

ORDINANCE NO. 1018-07

BUSINESS LICENSE CODE OF THE
CITY OF FOLEY, ALABAMA
FOR THE YEAR 2007/8 AND EACH SUBSEQUENT YEAR

SCHEDULE OF LICENSES AND FEES

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

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SECTION 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.

SECTION 2. Purpose of Legal Authority

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

SECTION 3. Definition of terms.

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

BUSINESS. Any commercial or industrial activity or any enterprise, trade, profession, occupation, or livelihood, 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.

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

BUSINESS LICENSE REMITTANCE FORM. Any business license return, renewal 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.

BUSINESS EXEMPT FROM LICENSE. Any enterprise entered into with the primary purpose of pursuing social, charitable, or other benevolent activities and able to show reasonable evidence of non-profit Corporation or Association (as defined by the Internal Revenue Service) may be considered exempt from licensing at the discretion of the City's Revenue Licensing Official.

CITY. The City of Foley, Alabama, its corporate boundaries and its police jurisdiction, as applicable.

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

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

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

- (a) Gross receipts shall not include any of the following taxes collected by the business on behalf of any taxing jurisdiction or the federal government: All taxes which are imposed on the ultimate consumer, collected by the taxpayer and remitted by or on behalf of the taxpayer to the taxing authority, whether state, local or federal, including utility gross receipts levied pursuant to Article 3, Chapter 21, Title 40; license taxes levied pursuant to Article 2, Chapter 21, Title 40; or reimbursements to professional employer organizations of federal, state or local payroll taxes or unemployment insurance contributions; but no

other deductions or exclusions from gross receipts shall be allowed except as provided in this article.

- (b) A different basis for calculating the business license may be used by the municipality with respect to certain categories of taxpayers as prescribed in Section 11-51-90B.
- (c) For a utility or other entity described in Section 11-51-129, gross receipts shall be limited to the gross receipts derived from the retail furnishing of utility services within the municipality during the preceding year that are taxed under Article 3 of Chapter 21 of Title 40, except that nothing herein shall affect any existing contract or agreement between a municipality and a utility or other entity. The gross receipts derived from the furnishing of utility services shall not be subject to further business license taxation by the municipality.
- (d) Gross receipts shall not include dividends or other distributions received by a corporation, or proceeds from borrowing, the sale of a capital asset, 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.
- (e) A General Contractor or Home Builder may claim a credit against the gross receipts for any amounts paid to any subcontractor (excluding suppliers/vendors).

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

LICENSE YEAR. The calendar year.

MUNICIPALITY. 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.

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.

POLICE JURISDICTION. Police Jurisdiction is defined as the three (3) mile radius out from the Corporate City Limits of the City of Foley.

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.

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.

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

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

SECTION 4. License Requirements.

It shall be unlawful for any business to operate in the City of Foley without first obtaining a business license unless specifically exempted for such requirement by this Ordinance. Any taxpayer engaged at one location in more than one line of business falling within separate NAICS sector or sub-sector will be required by the City be licensed under each sectors or sub-sectors from which the taxpayer derives more than ten percent (10%) of its gross receipts.

- (a) Computation of Initial License Fee. When a business license is procured for the first time, the fee shall be based upon the projected gross revenue for the remainder of the calendar year.
- (b) Computation of License Renewal Fee. Where it is specified that the amount of the license renewal fee is to be computed upon the basis of gross receipts of the business, the gross receipts shall be the gross receipts of the previous license year.

SECTION 5. License term; minimums.

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

- (a) *Full Year.* Every person who commences business before the first day of July shall be subject to and shall pay the annual license for such business in full. Unless otherwise specified in the enclosed schedules, the minimum annual license shall be \$ 100.00.
- (b) *Half Year.* Every person who commences business on or after July 1st, shall be subject to and shall pay one-half (1/2) the annual license for such business for that calendar year.
- (c) *Issue Fee.* For each license issued there shall be an issue fee collected of ten dollars (\$10.00) and said issue fee shall be collected in the same manner as the license tax.
- (d) *Annual Renewal.* Except as provided in subsections (i) or (ii), the business license shall be renewed annually on or before the 31st day of January each year.
 - (i) If the due date for payment of any business license falls on a weekend or a holiday recognized by the municipality from time to time, the due date shall automatically be extended until the next business day.
 - (ii) Insurance company annual license renewals shall be renewed in accordance with Section 11-51-122 of the *Code of Alabama* which states that each year, each insurance company shall furnish the municipality a statement in writing duly certified showing the full and true amount of gross premiums received during the preceding year and

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

- (iii) On or before December 31 of each year, a renewal reminder shall be mailed to each licensee that purchased a business license during the current year. Said renewal notice shall be mailed via regular U.S. mail to the licensee's last known address of record with the municipality. Licensees are required to furnish the municipality any address changes for their business prior to December 1st in order for them to receive their notice.
- (iv) Business license renewal payments received by the municipality shall be applied to the current renewal only when any and other debts the licensee owes to the municipality are first paid in full. No business license shall be issued if the current renewal payment does not meet said prior obligations and the current renewal. Failure to pay such sums shall subject the licensee and its agents to those penalties as prescribed for doing business without a license provided for in the municipal code.

SECTION 6. 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) A taxpayer subject to the license authorized by this ordinance that is engaged in business in other municipalities, may account for its gross receipts so that the part of its gross receipts attributable to its branch offices will not be subject to

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

- (i) The taxpayer must demonstrate the continuing existence of an actual facility located outside the police jurisdiction in which its principal business office is located, such as a retail store, outlet, business office, showroom, or warehouse, to which employees and/or independent contractors are assigned or located during regular normal working hours.
 - (ii) The taxpayer must maintain books and records, which reasonably indicate a segregation or allocation of the taxpayer's gross receipts to the particular facility or 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.
- (c) Nothing herein shall be construed as exempting businesses from payment of a license on the basis of a lack of physical location.

SECTION 7. Restriction on transfer of license.

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 8. Unlawful to do business without a license.

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

SECTION 9. 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 to do so.

SECTION 10. Duty to file report.

- (a) It shall be the duty of every person subject to such license tax to render to the municipality on such forms as may be required, a sworn statement showing the total business done, amount of sales, gross receipts and gross sales, stock, value of furniture and other equipment, capital invested, number of helpers or employees, amount of space occupied, or other factor described in the schedule, one or several, as the case may require, for the ascertainment of the classification of such person for license taxation purposes and the correct amount of license tax to which he is subject.
- (b) If the municipality determines that the amount of business license tax reported on or remitted with any business license remittance form is incorrect, if no business license remittance form is filed within the time prescribed, or if the information provided on the form is insufficient to allow the taxing jurisdiction

to determine the proper amount of business license tax due, the municipality shall calculate the correct amount of the tax based on the most accurate and complete information reasonably obtainable and enter a preliminary assessment for the correct amount of business license tax, including any applicable penalty and interest.

- (c) The municipality shall promptly mail a copy of any preliminary assessment to the taxpayer's last known address by either first class U.S. mail or certified U.S. mail with return receipt requested, or, in the sole discretion of the municipality, deliver the preliminary assessment to the taxpayer by personal delivery.
- (d) If the amount of business license tax remitted by the taxpayer is undisputed by the municipality, or if the taxpayer consents to the amount of any deficiency or preliminary assessment in writing, the municipality shall enter a final assessment for the amount of the tax due, plus any applicable penalty and interest.
- (e)
 - (1) If a taxpayer disagrees with a preliminary assessment as entered by the taxing jurisdiction, the taxpayer shall file a petition for review with the municipal license officer within 30 days from the date of entry of the preliminary assessment setting out the specific objections to the preliminary assessment. If a petition for review is timely filed, the license officer of the municipality shall schedule a conference with the taxpayer for the purpose of allowing the taxpayer or its representatives and the representatives of the municipality to present their respective positions, discuss any omissions or errors, and to attempt to agree upon any changes or modifications to the assessment. The license officer shall issue findings of fact and law within 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 (c) 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 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 (i) by either first class U.S. mail or certified U.S. mail with return receipt requested in the case of assessments of business license tax of five hundred dollars (\$500.00) or less, or (ii) by certified U.S. mail with return receipt requested in the case of assessments of business license tax of more than five hundred (\$500.00). In either case, at the option of the taxing jurisdiction, a copy of the final assessment may be delivered to the taxpayer by personal delivery.

SECTION 11. 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 12. Unlawful to obstruct.

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

SECTION 13. 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 14. Failure to file assessment.

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

SECTION 15. Lien for non-payment of license tax.

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

SECTION 16. Criminal penalties.

Any person found guilty of violating any of the provisions of this ordinance shall be fined in an amount not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00), and may also be sentenced to imprisonment for a period of not

exceeding six (6) months, in the discretion of the court trying the case, and violations on separate days shall each constitute a separate offense.

SECTION 17. Civil penalties.

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

SECTION 18. Penalties.

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 and all businesses with the exception of insurance companies, shall be increased to a total of thirty (30%) 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.

SECTION 19. 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 20. Procedure for denial of new applications.

- (a) The municipal designee shall have the authority to investigate all applications and may refer any application to the municipal governing body for a determination of whether such license should or should not be issued.

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

SECTION 21. 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 22. Refunds On Overpayments

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

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

- (d) If the petition is granted or the municipality or a court otherwise determines that a refund is due, the overpayment shall be promptly refunded to the taxpayer by the municipality, together with interest to the extent provided for in Section 11-51-192. If the municipality determines that a refund is due, the amount of overpayment 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.

SECTION 23. Delivery License.

- (a) In lieu of any other type of license, a taxpayer may, at its option, purchase for \$ 100.00 plus the issuance fee, a delivery license for the privilege of delivering its merchandise in the municipality if the taxpayer meets all of the following criteria:

- (1) Other than deliveries, the taxpayer has no other physical presence within the municipality or its police jurisdiction;
 - (2) The taxpayer conducts no other business in the municipality other than delivering merchandise and performing the requisite set-up and installation of said merchandise;
 - (3) Such delivery and set-up and installation is performed by the taxpayer's employees or agents, concerns the taxpayer's own merchandise in that municipality, and is done by means of delivery vehicles owned, leased, or contracted by the taxpayer;
 - (4) The gross receipts derived from the sale and any requisite set-up or installation of all merchandise so delivered shall not exceed seventy-five thousand dollars (\$75,000) during the license year;
 - (5) Any set-up or installation shall relate only to (i) that required by the contract between the taxpayer and the customer or as may be required by state or local law, and (ii) the merchandise so delivered;
 - (6) If, at any time during the current license year, the taxpayer fails to meet any of the above stated criteria, then within 10 days after any of said criteria have been violated or exceeded, the taxpayer shall purchase all appropriate business licenses from the municipality for the entire license year and without regard to this section.
- (b) Mere delivery of the taxpayer's merchandise by common carrier shall not allow the municipality to assess a business license tax against the taxpayer, but the gross receipts derived from any sale and delivery accomplished by means of a common carrier shall be counted against the seventy-five thousand (\$75,000) limitation described in the preceding section if the taxpayer also during the same license year sells and delivers into the taxing jurisdiction using a delivery vehicle other than a common carrier.
- (c) A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license.

- (d) The delivery license shall be calculated in arrears, based on the related gross receipts during the preceding license year.
- (e) The purchase of a delivery license shall not, in and of itself, establish nexus between the taxpayer and the municipality for purposes of the taxes levied by or under the authority of Title 40 of the Code of Alabama or other provisions of law, nor does the purchase of a delivery license conclusively determine that nexus does not exist between the taxpayer and the municipality.

SECTION 24. Licenses governed by the CODE OF ALABAMA, 1975.

- (a) *Cable television and telecommunication services.* Each person, firm, or corporation engaged in the business of transmitting television signals by wire or cable in the City or installing wires or cables for such purpose shall pay an amount equal to 3% of the gross receipts of the business transacted by such person in the City of Foley or its Police Jurisdiction for the preceding year.
- (b) *Farmers and farm production.* Farmers or others engaged in the production of farm products are not required to obtain a business license or pay a business license fee as provided by Code of Ala. 1975, § 11-51-105. Upon request such business shall disclose a certificate signed by a county agricultural agent certifying that said business is a bona fide grower or producer.
- (c) *Insurance Companies*
 - (i) *Fire and marine insurance companies.* Each fire and marine insurance company doing business in the city shall pay a license fee of \$4.00 on each \$100.00, or major fraction thereof of gross premiums, less return premiums, received on policies issued during the preceding year on property located in the City of Foley or within the Police Jurisdiction of the City of Foley; PROVIDED that new companies shall pay a flat minimum license of \$35.00 on which there shall be an adjustment on the above basis at the expiration of the year.
 - (ii) *Insurance companies other than fire and marine insurance companies.* Each insurance company, other than fire and marine insurance companies, doing business in the City of Foley or the Police Jurisdiction of the City of Foley shall pay a business privilege license tax of \$15.00 plus \$1.00 on each

\$100.00 or major fraction thereof, of gross premiums, less return premiums, received during the preceding year on policies issued during that year to citizens and residents of the City as provided by Code of Ala. 1975, § 11-51-121.

(iii) All insurance licenses shall become delinquent if not paid within (60) sixty days from the date the license is due and a penalty of fifteen (15%) percent shall be assessed at that time.

(d) *Express companies.* Express companies conducting business within the city shall pay a business license fee of \$125.00 per year as provided in the Code of Ala. 1975, § 11-51-126.

(e) *Telephone companies with exchange license.* Telephone companies with an exchange license operating in the city shall pay an annual business license fee of \$390.00 per year as provided by the Code of Ala. 1975, § 11-51-128.

(f) *Telephone companies with long distance service.* Telephone companies providing long distance service and conducting business in the city shall pay an annual business license fee of \$98.00 per year as provided by the Code of Ala. 1975, § 11-51-128.

(g) *Electric, gas, waterworks, and related businesses.* Utility companies which are not otherwise classified shall pay a business license fee equal to three (3%) percent of gross receipts of the business done by the utility company in the municipality during the preceding year as provided by the Code of Ala. 1975, 11-51-129. This section shall not affect any existing contract between the city and any public utility operating therein, except those provisions of contracts which relate to the amount or basis of the business license fee imposed by the city on such utility.

(h) *Banks.* The city shall levy a business license fee for banks and financial institutions according to the following schedule as provided by the Code of Ala. 1975, § 11-51-130.

- (i) *Savings and loans.* The license fees for savings and loan associations will be according to the schedule for banks and financial institutions contained in Section 27 of this Ordinance.

SECTION 25. Other license requirements.

- (a) *State regulated licenses.* No city business license shall be issued to any business that is regulated by the State of Alabama without evidence that the business owner possesses a current state license or certificate issued by the applicable Board to provide services of the type so regulated. Businesses regulated by the State of Alabama include but are not limited to: general contractors, electrical contractors, plumbing contractors, heating/air-conditioning contractors, exterminators and landscapers, taxicabs and limousines.
- (b) *Restaurant/catering service.* A business license shall not be issued to any establishment where meals and/or snacks are prepared and/or served without presentation of a valid state health permit.
- (c) *Transient merchant.* No transient merchant business license will be issued without presentation of written permission from the owner of the property from which the transient merchant plans to conduct business and approval of the heads of each applicable department of the City of Foley. **This license will not be transferable from one location to another.**
- (d) *Taxes, in addition to license fees.* Business owner is responsible for any additional taxes that the City may levy. This includes, but is not limited to, sales/use tax, rental tax, lodging tax, local liquor tax, tobacco tax and beer/wine tax.
- (e) *Pawnbrokers.* Must have Police Department approval before license will be issued.
- (f) *Wreckers.* Must have Police Department approval before license will be issued.
- (g) *Taxicabs and Limousines.* Must meet all State of Alabama requirements prior to licensing.
- (h) *Bail Bonds.* Must submit all required documents from Baldwin County Circuit Court before issuance of license.

SECTION 26. License classifications. North American Industrial Classification System (NAICS) identification (sector/sub-sector) numbers are required as a part of the

periodic reporting requirements for every business. For municipal business license purposes, each taxpayer must be minimally classified as required by State Code SEC. 11-51-90B. The descriptions listed beside each NAICS incorporate examples of each category; however, these examples are not all inclusive. A business is classified and licensed based upon the business activity or activities which it conducts within the City. Each business will be placed in the NAICS sector/sub-sector which best matches its activity or activities and shall pay a license tax based upon the corresponding schedule assigned to its description unless otherwise specified. The City may assign additional digits of each NAICS code for reporting purposes and proper administration of this Ordinance.

<u>CODE</u>	<u>2002 NAICS TITLES / BUSINESS LICENSE CODES</u>	<u>SCHEDULE</u>
113---	For estry – logging, forestry, timber track operations, timber mgt,	I
114---	Fishing & hunting – hunting and trapping, finfish, shellfish, supplies,	I
115---	Agriculture support – cotton gins, farm mgt, post-harvest activities,	D
211---	Oil and gas extraction – natural gas liquid extraction, crude extraction,	P
212---	Mining - (except for oil and gas) all related mining activities,	P
213---	Mining su pport services – for oil and gas mining activities, oil/gas wells,	D
221---	Utilities – electric power or light company, natural gas, water, sewer	J
236---	Contracto rs – <u>general contractors</u> , comm. bldg, residential, subdivisions,	I
236---	Contracto rs – <u>Home Builder</u>	I (1)
236---	Contracto rs – <u>General Contractors</u>	I (2)
237---	Contracto rs – <u>heavy construction</u> , highway, bridge, street, water, sewer,	I
237---	Contracto rs – <u>specialty trade</u> – building equipment & mechanical install	I
238---	Contracto rs – <u>specialty trade</u> – plumbing	I
238---	Contractors – <u>specialty trade</u> – air conditioning & heating	I

238---	Contractors – <u>specialty trade</u> – electrical contractors	I
238---	Contractors – <u>specialty trade contractors</u> – general & non-general	I
238---	Contractors – <u>specialty trade</u> – wrecking and demolition	I
238---	Contractors – <u>specialty trades contractors</u> – house movers	I
311---	Food mfg – meat, seafood, grain, fruit, dairy, animal, poultry processing,	Y
312---	Beverage mfg – all types of soft drinks, bottled water, breweries, ice,	Y
312---	Beer and Wine – state regulated through ABC	K (1)
312---	Alcohol – state regulated through ABC	K
313---	Textile mfg – fabric, yarn, carpet, canvas, rope, twine, fabric mills,	Y
314---	Other mfg – mill operations not covered in 313, rugs, linen, curtains	Y
315---	Apparel mfg – women, men, children, hosiery, lingerie, and outerwear	Y
316---	Leather and allied products mfg – shoes, luggage, related products	Y
321---	Wood mfg – sawmills, wood preservation, veneer, trusses, millwork,	Y
322---	Paper mfg – pulp, paper, and converted products, stationary, tubes, cores,	Y
323---	Printing – screen, quick, digital, books, lithographic, handbills, comm.	D
324---	Petroleum and coal mfg – asphalt, grease, roofing, paving products,	Y
325---	Chemical mfg – of fertilizer, wood, pesticide, paint, soap, and resin	Y
326---	Plastic & rubber mfg – tires, pipe, hoses, belts, bottles, sheet, wrap, film,	Y
327---	Nonmetallic mfg – clay, glass, cement, lime, pottery, ceramic, brick, tile,	Y
331---	Primary metal mfg – iron, steel, aluminum, wire, copper, foundries	Y
332---	Metal fabrication – cutlery, structural, ornamental, machine shops,	Y
333---	Machinery mfg – office machinery, industrial, engines, farm, HVAC,	Y
334---	Computer & electronic mfg – audio, video, circuit boards, peripherals,	Y
335---	Appliance mfg – small appliance, lighting, electrical, battery, freezer,	Y
336---	Transportation mfg – auto, trailer, motor home, boat, and motorcycle	Y
337---	Furniture mfg – cabinets, office, household, beds, kitchen,	Y
339---	Miscellaneous mfg – Misc. Manufacturing	Y
423---	Wholesale trade – <u>durable</u> , vehicle, machinery, equipment, furniture,	F
424---	Wholesale trade – <u>non-durable</u> , wholesale gasoline distributor	F (1)
424---	Wholesale trade – <u>non-durable</u> , paper, apparel, grocery, beverages, dairy,	F

441---	Motor vehicle parts & accessories – auto, boats, parts and accessories	E
441---	Motor vehicles - new automobiles, motorcycles, boats, etc ...	A
441---	Motor vehicles - used automobiles, motorcycles, boats, etc ...	B
442---	Furniture – furniture, home furnishings, stores, floor coverings, window,	E
443---	Electronic & appliance store – household, radio, television, computers,	E
444---	Building materials & gardening equip. dealers – hardware, paint, home center, wallpaper, nursery,	E
445---	Food & beverage stores – grocery, convenience store, markets,	E
445---	Package Stores – selling beer, wine and liquor plus general mdse	E
446---	Health and personal care stores – drug, pharmacy, cosmetic, optical, health food	E
447---	Gasoline Retail - selling gasoline with or without convenience stores	E (1)
448---	Clothing & accessories – men, women, children, infant, shoe, jewelry,	E
451---	Sporting goods & hobbies – toy, fish, gun, books, games	E
452---	General merchandise stores – department, warehouse clubs, superstores,	E
453---	Used Merchandise Stores – books, miscellaneous, consignment, flea mkt	E
453---	Miscellaneous retailers – florist, gift, novelty, pet, art, and tobacco	E
454---	Non-store retailers – vending machine operators, direct selling, mail order	E
454---	Non-Store Retailer – peddlers license / local peddler	E
481---	Air transportation – airline tickets, shipping, freight, charters service	D
482---	Rail transportation – transportation, ticket offices, state regulated	11-51-124
483---	Water transportation – coastal, freight forwarders, inland, passenger	D
484---	Truck transportation – local, long-distance, freight, moving, and storage	D
484---	Truck transportation – Express Companies	11-51-126
484---	Truck transportation – terminal – state regulated	37-3-33
485---	Passenger transportation – charter and other vehicle transit services	B
485---	Passenger transportation – bus terminals state regulated	37-3-33
485---	Passenger transportation – taxi cabs	L
485---	Passenger transportation – number of buses, limousines, or buggys	L
487---	Sightseeing transportation – scenic and sightseeing transportation	D

488---	Towing – Wrecker Service	L
492---	Couriers – couriers and local messengers, services, local delivery services,	D
493---	Warehousing and storage – distribution, household, refrigerated, special,	D
511---	Publishing industries except internet – newspaper, book, periodical	D
512---	Motion pictures – theatres, videos, recording, drive-ins, sound studios,	D
515---	Broadcasting – radio and television stations	D
516---	Internet Publishing and Broadcasting –	D
517---	Telecommunications – telephone local per 11-51-128	W
517---	Telecommunications – telephone long distance per 11-51-128	W
517---	Telecommunications – cellular and other wireless, paging,	D
517---	Telecommunications – resellers of service	D
518---	Internet Service Providers – web search portals, data processing	D
519---	Information services and data processing – providing, storing, processing, access to information	D
521---	Monetary Authorities – central bank	Q
522---	Bank Main Office – not branch location or ATM	Q
522---	Bank Branch or ATM – not main office of bank	Q
522---	Savings and Loans – not branch location or ATM	Q
522---	S&L Branch or ATM – not main office of S&L	Q
522---	Pawn Shop – whether title pawn or merchandise	E
522---	Credit services – companies and activities related to credit and mediation,	Q
523---	Securities, commodity – brokerage, portfolio, investment, other financial services	Q(1)
524---	Insurance Company – casualty, fire, and/or marine premiums 11-51-120/123	T
524---	Insurance Company – health, allied and all other premiums 11-51-120/123	T
525---	Funds, trusts, other financial agencies – Funds, plans, and/or programs organized to pool securities or other assets for others, other than the Alabama Municipal Funding Corp,	Q(1)

531--- Real estat e – agents, brokers, management, appraisers,	C
531--- Real estat e – offices	C (1)
532--- Rental and leasing – auto, truck, trailer, RV, all tangible property,	D
532--- Rental and leasing – movie and video rental	D
541--- Attorney/Lawyers – individual and/or firm professional license	G
541--- Accountant/C PAs – individual and/or firm professional license	G
541--- Architec t – individual and/or firm professional license	G
541--- Physician – individual and/or firm professional license	G
541--- Dentist – individual and/or firm professional license	G
541--- Chiropractor – individual and/or firm professional license	G
541--- Optome trist – individual and/or firm professional license	G
541--- Engineer – individual and/or firm professional license	G
541--- Surveyor – individual and/or firm professional license	G
541--- Co mputer Programmer – individual and/or professional firm license	D
541--- Photographer – studios, portrait, commercial, services	D
541--- Vete rinarian – individual and/or firm professional license	G
541--- Professional Services N ot Elsewhere Classified – those persons who must be specifically licensed individually by the State of Alabama to practice.	G
551--- Manage ment companies – offices, enterprises, regional, corporate,	D
561--- Exter minating services – exterminating company and its services	D
561--- Janitorial firm – janitorial cleaning services – individual or firm	D
561--- Landscapi ng Services – without State Certification	D
561--- Administrative s ervices – answering, employment, office, sec., travel,	D
562--- Waste management – companies, trucks, septic tanks, landfill, services,	D
611--- Educational services – technical, computer, sports, services, business,	D
621--- HMO – medical centers and services	D
621--- Outpatient Care Cent ers – all other types of services	D
621--- A mbulance – ambulance company and/or services	D
622--- Hospitals – surgical, substance abuse, psychiatric, general care, special,	Z
623--- Nursing care – health care services	D

623---	Nursing Home – care for elderly and continuing care facilities	Z
624---	Social assistance – shelters, vocational, childcare, abuse, emergency,	D
711---	Arts and sports – dance, musical, teams, tracks, promoters, agents,	D
711---	Special Events – promoter or activity	M
712---	Museums – museums and historical sites, zoos, botanical gardens, parks,	D
713---	A musement – arcades, golf clubs, marinas, fitness, bowling centers,	D
721---	Acco mmodations – hotels, motels and similar facilities	H
721---	Acco mmodations – bed and breakfast inns and services	H
721---	Acco mmodations – trailer parks, RV parks, and travel parks	H
721---	Acco mmodations – rooming houses and boarding houses	H
722---	Restaurant – full service restaurant facility	E
722---	Restaurant – limited facility or service	E
722---	Cater ers – and/or mobile food services	D
722---	Drinking Estab lishment – club, lounge, bar or other	E
811---	Repairs and maintenance – auto, paint/body, carwash, other vehicular,	D
811---	Repairs and maintenance – all electronic equipment	D
811---	Repairs and maintenance – all appliances, home & garden equipment	D
812---	Pe rsonal Services – hair, skin, barber, beautician, diet, nail, tanning,	
	funeral services	D
812---	For tune Teller or Clairvoyant – individual reader license	N
812---	Ba il Bonds	S

SECTION 27. License Fee Schedules.

Schedule A:

<u>Gross Receipts</u>		<u>FEE</u>
Less than	\$50,000.00	\$100.00
\$50,001.00	- \$200,000.00	\$150.00
\$200,001.00	- \$300,000.00	\$200.00
\$300,001.00	- \$400,000.00	\$250.00
\$400,001.00	- \$500,000.00	\$300.00
\$500,001.00	- \$600,000.00	\$350.00
\$600,001.00	- \$800,000.00	\$400.00
\$800,001.00	- \$1,000,000.00	\$500.00

In excess of '\$1,000,000 as stated above on the first million, plus \$.85 per thousand of gross sales
in excess of \$1,000,000.

Schedule B:

<u>Gross Receipts</u>	<u>FEE</u>
Less than \$100,000.00	\$100.00
\$100,001.00 - \$200,000.00	\$125.00
\$200,001.00 - \$300,000.00	\$150.00
\$300,001.00 - \$400,000.00	\$175.00
\$400,001.00 - \$500,000.00	\$200.00
\$500,001.00 - \$600,000.00	\$250.00
\$600,001.00 - \$800,000.00	\$300.00
\$800,001.00 - \$1,000,000.00	\$325.00

Excess of \$1,000,000 as stated above plus \$.60 per thousand on gross sales in excess of \$1,000,000.

Schedule C:

<u>GROSS REVENUE</u>	<u>FEE</u>
Less than \$30,000.00	\$100.00
\$30,001.00 - \$40,000.00	\$125.00
\$40,001.00 - \$50,000.00	\$150.00
\$50,001.00 - \$60,000.00	\$175.00
\$60,001.00 - \$70,000.00	\$200.00
\$70,001.00 - \$80,000.00	\$225.00
\$80,001.00 - \$90,000.00	\$250.00
\$90,001.00 - \$100,000.00	\$275.00

On gross sales, professional fees and/or charges in excess of \$ 100,000, the license shall be \$275 plus \$ 1.50 per thousand on all gross sales, professional fees, and/or charges in excess of \$100,000 with a minimum in any case of \$100.

Schedule C(1):

Each Real Estate Firm having a broker's license under the real estate laws of the State of Alabama, having its principal place of business in the City of Foley or its Police Jurisdiction, shall pay a license of \$ 100.

Schedule D:

<u>GROSS REVENUE</u>	<u>FEE</u>
Less than \$50,000.00	\$100.00
\$50,001.00 - \$100,000.00	\$125.00
\$100,001.00 - \$150,000.00	\$150.00
\$150,001.00 - \$200,000.00	\$200.00
\$200,001.00 - \$250,000.00	\$250.00

On gross sales, professional fees and/or charges in excess of \$ 250,000, the license shall be \$250 plus \$ 1.10 per thousand on all gross sales, professional fees, and/or charges in excess of \$250,000 with a minimum in any case of \$100.

Schedule E:

<u>GROSS REVENUE</u>		<u>FEE</u>
Less than	\$50,000.00	\$100.00
\$50,001.00	- \$200,000.00	\$150.00
\$200,001.00	- \$300,000.00	\$200.00
\$300,001.00	- \$400,000.00	\$250.00
\$400,001.00	- \$500,000.00	\$300.00
\$500,001.00	- \$600,000.00	\$350.00
\$600,001.00	- \$700,000.00	\$400.00
\$700,001.00	- \$800,000.00	\$450.00
\$800,001.00	- \$1,000,000.00	\$500.00

\$1,000,000 but less than \$5,000,000 shall be as stated above on the first million, plus \$1.65 per thousand on gross sales in excess of \$1,000,000.

\$5,000,000 but less than \$ 10,000,000 shall be stated above on the first five million, plus \$1.40 per thousand on gross sales in excess of \$5,000,000.

Excess of \$10,000,000 shall be as stated above, plus \$1.15 per thousand of gross sales in excess of \$10,000,000.

Schedule E(1):

<u>GROSS REVENUE</u>		<u>FEE</u>
Less than	\$20,000.00	\$100.00
\$20,001.00	- \$50,000.00	\$125.00
\$50,001.00	- \$100,000.00	\$175.00
\$100,001.00	- \$150,000.00	\$200.00

On gross sales in excess of \$150,000 the license amount shall be as stated above on the first \$150,000 plus \$.75 per thousand on all gross sales in excess of \$150,000.

Schedule F:

Each person, firm or corporation engaged in the business of selling any product (except gasoline/motor fuels) at wholesale shall pay a fee based upon the entire gross sales as follow:

Gross revenue multiplied by .00040, with a minimum fee, in any case, of \$100.

Schedule F(1):

<u>GROSS REVENUE</u>		<u>FEE</u>
Less than	\$20,000.00	\$75.00
\$20,001.00	- \$50,000.00	\$95.00
\$50,001.00	- \$100,000.00	\$130.00
\$100,001.00	- \$150,000.00	\$150.00

On gross sales in excess of \$150,000 the license amount shall be as stated above on the first \$150,000 plus \$.55 per thousand on all gross sales in excess of \$150,000.

Schedule G:

For the first \$50,000 of gross sales, professional fees and/or charges, the fee will be \$100. For revenue in excess of \$50,000 the fee shall be as stated above on the first \$50,000 plus an additional amount equal to \$1.15 per thousand, with a minimum in any case of \$100.

Schedule H:

<u>GROSS REVENUE</u>	<u>FEE</u>
Less than - \$50,000.00	\$100.00

On gross sales, professional fees and/or charges in excess of \$ 50,000, the license shall be \$100 plus \$ 1.05 per thousand on all gross sales, professional fees, and/or charges in excess of \$50,000 with a minimum in any case of \$100.

Schedule I:

<u>GROSS REVENUE</u>	<u>FEE</u>
Less than \$50,000.00	\$100.00
\$50,001.00 - \$75,000.00	\$150.00
\$75,001.00 - \$100,000.00	\$200.00
\$100,001.00 - \$125,000.00	\$250.00
\$125,001.00 - \$150,000.00	\$300.00
\$150,001.00 - \$200,000.00	\$350.00
\$200,001.00 - \$250,000.00	\$400.00
\$250,001.00 - \$350,000.00	\$450.00

On gross sales, professional fees and/or charges in excess of \$ 350,000, the license shall be \$450 plus \$.50 per thousand on all gross sales, professional fees, and/or charges in excess of \$350,000 with a minimum in any case of \$100.

Schedule I(1):

Each person, firm or corporation engaged in the business of home building shall provide a copy of State Certification and pay a minimum license fee of \$150, in addition on the gross sales, professional fees and/or charges in excess of \$ 75,000 the license fee shall be based on Schedule I.

Schedule I(2):

Each person, firm or corporation engaged in the business of general contracting shall provide a copy of State Certification and pay a minimum license fee of \$200, in addition on the gross sales, professional fees and/or charges in excess of \$ 100,000 the license fee shall be based on Schedule I.

Schedule J - Utilities

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

Schedule K:

<u>State of Alabama Code</u>	<u>Classification</u>	<u>Amount</u>
010 (Lounge Retail Liquor Class I)	312121	75.00
011 (Package Store Liquor Class II)	312122	75.00
020 (Restaurant Retail Liquor)	312121	75.00
032 (Club Liquor Class II)	312121	75.00

In addition to the amount above, an amount equal to (10%) ten percent of the total gross purchases of all liquor, excluding wine purchases, said amount to be paid monthly by the 20th of each month.

- a. All additional amounts due under these NAICS codes above shall become due and payable no later than the 20th day of each month succeeding the date of taxable purchase of liquor. All persons owing such taxes shall file with the City an accounting of the total purchases and the tax due thereon, and further providing that each person, firm or corporation is hereby required to file a monthly tax return by the 20th of the month following the reporting period, whether or not any purchases were made in said period.
- b. Failure to file an accounting and/or pay the tax due under this Section by the due date aforesaid shall subject the party owing such tax to a twenty five (25%) percent penalty on the amount of tax due. It shall also be unlawful for any party responsible for filing such accounting to make a false statement therein. The City employee designated to receive such taxes and account for same shall, upon ascertaining that any tax has not been paid when due or that a false accounting has been filed, cause a certified letter to be written to the taxpayer giving the

taxpayer a ten day period from the date of the letter within which time to pay the correct tax due, plus the penalty thereon. If it is not paid within such ten day period, a warrant shall be issued fro the arrest of the taxpayer. In the event a warrant is issued for the arrest of such taxpayer, then, in addition to the twenty five (25%) percent penalty, such taxpayer shall be subject to a fine of not less that Fifty (\$50.00) Dollars, nor more than Five Hundred (\$500.00) Dollars and may be sentenced to hard labor for the City of Foley for a period not to exceed six months. In the event a false statement is filed intentionally, the taxpayer filing a false statement shall be subject to an additional fine up to the maximum amount allowed by State Law under ordinances of this kind. The City Council may also, without notice, revoke the license for sale of alcoholic beverages held by the taxpayer upon failure to file an accounting and make the tax payments when due or filing a false statement (Code of Alabama 28-3A-21).

Schedule K(1):

040 (Beer On/Off Premise)	312121	75.00
050 (Beer Off Premise Only)	312122	50.00
060 (Table Wine On/Off Premise)	312131	75.00
070 (Table Wine Off Premise Only)	312132	75.00
110 (Wholesale Table Wine & Beer)	312133	375.00

Schedule L

1 Vehicle	\$ 100.00 per vehicle
Each vehicle in excess of 1	\$ 25.00 per vehicle

Schedule M – Special Events Licenses:

Commercially promoted Special Events:	
One day only	\$ 250.00
Two Days	\$ 350.00
Three days or more	\$ 500.00

Schedule N - Fortune Tellers/Clairvoyants:

Annual license is a flat rate of \$ 250.00.

Schedule O - Vending Machines:

Receipts from vending or coin-operated machines placed on a leased or percentage basis, or those owned by the individual businesses where the machines are located shall be included in the gross receipts of the primary business and an additional vending machined fee shall be required as follows:

(1) Vending Machine, Per Machine	\$10.00
(2) Music Playing Machine, Per Machine	\$25.00
(3) Coin-Operated Amusement Machine, Per Machine	\$25.00

The exception is COIN-OPERATED LAUNDRY EQUIPMENT, which shall be licensed upon gross receipts of the business.

Schedule P - Oil and Gas Extraction

Each person, firm or corporation in the business of extracting oil or gas in the City of Foley or its Police Jurisdiction shall pay a license in the amount equal to 2% of the gross value, WITH a minimum in any case of \$150.00

Schedule Q - Banks/Savings & Loans

Bank, Saving and Loan Association or Dealer in Exchange - The city shall levy a business license fee for banks and financial institutions according to the following schedule as provided by the Code of Ala. 1975, § 11-51-130.

- (a) Where the capital, surplus and undivided profits are \$50,000.00 or less, \$10.00;
- Where the capital, surplus and undivided profits are more than \$50,000.00 and not over \$100,000.00, \$20.00;
- Where the capital, surplus and undivided profits are more than \$100,000.00 and not over \$150,000.00, \$30.00;
- Where the capital, surplus and undivided profits are more than \$150,000.00 and not over \$200,000.00, \$40.00;
- Where the capital, surplus and undivided profits are more than \$200,000.00 and not over \$250,000.00, \$50.00;
- Where the capital, surplus and undivided profits are more than \$250,000.00 and not over \$300,000.00, \$60.00;
- Where the capital, surplus and undivided profits are more than \$300,000.00 and not over \$350,000.00, \$70.00;
- Where the capital, surplus and undivided profits are more than \$350,000.00 and not over \$400,000.00, \$80.00;
- Where the capital, surplus and undivided profits are more than \$400,000.00 and not over \$450,000.00, \$90.00;
- Where the capital, surplus and undivided profits are more than \$450,000.00 and not over \$500,000.00, \$100.00;
- Where the capital, surplus and undivided profits are more than \$500,000.00 and not over \$600,000.00, \$110.00;
- Where the capital, surplus and undivided profits are in excess of \$600,000.00, \$125.00; and
- On each branch bank, not more than \$10.00.
- (b) The term "undivided profits" as used in subsection (a) of this section shall be construed to mean the undivided profits as shown by the books of the bank, and all payments

shall be based on the report made by the banks to the Superintendent of Banks next preceding January 1.

(c) Automatic Teller Machines (each machine) \$10.00

Schedule Q(1):

Each person, firm, or corporation engaging in the business of automobile finance, investment trust, money brokerage, or mortgage loans shall pay a license of \$2.00 (1/5 of 1 percent) per thousand of the gross amount of interest and carrying charges, gross annual commissions or fees, gross interest or brokerage fees collected (whichever is applicable), received during the preceding year WITH a minimum license of \$100.00

Schedule R – Delivery License:

The rate for the delivery license is established in Section 23 and is: \$ 100.00

Schedule S - Bail Bonds:

Flat license fee of \$150.00

Schedule T – Insurance Companies:

T(1) Fire and marine insurance companies. Each fire and marine insurance company doing business in the city shall pay a license fee of \$4.00 on each \$100.00, or major fraction thereof of gross premiums, less return premiums, received on policies issued during the preceding year on property located in the City of Foley or within the Police Jurisdiction of the City of Foley; PROVIDED that new companies shall pay a flat minimum license of \$35.00 on which there shall be an adjustment on the above basis at the expiration of the year.

T(2) Insurance companies other than fire and marine insurance companies. Each insurance company, other than fire and marine insurance companies, doing business in the City of Foley or the Police Jurisdiction of the City of Foley shall pay a business privilege license tax of \$15.00 plus \$1.00 on each \$100.00 or major fraction thereof, of gross premiums, less return premiums, received during the preceding year on policies issued during that year to citizens and residents of the City as provided by Code of Ala. 1975, § 11-51-121.

All insurance licenses shall become delinquent if not paid within (60) sixty days from the date the license is due and a penalty of fifteen (15%) percent shall be assessed at that time.

Schedule U – Cable Television and Telecommunications:

Each person, firm, or corporation engaged in the business of transmitting television signals by wire or cable in the City or installing wires or cables for such purpose shall pay an amount equal to 3% of the gross receipts of the business transacted by such person in the City of Foley or its Police Jurisdiction for the preceding year.

Schedule V – Express Companies:

Express companies conducting business within the city shall pay a business license fee of \$125.00 per year as provided in the Code of Ala. 1975, § 11-51-126.

Schedule W – Telephone Companies:

W(1) Telephone companies with exchange license. Telephone companies with an exchange license operating in the city shall pay an annual business license fee of \$390.00 per year as provided by the Code of Ala. 1975, § 11-51-128.

W(2) Telephone companies with long distance service. Telephone companies providing long distance service and conducting business in the city shall pay an annual business license fee of \$98.00 per year as provided by the Code of Ala. 1975, § 11-51-128.

Schedule X – Newspapers and Magazines:

NEWSPAPER, MAGAZINES - Shall pay a license of \$200.00 for the privilege of advertising for businesses and residents of the City of Foley. Newspapers and magazines published weekly or less frequently shall pay a license of \$150.00.

Schedule Y- Manufacturing:

MANUFACTURING OR OTHER RELATED INDUSTRIAL OPERATIONS – Any producer, fabricator or assembler of any product or any other manufacturing or industrial related operation shall pay \$1.50 per thousand of the gross sales, professional fees and/or charges from said business for the preceding year, WITH a minimum in any case of

\$ 500.00

WITH A MAXIMUM license in any case of

\$ 2,000.00

Schedule Z- Hospitals and Nursing Homes:

Each person, firm or corporation in the business of operating a hospital or nursing home in the City of Foley or its Police Jurisdiction shall pay a fee based upon the following:

First 25 beds	\$ 250.00
Each Additional bed	\$ 10.00

SECTION 28. Exchange of information.

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

- (1) Collecting taxes due.
 - (2) Ascertaining the amount of taxes due from any person.
 - (3) Determining whether a person is liable for, or whether there is probable cause for believing a person might be liable for, the payment of any tax to a state, county, or municipal agency.
- (c) Nothing herein shall prohibit the use of tax returns or tax information by the municipality in the proper administration of any matter administered by the license officer. The license officer may also divulge to a purchaser, prospective purchaser as defined pursuant to the regulations of the Alabama Department of Revenue, or successor of a business or stock of goods the outstanding sales, use, or rental tax liability of the seller for which the purchaser, prospective purchaser as defined pursuant to the regulations of the Alabama Department of Revenue, or successor may be liable pursuant to the Code of Alabama section 40-23-25, 40-23-82, or 40-12-224.

SECTION 29. License fees in Police jurisdiction.

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

SECTION 30. Effective date.

This ordinance shall become effective upon its publication as required by law.

SECTION 31. Severability.

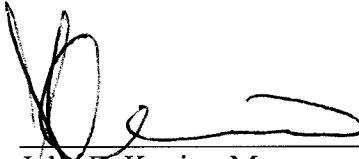
The terms and provisions of this ordinance are severable. If any part or portion of this ordinance is declared invalid, void or unconstitutional, that portion shall be deemed severed and the remaining portions of the ordinance shall remain in full force and effect.

SECTION 32. Repealer.

All ordinances or parts of ordinances in any manner conflicting herewith are hereby repealed.

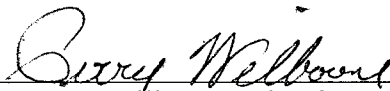
ADOPTED AND APPROVED this 19th day of November, 2007.





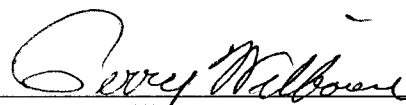
John E. Koniar, Mayor

ATTEST:



A. Perry Wilbourne, CMC
City Clerk/Administrator

"I certify that the foregoing Ordinance was published in the Foley Onlooker, a newspaper of general circulation in the City of Foley, in its issue of Wednesday, November 28, 2007".



A. Perry Wilbourne, CMC
City Clerk/Administrator

