



## ORDINANCE 2007-35

### BUSINESS LICENSE CODE OF THE CITY OF CLAY, ALABAMA FOR THE YEAR 2008

#### SCHEDULE OF LICENSES AND FEES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLAY, 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 City of Clay, Alabama 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 City of Clay, by whatever name called.

## **Section 2. Definitions.**

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, 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 the City of Clay, Alabama.

**Business License.** Any annual license issued by the City of Clay for the privilege of doing any kind of business, trade, profession, or any other activity in the city, 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.

**City.** The City of Clay, Alabama.

**Corporate Limits.** The corporate limits of the City of Clay, also known as the city limits.

**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 City of Clay 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.

**Doing Business.** The performance within the licensing jurisdiction of some of the business functions for which the business or company was created. A sales or repair person making calls in the city or a vehicle delivering in the city constitutes "doing business" and is required to purchase a license from the city.

**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 City of Clay.
- (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) Gross receipts for businesses located inside the city, where the amount of the license is based upon “gross receipts”, unless the contrary clearly appears, shall mean the entire receipts of the business, vocation, occupation, or profession engaged in, including all receipts from sales regardless of the place where the sale was solicited, or place where the contract of sale was consummated or the place of delivery, and shall include the comparable value of bartered work done in exchange for a product or service, and shall not contemplate any deductions for any purpose not specifically or expressly provided herein.
- (f) Gross receipts for businesses domiciled outside the city, where the amount of the license is based upon “gross receipts”, and where no office or substation is located within the city limits, shall be determined based upon the volume of business conducted within the corporate limits of the city, and shall not contemplate any deductions for any purpose not specifically or expressly provided herein.
- (g) Gross receipts for any salaried or wage earning employees shall be defined as the total gross amount of all salaries, wages, commissions, bonuses, or other money payment of any kind, or any other consideration having monetary value, which a person receives from, or is entitled to receive from or be given credit for by his employer for any work done or personal services rendered in any trade, occupation, or profession, including any kind of deductions before “take home” pay is received. For all other persons, gross receipts shall have that meaning ascribed in Alabama Code (1975) 40-23-18(8).

Home Occupation. A business conducted entirely within the business owner’s home. If the home occupation is classified as a minor home occupation, no prior approval is needed by the planning and zoning commission and city council. If the home occupation is classified as a major home occupation, application procedures according to the City of Clay zoning regulations and hearing must be scheduled. License approval will be recommended by the planning and zoning commission and a final decision will be determined by the Clay City Council.

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

License Year. The calendar year.

Licensee. Any taxpayer of other persons issued a business license under this ordinance and/or the person responsible for the payment of the license tax.

Municipality. For purposes of this ordinance, any town or city incorporated pursuant to the laws of this state that levies a business license tax from time to time.

Office. This term shall apply where businesses are carried out either from the local business area of the City or from a private residence. In any case, where telephone numbers are listed in the telephone directory using a business name, the appropriate license is required.

Person or Company. Used interchangeably, includes 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.

Preceding Year. The term “preceding year” shall mean the year next preceding the current tax year.

Professional Fees and/or Charges. The term “professional fees and/or charges” shall mean any and all fees and charges made for the performance of any work or services by any person, firm, corporation, or business for another, including but not limited to the exchange of money or anything of value.

Retail Sale. The term “retail sale” or sale at retail” means any sale not covered by the term “wholesale sale” as such term is defined in this section.

Revenue Officer, or City Clerk. The municipal employee charged by the City of Clay with the primary responsibility of administering the City of Clay’s business license tax ordinance and related matters thereto.

Taxing Jurisdiction. The City of Clay, which is the taxing jurisdiction 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, or to keep any required by this chapter.

Wholesale Sale. The term “wholesale sale” means a sale to a merchant, jobber, dealer or to any person for resale, but shall not apply to sales made by a wholesaler to users, consumers or contractors not for resale.

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

Willfully. An act is done willfully when it is done voluntarily, with a conscious motion of the will. Willfulness does not require knowledge that the conduct was unlawful.

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 3. License Term; Application of Payment; Administration.**

The license term for a business license and policy for the application of payment are as follows:

- (a) Payment in Full. All license amounts due shall be due and payable in full at one time when the license is taken or renewed.
- (b) Payment of License by Check. Where a license or license receipt shall be issued in return for any check, the same shall not be valid or of any force or effect unless such check shall be duly paid upon presentation to the drawee.
- (c) Full Year. Every person who commences business before the first day of July shall be subject to and shall pay a full year's annual license for such business.
- (d) 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 in full for that calendar year.
- (e) Daily and Weekly. Every person who commences business for one day or one week shall pay an amount as set out herein for such business in full before engaging in business. Daily and weekly licenses are not prorated at any time during the year.
- (f) 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.
- (g) Annual Renewal. Except as provided in subsections (i) and (ii), the business license shall be renewed annually on or before the 31<sup>st</sup> 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 City of Clay 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. Said insurance licenses are due and payable within sixty days of the due date.
- (h) Renewal Notices. On or before December 31 of each year, a renewal reminder shall be mailed to each licensee that purchased a business license during the current year. Said renewal notice shall be mailed via regular U.S. mail to the licensee's last known address of record with the City of Clay. Licensees are required to furnish the City of Clay any address changes for the business prior to December 1<sup>st</sup> in order for them to receive their notice.
- (i) Payments to be Applied to Delinquencies First. No license will be renewed to any person, firm, entity, or corporation if any city taxes or fees (sales or use tax, liquor, tobacco, wine, lodging, rental, garbage, or other city tax or fee) are delinquent. Business license renewal payments received by the City of Clay shall be applied to the current renewal only when any and all other debts the licensee owes to the City of Clay are first paid in full. No business license shall be issued if the payment received does not meet said prior obligations and the current renewal amount in full. Any payment received shall first be applied to

the outstanding debt. 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.

- (j) **Gross Receipts Threshold.** The gross receipts threshold for licensing multiple lines of business conducted as one business unit shall be 10% as permitted by 11-51-95(b).
- (k) **Interest.** Interest shall be assessed on business license tax delinquencies at the rate of one percent (1%) per month simple interest.
- (l) **Double License Fee.** Any person or company who begins to operate a business without first obtaining a license shall be assessed double the license fee in addition to the regular license fee and may be subject to other fines and/or penalties and/or interest as prescribed in this ordinance.
- (m) **First Year License.** If the business or individual is procuring its first business license with the City of Clay, then the initial year's total gross receipts of the business are to be estimated. Prior to the issuance of the next succeeding year's license, the amount previously estimated will be compared to the verified total gross receipts of the preceding year's operation, and the preceding year's license payment shall be adjusted to the actual receipts. Any additional amount owed on the first year's license shall be paid with no penalty if paid by the established time for license renewal, or any overpayment amount will be credited to the next year's license.

The gross receipts of a business for the year next succeeding the first license year shall be the actual results of operations of said business, provided, however, that if said business did not operate for an entire 12 month period during the preceding license year, then the license tax in the succeeding license year shall be based upon an amount of annualized receipts. Such annualized receipts shall be determined by using an amount that bears the same relationship to the actual amount of receipts during the preceding year as the entire year (12 months) bears to the number of months or fractional months that the business was operated during its preceding calendar year of operation in the city.

- (n) **Farm Products.** The Code of Alabama (1975), 11-51-105, exempts farmers from payment of municipal license for the sale of delivery of products which they have grown themselves. Exemption does not apply for products which they have purchased for resale.
- (o) **Special Event License.** A special event shall be defined as a temporary license issued for an event such as a carnival and shall not be valid for more than seven days. Zoning approval must be obtained by a city zoning officer to operate the temporary special event.
- (p) **Exclusions.** No provisions of this ordinance shall be construed as to tax interstate commerce, the United States Government, or any state, county or municipal business.

#### **Section 4. License shall be Location Specific.**

- (a) All licenses shall be issued in compliance with the Zoning Ordinance of the City of Clay. Businesses to be licensed at a residential address if deemed major home occupation, must have the approval of the Planning and Zoning Commission and fully comply with the regulations governing home business operations as set out in the Clay Zoning Ordinance.
- (b) No License shall be issued to any business with only a post office box number.
- (c) 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.

- (d) 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.
- (e) Each person, firm, or corporation operating what is commonly known as a leased department within a department store or other business, shall pay a license on each department so leased according to a proper classification of the business conducted.
- (f) Any business located within the local tax jurisdiction subject to the license authorized by this ordinance shall include all receipts derived from said business regardless of the place where the sale was solicited, place where the contract of sale was consummated, the place of delivery, or the location where work was performed. This shall not include receipts generated from a bona fide branch(s) located within another taxing jurisdiction. 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 city limits 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 offices or offices.
  - (vi) The taxpayer must supply proof that all applicable business licenses with respect to the branch office or offices have been issued.
- (g) Nothing herein shall be construed as exempting businesses from payment of a license on the basis of a lack of physical location. Where no office or substation is located within the city limits, the amount of the license shall be determined based upon the volume of business conducted within the corporate limits of the City of Clay, and shall not contemplate any deductions for any purpose not specifically or expressly provided herein.
- (h) No license shall be issued for the commencement of a new business, nor for a license transfer to a new business location, without a location inspection, at a charge of no more than fifty dollars (\$50), which shall be inspected by the City of Clay building inspections.

- (i) Certain types of licenses may require proof of State Board certification, Health Department approval, or other certification, approval by the city council, or inspection prior to issuance of a local business license.

### **Section 5. Delivery License.**

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:

- (a) Other than deliveries, the taxpayer has no other physical presence within the municipality;
- (b) The taxpayer conducts no other business in the municipality other than delivering merchandise and performing the requisite setup and installation of said merchandise;
- (c) Such delivery and setup and installation is performed by the taxpayer's employees or agents, concerns the taxpayer's own merchandise in the City of Clay, and is done by means of delivery vehicles, owned, leased, or contracted by the taxpayer;
- (d) The gross receipts derived from the sale and any requisite setup or installation of all merchandise so delivered shall not exceed seventy-five thousand dollars (\$75,000) during the license year;
- (e) Any setup or installation shall relate only to: that required by the contract between the taxpayer and the customer or as may be required by state or local law, and the merchandise so delivered;
- (f) 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.

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.

A common carrier, or contract carrier, shall not be entitled to purchase a delivery license.

The delivery license shall be calculated in arrears, based on the related gross receipts during the preceding license year.

The purchase 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 City of Clay.

### **Section 6. License Transfer Restrictions.**

No license shall be transferred except with the consent of the 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 the City of Clay from requiring a new business license application and approval for an alcoholic beverage license. In no instance shall any license be transferred from one type of business to another type of business.

### **Section 7. Unlawful to do Business Without a License.**

- (a) It shall be unlawful for any person, taxpayer, or agent of a person or taxpayer to engage in businesses or vocations in the City of Clay for which 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.
- (b) Maintenance of a place for the carrying on of a business, vocation, occupation or profession shall be prima facie evidence that the person, firm, or corporation so maintaining, or in charge of such place, is carrying on the business, vocation, occupation or profession.
- (c) The performance within the licensing jurisdiction of any of the business functions for which the company was created, whether or not a local office is maintained, shall constitute prima facie evidence that the company is engaging in business.
- (d) Any license issued in exchange for payment made by a check or other instrument that is not honored and paid upon presentation to the drawee shall be deemed invalid and of no force and effect, and shall constitute doing business without a license in violation of this ordinance. Such finding shall not preclude additional prosecution for negotiating a worthless instrument.
- (e) It shall be unlawful for any person to knowingly and willfully make any false written affidavit, certificate, or statement as to the amount of stock on hand or volume of gross receipts, revenues or business, or amount of capital invested in business, or number of employees or vehicles used, and, whether made by the Affiant or his principal, to file such affidavit to procure a license for a less sum than is lawfully due for the purpose of defrauding the City of Clay, Alabama.
- (f) It shall be unlawful for any person to present any false certification that is required as a condition of licensing, or to falsely present a valid certification held in the name of another person in order to procure a license under false pretenses.
- (g) The agent(s) or other representatives of nonresident(s) or of nonresident companies who are doing business in the city shall be personally responsible for the compliance on behalf of their principles and of the business entity they represent in regard to compliance of this ordinance.

### **Section 8. 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 Revenue Officer of the City of Clay upon being requested so to do.

## **Section 9. Duty to File Report; Accuracy.**

- (a) It shall be the duty of every person subject to such license tax to render to the City of Clay 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 City of Clay 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 City of Clay 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 City of Clay 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 City of Clay, delivery of 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 City of Clay, or if the taxpayer consents to the amount of any deficiency or preliminary assessment in writing, the City of Clay shall enter a final assessment for the amount of tax due, plus any applicable penalty and interest.
- (e) If the amount of preliminary assessment is disputed:
  - (i) If a taxpayer disagrees with a preliminary assessment as entered by the taxing jurisdiction, the taxpayer shall file a petition for review with the revenue 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 revenue officer of the City of Clay shall schedule a conference with the taxpayer for the purpose of allowing the taxpayer or its representatives and the representatives of the City of Clay to present their respective positions, discuss any omissions or errors, and to attempt to agree upon any changes or modifications to their respective positions.
  - (ii) If a petition for review is not timely filed, or is timely filed and upon further review the revenue officer determines that the preliminary assessment is due to be upheld in whole or in part, the City of Clay may take the assessment final in the amount of business license tax due as computed by the revenue officer, with applicable interest and penalty computed to the date of entry of the final assessment. The revenue 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.
  - (iii) A copy of the final assessment shall promptly be mailed to the taxpayer's last known address (1) by either first class U.S. mail or certified U.S. mail with return receipt requested in the case of the assessments of business license tax of five (\$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 10. Duty to Permit Records Inspection.**

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

- (a) Permit the designee of the City of Clay 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, 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 11. Unlawful to Obstruct Municipal Designee.**

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 City of Clay in carrying out the purpose of this ordinance.

#### **Section 12. Privacy of Information.**

- (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 City of Clay 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 municipal council upon their written request through the Mayor's office. It shall be unlawful for any person to violate the provisions in this section.

### **Section 13. Assessment for Failure to File.**

- (a) In any case where a person subject to paying a license tax as provided herein fails to do so, the revenue officer 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 City of Clay to be correct. If upon such hearing the revenue officer 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 revenue officer of the City of Clay shall be prima facie correct upon any appeal.

### **Section 14. Lien for Non-payment of License.**

On all property, both real and personal, used in the business, the City of Clay shall have a lien for such license, which lien shall attach as of the date when the license is due, as allowed by the Code of Alabama, Section 11-51-96 (1975).

### **Section 15. 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 not exceeding six (6) months, or both, at the discretion of the court trying the case, and violations on separate days shall each constitute a separate offense.

### **Section 16. Civil Penalties.**

In addition to the remedies provided by the Code of Alabama, Section 11-51-150 (1975) 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 City of Clay, as an additional or alternative remedy, may institute injunctive proceedings in a court of competent jurisdiction to abate the same.

### **Section 17. Injunctive Relief.**

Section 11-51-150, Code of Alabama, 1975 provides any municipality of the State of Alabama may file in the Circuit Court, in the county in which said petitioning municipality is situated a petition to enjoin the operation and conduct any business, occupation, trade or profession subject to a municipal privilege license or excise tax imposed by the petitioning municipality and which is delinquent in whole or in part. Said petition shall be verified by the mayor, city clerk, police officer or by any other governing official or by any

employee of the municipality authorized to receive or collect said license or tax. Sections 11-51-151 through 11-51-160 of the Code of Alabama, 1975, prescribe the method of procedure in any injunction proceeding provided for in section 11-51-150 of the Code of Alabama, 1975.

### **Section 18. Penalties and Interest.**

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

### **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 revenue officer shall have the authority to investigate all applications and may refer any application to the City of Clay 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 revenue officer shall promptly notify the applicant of the City of Clay governing body’s decision.
- (c) If said applicant desires to appear before the City of Clay 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 City of Clay 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 City of Clay 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 City of Clay governing body shall proceed to hear any evidence which may be presented both for and against the issuance of said license.
- (f) If the City of Clay 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 City of Clay 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/Suspension of License.**

- (a) Any lawful license issued to any person to conduct any business shall be subject to revocation by the City of Clay governing body for the violation of 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 City of Clay governing body if the licensee, his agent, servant, or employee under color of such license violates or aids or abets in violating or knowingly permits or suffers to be violated any penal ordinance of the City of Clay or any criminal law of the State of Alabama; and shall also be subject to revocation by the City of Clay 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 City of Clay 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 City of Clay 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 City of Clay for any overpayment of business license tax erroneously paid to the City of Clay. If a final assessment for the tax has been entered by the City of Clay, 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 City of Clay within two years from the date of payment of the business license tax, which is the subject of the petition.
- (c) The City of Clay 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 City of Clay. The taxpayer shall be notified of the City of Clay's decision concerning the petition for refund for first class U.S. mail or by certified U.S. mail, return receipt requested, sent to the taxpayer's last known

address. If the City of Clay fails to grant a full refund within the time provided herein, the refund petition shall be deemed to be denied.

- (d) If the petition is granted or the City of Clay or a court otherwise determines that a refund is due, the overpayment shall be promptly refunded to the taxpayer by the City of Clay, together with interest to the extent provided for in Section 11-51-92. If the City of Clay determines that a refund is due, the amount of overpayment plus any interest due thereon may first be credited by the City of Clay against any outstanding tax liabilities due and owing by the taxpayer to the City of Clay, 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 City of Clay, the taxpayer, shall be provided with a written detailed statement showing the amount of overpayment, the amount credit 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 City of Clay 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. License Classification Codes.**

<b>NAICS CODE</b>	<b>CLASSIFICATION TITLE</b>	<b>SCHEDULE</b>
541211	Accountants, Certified or Public; individual and/or firm professional	B
541212	Accounting / Bookkeeping Services	A
713901	Activity Center / Children or Youth	A
713990	Adult Amusement, Entertainment or Recreation	H
713991	Adult Book or Novelty Shop	H
713992	Adult Theater	H
541810	Advertising Agency	A
454811	Advertising, Direct	A
541813	Agent, Dealer, Manufacturer's Representative	A

<b>NAICS CODE</b>	<b>CLASSIFICATION TITLE</b>	<b>SCHEDULE</b>
	<b>ALCOHOLIC BEVERAGES (Regulated by State)</b>	
	<b>BEER</b>	
445400	BEER, off premise only	J
445401	BEER, On and Off Premise	J
445402	BEER, On Premise	J
	<b>WINE</b>	
445500	Table Wine, off Premise Only	J
445501	Table Wine, On and Off Premise	J
445502	Table Wine, On Premise	J

<b>NAICS CODE</b>	<b>CLASSIFICATION TITLE</b>	<b>SCHEDULE</b>
	<b>LIQUOR</b>	
722410	Lounge Retail Liquor , Class I Bar/Lounge/Tavern Plus an amount equal to 10% of gross purchases of liquor (excluding beer and wine), due and payable not later than the 20 <sup>th</sup> of the month following the month of purchase	J
722110	Restaurant Retail Liquor, Class I Plus an amount equal to 10% of gross purchases of liquor (excluding beer and wine), due and payable not later than the 20 <sup>th</sup> of the month following the month of purchase	J
445310	Package Store – Lounge Retail Liquor, Class II Plus an amount equal to 10% of gross purchases of liquor (excluding beer and wine), due and payable not later than the 20 <sup>th</sup> of the month following the month of purchase	J
722411	Club Liquor License, Class I non-profit Plus an amount equal to 10% of gross purchases of liquor (excluding beer and wine), due and payable not later than the 20 <sup>th</sup> of the month following the month of purchase	J
722412	Club Liquor License, Class II for profit Plus an amount equal to 10% of gross purchases of liquor (excluding beer and wine), due and payable not later than the 20 <sup>th</sup> of the month following the month of purchase	J
722413	Special Event Plus an amount equal to 10% of gross purchases of liquor (excluding beer and wine), due and payable not later than the 20 <sup>th</sup> of the month following the month of purchase	J
722414	Special Retail, 30 days or less Plus an amount equal to 10% of gross purchases of liquor (excluding beer and wine), due and payable not later than the 20 <sup>th</sup> of the month following the month of purchase	J
722415	Special Retail, more than 30 days Plus an amount equal to 10% of gross purchases of liquor (excluding beer and wine), due and payable not later than the 20 <sup>th</sup> of the month following the month of purchase	J
422210	Wholesaler	J
422215	Beer, Wholesale Distributor	J
422216	Beer and Wine, Wholesale Distributor	J
422217	Wine, Wholesale Distributor	J
422218	Liquor, Wholesale Distributor	J
493190	Warehouse, Alcoholic Beverage	J
312140	Manufacturer, Alcoholic Beverage	J
422820	Importer, Alcoholic Beverage	J
	<b>END ALCOHOL LICENSE SECTION</b>	J
451211	Adult Book or Adult Novelty Shop	H
541810	Advertising Agency	A
812990	Alterations	A
621910	Ambulance Service	A

<b>NAICS CODE</b>	<b>CLASSIFICATION TITLE</b>	<b>SCHEDULE</b>
910003	Amusement Devices, Pin Ball, Video Game, Foosball, Air Hockey and similar Machines	K
910004	Amusement Devices, Billiard or Pool Table	K
453310	Antique Dealer	A
811412	Appliance Repair and Maintenance	A
443111	Appliance Sales and Service	A
541131	Architect	B
336999	Assembly Plant	D
623110	Assisted Living Facility	A
541100	Attorney; Individual and/or firm professional	B
561990	Auction	A
811120	Automotive / Vehicle Body Shop	A
811118	Automotive / Vehicle Clean Up or Detailing	A
441110	Automotive / Vehicle Dealer	A
421120	Automotive / Vehicle Dealer, Wholesale	C
441310	Automotive / Vehicle Parts and Accessories	A
532310	Automotive / Vehicle Rentals – Not to include taxicabs, limousine services or tour buses or one-way truck or trailer rentals	A
811119	Automotive / Vehicle Repair	A
441320	Automotive / Vehicle Tire Dealer	A
452991	Awning and Tent Sales	A
445821	Bakery or Bakery Products	A
522111	Bank / Savings and Loan, Branch Office	R
522112	Bank / Savings and Loan, Main Office	R
522113	Bank / Savings and Loan, ATM	R
812111	Barber Shop	A
812112	Barber Shop, Station Within	A
812115	Beauty Shop	A
812116	Beauty Shop, Station Within	A
812117	Beauty Shop, With Tanning bed(s)	A
446190	Beauty / Barber Shop Supplies	A
721191	Bed and Breakfast	A
451110	Bicycle Shop – Sales, Parts and Service	A
999850	Billboard / Outdoor Advertising	V
441222	Boats – Sales, Service and Accessories	A
812000	Body Piercing – Other than ears	H
812199	Bonding Company / Bail Bondsman	N
812990	Bonding Company or Agent – each person or company soliciting and/or writing bonds	A
451211	Books or Bookstore Supplies	A
312915	Bottlers	D
422111	Bottled Soft drink Distributors	A
713950	Bowling Alleys	A
444190	Building Materials	A
485511	Bus Company / Limousine Service / Tour Service Must provide proof of insurance \$500,000 property and \$1,000,000 liability coverage	A

<b>NAICS CODE</b>	<b>CLASSIFICATION TITLE</b>	<b>SCHEDULE</b>
333290	Business Machines and Equipment	A
337211	Cabinet Shop, woodworking	A
515210	Cable Television	Franchise
811192	Car Wash	A
713993	Carnival – Per Week, Must provide proof of insurance	I
442210	Carpet, flooring and rug sales	A
812740	Carpet, Rug and Mattress Cleaning	A
722320	Catering Service	A
722322	Catering, Special Event	G
812220	Cemetery	A
522390	Check Cashing Service	H
812998	Chimney Service	A
6212210	Chiropractors; individual and/or firm professional	B
454392	Christmas Trees	A
561790	Cleaning, Maid or Janitorial Service	A
561440	Collection Agency	A
541511	Computer Consultant	A
443512	Computer Equipment Sales and Service	A
541920	Consultant	A
	<b>CONTRACTORS AND SUBCONTRACTORS</b>	
	<b>MUST HAVE PICTURE I.D. AND CERTIFICATION CARD FOR REGULATED SPECIALTY TRADES</b>	
236220	General Contractor – Commercial	E
236211	General Contractor – Residential Building	E
236130	Home Improvement / Remodeling Allows no contract over \$10,000 without certification	E
	<b>SUB-CONTRACTORS</b>	
238310	Acoustical Ceiling, Sheetrock	E
238190	Awnings and Tents	E
238480	Backhoe Tractor Work	E
238911	Blasting	E
238291	Blinds, Drapery Installation	E
238140	Brick, Block, Masonry and Stone	E
238350	Cabinetry, Counter Tops and Installation	E
238990	Carpentry, Framing	E
238110	Concrete and Finishing	E
238991	Construction Clean Up	E
238351	Doors, Windows and Glazing, including overhead doors	E
238210	Electrician	E
238290	Elevator Installation	E
238910	Excavation, Footing and Site Development	E
238993	Fences and Walls	E
238141	Fire Place Installation	E
238220	Fire Sprinkler Systems	E
238330	Flooring	E
238221	Gas Fitters	E
238170	Gutters, Downspouts	E

<b>NAICS CODE</b>	<b>CLASSIFICATION TITLE</b>	<b>SCHEDULE</b>
<b>SUB-CONTRACTORS</b>		
238223	Heating, Ventilation, Air Conditioning, including filters and duct cleaning	E
236200	House Mover	E
238311	Insulation	E
541410	Interior Decorator, consultant on-site	E
238111	Irrigation, Lawn Sprinklers	E
561731	Lawn mowing, Trimming Full-time students and retirees maintaining three or fewer yards per week and having no employees are exempt from this license	E
238211	Low Voltage Systems – building alarm, fire alarm, cable data, telephone, etc..	E
238227	Mobile Home Moving and Set Up	E
238135	Ornamental Iron	E
238320	Painting, Wall covering	E
238321	Parking Lot Striping	E
238992	Paving, Curbs and Gutters	E
238222	Plumbing	E
561791	Pressure Cleaning	E
238225	Refrigeration	E
238160	Roofing	E
562991	Septic Tank, Cleaning and Installation	E
238191	Sheet Metal	E
238332	Siding Installation	E
238994	Signs, Including Painting and Installation	E
238224	Steel Erector	E
238995	Swimming Pool Installation	E
238398	Waterproofing	E
238710	Window Installation	E
238999	All Other Subcontractors	E
<b>END SUBCONTRACTORS</b>		
442291	Curtain, Blind Sales	A
611610	Dance, Music, Voice, Art, or Handicrafts School	A
722211	Delicatessen, Snack Bar	A
624410	Day Care, Nursery	A
484110	Delivery, Transfer – Retail	F
484112	Delivery, Transfer – Wholesale	F
339116	Dental Laboratories – not to include a dentist or dentist services	A
541213	Dentist, Peridontist, Dental Surgeon; individual and/or firm professional	B
561611	Detective Agency	A
812191	Diet, Weight loss Center	A
511140	Directory Service	A
493110	Distribution Center	A
541112	Doctor, Physician, Medical Specialty; individual and/or firm professional	B
623210	Domiciliary, Group Home	A
541113	Drafting Services	B
446110	Drug Store, Pharmacy	A
812320	Dry Cleaner Shop	A

<b>NAICS CODE</b>	<b>CLASSIFICATION TITLE</b>	<b>SCHEDULE</b>
611710	Educational Services	A
335312	Electric Motor Shop	D
221219	Electric Power	Q
444191	Electrical Power Supply and Lighting	A
812198	Electrolysis and Similar Services	A
561310	Employment Agency	A
541330	Engineers	B
532120	Equipment Rental	A
484111	Express Company, Freight Carrier	T
451130	Fabric Store, Sewing Notions	A
332111	Fabricating Plant	D
522220	Finance or Loan Company	O
421910	Firearms Distributor or Dealer – Wholesale	C
453110	Florist or Dealer in Flowers (not grown by same)	A
453111	Florist – Special Event	G
812991	Fortune Teller, Palm Reader, Psychic	H
551114	Fuel Management Service	A
812210	Funeral Home, Undertaker, Burial Items	B
442110	Furniture Dealer – Sales and Delivery	A
811421	Furniture Repair and Refinishing	A
812930	Garage – Public Parking or Parking Lot	A
562111	Garbage Collection Contractor	A
221252	Gas Distributor – Natural Gas	Q
999111	Gasoline and Oil Retail Dealer	A
422720	Gasoline and Oil Wholesale	C
484113	Gasoline and Oil Wholesale Deliveries	F
447110	Gasoline Station – With Convenience Store	A
447190	Gasoline Station – Without Convenience Store	A
445110	Grocery Store	A
451110	Gun Shop	A
444130	Hardware Store	A
713941	Health Club, Exercise, Weight Facilities	A
999400	Heavy Equipment / Tractor – Sales and Service	A
451121	Hobby Shop	A
622110	Hospital, Medical Clinic, Medical Facility	A
722213	Ice Cream Parlor, Frozen Yogurt, Snow Balls	A
524210	Insurance Agent	U
524291	Insurance Adjuster	U
524126	Insurance – Fire and Marine	U
524128	Insurance – Other than Fire and Marine and Fraternal	U
448310	Jeweler	A
611620	Karate, Martial Arts, Cheerleading, Gymnastics, Baton, Tennis and Similar	A
812910	Kennel	A
611112	Kindergarten, Nursery - Private	A
531212	Land Company or Land Developer	E
561733	Landscape Company	A
812310	Laundry, Coin Operated	A

<b>NAICS CODE</b>	<b>CLASSIFICATION TITLE</b>	<b>SCHEDULE</b>
812331	Laundry Collection and Delivery	A
561732	Lawn Service and Care	A
444210	Lawnmower Sales, Repair and Service	A
561622	Locksmith	A
722418	Lounge, Bar, Tavern	J
332271	Machine Shop	D
333401	Machinery and Equipment	A
333999	Manufacturer's	D
812102	Massage Parlor	H
541200	Massage Therapists – Requires Picture I.D. and current state license and/or certification plus proof of liability insurance as mandated by State Law	B
812197	Massage Therapy Establishment	A
444310	Mechanical Supply Sales	A
452990	Merchant Retail	A
492222	Messenger, Currier Service	A
421510	Metal Products Sales – Including steel, metal, brass, aluminum, iron, copper, pipe and tubing	A
999930	Mobile Home Park or Motor Home Camp	A
522310	Mortgage Loan Company, Building and Loan	A
721110	Motel, Motor Hotel, and Inn In addition thereto, each person, firm or corporation engaged in the business of operating a motel, motor hotel, hotel or inn shall pay for the privilege of engaging in such business with the corporate limits, an amount equal to (3%) of the amount charged by said operator to the person or persons using or occupying a room or other quarters in said place of business for the use or occupancy thereof, including charges for use or rental of personal property and services furnished in such rooms. The license first hereinabove provided shall be payable annually, as provided by the City of Clay business license Code, and the additional amount hereinabove provided shall be due and payable on or before the twentieth (20 <sup>th</sup> ) day of each calendar month on the charges made by said operator for use and occupancy of said rooms or other quarters in said place of business during the preceding calendar month, and if not paid by said date, shall be subject to a penalty of fifteen percent (15%) of said charges.	A
484122	Movers Household or Commercial	A
451140	Musical Instruments	A
812113	Nail Salon, Manicurist	A
812114	Nail Salon with tanning beds	A
511110	Newspapers and Magazines – publishing, circulating, or distributing daily, weekly or monthly	A
453220	New / Used Merchandise and Gifts	A
623312	Nursing Homes	A
446199	Nursing, Medical Supplies and Equipment	A
561110	Office, Business or Corporate – Administrative Support. Shall not be used to avoid paying license on gross receipts from sales or services required in another section of this code.	W
541111	Ophthalmologists, Optician; individual and/or firm professional	B
446130	Optical Lens and Frame Sales and Supplies	A

<b>NAICS CODE</b>	<b>CLASSIFICATION TITLE</b>	<b>SCHEDULE</b>
541215	Orthodontist; individual and/or firm professional	B
444120	Paint and/or Wallpaper Retail	A
522298	Pawn Broker, in compliance with State and Local Regulations	H
454390	Peddlers, ice cream, peanuts, sandwiches, donuts, etc. delivered by basket, handcart or truck	A
454391	Peddlers (itinerant vendors), selling merchandise door to door. A permit from city hall is required before license can be issued. Valid for thirty (30) days. Company shall furnish the names, addresses and telephone numbers of all individuals to be involved in the sale or solicitation and the names of all individuals authorized to receive money.	A
453910	Pet Shop	A
561710	Pest Control	A
541921	Photographers – Special Event	G
541922	Photography	A
562992	Portable Toilet Services	A
444119	Plumbing or Gas Supplies	A
323114	Print Shop, Copying	A
445230	Produce Sales	A
541990	Professions and Vocations – not listed elsewhere	B
443113	Radio, Stereo and Television – Sales and Service	A
482110	Railroads	AA
713999	Recreational Facilities – not listed elsewhere	A
531210	Real Estate Agency – buying, selling, renting, managing, or exchanging whether as principal or agent	X
531211	Real Estate Agent	X
531323	Real Estate Appraisers	A
531214	Rental Property – rental, leasing, property management, mini-warehouses, personal storage buildings	Y
722212	Restaurant, cafeteria, donut shop, sandwich shop, snack bar, or drive-in restaurant	A
453992	Retail merchants – not covered elsewhere	A
611110	School, Private – Day School, Nursery, K-12 or other	A
561621	Security Alarm Service	A
561612	Security Guard Service, Patrol Service	A
811412	Sewing machines sales and services	A
811430	Shoe repair shop without retailing new shoes	A
713994	Skating rink	A
454394	Special Event – Retail	G
451110	Sporting Goods	A
541370	Surveyors, Land Surveyor	B
452399	Swimming pools and spas – sales and accessories	B
812196	Tanning Salon	A
812201	Tattoo Parlor	H
541440	Tax Service	A

<b>NAICS CODE</b>	<b>CLASSIFICATION TITLE</b>	<b>SCHEDULE</b>
485310	Taxicabs - operators must furnish evidence of insurance including a minimum of \$500,000 property damage and \$1,000,000 public liability. Evidence of such insurance protection, in current full force and effect must be furnished at the time of making application for license.	A
517112	Telecommunications Tower	Y
517110	Telephone Company	S
517111	Telephone Long Distance	S
517310	Telephone sales, service and installation	S
512131	Theaters, including outdoor or drive-in	A
453991	Tobacco Products	A
611699	Training Center, Trade School, Tutoring	A
561510	Travel Agency	A
561734	Tree Surgeon	A
532121	Truck and Trailer rentals, one way	A
811420	Upholstery	A
910001	Vending Machines	M
541940	Veterinarian	B
532230	Video Rentals and Sales	A
493111	Warehouse	A
562119	Waste Grease Recycling	AB
221310	Water Company	Q
812990	Wedding chapels (except churches)	A
332112	Welding Shop	D
421994	Wholesale Merchants Durable Goods	C
422100	Wholesale Merchants Non-Durable Goods	C
452993	Wigs	A
811198	Window Tinting	A
488410	Wrecker Service	A
999100	All Other Business	A

**Section 24. License Fee Schedules.**

The measure of a municipal business license based on gross receipts shall be based on the taxpayer's gross receipts for the license year next preceding the current license year, unless the taxpayer first began doing business in the municipality during the current license year, in which circumstance the gross receipts shall be estimated.

Any schedule adopted herein having a fee established by the Code of Alabama, whether or not said schedule is based upon census population of the municipality, may be amended as necessary to remain in compliance with the Code, without amendment to this ordinance.

**Schedule “A” – Basic**

\$100.00, plus an amount equal to 1/10 of 1% (.001) of gross receipts in excess of \$50,000 of the gross receipts for the previous year.

**Schedule “B” – Professional**

\$150.00, plus an amount equal to 1/10 of 1% (.001) of gross receipts in excess of \$50,000 of the gross receipts for the previous year.

**Schedule “C” – Wholesale**

\$150.00, plus an amount equal to 1/20 of 1% (.0005) of gross receipts in excess of \$50,000 of the gross receipts for the previous year.

**Schedule “D” – Manufacturer**

\$150.00, plus an amount equal to 1/50 of 1% (.0002) of the gross receipts for the previous year.

**Schedule “E” – Contractor/Land Company/Land Developer**

\$150.00, plus an amount equal to 1/20 of 1% (.0005) of gross receipts in excess of \$50,000 .

**Schedule “F” – Delivery License**

\$100.00 – The rate for the delivery license is established in Section 21 for deliveries up to \$75,000 for the previous year. When deliveries exceed more than \$75,000 in the preceding year, the delivery license shall be collected under the appropriate license category for the specific type of business listed herein.

**Schedule “G” – Special Events, Functions, Activities License**

Valid for One Day	\$50.00
Valid for 2-7 Days	\$100.00
Valid up to 30 Days	\$150.00
License for City Sponsored Special Events	\$ as determined each year by Clay City Council

Plus an amount equal to 1/10 of 1% of gross receipts in excess of \$50,000 on any special events, functions, activities license.

**Schedule “H” – Other Business**

\$5,000.00 plus an amount equal to 1/10 of 1% (.001) of gross annual receipts.

**Schedule “I” – Carnival Show**

Per Week \$500.00

**Schedule “J” – Beer, Wine and Liquor**

State regulated under Code of Alabama Alcoholic Beverage Licensing Code Section 28-3A-1 through 28-3A-26

<u>State ABC Code</u>	<u>Classification</u>	<u>Amount</u>	<u>Licensing Notes</u>
040 (Beer On/Off Premise)	445401	75.00	
050 (Beer Off Premise Only)	445400	50.00	
060 (Table Wine On/Off Premise)	445501	75.00	
070 (Table Wine Off Premise Only)	445500	75.00	
010 (Lounge Retail Liquor Class I)	722410	<b>Schedule A</b>	
On/Off Premise	445401	75.00	All four codes are part
	445601	150.00	of total establishment
	445501	75.00	Business license
011 (Package Store Liquor Class II)	445310	<b>Schedule A</b>	
Off Premise	445400	75.00	All four codes are part
	445600	150.00	of total establishment
	445500	75.00	Business License
020 (Restaurant Retail Liquor)	722110	<b>Schedule A</b>	
On Premise Only	445402	75.00	All four codes are part
	445602	150.00	of total establishment
	445502	75.00	Business License
--- (Club Liquor Class I)	445700	150.00	
Non-profit – On Premise	445401	75.00	All four codes are part
Off Premise (except Sunday)	445601	150.00	of total establishment
	445501	75.00	Business License
--- (Club Liquor Class II)	445701	150.00	
For Profit – On Premise	445401	75.00	All four codes are part
Off Premise (except Sunday)	445601	150.00	of total establishment
	445501	75.00	Business License
--- (Special Event – Limit 7 Days)	455702	75.00	
	445401	75.00	All four codes are part
	445605	150.00	of total establishment
	445501	75.00	Business License
--- (Special Retail – less than 30 days)	455703	50.00	
	445401	75.00	All four codes are part
	445605	150.00	of total establishment
	445501	75.00	Business License
160 (Special Retail – more than 30 days)	455703	150.00	
	445401	75.00	All four codes are part
	445605	150.00	of total establishment
	445501	75.00	Business License
Wholesaler :	Beer	492215	275.00
	Table Wine & Beer	492216	375.00
	Table Wine	492217	275.00

Liquor	492218	250.00
Manufacturer's License	312140	250.00

**Schedule “K” - Amusement Devices**

For each amusement device placed, an amount shall be collected as follows:

For the first three machines	\$100.00 per machine
All machines over three	\$50.00 per machine

**Schedule “L”- Billiard and/or Pool Tables**

For each billiard and/or pool table placed, an amount shall be collected as follows:

For billiard or pool table	\$500.00 per table
All billiard or pool tables over 1	\$100.00 per table

**Schedule “M” – Vending Machines**

For each vending machine placed, an amount shall be collected as follows:

1 to 3 machines vending type merchandise or product	\$75.00 per machine
3 to 10 machines vending any type merchandise or product	\$50.00 per machine
Each machine in excess of 10 machines vending any type merchandise or product	\$25.00 per machine

**Schedule “N” – Bonding Company or Agent**

For each person, firm or corporation making appearance or appeal bonds \$500.00

**Schedule “O” Finance or Loan Company**

\$500.00 plus an amount equal to 1/10 of 1% (.001) of the gross amount of interest and carrying charges, including all commissions of every kind, during the preceding year.

**Schedule “P” – Cable Television**

As per franchise agreement.

**Schedule “Q” – Utilities**

Amount of license is state regulated under 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 City of Clay for the previous year.

Shall also include sewer utility service not regulated under Section 11-51-129 in an amount not to exceed three percent of the gross receipts of the business transacted in the City of Clay for the previous year.

**Schedule “R” – Banks / Savings and Loans**

Amount of license is state regulated under Code of Alabama, Section 11-51-130 for Bank and Section 11-51-131 for Savings and Loan main office facilities and branches. Set locally for ATM locations.

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

**Schedule “S” – Telephones and Telecommunications**

Amount of license is state regulated and Code of Alabama 11-51-128 shall be applied based upon municipal population for telephone and long distance service.

Telecommunications tower license shall be based upon gross rental or lease – Schedule Y

**Schedule “T” – Express Company/Freight Carrier**

State regulated under Code of Alabama 11-51-126 by population.

**Schedule “U” – Insurance**

Insurance Agent - \$150.00 plus an amount equal to 1/5 of 1% (.002) of gross commissions in excess of \$50,000.

Insurance Adjuster - \$150.00 plus an amount equal to 1/5 of 1% (.002) of gross fees for services rendered in excess of \$50,000.

Insurance, Fire and Marine – Pursuant to 11-51-120 Code of Alabama Code of Alabama - \$4.00 on each \$100.00 or major fraction thereof of gross premiums, including renewals when such renewal includes additional property or persons within its coverage at the time it is renewed, provided that new companies shall pay a flat minimum license of \$50.00 for the first year on which there shall be an adjustment at year end.

**Schedule “U” – Insurance (continued)**

Insurance, Other than Fire, Marine and Fraternal – Pursuant to 11-51-121 of the Code of Alabama - \$20.00 plus \$1.00 on each \$100.00 and major fraction thereof gross premiums, including renewals when such renewal includes additional premiums.

**Schedule “V” – Billboards/Outdoor Advertising**

\$750.00 per billboard/outdoor advertising face for non-changeable faces or \$750.00 per display for billboard/outdoor advertising utilizing changeable faces.

**Schedule “W” – Office, Business or Corporate**

\$150,000 plus an amount equal to 1/5 of 1% (.002) of gross annual payroll

**Schedule “X” – Real Estate Agency/Real Estate Agent**

If a realtor is domiciled in the City of Clay the rate shall be \$100.00 plus an amount equal to 1/10 of 1% (.001) of gross commissions, fees, or other income generated from buying, selling, renting, managing, or exchanging real estate, whether as principal, broker or real estate agent working under the agency umbrella or separately as an independent contractor.

**Schedule “Y” – Rental Property – Residential, Commercial, Mini-Warehouses**

Minimum license fee shall be \$150.00 plus 1/10 of 1% (.001) of gross receipts of such rentals.

**Schedule “Z” – Warehouses, Other than Mini-Warehouses**

Up to 10,000 square feet of floor space \$200.00  
Over 10,000 square feet of floor space \$200.00 plus an amount equal to 1/10 of 1% (.001) of gross receipts.

**Schedule “AA”- Railroads**

Regulated by Code of Alabama 11-51-154 – In municipalities having a population of more than 10,000, \$25.00 for the first 1,000 inhabitants and \$35.00 for each additional 1,000 inhabitants or majority fraction thereof; provided, however, that in no case shall any municipality assess or collect such a privilege or license tax exceeding \$2,000.00

**Schedule “AB”- Waste Grease Rendering or Recycling**

State regulated Code of Alabama, 11-40-23.

**Schedule “AC” – Massage Therapy Establishment**

This schedule shall pay an establishment rate of \$100.00 and shall follow the guidelines as stated:

Definition – A massage therapy establishment is any site, premises or business where massage therapy is practiced by a licensed professional massage therapist, regardless of whether or not the provision of massage therapy services is the primary function of the establishment.

Location – No massage therapy establishment, building, structure or part thereof which is integral to a massage therapy establishment shall be erected, maintained, or located in any zone other than that zone required and recommended by the City of Clay Planning and Zoning Commission and approved by the City Council of the City of Clay, Alabama.

Requirements - Every massage therapy establishment shall conform to all rules and regulations for licensure and operation as required by the State of Alabama and the Alabama Board of Massage Therapy and any applicable ordinance of the City of Clay. Each massage therapy establishment must display a current, valid license obtained from the Alabama Board of Massage Therapy as well as a current business license issued by the City of Clay in plain view.

A massage therapy establishment shall only employ professional massage therapists who hold a current license from the Alabama Board of Massage Therapy and a business license from the City of Clay. Said licenses shall be displayed in plain view of the establishment.

A massage therapy establishment shall at times comply with all health regulations, rules and requirements as have been or hereafter will be promulgated by the Jefferson County Department of Health. Any premises used for the purposes of massage therapy shall, during all hours of operation, be made open and available to inspection by said County Department of Health for all purposes of assessing compliance with such health rules, regulations and requirements.

A massage therapy establishment as defined herein shall have a dedicated space where massage therapy is to be performed with individual rooms for each client or customer to receive massage therapy services. Said space shall clearly reflect that it is the place where massage therapy is practiced. Each room shall be utilized solely for the provision of massage therapy services, shall meet a minimum size requirement of 100 square feet with no wall less than eight (8) feet in length, shall be surrounded by four permanent walls which extend from floor to ceiling, and shall be constructed and maintained so as to ensure privacy for clients utilizing the services of a licensed massage therapist; provided, however, that, under no circumstances shall said area be inaccessible to City officials during hours when massage therapy is being practiced.

Each massage therapy establishment shall maintain a register of all appointments and services provided. Said register must include, a minimum, the name of the client receiving services, the time of said appointment, the specific services provided, and the name of the licensed, professional massage therapist providing the service. Said register must be updated daily and shall be available for inspection by State, County or City officials at any time.

Any massage therapist applying or administering massage shall be fully clothed from the shoulders to the knees by a robe, smock or other opaque clothing so that the customer shall not have bodily contact with the person applying or administering the massage except for the hands and arms of said person applying or administering the massage. The massage therapist applying or administering the massage shall cleanse his or her hands and arms thoroughly by washing same with soap and hot water before applying or administering massages to any person.

Any and all towels, wash cloths, and other linens that may come in contact with the body or any part thereof of the customer shall be thoroughly sanitized and laundered after each individual use. Any other equipment or materials which may come in contact with the body or any part thereof of the customer, such as but not limited to tables, floors or equipment, shall be thoroughly cleansed and sanitized after each use.

Massage therapy establishments shall maintain all equipment in a safe and sanitary condition.

If a massage therapy establishment intends to provide tanning services, said establishment shall maintain no more than two (2) tanning beds or other devices designed for “tanning” (including artificial sprays, coatings, or products designed to simulate sun exposure) on the premises and be licensed in this area by the City of Clay, to provide said services.

All massage therapy establishments shall have current liability insurance coverage for bodily injury and property damage for the establishment and shall furnish proof thereof upon request by the City.

Massage therapy establishments shall have in place proper procedures for extermination of Vermin, insects, termites and rodents.

Massage therapy establishments shall enact procedures and provide proof thereof to the City of Clay to ensure that no part of any clients’ breasts, buttocks, or genital area is exposed or otherwise made subject to bodily contact by any therapist. Said procedures must be reviewed by the Establishment annually, and must be updated to reflect changes in procedure or changes in rules, regulations and requirements promulgated by the State, County or other regulatory agency, if any such changes have been made. A record of said annual review and a certification that said procedures are adequate to provide the protections included herein must be maintained at the Establishment and made available for inspection by State, County or City officials at any time.

Each massage therapy establishment shall provide a sanitary, private area for each client to dress, to bathe or shower, or to cleanse before and after any service to be provided. Said area must be secure, and must include measures to ensure the privacy of the client while dressing, bathing, showering, or cleansing before and/or after any service provided by a licensed massage therapist.

The requirements of this subsection may be met by making said area directly accessible from the room in which massage therapy is performed, or locating said area in a designated in a designated locker room/shower area separate from public restroom facilities. Community bathing or dressing areas shall not be allowed, and no establishment may utilize a public or employee restroom to meet this requirement. In addition, each such establishment shall be required to provide a secure locked area for each client to place his or her belongings while receiving said services. This requirement may be met by use of an individual locked closet, locker or cabinet.

Massage therapy establishments may operate between the hours of 7:00 a.m. and 7:00 p.m. The City of Clay shall have the right to inspect the premises of the massage therapy establishment at any time to ensure establishment is in compliance with all state and local rules and regulations.

*-- End License Schedule*

## **Section 25. Exchange of Information.**

- (a) The revenue officer may exchange tax returns, information, records, and other documents secured by the City of Clay, with other municipalities adopting similar ordinances for the exchange of taxpayer information, or with the county or state authorities. The revenue 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:
  - Collecting taxes due.

- Ascertaining the amount of taxes due from any person
  - Determining whether a person is liable for, or whether there is probably 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 revenue officer. The revenue 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 26. Effective Date.**

This ordinance shall become effective with the 2008 business license and renewal cycle.

**Section 27. 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 City of Clay Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Section 28. Repealer.**

All ordinances or parts of this ordinance in conflict with the provisions of this ordinance are hereby repealed.

**Section 29. No Intent to Repeal Special License Ordinances.**

This ordinance is not intended to, nor shall it repeal such special license ordinances as are currently in effect or may be adopted by the City Council of the City of Clay, Alabama.

Adopted and Approved this the 19<sup>th</sup> Day of November, 2007.

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Charles D. Hart, D.V.M.  
Mayor

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ATTEST: Bobby Christmas  
City Clerk/Treasurer