimed by a branch office or offices must be conducted by and through said office or offices.
 - (vi) The taxpayer must supply proof that all applicable business licenses with respect to the branch office or offices have been issued.
- (d) Nothing herein shall be construed as exempting businesses from payment of a license on the basis of a lack of physical location.

SECTION 5. Restriction on transfer of license.

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

SECTION 6. Unlawful to do business without a license.

It shall be unlawful for any person, taxpayer, or agent of a person or taxpayer to engage in businesses or vocations in the municipality for which a license is required without first having procured a license. A violation of this division of the ordinance passed hereunder fixing a license shall be punishable by a fine not to exceed the sum of Five Hundred (\$500) for each offense, and if a

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willful violation, by imprisonment, not to exceed six months, or both, at the discretion of the court trying the same. Each day shall constitute a separate offense.

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SECTION 7. License must be posted.

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

SECTION 8. Duty to file report.

- (a) It shall be the duty of every person subject to such license tax to render to the municipality on such forms as may be required, a sworn statement showing the total business done, amount of sales, gross receipts and gross sales, stock, value of furniture and other equipment, capital invested, number of helpers or employees, amount of space occupied, or other factors described in the schedule, one or several, as the case may require, for the ascertainment of the classification of such person for license taxation purposes and the correct amount of license tax to which he is subject.
- (b) If the municipality determines that the amount of business license tax reported on or remitted with any business license remittance form is incorrect, if no business license remittance form is filed within the time prescribed, or if the information provided on the form is insufficient to allow the taxing jurisdiction to determine the proper amount of business license tax due, the municipality shall calculate the correct amount of the tax based on the most accurate and complete information reasonably obtainable and enter a preliminary assessment for the correct amount of business license tax, including any applicable penalty and interest.
- (c) The municipality shall promptly mail a copy of any preliminary assessment to the taxpayer's last known address by either first class U.S. mail or certified U.S. mail with return receipt requested, or, in the sole discretion of the municipality, deliver the preliminary assessment to the taxpayer by personal delivery.
- (d) If the amount of business license tax remitted by the taxpayer is undisputed by the Municipality, or if the taxpayer consents to the amount of any deficiency or preliminary Assessment in writing, the municipality shall enter a final assessment for the amount of the Tax due, plus any applicable penalty and interest.
- (e) If a taxpayer disagrees with a preliminary assessment as entered by the taxing jurisdiction, the taxpayer shall file a petition for review with the municipal license officer within 30 days from the date of entry of the preliminary assessment setting out the specific objections to the preliminary assessment. If a petition for review is timely filed, the license officer of the municipality shall schedule a conference with the taxpayer for the purpose of allowing the taxpayer or its representatives and the representatives of the municipality to present their respective positions, discuss any omissions or errors, and to attempt to agree upon any changes or modifications to their respective positions.

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- (f) If a petition for review is not timely filed, or is timely filed, and upon further review the license officer determines that the preliminary assessment is due to be upheld in whole or in part, the municipality may make the assessment final in the amount of business license tax due as computed by the license officer, with applicable interest and penalty computed to the date of entry of the final assessment. The license officer shall, whenever practicable, complete his or her review of the taxpayer's petition for review and applicable law within 90 days following the later of the date of filing of the petition or the conference, if any.
- (g) A copy of the final assessment shall promptly be mailed to the taxpayer's last known address (i) by either first class U.S. mail or certified U.S. mail with return receipt requested in the case of assessments of business license tax of Five Hundred Dollars (\$500.00) or less, or (ii) by certified U.S. mail with return receipt requested in the case of assessments of business license tax of more than Five Hundred Dollars (\$500.00). In either case, at the option of the taxing jurisdiction a copy of the final assessment may be delivered to the taxpayer by personal delivery. The final assessment shall include a statement informing the taxpayer of his or her right to appeal the final assessment to circuit court within 30 days from the date of the entry of the final assessment.

SECTION 9. Duty to permit inspection and produce records.

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

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

SECTION 10. Unlawful to obstruct.

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

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SECTION 11. Privacy.

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

SECTION 12. Failure to file assessment.

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

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

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

SECTION 14. Criminal penalties and interest⁵.

- (a) It shall be unlawful for any person, taxpayer, or agent of a person or taxpayer to engage in businesses or vocations in a municipality for which a license may be required without first having procured a license therefor. A violation of this division or of an ordinance passed hereunder fixing a license shall be punishable by a fine fixed by ordinance, not to exceed the sum of five hundred dollars (\$500) for each offense, and if a willful violation, by imprisonment, not to exceed six months, or both, at the discretion of the court trying the same. Each day shall constitute a separate offense.
- (b) In addition to the penalties prescribed by subsection (a), if a taxpayer fails to pay any business license tax owed to a taxing jurisdiction on or before the date prescribed therefor, there shall be assessed a penalty of 15 percent of the business license tax required to be paid with the license form. There shall be assessed a penalty of 30 percent of any business license tax required to be paid with the license form if the business license tax and any assessed penalties are not paid within 30 days of the due date prescribed in the preceding sentence. Such penalties shall not be cumulative.
- (c) Notwithstanding the foregoing, no fine or penalty under this section shall be assessed, or if assessed, shall be waived, if reasonable cause exists. "Reasonable cause" shall mean: The death or major illness of or an accident involving a sole proprietor causing serious bodily injury that in either case resulted in the sole proprietor being unable to purchase the license or operate his or her business during the 10 days preceding the due date for the license; natural disaster, fire, explosion, or accident that caused the closing or temporary cessation of the business of the taxpayer during the 10 days preceding the due date for the license; or reliance on the erroneous advice of an employee or agent of the revenue department of the taxing jurisdiction or its designee given in writing or by electronic mail. The municipality may, but is not required to, waive the penalty for other reasons, including, but not limited to, the taxpayer's reliance on erroneous but good faith advice from its tax adviser or on erroneous oral advice from an employee or agent of the revenue department of the taxing jurisdiction or its designee. The burden of proving reasonable cause shall be on the taxpayer, and a determination by the taxing jurisdiction that reasonable cause does not exist shall be reversed only if that determination was made arbitrarily and capriciously.

⁵ Section 11-51-93 *Code of Alabama 1975*, as amended

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- (d) All penalties and interest administered by the taxing jurisdiction pursuant to this section and Section 11-51-192 shall be assessed and collected in the same manner as business license taxes.

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SECTION 15. Civil penalties.

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

SECTION 16. Prosecutions unaffected.

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

SECTION 17. 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.

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

SECTION 18. Procedure for revocation or suspension of license.

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

SECTION 19. Refunds on overpayments and reissuance of license.

- (a) Any taxpayer may file a petition for refund with the municipality for any overpayment of business license tax erroneously paid to the municipality. If a final assessment for the tax has been entered by the municipality, a petition for refund of all or a portion of the tax may be filed only if the final assessment has been paid in full prior to or simultaneously with the filing of the petition for refund.
- (b) A petition for refund shall be filed with the municipality within two years from the date of payment of the business license tax, which is the subject of the petition.
- (c) The municipality shall either grant or deny a petition for refund within six months from the date the petition is filed unless the period is extended by written agreement of the taxpayer and the municipality. The taxpayer shall be notified of the

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

- (d) If the petition is granted or the municipality or a court otherwise determines that a refund is due, the overpayment shall be promptly refunded to the taxpayer by the municipality, together with interest to the extent provided for in Section 11-51-92. If the municipality determines that a refund is due, the amount of overpayment plus any interest due thereon may first be credited by the municipality against any outstanding tax liabilities due and owing by the taxpayer to the municipality, and the balance of any overpayment shall be promptly refunded to the taxpayer. If any refund or part thereof is credited to any other tax by the municipality, the taxpayer shall be provided with a written detailed statement showing the amount of overpayment, the amount credited for payment to other taxes, and the resulting amount of the refund.
- (e) A taxpayer may appeal from the denial in whole or in part of a petition for refund by filing a notice of appeal with the clerk of the circuit court of the county in which the municipality denying the petition for refund is located. Said notice of appeal must be filed within two years from the date the petition was denied.
The circuit court shall hear the appeal according to its own rules and procedures and shall determine the correct amount of refund due, if any. If an appeal is not filed with the appropriate circuit court within two years of the date the petition was denied, then the appeal shall be dismissed for lack of jurisdiction.
- (f) The municipality shall reserve the right to deny a refund in amounts less than Ten Dollars (\$10.00).
- (g) The municipality shall reserve the right to collect a fee of exactly Twenty Dollars (\$20.00) for the reissuance of a current, duly applied for and issued Business License.

SECTION 20. 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:
- (b) Notwithstanding any other provision of law, a municipality may charge a taxpayer an issuance fee for a business delivery license not to exceed Ten Dollars (\$10.00).
- (c) As used in this section, a delivery license shall mean a fixed rate business license issued by the municipality for the limited privilege of delivering and requisite set-up and installation, by the taxpayer's employees or agents, of the taxpayer's own merchandise in the municipality, by means of delivery vehicles owned, leased or contracted by the taxpayer; provided that the gross receipts derived from the sale and any requisite set-up or installation of all merchandise so delivered into the

municipality shall not exceed Seventy-Five Thousand Dollars (\$75,000.00) during the license year, and any set-up or installation shall relate only to (1) that required by the contract between the taxpayer and the customer or as may be required by state or local law, and (2) the merchandise so delivered.

- (d) Mere delivery of the taxpayer's merchandise by common carrier shall not allow the taxing jurisdiction to assess a business license tax or a delivery 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 sentence 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.
- (e) A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license hereunder.
- (f) A taxpayer that otherwise meets the criteria for the purchase of a delivery license pursuant to subsections (a), (a)(2), (a)(3), (a)(4) is not required to purchase a delivery license or a regular business license if the following criteria apply:
 - (a) The taxpayer's gross receipts that are derived from within the municipality or the municipalities police jurisdiction do not exceed Ten Thousand Dollars (\$10,000.00) during the year, and:
 - (b) The taxpayer has no physical presence within the municipality or its police jurisdiction during the year.
- (g) Notwithstanding § 11-51-90.2 *Code of Alabama 1975 as amended*, the delivery license shall be calculated in arrears, based on the related gross receipts during the preceding license year.
- (h) The purchase of a delivery license or the exemption from the purchase of a delivery license pursuant to subsection (5) shall not, in and of itself, establish nexus between the taxpayer and the municipality for the purposes of the taxes levied by or under the authority of Title 40 or other provisions of this title, nor does the purchase of a delivery license, in and of itself, establish that nexus does not exist between the taxpayer and the municipality.
- (i) If at any time during the current license year the taxpayer fails to meet any of the above stated criteria, then within 45 days after any of said criteria have been violated or exceeded, the taxpayer shall purchase a business license or other appropriate license from the municipality and may be subject to a penalty not to exceed Ten Dollars (\$10.00).

SECTION 21. Lodging tax.⁶

¹ State Law reference – Revenue & Taxation, Transient & Occupancy Tax, generally, Code of Alabama, 1975 § 40-26 et seq.

⁶ City of Smiths Station Ordinance #2017-135 & Ordinance #2017-135.1.

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(a) Definitions.

Unless the context clearly indicates a different meaning, the words, terms, and phrases used in this Ordinance shall have the following meaning(s).

- (a) **Business** means 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.
- (b) **Person** shall mean any real person, firm, corporation, partnership, association, administrator, trustee, or other fiduciary.
- (c) **Transient** shall mean any person to whom rooms or lodgings are rented for a period of less than 180 continuous days.

(b) Levy of Tax in the City.

For the privilege of engaging or continuing to engage 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, license or excise tax against the person on account of the business activities and in the amount to be determined by the application of the 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, license or excise tax upon every person, firm, 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 any amount to be determined by the applicable rate of Seven and One Half Percent (7.5 %) of the charge for such room, rooms, lodgings or accommodations, including the charge for the use or rental of personal property or services furnished in such room. Provided, however, there is exempted from the tax levied rooms, lodgings or accommodations supplied for a period of One Hundred Eighty (180) continuous days or more in any place.

(c) Provisions of State Lodgings Tax Statutes.

The taxed levied by this ordinance shall be subject to all definitions, exceptions, proceedings, requirements, rules, regulations, and provisions as provided by the *Title 40, Chapter 26, et seq. Code of Alabama, 1975, as amended* except where inapplicable or where herein otherwise provided.

(d) This Ordinance Cumulative to General Business License Code or Ordinance.

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

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(e) **Due Date; Reports, & Penalty for Later Payment.**

The taxes levied under the provisions of this ordinance shall be paid by each person against whom the same is levied and imposed, or who is liable to such tax levy under the provisions of this ordinance, on or before the Twentieth (20th) day of each calendar month succeeding the month in which the tax accrues. On or before the Twentieth (20th) day of each month every person on whom taxes herein levied are imposed, shall render to the City Clerk, on a form prescribed by the clerk, a true and correct statement showing the gross receipts of the business subject to said tax for the then preceding month, together with such other information as the City Clerk may demand and require, and at the time of making such monthly report the taxpayer shall compute the taxes due and shall pay to the clerk the amount of taxes to be due.

For any person failing or omitting to pay such taxes within time provided for, such person shall pay the City the full amount of the tax and the addition thereto of a penalty of Twenty Percent (20 %) of the amount of the tax. It shall be unlawful for any person to fail or omit to make the statements provided and required to be made under the provisions of the Article, or to make any false statement therein.

(f) **Use of Tax Proceeds.**

The proceeds of the license tax levied by this Article, when collected, shall be used by the City for such lawful purposes as may have heretofore been or hereafter be determined by the governing body of the City.

SECTION 22. Short term accommodations rentals.

(a) **Definitions.**

Dwelling: Any building which is arranged, designed, used, or intended to be used for residential or short-term rental occupancy by one or more families.

Dwelling types include the following:

- (1) **Apartment⁷:** A self-contained housing unit (a type of residential real estate) that occupies only part of a building, generally on a single storey.
- (2) **Condominiums⁸:** An apartment house, office building, or other multiple-unit complex, the units of which are individually owned, each owner receiving a recordable deed to the individual unit purchased, including the right to sell, mortgage, etc., that unit and sharing in joint ownership of any common grounds, passageways, etc.
- (3) **Multi-family, duplex.** A building designed for, or occupied exclusively by two families, with the units sharing a single party wall common to both. Multi-Family, Duplex structures shall meet and conform to City of Smiths Station Building Code Ordinance 2017-125, Zoning Ordinance 2011-075, Section 5.06;

⁷ Wikipedia.org 2020 Retrieved June 12, 2020 from www.dictionary.com 2020

⁸ Collins English Dictionary – Complete & Unabridged 2012 Digital Edition Retrieved June 12, 2020 from www.dictionary.com 2020

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Table of Permitted Uses, all amendments, current and future, to City of Smiths Station Building Code Ordinance 2017-125, Zoning Ordinance 2011-075, Federal, State and City of Smiths Station requirements.

- (4) **Residential, Multi-family dwelling:** A building designed for or occupied exclusively by three (3) or more families living independently and separately of each other, provided that the number of families does not exceed the number of units provided. A building comprised of attached single family units is a multi-family dwelling. Residential Multi-Family Dwelling structures shall meet and conform to City of Smiths Station Building Code Ordinance 2017-125, Zoning Ordinance 2011-075, Section 5.06; Table of Permitted Uses, all amendments, current and future, to City of Smiths Station Building Code Ordinance 2017-125, Zoning Ordinance 2011-075, Federal, State and City of Smiths Station requirements.
- (5) **Residential, Mobile / Manufactured single family home:** A vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a dwelling when connected to indicated utilities. A vehicle intended as a temporary dwelling for travel and recreational purposes is not included. Residential Mobile / Manufactured Single Family Home structures shall meet and conform to City of Smiths Station Building Code Ordinance 2017-125, Zoning Ordinance 2011-075, Section 5.06; Table of Permitted Uses, all amendments, current and future, to City of Smiths Station Building Code Ordinance 2017-125, Zoning Ordinance 2011-075, Federal, State and City of Smiths Station requirements.
- (6) **Residential, Single family:** A single detached dwelling containing only one unit and is completely separated by open spaces on all sides from any other structure, except its own garage or shed. Residential, Single Family structures shall meet and conform to City of Smiths Station Building Code Ordinance 2017-125, Zoning Ordinance 2011-075, Section 5.06; Table of Permitted Uses, all amendments, current and future, to City of Smiths Station Building Code Ordinance 2017-125, Zoning Ordinance 2011-075, Federal, State and City of Smiths Station requirements.
- (7) **Townhouses:** A row of three (3) or more dwellings flush against each other at the sides or attached at the sides by party walls, each unit of which is designed as a Single Family Residence.

Dwelling unit: One or more rooms in a residential building which are arranged, designed, used, or intended for use as living quarters for one family, are physically separated from any other rooms or dwelling units which may be in the same structure, and, contain independent cooking and sleeping facilities.

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Form⁹(s): A document with blanks for the insertion of details or information.

Lodging tax: The lodgings tax as defined applies all charges made for the use of rooms, lodgings, or other accommodations, including charges for personal property used or services furnished in the rooms, lodgings, or other accommodations, by every person who is engaged in the business of renting rooms or lodgings or furnishing accommodations to transients 'supplied for a period less than 180 continuous days.¹⁰

Person: As used in this Ordinance shall include and apply to business entities, corporations, associations, and individual real persons.

Short-term rental¹¹: A Short-Term Rental is an occupied property that is not a hotel, motel, lodging house, or bed and breakfast establishment, where at least One (1) room or unit is rented out by an operator through the use of advance reservations. A Short-Term Rental includes an apartment, house, cottage, and condominium. It does not include property that is rented out through tenancies at will or month to month leases. It also does not include time share property or bed and breakfast homes. The transient use of any dwelling or any part of a dwelling for overnight occupancy.

Short-term rental manager: Any person or entity that arranges the rental, cleaning, listing, advertising, or otherwise assists in the operation of a short-term rental for a profit. Short-term rental manager does not include listing services or online platforms for short-term rental listings.

Tenancies¹²: A holding, as of lands, by any kind of title, occupancy of land, a house, or the like, under a lease or on payment of rent, tenure.

Transient: A person(s) occupying a dwelling for less than thirty (30) days.

(b) Short-term accommodations rentals—Generally.

- (1) It shall be unlawful for any person, company, or entity to list, advertise, or hold out for rental, any room or building as a short-term rental without first obtaining a current City of Smiths Station, Alabama Business License pursuant to Ordinance 2019-163, all Amendments to Ordinance 2019-163 and including said Business License number on the advertisement or listing.
- (2) The name and telephone number of a local responsible party shall be conspicuously posted within the short-term rental property unit. The responsible party shall answer and respond to calls Twenty-Four (24)

⁹ West's Encyclopedia of American Law, edition 2. S.v. "entities." Retrieved June 4 2020 from <https://legal-dictionary.thefreedictionary.com/entities>

¹⁰ Alabama Department of Revenue

¹¹ Commonwealth of Massachusetts 2020. Retrieved August 11, 2020 from www.mass.gov/info-details/room-occupancy-frequently-asked-questions

¹² Collins English Dictionary – Complete and Unabridged, 12th Edition 2014. Retrieved August 11, 2020 from the Free Dictionary by Farlex

hours a day, Seven (7) days a week for the duration of each short-term rental period to address problems or complaints associated with the short-term rental property.

- (3) The short-term rental shall comply with all applicable City of Smiths Station, Alabama regulations regarding solid waste, garbage, and trash, pursuant to Ordinance 2020-170.

(c) **Short-term rentals—License required; Short-term accommodations rental lodging tax rates.**

Every person, as defined herein, in the city who rents or furnishes any room, lodging or accommodation as a short-term rental, as defined herein, shall take out and pay to the city a short-term rental lodging tax for each short-term rental location as follows:

- (1) No short-term rental business shall operate in the City without having first obtained a current City of Smiths Station, Alabama Business License from the City.
- (2) Any owner of more than One (1) short-term rental property shall be required to obtain a business license for each short-term rental property.
- (3) In addition to all other licenses levied, the short-term rental lodging tax shall be in an amount to be determined by the application of the rate of Seven and One half (7 ½ %) per cent of the charge for such room, lodging or accommodation including the charge for use or rental of personal property or services furnished in such room pursuant to Ordinance 2017-135 & Ordinance Amendment 2017-135.2.
- (4) Hereinafter Business License Ordinance 2019-163, Section 21 License Classifications, shall be appended therefore approving and adopting; License Classifications, Accommodations, short-term accommodations rental; NAICS Code 721, Business License Schedule C.

Business licenses for short-term rentals located in an area capped by Zoning Ordinance 2011-075 not renewed will be subject to the license cap upon subsequent reapplication.

(d) **Payment due date; delinquency.**

- (1) The business license and short-term rental lodging tax levied under Ordinance 2017-135 and Ordinance 2017-135.2 shall be in addition to every other licenses levied and shall be due and payable in monthly installments on or before the twentieth day of month next succeeding the month in which the license accrued. The licensee shall compute the amount of tax due and pay the same to the City at the time of making the monthly report required by Ordinance 2017-135 and Ordinance 2017-135.1.
- (2) Delinquency—Any person who fails to pay the short-term rental lodging tax levied by Ordinance 2017-135 and Ordinance Amendment 2017-135.2 within the time required, shall pay additional penalties pursuant to

Ordinance 2017-135 and Ordinance Amendment 2017-135.2 tax equal to Ten (10) per cent of the amount of tax due as a penalty. Such penalty shall be assessed and collected as part of the short-term rental lodging tax.

(e) Filing statement.

- (1) On or before the twentieth day of each month every person upon whom a Business License is levied by Ordinance 2017-135 and Ordinance 2017-135.2 shall render to the Financial Officer, on a form prescribed by the City, a true and correct statement showing the gross proceeds of such person's business licensed for the preceding month, together with such other information that the City may demand and require.
- (2) Individuals utilizing a third party for lodging tax collections shall submit a transaction history detail provided by the third party or other similar document that shows the dates booked, gross revenue and tax submitted.

(f) Insurance.

- (1) Every person in the municipal limits who desires to obtain a license to conduct a short-term rental business pursuant to Ordinance 2019-163 and all Amendments to Ordinance 2019-163 must provide proof of the following insurance coverage: An additional rider on a homeowner's policy that expressly covers short-term rentals and provides a minimum of One Million Dollars (\$1,000,000.00) liability and personal injury coverage; or
 - i. A commercial insurance policy covering short-term rentals at the permitted address that provides a minimum of One Million Dollars (\$1,000,000.00) liability and personal injury coverage. Insurance required above shall be without prejudice to coverage otherwise existing and shall name, as an additional interested party, the city, its officers, and employees and shall provide that the policy shall not terminate or be cancelled prior to the completion of the permit period without Forty-Five (45) days written notice to the city at the address shown in the permit agreement.

(g) Designation of agent; professional license required.

- 1) In order to be eligible for a short-term rental business license under Ordinance 2019-163 the person or company desiring to operate a short-term rental business must be the owner of the property proposed to be covered under the license or have a completed "designation of agent" form from the property's owner.
- 2) Any person or entity operating as a short-term rental manager must obtain a current City of Smiths Station, Alabama Business License pursuant to

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Ordinance 2019-163-and must be professionally licensed in compliance with Ala. Code § 34-27-30.

(h) **Use of tax proceeds.**

The proceeds of the license tax levied by this Article, when collected, shall be used by the City for such lawful purposes as may have heretofore been or hereafter be determined by the governing body of the City.

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SECTION 23. License classifications codes.

<u>2017 NAICS TITLES / BUSINESS LICENSE CODES</u>	<u>CODE</u>	<u>SCHEDULE</u>
Accommodations – bed & breakfast inns & services	721	C
Accommodations – hotels, motels & similar facilities	721	C
Accommodations – rooming houses & boarding houses	721	C
Accommodations – trailer parks, RV parks, & travel parks	721	E
Accountant/CPAs – individual and/or firm professional license	541	A
Administration of Economic programs	926	N/A
Administration of Environmental Quality Programs	924	N/A
Administration of housing, urban	925	N/A
Administration of human resource programs	923	N/A
Administrative services – answering, employment, office, sec., travel	561	C
Agent Office – administration of third parties, pension funds, annuities, etc	524	B
Agriculture support – cotton gins, farm mgt, post-harvest activities	115	F
Air transportation – airline tickets, shipping, freight, charters service	481	B
Alcohol / Retail Liquor Restaurant - state regulated through Alabama Beverage Control Board.	722	H
Alcohol / Retail Liquor Lounge - state regulated through Alabama Beverage Control Board.	722	H
Ambulance – ambulance company and/or services	621	D
Amusement – arcades, golf clubs, marinas, fitness, bowling centers	713	B
Amusement devices and/or games	910	P
Animal Production – dairy, cattle, ranching, sheep, chickens, poultry	112	F
Apparel mfg – women, men, children, hosiery, lingerie outerwear	315	D
Appliance mfg – small appliance, lighting, electrical, battery, freezer	335	C
Architect – individual and/or firm professional license	541	A
Arts & sports – dance, musical, teams, tracks, promoters, agents	711	B
Attorney/Lawyers – individual and/or firm professional license	541	A
Beer – off premise – state regulated through Alabama Beverage Control Bd	445	H
Beer – on premise – state regulated through Alabama Beverage Control Bd	445	H
Beer & Wine – wholesale distributor	424	H
Beverage mfg – all types of soft drinks, bottled water, breweries, ice	312	E
Broadcasting – radio & television stations	515	B
Building materials & gardening equipment dealers	444	C
Caterers – and/or mobile food services	722	C
Chemical mfg – of fertilizer, wood, pesticide, paint, soap, & resin	325	C
Chiropractor – individual and/or firm professional license	541	A
Clothing & accessories – men, women, children, infant, shoe, jewelry	448	B
Computer & electronic mfg – audio, video, circuit boards, peripherals	334	C
Computer Programmer – individual and/or professional firm license	541	A
Contractors – general contractors, comm. bldg., residential, subdivisions	236	E

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Codes Continued

Contractors – heavy construction, highway, bridge, street, water, sewer	237	D
Contractors – specialty trade – carpentry contractors	238	E
Contractors – specialty trade – concrete contractors	238	E
Contractors – specialty trade – drywall, acoustical & insulation	238	E
Contractors – specialty trade – electrical contractors	238	E
Contractors – specialty trade – excavation & site development	238	E
Contractors – specialty trade – floor coverings/all types	238	E
Contractors – specialty trade – glass & glazing contractors	238	E
Contractors – specialty trade – masonry & stone contractors	238	E
Contractors – specialty trade – painting & wall covering	238	E
Contractors – specialty trade – plumbing, heating & air conditioning	238	E
Contractors – specialty trade – roofing, siding & sheet metal	238	E
Contractors – specialty trade – structural steel erection	238	E
Contractors – specialty trade – tile, marble, terrazzo & mosaic	238	E
Contractors – specialty trade – water well drilling & irrigation	238	E
Contractors – specialty trade – wrecking & demolition	238	E
Contractors – specialty trades contractors- non-general & non-heavy	238	D
Couriers – couriers & local messengers, services, local delivery services	492	C
Day Care Center – Child-care facility (more than 12 children received / see definitions)	624	C
Day Care Home – Child-care facility (not more than 6 children received / see definitions)	624	C
Day Care Home (Group) – Child-care facility (at least 7 but not more than 12 children / 2 adults present / see definitions)	624	C
Day Home (Group) – Child-care facility (see definitions)	624	C
Dentist – individual and/or firm professional license	541	A
Educational services – technical, computer, sports, services, business	611	D
Electronic & appliance store – household, radio, television, computers	443	B
Employees as a basis for calculating license	920	R
Engineer – individual and/or firm professional license	541	A
Exterminating services – exterminating company & its services	561	E
Farming & Crop Production – agriculture, crop production, nursery	111	F
Financial Services - Savings & Loans	522	U
Financial Services - Bank Branch or ATM	522	U
Financial Services - Bank Main Office	522	U
Financial Services - Finance & Loan Companies	522	B
Financial Services - other	523	A
Financial Services - Pawn Shop	522	A
Financial Services - Savings & Loans Branch or ATM	522	U
Financial Services - Securities & commodities	523	A
Fishing & hunting – hunting & trapping, finfish, shellfish, supplies	114	E
Food & beverage stores – grocery, convenience store, markets	445	F
Food mfg – meat, seafood, grain, fruit, dairy, animal, poultry processing	311	F

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Codes Continued

Forestry – logging, forestry, timber track operations, timber mgt	113	D
Fortune Teller or Clairvoyant – individual reader license	812	M
Furniture – furniture, home furnishings, stores, floor coverings, window	442	C
Furniture mfg – cabinets, office, household, beds, kitchen	337	C
Gasoline Retail - selling gasoline with or without convenience stores	447	W
General merchandise stores – department, warehouse clubs, superstores	452	C
Health & personal care stores – drug, pharmacy, optical, health food	446	C
HMO – medical centers & services	621	B
Hospitals – surgical, substance abuse, psychiatric, general care	622	C
Information services & data processing – providing, storing, processing, access to information	519	A
Insurance Company and/or its agents – casualty, fire, and/or marine premiums	524	§11-51-120/123
Insurance Company and/or its agents – health, allied & all other premiums;	524	§11-51-120/123
Janitorial – cleaning services	561	F
Landscaping Services – service and installation	561	F
Leather & allied products mfg – shoes, luggage, handbag, related products	316	D
Machinery mfg – office machinery, industrial, engines, farm, HVAC	333	C
Management companies – offices, enterprises, regional, corporate	551	B
Metal fabrication – cutlery, structural, ornamental, machine shops	332	D
Mining - (except for oil & gas) all related mining activities	212	C
Mining support services – for oil & gas mining activities, oil/gas wells	213	C
Manufacturing, misc. - medical, dental, jewelry, sporting goods, toys, signs	339	B
Motion pictures – theatres, videos, recording, drive-ins, sound studios	512	A
Motor vehicle parts & accessories – auto, motorcycles, boats, parts & accessories	441	C
Motor vehicles - new and/or used automobiles, motorcycles, boats, dealerships, & lots	441	D
Museums – museums & historical sites, zoos, botanical gardens, parks	712	C
National Security & International Affairs	928	N/A
Nonmetallic mfg – clay, glass, cement, lime, pottery, ceramic, brick, tile	327	C
Non-Store Retailer – peddlers license / local peddler	454	I
Non-store retailers – vending machine operators, direct selling, mail order	454	D
Nursing Care – residential care facility, assisted living	623	C
Nursing Home – care for elderly & continuing care facilities	623	D
Oil & gas extraction – natural gas liquid extraction, crude extraction	211	C
Optometrist – individual and/or firm professional license	541	A
Other mfg – mill operations not covered in 313, rugs, linen, curtains	314	E
Outpatient Care Centers – all other types of services	621	C
Package Stores – selling beer, wine & liquor plus general mdse	445	D
Paper mfg – pulp, paper, & converted products, stationary, tubes, cores	322	E
Passenger transportation – bus terminals state regulated	485	§37-3-33

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Passenger transportation – buses, taxi cabs, limousine service, buggy, charters		
Passenger transportation – charter & other vehicle transit services	485	J
Passenger transportation – number of buses, taxis, cabs, limousines, or buggy	485	J
Personal Services – hair, skin, barber, beautician, diet, nail, tanning, funerals	812	B
Petroleum & coal mfg – asphalt, grease, roofing, paving products	324	C
Photographer – studios, portrait, commercial, services	541	A
Physician – individual and/or firm professional license	541	A
Plastic & rubber mfg – tires, pipe, hoses, belts, bottles, sheet, wrap, film	326	D
Pool & billiard tables	910	O
Primary metal mfg – iron, steel, aluminum, wire, copper, foundries	331	C
Printing – screen, quick, digital, books, lithographic, handbills	323	D
Professional Services Not Elsewhere Classified – scientific, technical	541	A
Publishing industries except internet – newspaper, book, periodical	511	B
Rail transportation – transportation, ticket offices, state regulated	482	§11-51-124
Real estate – offices, agents, brokers, management, appraisers	531	B
Rental & leasing – auto, truck, trailer, RV, all tangible property	532	C
Rental & leasing – movie & video rental	532	D
Repairs & maintenance – all appliances, home & garden equipment	811	D
Repairs & maintenance – all electronic equipment	811	B
Repairs & maintenance – auto, paint/body, carwash, other vehicular	811	C
Restaurant – Full service	722	D
Restaurant – limited facility or service	722	D
Retailers (Miscellaneous) - florist, gift, novelty, pet, art, tobacco, etc.	453	B
Sightseeing - transportation – scenic & sightseeing, land, air, water, etc.	487	A
Social assistance – shelters, vocational, abuse, emergency	623	E
Space, research, & technology	927	N/A
Special Events – promoter or activity – see schedule for rates	711	L
Sporting goods & hobbies – toy, fish, gun, books, games	451	B
Square feet used for calculating license amount	930	S
Surveyor – individual and/or firm professional license	541	A
Telecommunications – cellular & other wireless, paging	517	K
Telecommunications – resellers of service	517	K
Telecommunications – telephone local; §11-51-128	517	K
Telecommunications – telephone long distance; §11-51-128	517	K
Textile mfg – fabric, yarn, carpet, canvas, rope, twine, fabric mills	313	E
Transportation mfg – auto, truck, trailer, motor home, boat, ship, & motorcycle	336	D
Truck transportation – local, long-distance, freight, moving, & storage	484	C
Truck transportation – terminal – state regulated	484	§37-3-33
Unclassified miscellaneous business services not elsewhere classified	999	C

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Codes Continued

Unclassified miscellaneous personal services not elsewhere classified	999	B
Used Merchandise Stores – books, miscellaneous, consignment, flea mkt	453	F
Utilities – electric power or light company	221	G
Utilities – natural gas company	221	G
Utilities – water, sewage treatment, steam, & other	221	G
Vending machines	910	N
Veterinarian – individual and/or firm professional license	541	A
Warehousing & storage – distribution, household, refrigerated, special	493	F
Waste management – companies, trucks, septic tanks, landfill, services	562	F
Water transportation – coastal, freight forwarders, inland +B 35, passenger	483	B
Wholesale trade – durable, vehicle, machinery, equipment, furniture	421	E
Wholesale trade – non-durable, wholesale gasoline distributor	422	F
Wholesale trade –non-durable, paper, apparel, grocery, beverages, dairy	422	E
Wine – off premise – state regulated through Alabama Beverage Control Bd	445	H
Wine – on premise – state regulated through Alabama Beverage Control Bd	445	H
Wood mfg – sawmills, wood preservation, veneer, trusses, millwork	321	F

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End of Codes

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SECTION 24. License fee schedules.

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Schedule "A" – If gross receipts are:

Annual License Fee of \$100.00. Thereafter, 1/10th of 1 Percent of Total Gross Receipts.

Schedule "B" – If gross receipts are:

Annual License Fee of \$100.00. Thereafter, 1/10th of 1 Percent of Total Gross Receipts.

Schedule "C" – If gross receipts are:

Annual License Fee of \$100.00. Thereafter, 1/10th of 1 Percent of Total Gross Receipts.

As it Applies to NAICS 721 (Accommodations).

All Accommodations Licenses are \$100.00. In addition, a monthly lodging tax shall be submitted to the City of Smiths Station per Ordinance #2017-135 & Ordinance #2017-135.1.

Schedule "D" – If gross receipts are:

Annual License Fee of \$100.00. Thereafter, 1/10th of 1 Percent of Total Gross Receipts.

Schedule "E" – If gross receipts are:

Annual License Fee of \$100.00. Thereafter, 1/10th of 1 Percent of Total Gross Receipts.

Schedule "F" – If gross receipts are:

Annual License Fee of \$100.00. Thereafter, 1/10th of 1 Percent of Total Gross Receipts.

As it Applies to NAICS 422 (Wholesale Trade-Non-Durable Wholesale Gasoline Distributor).

1. All Gasoline Wholesale Licenses are \$250.00.
2. Each "person" engaged in the business of selling gasoline and/or other petroleum products at wholesale or delivering gasoline and/or other petroleum products within the City of Smiths Station shall pay a license to do so. In addition, this category is subject to all provisions of Ordinance 2017-131.

Schedule "G" – Utilities.

Amount of license is state regulated. See Section 11-51-129 of the *Code of Alabama* 1975, as amended. For selling and distribution shall annually assess and collect of persons operating electric or hydroelectric street railroads, electric light and power companies, gas companies, waterworks companies, pipe line companies for transporting or carrying gas, oil, gasoline, water or other commodities, gas distributing companies, whether by means of pipe lines or by tanks, drums, tubes, cylinders or otherwise, 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, railroad and sleeping car companies and express companies which are otherwise licensed shall be three (3.0) percent of the gross receipts of the business done by the utility in

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the municipality during the preceding year; and, for the first year's business when an existing utility is taken over, the amount of the license shall be computed on the basis of the gross receipts of the prior operators plus the gross receipts of the new owners; provided, that this section shall not affect any existing contract between any municipality and any public utility operating therein, except those provisions of contracts which relate to the amount or basis of the license tax imposed by such municipality on such utility.

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Schedule "H" - Beer, Wine & Liquor.

Alabama Beverage Bd Code	Classification	Annual Fee	Licensing Notes
040 (Beer On/Off Premise)	445	\$100.00	Plus 1/10 of 1% Gross Receipts.
050 (Beer Off Premise Only)	445	\$100.00	Plus 1/10 of 1% Gross Receipts.
060 (Table Wine On/Off Premise)	445	\$100.00	Plus 1/10 of 1% Gross Receipts.
070 (Table Wine Off Premise Only)	445	\$100.00	Plus 1/10 of 1% Gross Receipts.
010 (Lounge Retail Liquor Class I)	722410	\$75.00	All three codes are part of the package, plus the Business License Code
	722410	\$650.00	
	722410	\$75.00	
011 (Package Store Liquor Class II)	445310	\$75.00	All three codes are part of the package, plus the Business License Code.
	445310	\$650.00	
	445310	\$75.00	
020 (Restaurant Retail Liquor)	722410	\$75.00	All three codes are part of the package, plus the Business License Code.
	722410	\$650.00	
	722410	\$75.00	
032 (Club Liquor Class II)	722410	\$75.00	All three codes are part of the package, plus the Business License Code.
	722410	\$650.00	
	722410	\$75.00	
110 (Wholesale Table Wine & Beer)	424	\$375.00	Distributors License.
090 (Wholesale Beer)	42482	\$275.00	
100 (Wholesale Wine)	42481	\$275.00	

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Schedule "I" - Peddlers.

See Schedule "T".

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Schedule "I" - Taxi Cabs & Limousines.

Annual License Fee of \$100.00. In addition, there shall be a decal affixed to each taxi-cab or limousine and the cost of said license shall be according to the following:

Each taxi-cab or limousine \$ 25.00 per vehicle.

Schedule "K" - Telephones & Telecommunications.

Regulated per Section 11-51-128 *Code of Alabama* 1975, as amended for telephones.

Other rates and/or schedules for various other telecommunications businesses see Schedule B.

Schedule "L" - Special Events Licenses.

Special Events Retail License. Each organization licensed by the Alabama Beverage Control Board to sell beer and table wine under Section 28-3A-20 *Code of Alabama* 1975, as amended, shall pay to the city a license fee of One Hundred Dollars (\$100.00). Such organization shall meet or exceed the minimum requirements for an Alabama Alcoholic Beverage Control Board Special Events Retail License and shall be operated by a responsible organization of good reputation upon such terms and conditions as prescribed by the city council.

Special Retail More Than Thirty (30) Days. Each organization licensed by the board to sell beer, table wine and liquor under Section 28-3A-19 *Code of Alabama* 1975, as amended, shall pay to the city a license fee of Two Hundred Fifty Dollars (\$250.00). A liquor tax of three (3) percent is due on the 15th day of each month and such organization shall meet or exceed the minimum requirements for an Alabama Alcoholic Beverage Control Board Special Events Retail Licenses more than Thirty (30) days and shall be operated by a responsible organization of good reputation upon such terms and conditions as prescribed by the city council.

Schedule "M" - Fortune Tellers.

Annual license rate is \$ 1,000.00.

Schedule "N" - Vending Machines.

Annual License Fee of \$100.00. In addition, there shall be a decal affixed to each machine and the cost of said decals shall be according to the following table:

Each vending machine any type \$15.00 per decal.

Schedule "O" - Billiard and/or Pool Tables.

Annual License Fee of \$100.00. In addition, there shall be a decal affixed to each machine/table and the cost is \$25.00 per decal.

Schedule "P" - Amusement Devices.

Annual License Fee of \$100.00. In addition, there shall be a decal affixed to each machine and the cost of said decals shall be \$25.00 per decal.

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Schedule "Q" - Buses, Trucks & Other Equipment.

Annual License Fee of \$100.00. In addition, there shall be a decal affixed to each piece of equipment and the cost of said license shall be according to the following:

Each vehicle for buses, trucks, or other equipment \$ 25.00 per vehicle.

Schedule "R" - Number of Employees.

R-1	Where personnel are from 1 to 2 people	\$100.00
R-2	Where personnel are from 3 to 5 people	\$250.00
R-3	Where personnel are from 6 to 10 people	\$400.00
R-4	Where personnel are from 11 to 20 people	\$550.00
R-5	Where personnel are from 21 to 50 people	\$700.00
R-6	Where personnel are from 51 to 75 people	\$850.00
R-7	Where personnel are from 76 to 100 people	\$1,000.00
R-8	Personnel over 100 to be 1,000.00 + 50.00 per person over 100.	

Schedule "S" - Square Feet.

S-1	From zero	to	5,000 Square Feet.....	\$100.00
S-2	From 5,000	to	10,000 Square Feet.....	\$200.00
S-3	From 10,000	to	20,000 Square Feet.....	\$300.00
S-4	From 20,000	to	30,000 Square Feet.....	\$400.00
S-5	From 30,000	to	40,000 Square Feet.....	\$500.00
S-6	From 40,000	to	50,000 Square Feet.....	\$600.00
S-7	From 50,000	to	60,000 Square Feet.....	\$700.00
S-8	From 60,000	to	70,000 Square Feet.....	\$800.00
S-9	From 70,000	to	80,000 Square Feet.....	\$900.00
S-10	From 80,000	to	90,000 Square Feet.....	\$1,000.00
S-11	From 90,000	to	100,000 Square Feet.....	\$1,200.00
S-16	From 100,000		and more.....	\$1,200.00
				plus \$.01 per square foot over 100,000

Schedule "T" - Itinerants.

Itinerant businesses operating within the jurisdiction but located outside the jurisdiction shall pay the itinerant rate for a business license and that rate shall be as follows:

Daily Rate	issued for single day sales activity	\$10.00
Weekly Rate	issued for week-long sales activity	\$50.00
Monthly Rate	issued for month long sales activity	\$150.00
Quarterly Rate	issued for the year-long sales activity	\$300.00
Annual Rate	issued for the year-long sales activity	\$500.00

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Schedule "U" - Banks / Savings & Loans.

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

Schedule "V" - Delivery License.

The rate for the delivery license as established in Section 21 and is: \$100.00

Schedule "W" - Gasoline Retail.

Annual License Fee of \$100.00. Thereafter, 1/10th of 1 Percent of Total Gross Receipts.

SECTION 25. Exchange of information.

- (a) The license officer may exchange tax returns, information, records, and other documents secured by the municipality, with other municipalities adopting similar ordinances for the exchange of taxpayer information, or with county or state authorities. The license officer may charge a reasonable fee for providing such information or documents. Any tax returns, information, records, or other documents so exchanged shall remain subject to the confidentiality provisions, restrictions, and criminal penalties for unauthorized disclosure as provided under state or municipal law.
- (b) Any such exchange shall be for one or more of the following purposes:
 - (1) Collecting taxes due.
 - (2) Ascertaining the amount of taxes due from any person.
 - (3) Determining whether a person is liable for, or whether there is probable cause for believing a person might be liable for, the payment of any tax to a state, county, or municipal agency.
- (c) Nothing herein shall prohibit the use of tax returns or tax information by the municipality in the proper administration of any matter administered by the license officer. The license officer may also divulge to a purchaser, prospective purchaser as defined pursuant to the regulations of the Alabama Department of Revenue, or successor of a business or stock of goods the outstanding sales, use, or rental tax liability of the seller for which the purchaser, prospective purchaser as defined pursuant to the regulations of the Alabama Department of Revenue, or successor may be liable pursuant to Section(s) 40-23-25, 40-23-82, or 40-12-224 *Code of Alabama* 1975, as amended.

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SECTION 26. License fees in Police Jurisdiction.

The City does not impose business license tax in the police jurisdiction.

SECTION 27. Effective date.

This ordinance shall become effective upon approval and adoption by the City of Smiths Station City Council on and or after after January 1, 2021.

SECTION 28. Severability.

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

SECTION 29. Repealer.

City of Smiths Station Ordinance(s) 2019-163, 2019-163.01, 2019-163.02, 2007-049, 2007-049.1, 2007-049.2, 2007-049.3, 2007-049.4, 2007-049.5, 2007-049.6, 2007-049.7 and all ordinances or parts of Ordinances in conflict with the provisions of this ordinance are hereby repealed.

Signature Page to Follow

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Now Therefore be it Further Ordained by the City Council of Smiths Station, Alabama, that this Ordinance becomes Effective Immediately upon Adoption and Approval pursuant to §11-45-8, Code of Alabama 1975, as amended.

ADOPTED AND APPROVED on this the 27th Day of October 2020.


F.L. "Bubba" Copeland, Mayor


Council Member George Stringer


Council Member Morris Jackson


Council Member James Moody


Council Member Rick Cooley


Council Member Dick Key

ATTESTED:


Scott Johnston, City Clerk

SEAL:



CITY OF SMITHS STATION
P. O. BOX 250
Smiths Station, Alabama 36877

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ORDINANCE 2020-174

CERTIFICATION

I, Scott E. Johnston, City Clerk of the City of Smiths Station, Alabama hereby certify the attached to be a true and correct copy of the ordinance adopted by the City Council of Smiths Station, Alabama at the regular meeting held on **October 27, 2020** as same appears in minutes of record of said meeting and published by posting copies thereof on **October 28, 2020** at the public places listed below, which copies remained posted for five business days, through **November 4, 2020**. The ordinance will remain posted for a minimum of thirty days.

City Hall
Rainbow Foods
U.S. Post Office
Terry's Grocery

2336 Lee Road 430
2461 Lee Road 430
2720 Lee Road 430
9309 Lee Road 246

Smiths Station, AL 36877
Smiths Station, AL 36877
Smiths Station, AL 36877
Smiths Station, AL 36877



Scott E. Johnston, City Clerk

(SEAL)

