

justified  
8-2-11  
amended  
8-14-11  
adopted

ORDINANCE NO. 2011-16

**AN ORDINANCE TO AMEND ORDINANCE NO. 2007-25 PERTAINING TO CHAPTER 13, LICENSES AND PERMITS OF THE CODE OF ORDINANCES OF THE CITY OF PHENIX CITY, ALABAMA.**

**BE IT ORDAINED**, by the City Council of the City of Phenix City, Alabama that Ordinance 2007-25 pertaining to the Code of Ordinances of the City of Phenix City, Alabama, Chapter 13, Licenses and Permits, Article 1, shall be amended by the addition of terms in Section 2 Definition of Terms, and the addition of Section 21.A and Schedule "W" as set out below:

**SECTION 2. DEFINITIONS**

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

[1] **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 a municipality.

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

[3] **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.

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

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

[6] **GROSS RECEIPTS**. The measure of any and all receipts of a business from whatever source derived, to the maximum extent permitted by applicable laws and constitutional provisions, to be used in calculating the amount due for a business

license. Provided, however, that:

- (a) Gross receipts shall not include any of the following taxes collected by the business on behalf of any taxing jurisdiction or the federal government: All taxes which are imposed on the ultimate consumer, collected by the taxpayer and remitted by or on behalf of the taxpayer to the taxing authority, whether state, local or federal, including utility gross receipts levied pursuant to Article 3, Chapter 21, Title 40; license taxes levied pursuant to Article 2, Chapter 21, Title 40; or reimbursements to professional employer organizations of federal, state or local payroll taxes or unemployment insurance contributions; but no other deductions or exclusions from gross receipts shall be allowed except as provided in this article.
- (b) A different basis for calculating the business license may be used by the municipality with respect to certain categories of taxpayers as prescribed in Section 11-51-90B.
- (c) For a utility or other entity described in Section 11-51-129, gross receipts shall be limited to the gross receipts derived from the retail furnishing of utility services within the municipality during the preceding year that are taxed under Article 3 of Chapter 21 of Title 40, except that nothing herein shall affect any existing contract or agreement between a municipality and a utility or other entity. The gross receipts derived from the furnishing of utility services shall not be subject to further business license taxation by the municipality.
- (d) Gross receipts shall not include dividends or other distributions received by a corporation, or proceeds from borrowing, the sale of a capital asset, the repayment of the principal portion of a loan, the issuance of stock or other equity investments, or capital contributions, or the undistributed earnings of subsidiary entities.

[7] IN THE BUSINESS OF REAL RESIDENTIAL PROPERTY RENTAL. Shall mean that the person leasing three (3) or more real residential properties or units to one or more other entities for residential use.

[8] LICENSE FORM. Any business license application form, renewal reminder notice, business license remittance form, or business license return by whatever name called.

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

[10] LICENSE YEAR. The calendar year.

[11] MUNICIPALITY. Any town or city in this state that levies a business license tax from time to time. The term shall also include the town's or city's police jurisdiction, where the business license tax is levied in the police jurisdiction.

[12] PERSON. Any individual, association, estate, trust, partnership, limited liability company, corporation, or other entity of any kind, except for any nonprofit corporation formed under the laws of Alabama which is operated to enable municipalities that become members of such nonprofit corporation to finance or refinance capital projects and related undertakings, on a cooperative basis, and whose board of directors or other governing body consists primarily of elected officials of the municipality.

[13] RENT. Shall mean the gross rent, fees, receipts, or other compensation of any kind received in consideration for the lease of real residential property, without any deduction or exclusion of any kind.

[14] TAXING JURISDICTION. Any municipality that levies a business license tax, whether or not a business license tax is levied within its police jurisdiction, or the Department of Revenue acting as agent on behalf of a municipality pursuant to Section 11-51-180 et seq., as the context requires.

[15] 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

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

[17] 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 21.A – REAL RESIDENTIAL PROPERTY RENTALS – LICENSE REQUIRED; RATE.**

[a] There is hereby levied against each person in the business of real residential property rental a business license fee in the amount of one and one-half percent (1.5%) of rent received by the licensee for the lease of real residential property located within the corporate limits of Phenix City.

[ b] There is hereby levied a license fee levied on those in the business of real residential property rental in the police jurisdiction. The amount of such fee shall be determined in accordance



with Section 23, Schedule "W" with the location of the business determined by the location of the real property subject to the licensee fee levied by this section.

[c] Said fees shall be collected on a quarterly basis beginning October 1, 2011 and continuing thereafter.

**SECTION 23. LICENSE FEE SCHEDULES.**

*Schedule "W" – Real Residential Property Rental*

[a] Corporate Limits. The rate for the real residential rental property license is one and a half percent (1.5%) of rent received by the licensee for the lease of real residential property.

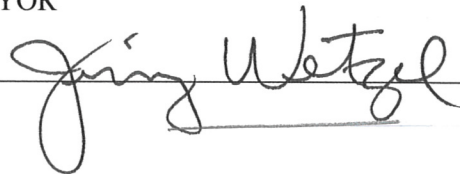
[b] Police Jurisdiction. The rate for the real residential rental property license is one-half the amount of that rate for the rent received by the licensee for the lease of real residential property within the corporate limits of the city.

Any ordinance or heretofore adopted by the city council of the City of Phenix City, Alabama which is in conflict with this ordinance is hereby repealed to the extent of such conflict.

If any part, section or subdivision of this ordinance shall be held unconstitutional or invalidate for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

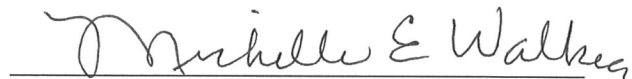
**PASSED, APPROVED AND ADOPTED** this 16th day of August, 2011.

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MAYOR

  
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ATTEST:

  
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CITY CLERK

  
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MEMBERS OF THE CITY COUNCIL OF  
THE CITY OF PHENIX CITY, ALABAMA