

ORDINANCE NO. 17-2346

**AN ORDINANCE TO COMPLY WITH ALABAMA ACT #2017-215 CONCERNING
INTEREST AND TAXATION BY
(I) AMENDING PORTIONS OF CHAPTER 8, ARTICLE II
RELATED TO DELIVERY LICENSES AND
(II) AMENDING PORTIONS OF CHAPTER 14, ARTICLES II, III, AND IV**

BE IT ORDAINED by the City Council of the City of Hoover at a regular meeting, duly assembled, a quorum being present, as follows:

Section 1. AMENDMENT OF CHAPTER 8 LICENSES AND BUSINESS REGULATIONS, ARTICLE II GENERAL BUSINESS LICENSE, SECTION 8-16(6) OF THE MUNICIPAL CODE OF THE CITY OF HOOVER. That Chapter 8, Article II, Section 8-16(6) is amended to read as follows:

(6) MERCHANTS, RETAIL AND WHOLESALE.

a. Merchandise retail, wholesale or otherwise

1. Merchandise retail, wholesale or otherwise (inside or outside city). Each person, firm or corporation engaged in the business of selling any product at retail or wholesale or taking or soliciting orders for sale, or selling merchandise of any description including any such products stored in a warehouse for sale, distribution or delivery, whether as owner, dealer, agent or consignee, shall pay a minimum license of
100.00

Plus an amount equal to three-twentieths ($\frac{3}{20}$) of one (1) percent of the gross receipts in excess of \$100,000.00 from the previous year.

2. Merchandise retail, wholesale or otherwise – Delivery License.

A. Each person, firm or corporation engaged in the business of selling any product at retail or wholesale or taking or soliciting orders for sale, or selling merchandise of any description, including any such products stored in a warehouse, for sale, distribution or delivery whether as owner, dealer, agent or consignee, shall pay a license of \$100.00.

(i) This license shall be for the limited privilege of delivering and requisite set-up and installation, by the taxpayer's employees or agents, of the taxpayer's own merchandise in the city of, by means of delivery vehicles owned, leased, or contracted by the taxpayer. To qualify for a license under this subsection, the taxpayer must meet all of the following criteria:

- (1) Other than deliveries, the taxpayer has no physical presence within the municipality or the city's police jurisdiction;
- (2) The taxpayer conducts no business in the city's jurisdiction other than delivering merchandise and performing the requisite setup and installation of said merchandise;
- (3) Such delivery and setup and installation is performed by the taxpayer's employees or agents, concerns the taxpayer's own merchandise in the

city's jurisdiction, 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 setup or installation of all merchandise so delivered shall not exceed seventy-five thousand dollars (\$75,000.00) during the license year; and

(5) Any setup 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.

(ii) Exemption. A taxpayer that otherwise meets the criteria for the purchase of a delivery license pursuant to subsection (a)1(i) is not required to purchase a license if the following criteria apply:

(1) The taxpayer's gross receipts that are derived from within the municipality or its police jurisdiction do not exceed ten thousand dollars (\$10,000) during the year; and

(2) The taxpayer has no other physical presence within the municipality or its police jurisdiction during the year.

B. If at any time during the current license year the taxpayer fails to meet any of the above stated criteria, then within forty five (45) days after any of said criteria have been violated or exceeded, the taxpayer shall purchase an appropriate business license from the city.

C. Mere delivery of the taxpayer's merchandise by common carrier shall not allow the city to assess a business or delivery license tax against the taxpayer, but the gross receipts derived from any sale and delivery accomplished by means of a common carrier shall be counted against the seventy-five-thousand-dollar limitation described in the preceding subsection 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.

D. A common carrier, contract carrier, or similar delivery service making deliveries on behalf of others shall not be entitled to purchase a delivery license. Persons taking orders, soliciting or consummating sales of merchandise or taking orders, soliciting or consummating sales of services or performing such services within the city shall obtain a license based on such trade, business, occupation, profession or vocation, which shall entitle such business to deliver within the city without obtaining an additional license.

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

State Law reference: Delivery License, *Code of Ala.* 1975, §11-51-194.

Section 2. AMENDMENT OF CHAPTER 8 LICENSES AND BUSINESS REGULATIONS, ARTICLE II GENERAL BUSINESS LICENSE, SECTION 8-33 OF THE MUNICIPAL CODE OF THE CITY OF HOOVER. That Chapter 8, Article II, Section 8-33 “Payment generally” is amended to read as follows:

Sec. 8-33. - Payment generally.

All licenses in this schedule shall run for the calendar years beginning January 1, 1999, and shall be due and payable January 1, and delinquent on January 31 of each year. Except as set forth herein, on each license which shall not be paid within thirty (30) days from the date upon which it becomes due, there shall be due and collected an additional license equal to ten (10) percent of the original amount of license; and on each license not paid within sixty (60) days from the date on which it becomes due, there shall be due and collected an additional license equal to twenty (20) percent of the original amount of the license. Provided that same shall in no case mentioned above be less than fifty cents (\$0.50), which may be paid prior to arrest in lieu of fine or imprisonment for doing business without a license. But the payment of any and all licenses due may be enforced immediately after they become due. The penalty for the failure to obtain a business delivery license under section 8-16(6)b hereof shall not exceed ten dollars (\$10).

All licenses under this Code shall be due and payable on the first day of the whole calendar year and the licenses shall not be prorated for any reason except where stated in this Code.

State Law reference— Delivery License, *Code of Ala.* 1975, §11-51-194(f).

Section 3. AMENDMENT OF CHAPTER 14 TAXATION, ARTICLE II SALES AND USE TAX, SECTION 14-24 OF THE MUNICIPAL CODE OF THE CITY OF HOOVER. That Chapter 14, Article II, Section 14-24 “Penalty for delinquent payment” is amended to read as follows:

Sec. 14-24. - Penalty for delinquent payment.

Any person who fails to pay the tax herein levied within the time required by this article shall pay, in addition to the tax, a penalty of ten (10) percent of the amount of the tax due, together with interest thereon at the rate determined pursuant to Alabama Code §40-1-44, as may be amended from time to time, from the date at which the tax herein levied becomes delinquent, that is, due and payable, such penalties and interest to be assessed and collected as part of the tax; provided however, that the chief financial officer or designee, if a good and sufficient reason is shown may waive or remit the penalty of ten (10) per cent or a portion thereof.

Section 4. AMENDMENT OF CHAPTER 14 TAXATION, ARTICLE III TANGIBLE PERSONAL PROPERTY TAX, SECTION 14-36 OF THE MUNICIPAL CODE OF THE CITY OF HOOVER. That Chapter 14, Article III, Section 14-36 “Interest on overpayment” is amended to read as follows:

Sec. 14-36. - Interest on overpayment.

On any overpayment of the tax levied in this article, the finance department shall refund, in addition to the overpayment, interest on such overpayment at the rate determined pursuant to Alabama Code §40-1-44, as may be amended from time to time,, from the date of such overpayment. The chief financial officer or designee shall adopt such rules and regulations as he deems necessary for the proper administration of this section.

Section 5. AMENDMENT OF CHAPTER 14 TAXATION, ARTICLE III TANGIBLE PERSONAL PROPERTY TAX, SECTION 14-37 OF THE MUNICIPAL CODE OF THE CITY OF HOOVER.

That Chapter 14, Article III, Section 14-37 "Penalty for delinquent payment" is amended to read as follows:

Sec. 14-37. - Penalty for delinquent payment.

Any person who fails to pay the tax herein levied within the time required by this article shall pay, in addition to the tax, a penalty of ten (10) percent of the amount of tax due, together with interest thereon at the rate determined pursuant to Alabama Code §40-1-44, as may be amended from time to time, from the date at which the tax herein levied becomes delinquent, that is, due and payable, such penalty and interest to be assessed and collected as part of the tax; provided however, that the chief financial officer or designee, if a good and sufficient reason is shown, may waive or remit the penalty of ten (10) percent or a portion thereof.

Section 6. AMENDMENT OF CHAPTER 14 TAXATION, ARTICLE IV HOTEL/MOTEL TAX, SECTION 14-57 OF THE MUNICIPAL CODE OF THE CITY OF HOOVER.

That Chapter 14, Article IV, Section 14-57 "Penalty for delinquent payment" is amended to read as follows:

Sec. 14-57. - Penalty for delinquent payment.

Any person who fails to pay the tax herein levied within the time required by this article shall pay, in addition to the tax, a penalty of ten (10) percent of the amount of tax due, together with interest thereon at the rate determined pursuant to Alabama Code §40-1-44, as may be amended from time to time, from the date at which the tax herein levied becomes delinquent, that is, due and payable, such penalties and interest to be assessed and collected as part of the tax; provided however, that the chief financial officer or designee, if a good and sufficient reason is shown, may waive or remit the penalty of ten (10) percent or a portion there.

Section 7. ORDINANCE CUMULATIVE. All other provisions of the *Municipal Code of the City of Hoover, Alabama* shall remain in full force and effect and shall not be affected by this Ordinance.

Section 8. REPEAL OF OTHER ORDINANCES IN CONFLICT REPEALED. All other ordinances or parts of ordinances heretofore adopted by the city council of the City of Hoover, Alabama that are inconsistent with the provisions of this Ordinance are hereby expressly repealed.

Section 9. SEVERABILITY. If any part, provision, or section of this Ordinance is declared to be unconstitutional or invalid by any court of competent jurisdiction, all other parts, provisions or sections of this Ordinance not thereby affected shall remain in full force and effect.

Section 10. EFFECTIVE DATE OF ORDINANCE. This Ordinance shall become immediately effective upon its adoption by the city council and approval by the Mayor or as otherwise becoming law, except as provided in this section.

THEREFORE, BE IT ORDAINED, that the City Council of the City of Hoover does hereby enact the foregoing Ordinance for the City of Hoover.

DONE this the 17th day of July, 2017.

Gene Smith, President of City Council

APPROVED:

Frank V. Brocato, Mayor

ATTEST:

Margie Handley, City Clerk