

**ORDINANCE NUMBER 12-6-10
AMENDMENT TO BUSINESS LICENSE DELIVERY LICENSE
PROVISIONS AND SCHEDULE "D" OF LICENSE FEES**

**AN ORDINANCE AMENDING THE BUSINESS LICENSE CODE, ORDINANCE
NUMBER 10-15-07 ENTITLED BUSINESS LICENSE CODE OF THE CITY OF
RAINSVILLE, ALABAMA, AS PREVIOUSLY AMENDED**

BE IT ORDAINED BY THE CITY COUNCIL OF RAINSVILLE, ALABAMA
(hereinafter "municipality"), as follows:

SECTION 1. Section 21, Delivery License, of the Business License Code of the City of Rainsville, Alabama, Ordinance Number 10-15-07, as previously amended, shall be, and is hereby, amended and completely replaced with the following language, effective for the fiscal year 2011 and following years unless and until otherwise amended:

"SECTION 21. Delivery License.

- (a) In lieu of any other type of license, a taxpayer may, at its option, purchase, for the proper and applicable amount as set out in Schedule "D" of Section 23 below, plus the issuance fee, a delivery license for the privilege of delivering its merchandise in the municipality and its police jurisdiction if the taxpayer meets all of the following criteria:
- (1) Other than such deliveries, the taxpayer has no other physical presence in the municipality or its police jurisdiction;
 - (2) The taxpayer conducts no other business in the municipality or its police jurisdiction, other than delivering merchandise and performing the requisite set-up and/or installation of said merchandise;
 - (3) Such delivery, set-up, and/or installation is performed by the taxpayer's employees or agents, concerns the taxpayer's own merchandise in the municipality, and is done by means of delivery vehicles owned, leased, or contracted by the taxpayer;
 - (4) Any set-up and/or installations shall related only to (i) that required by the contract or agreement between the taxpayer and the

customer or as may be required by state or local law, and (ii) the merchandise so delivered;

- (5) If at any time during a license year the taxpayer fails to meet any of the above-stated criteria, then within ten (10) days after said criteria have been met, violated, or exceeded during that license year, the taxpayer shall purchase all appropriate business licenses from the municipality for the entire license year and without regard to this section.
- (b) Mere delivery of the taxpayer's merchandise by common carrier shall not allow the municipality to assess a business license tax against the taxpayer, but the gross receipts derived from any sale and delivery to the municipality and its police jurisdiction accomplished by means of a common carrier shall be included in the gross receipts set out in schedule "D" below for the purpose of setting and determining the amount the taxpayer must pay for the delivery license in that year, if the taxpayer also during the same license year sells and delivers into the taxing jurisdiction using a delivery vehicle or means other than a common carrier.
- (c) A common carrier, contract carrier, or similar delivery service making deliveries in and to the municipality and its police jurisdiction on behalf of others shall not be entitled to purchase a delivery license.
- (d) The delivery license shall be calculated in arrears, based on the related gross receipts during the preceding license year, except for first-time delivery license purchasers and taxpayers who have no history of such deliveries to the municipality and are required to purchase a delivery license after the beginning of the license year by virtue of subsection (a)(5) above.
- (e) The purchase of 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 1975, or other provisions of law, nor does the purchase of a delivery license conclusively determine that nexus does not exist between the taxpayer and the municipality."