

**FREQUENTLY ASKED QUESTIONS:
BUSINESS LICENSE REFORM ACT OF 2006 AND
THE SUGGESTED ORDINANCE AVAILABLE FROM
THE ALABAMA LEAGUE OF MUNICIPALITIES**

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1. What provisions of the Business License Reform Act of 2006 (Act 2006-586) (hereafter referred to as “the Act”) are mandatory?

The following provisions are mandatory under the Act:

- a. **License year** – must follow a calendar year (Jan. 1 to Dec. 31)
- b. **Delivery License** – municipalities must provide for a delivery license in an amount up to \$100 for businesses who only deliver into a municipality
- c. **NAICS Sectors** – municipalities must use the business categories listed in the Act which are based on the 2002 NAICS sectors.
- d. **Branch Office Rule** – a taxpayer engaged in business in more than one municipality must be permitted to account for its gross receipts so that the part of its gross receipts attributable to one or more branch offices will not be subject to the business license tax imposed on the principal business office required to obtain a business license. Please refer to the Act for the specific requirements of this provision.
- e. **Standard License Form** – a sample form is available at www.alalm.org
- f. **Notification of Renewals for Existing Licensees** – municipalities must notify existing licensees on or before December 31st of the current license year of their need to renew their license.
- g. **Transfer of Licenses**
- h. **Late Fee Penalties** – 15% if not paid by due date; 30% if not paid within 30 days of due date. These amounts are not cumulative.
- i. **Taxpayer Bill of Rights (TBOR)**

With all of these mandatory provisions, please review the act carefully to insure that the ordinance you adopt is in compliance with these provisions.

2. Do we have to adopt the suggested ordinance as is?

No. The sample ordinance available from the League of Municipalities is merely a suggested ordinance for implementing the Act. The ordinance was prepared as a result of a collaborative effort involving municipal revenue officers and municipal attorneys who came together to prepare an ordinance that met the requirements of the Act. Please keep in mind that this ordinance is modeled after the business license ordinance of a large municipality who, prior to the passage of the act, was utilizing the NAICS system and a gross receipts basis to assess and collect its business licenses. It may not work “as is” for smaller municipalities.

3. Do we have to use gross receipts as our basis for business licenses under the new Act?

No. Municipalities are free to set their own rates and those rates can be based on gross receipts, as in the suggested ordinance, or flat rates.

4. Can we add categories of businesses to the ones listed in the suggested ordinance?

No. While you can create sub-categories, you cannot add additional categories other than the ones listed in the Act itself. We have gone through the model ordinance alongside the Act and the ordinance only contains those categories listed in the Act itself – no more. Every business will need to fit into one of those categories even if many of them end up in a fairly generic category. You are free, however, to create subcategories as needed so long as those subcategories fall under one of the main categories listed in the Act and contained in the suggested ordinance.

5. Can we “delete” or not use categories listed in the suggested ordinance?

While we encourage municipalities to include all of the categories listed in the suggested ordinance because they are all of the categories listed in the Act itself, you can delete some of the categories if you are confident that you do not have that type of business nor will you have that type of business in the near future. For example, 483 is the category for Water Transportation. If you are not located anywhere near a body of water where water transportation is a potential business for your municipality, you could leave that off of your ordinance if you choose. Your ordinance can always be amended in the future to add categories back in if circumstances change.

6. Are we required to use the numbering system in the suggested ordinance?

The only part of the numbering system that you are required to use is the FIRST THREE DIGITS as listed in the Act. We have modified the suggested ordinance to only reflect those three digits that are required. Any numbers beyond the first three have no meaning beyond your own internal record keeping. For example, with fortune tellers the only numbers that are important for uniformity are the first three 812_ __. How you assign any further numbering is up to you. Again, the Act only requires the use of the first three digits.

7. When there is a conflict between the first three numbers of the 2002 NAICS and the numbers listed in the Act, which number should we use.

We have discovered through the trial and error of others that some of the NAICS categories (first 3 digits) listed in the Act do not match up identically with the first 3 digits under the 2002 NAICS manual. When there is a conflict between the 2002 NAICS numbers for a particular business category and the numbers

assigned by the Act for that business category, it is our opinion that you must use the numbers in the Act rather than NAICS.

8. Do we need to invest in a NAICS manual?

Not necessarily. In our opinion, the Act contains all of the business categories allowed for classification. While those categories are based on the 2002 NAICS, we are of the opinion that you cannot go beyond the categories specifically listed in the act itself even if NAICS has additional categories beyond what is listed in the Act. The NAICS manual may be of benefit if you are considering sub-categories but keep in mind that you must still use only those main categories listed in the Act and the corresponding three digits as assigned in the Act.

9. If a business with a physical location in our municipality does business outside of our licensing jurisdiction, can we base our license on their entire gross receipts?

Yes. Unless the business qualifies under “branch office” rule, and in some cases where interstate commerce is involved, if they have a physical location in your municipal limits your license can be based on the entire gross receipts run through that business even if some of that business occurred outside your licensing jurisdiction.

10. If a business with no physical location in our licensing jurisdiction does business within our municipality, can we use their entire gross receipts?

No. If the business has no physical connection to your licensing jurisdiction (i.e. out of town contractors, and various service related industries) then you may only charge a license based on the gross receipts generated within your licensing jurisdiction. Keep in mind, however, that if they are making deliveries and they qualify for a delivery license then that is the license you must apply.

11. We adopted our ordinance some time ago. What do we need to do to amend the ordinance if we discover technical errors that are brought to our attention after passage?

Because of changes made to the suggested ordinance over the past year, the League maintains a master marked-up version of the ordinance to help you quickly identify where changes have been made if you adopted or utilized an earlier version of the suggested ordinance. Some of the changes are substantive but many are merely technical changes to ease in the administration of the ordinance. The League recommends you consult with your city attorney to assist you in determining whether the changes are such that you would need to formally amend your ordinance. Keep in mind, that if you do have to amend your ordinance to make changes, the ordinance can be amended by section rather than having to amend and republish the entire ordinance. See Section 11-45-6 of the Code of Alabama 1975.