

**CITY OF DAPHNE
ORDINANCE NO. 2004-11**

**AMENDMENT TO ORDINANCE 2002-26
BUSINESS LICENSE**

BE IT ADOPTED BY THE CITY COUNCIL OF DAPHNE, ALABAMA that Ordinance 2002-26 should be amended as follows:

SECTION 1. Levy of Tax.

Pursuant to the *Code of Alabama*, the following is hereby declared to be and is adopted as the business license code and schedule of licenses for the municipality for the year beginning January 1, 2003, and for each subsequent year thereafter. There is hereby levied and assessed a business license tax for the privilege of doing any kind of business, trade, profession or other activity in the municipality.

SECTION 2. Definitions.

[6] GROSS RECEIPTS: The gross amount received on the use, sale or exchange of property or capital or for the performance of services, from any transaction involving a business, 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:

(1) Any of the taxes collected by the business on behalf of any taxing jurisdiction or the federal government: sales or seller's use tax; utility gross receipts taxes levied pursuant to Article 3, Chapter 21, Title 40; license taxes levied pursuant to Article 2, Chapter 21, Title 40; State, County or municipal excise or sales taxes on the sale of gasoline or other motor fuels; or municipal sales or excise taxes on the sale of tobacco or tobacco products or liquor or alcoholic beverages.

(2) Revenue that this state is prohibited from taxing pursuant to the

Constitution or laws of the United States or State of Alabama
Constitutions.

(3) Revenue received by a nonprofit organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. §501(c), as membership fees or dues or as a result of its fund-raising activities.

(b) A different basis for calculating the business license may be used with respect to certain categories of taxpayers as prescribed herein.

(c) Gross receipts of those entities subject to levy and assessment of municipal license taxes under Section 11-51-129 shall be limited to the gross receipts derived from the furnishing of utility services within the municipality during the preceding year. The term "gross receipts" for purposes of this clause (c) shall be defined, and construed, in accordance with Section 40-21-90(3).

(d) Gross receipts as it applies to professionals shall include, but is not limited to, insurance agencies, real estate brokers, attorneys, doctors, accountants and/or any other profession which provides a service for a fee and/or a commission and shall be calculated on the gross sales, professional fees and/or charges, including only; salaries, retainers, fees, commissions and other payments for services rendered or property sold.

(e) Gross receipts as it applies to automobile dealerships and/or any other professions that hold stock, goods, merchandise, or any property on a floor plan design, shall be calculated on gross receipts only as defined in [6] and shall not include any amounts for any property being held on the floor plan.

(f) Gross receipts are calculated only on that portion of business or services performed or sold within the corporate limits of the City of Daphne, Alabama.

[16] FEE. The terms "fee" and "tax" are used interchangeably and shall mean the same for purposes of all sections herein.

SECTION 3. License term, minimums.

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

(a) *Full Year.* Every person who commences business before the first day of July shall be subject to and shall pay the annual license for such business in full.

Unless otherwise specified in the enclosed schedules, the minimum annual license shall be \$ 100.00. Any business which previously existed in the municipality that reincorporates, restructures or obtains a new Federal Identification Number and otherwise maintains the same or similar business shall not constitute a new business and shall be subject to the enclosed schedules.

(b) *Half Year.* Every person who commences business on or after July 1st, shall be subject to and shall pay one-half (1/2) the annual license for such business for that calendar year.

(c) *Issue Fee.* For each license issued there shall be an issue fee collected of five dollars (\$5.00) and said issue fee shall be collected in the same manner as the license tax.

(d) *Annual Renewal.* Except as provided in subsections (i) or (ii), the business license shall be renewed annually on or before the 31st day of January each year.

(i) If the due date for payment of any business license falls on a weekend or a holiday recognized by the municipality from time to time, the due date shall automatically be extended until the next business day.

(ii) Insurance company annual license renewals shall be renewed in accordance with Section 11-51-122 of the *Code of Alabama* which states that each year, each insurance company shall furnish the municipality a statement in writing duly certified showing the full and true amount of gross premiums received during the preceding year and shall accompany such statement with the amount of license tax due according to the licensing schedule. Failure to furnish such statement or to pay such sum shall subject the company and its agents to those penalties as prescribed for doing business without a license as provided for in the municipal code.

(iii) On or before December 31 of each year, a renewal reminder shall be mailed to each licensee that purchased a business license during the current year. Said renewal notice shall be mailed via regular U.S. mail to the licensee's last known address of record with the municipality. Licensees are required to furnish the municipality any address changes for their business prior to December 1st in order for them to receive their notice.

(iv) Business license renewal payments received by the municipality shall be applied to the current renewal only when any and other debts the licensee owes to the municipality are first paid in full. No business license shall be issued if the current renewal payment does not meet said prior obligations and the current renewal. Failure to pay such sums shall subject the licensee and its agents to those penalties as prescribed for doing business without a license provided for in the municipal code.

SECTION 7. License must be posted.

Every license shall be posted in a conspicuous place, where said business, trade or occupation is carried on, and the holder of the license shall immediately show same to the designee of the municipality upon being requested to do so. If the business, trade or occupation incorporates the use of vehicles in its normal course of business including, but not limited to, lawn care and maintenance businesses or delivery carriers, each vehicle shall have clearly displayed the name of the business, trade or occupation and the telephone number of its main office or contact person.

SECTION 9. Duty to permit inspection and produce records.

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

- (a) Permit the designee of the municipality to enter the business premises by giving not less than twenty-four (24) prior notice 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 accounts, 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 exhibiting 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.

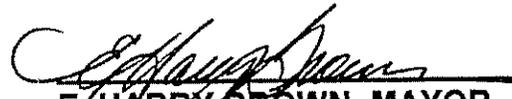
- (c) Inspection of all such materials may, at the option of the licensee, be produced in compiled form with the omission of any personal customer or client or patient information including, but not limited to: phone numbers, addresses, names. In a case of a medical provider, deletion to all reference to treatment or diagnosis.

SECTION 24. Exchange of information.

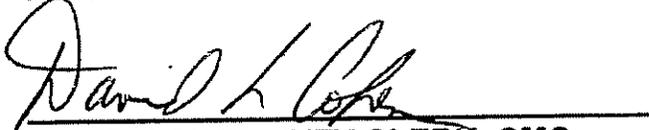
(a) The revenue officer may exchange tax returns, tax forms and other documents used in the preparation thereof secured by the municipality, with other municipalities adopting similar ordinances for the exchange of taxpayer information, or with county or state authorities. The revenue officer may charge a reasonable fee for providing such information or documents. Any tax returns, tax forms or other documents used in the preparation thereof so exchanged shall remain subject to the confidentiality provisions, restrictions, and criminal penalties for unauthorized disclosure as provided under state or municipal law.

ADOPTED AND APPROVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA on this the 19th day of April, 2004.

CITY OF DAPHNE, ALABAMA


E. HARRY BROWN, MAYOR

ATTEST:


DAVID COHEN, CITY CLERK, CMC