

ORDINANCE NO. 2017-1002

**AN ORDINANCE AMENDING THE BUSINESS LICENSE CODE CONCERNING
CERTAIN DELIVERY LICENSES**

WHEREAS, the City Council has adopted the Business License Code of the City of Tuscumbia, Alabama, as enacted by Ordinance No. 11-0919-A and amended thereafter; and

WHEREAS, the City Council wishes to bring its Business License Code into conformity with newly enacted Alabama Act 2017-415, which revised the laws concerning municipal delivery licenses.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TUSCUMBIA, ALABAMA, while in regular session on October 16, 2017, at 5:30 p.m., as follows:

Section 1. Ordinance No. 11-0919-A, as amended, is hereby further amended so that Section 5-21 states as follows:

SECTION 5-21. 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;
 - (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 45-days after any of said criteria have been violated or exceeded, the taxpayer shall purchase a business delivery license or other appropriate license from the municipality and will be subject to a penalty of \$10.00.
- (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 (or the exemption from the purchase of a delivery license pursuant to subsection (f)) 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.
- (f) A taxpayer that otherwise meets the criteria for the purchase of a delivery license is not required to purchase a delivery license or a regular business license if (i) the taxpayer's gross receipts that are derived from within the municipality do not exceed \$10,000.00: and (ii) the taxpayer has no other physical presence within the municipality during the year.

Section 2. This Ordinance shall become effective upon its adoption as provided by law.

Section 3. That 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 paragraph and sections, since the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

ADOPTED AND APPROVED THIS THE 16th DAY OF OCTOBER, 2017.

KERRY L UNDERWOOD, MAYOR

ATTEST:

JoAnn Armstead, City Clerk