

ORDINANCE AMENDING CHAPTER 14 OF THE MONTGOMERY MUNICIPAL CODE PERTAINING TO THE REGULATION OF UNATTENDED DONATION/COLLECTION BOXES IN THE CITY OF MONTGOMERY

WHEREAS, the City of Montgomery has an overriding interest in planning and regulating the use of property within the City. Implicit and any plan or regulation is the City's interest in maintaining the quality of urban life and the character of the City's neighborhoods; and

WHEREAS, blighted areas can quickly deteriorate, with a negative impact to social, environmental and economic values; and

WHEREAS, it is the City's intent to limit nuisance-related and blighted conditions; and

WHEREAS, there is a proliferation and concentration of portable, unattended boxes for the reverse vending of salvageable personal property including, but not limited to, clothing and books ("Unattended Donation/Collection Boxes" or "UDCBs") which resulted in nuisance-related conditions, including, but not limited to trash, debris, illegal dumping and graffiti on and around the UDCBs; and

WHEREAS, many of the UDCBs and the areas around the UDCBs were not properly or consistently maintained and that resulted in blighted conditions in many areas of the City; and

WHEREAS, although the placement of UDCBs has proliferated in recent years and has been expressly regulated by the City, the City wishes to allow for placement of the UDCBs in a manner that will be acceptable to the City; and

WHEREAS, although UDCBs can become a public nuisance, as described above, they also provide a convenient way to reuse goods rather than place them in the waste stream:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, that the City Council for the City of Montgomery amends the Code of Ordinances of the City of Montgomery to create Chapter 14 Health and Sanitation, Article VII Unattended Donation/Collection Boxes. to ensure proper and consistent regulation and maintenance for UDCBs throughout the City to read as follows:

Chapter 14: HEALTH AND SANITATION

ARTICLE VIII. Unattended Donation/Collection Boxes

PART I – GENERAL PROVISIONS

Sec. 1 - Purpose

The purpose of these regulations is to promote the health, safety, and/or welfare of the public by providing the minimum blight-related performance standards for the operation of unattended donation/collection boxes (UDCBs). This includes establishing criteria to ensure that material is not allowed to accumulate outside of the UDCBs, the UDCBs remain free of graffiti and blight, UDCBs are maintained in sanitary conditions, and residents and/or users are fully informed of those who operate the UDCBs so that they can be contacted if there are any blight-related questions or concerns.

Sec. 2 – Conflicting Provisions

Where a conflict exists between the regulations or requirements in this chapter and applicable regulations or requirements contained in other chapters of the City of Montgomery Code of Ordinances, the applicable regulations and requirements of this chapter shall prevail.

Sec. 3 – Violation

Failure to comply with any of the provisions of this chapter is declared to be prima facie evidence of an existing violation, a continuing blight and a declared public nuisance and shall be abated by the Inspections Department in accordance with the provisions of the nuisance abatement procedures. Any person in violation will be subject to administrative penalties, citations, civil action and/or other legal remedies.

Sec. 4 – Responsibility

The Parcel Owner and the UDCB Operator (“Operator”) have joint and several liability for blight-related conditions and/or compliance with this chapter, including fees, administrative citations, civil actions, and/or legal remedies relating to a UDCB. The Parcel Owner remains liable for any violation of duties imposed by this chapter even if the Parcel Owner has, by agreement, imposed on the Operator the duty of complying with the provisions of this chapter.

Sec. 5 – Definitions

“Accessory Activity” means an activity that is incidental to, and customarily associated with, a specified principal activity.

“Agent” means a person who is authorized by the Parcel Owner to act on their behalf in filling out all the required forms of the parcel pursuant to this ordinance. A person who is given general authorization to act on the behalf of a Parcel Owner for various activities and transactions in regard to a property may be considered an agent.

“Blight” or “Nuisance” means a UDCB that is dilapidated, physically deteriorating, unsafe, unsanitary, marked with graffiti or generally unkempt as to constitute a threat or nuisance to the public.

“Inspections Department” means the Code Enforcement Officer and his or her successor in the title and his or her designees.

“City” means the City of Montgomery, Alabama and its police jurisdiction.

“Donated/Collected Material” means salvageable personal property, such as clothing, shoes, books and household items that are collected for periodic transport off-site for processing or redistribution or both.

“Parcel Owner” or “Property Owner” means the owner of real property on which a UDCB is or is proposed to be placed.

“Principal Activity” means an activity that fulfills a primary function of an establishment, institution, household, or other entity.

“Principal Building” means a main building that is occupied for a principal activity.

“UDCB Operator” or “Operator” means a person or entity who utilizes or maintains a UDCB to solicit donations/collections of salvageable personal property.

“UDCB Permit” means the City of Montgomery annually renewable permit required to place, operate, maintain, or allow a UDCB within the Montgomery City limits.

“Unattended Donation/Collection Boxes” or “UDCBs” means unstaffed drop-off boxes, containers, receptacles, or similar facility that accept textiles, shoes, books and/or other salvageable personal property items to be used by the operator for distribution, resale, or recycling, but shall not include furniture or other items too large to be contained within the UDCB. This term does not include any collection bin that is owned by the property owner and is used in connection with, or is an accessory to, the principal business of that property.

“Unpermitted UDCB” means a UDCB established either without a UDCB permit or with a UDCB permit that was issued in error or on the basis of incorrect or incomplete information supplied or in violation of any law, ordinance, rule, or regulation.

PART II – UDCB PERMIT REQUIREMENT AND PROCESS

Sec. 6 – Permit Required for UDCBs

- A. It is unlawful to place, operate, maintain or allow a UDCB on any real property unless the Parcel Owner/Agent and/or Operator first obtain an UDCB Permit from the City. A separate UDCB permit is required for each UDCB.
- B. The UDCB Permit applicant shall be the UDCB Operator and the permit may not be transferred, conveyed or otherwise assigned to another person or entity.
- C. Decisions regarding UDCB Permit applications shall be made by the Planning Department and the Inspections Department shall be considered the investigating official acting for the City.

Sec. 7 – Application Requirements

The UDCB Permit application shall be made on a form provided by the City. All applications shall be valid for one calendar year, filed with the Inspections Department and shall include:

- A. A signed agreement as provided by the City stating that the Operator will abide by all the processes and requirements described in this chapter and an expedited code enforcement process.
- B. A non-refundable application fee in the amount of one hundred dollars (\$100.00).
- C. A signed authorization from the Parcel Owner/Agent to allow placement of the UDCB on a form provided by the City.
- D. A signed acknowledgement of responsibility from the Parcel Owner/Agent and the Operator for joint and several liability for violations of conditions or regulations, and/or blight relating to the UDCB on a form provided by the City.
- E. Proof of general liability insurance of at least \$100,000.00 covering the applicant’s UDCB and naming the City of Montgomery and the Parcel Owner as additional insureds.
- F. For nonprofit Operators, evidence that the nonprofit has been registered as a nonprofit organization with the State of Alabama.
- G. The name, address, email, website (if available) and telephone number of the UDCB Operator and Parcel Owner, including 24-hour contact information.
- H. A vicinity map showing 1) the proposed location of the UDCB; and 2) the distance between the site and all existing UDCBs within 1,000 feet of the proposed UDCB location.
- I. Photographs of the location and adjacent properties.
- J. A site plan containing:
 - 1. Location and dimensions of all parcel boundaries.
 - 2. Location of all buildings and building set back lines.
 - 3. Proposed UDCB location.
 - 4. Distance between the proposed UDCB and parcel lines and buildings.

- 5. Location and dimensions of all existing and proposed driveways, garages, carports, parking spaces, maneuvering aisles, pavement and striping/markings.
- K. Elevations showing the appearance, materials, and dimensions of the UDCB, including the information required in this chapter to be placed on the UDCB and notice sign.
- L. A description and/or diagram of the proposed locking mechanism.
- M. A maintenance plan (including graffiti removal, pick-up schedule, monitoring schedule, and litter and trash removal on and around the UDCB) that is sufficient to prevent/eliminate blight-related conditions.
- N. The Land Use Division will process the application and circulate through applicable departments to check for conformance with this section and any other zoning or overlay districts. Once all applicable approvals are received, the application will be released to the Planning Department for permitting.

Sec. 8 – UDCB Permit Expiration and Renewal

- A. Unless renewed as described in Subsection B, below, each UDCB Permit shall expire and become null and void after December 31st of the year of issuance.
- B. A UDCB operator may apply for a permit for the subsequent calendar year by submitting an affidavit stating the information previously provided is accurate and up to date. Alternatively, if the information has changed, the operator must provide updated information as required by the Planning Department.
- C. The Planning Department shall either approve or deny the renewal of a UDCB permit within 30 calendar days of receipt of the complete renewal application and payment of the renewal fee.
- D. The Inspections Department shall approve the renewal of a UDCB Permit if he or she finds that no circumstances existed during the term of the UDCB Permit or existed at any time during the review of the application for renewal that are inconsistent with any criteria required for approval of a new UDCB Permit as specified hereinabove or that would justify the revocation of the UDCB Permit as specified in hereinabove.
- E. See Sections related to the appeal and petition processes for UDCB Permit decisions, including decisions regarding renewal.

Sec. 9 – Requirements for the Approval and Renewal of a UDCB Permit

The Building Department shall not issue a UDCB Permit or renewal unless each of the following is true:

- A. The applicant has submitted a complete and accurate application accompanied by the applicable fee:
- B. There are no open citations, unpaid fines or unresolved violations or complaints related to any UDCB managed by the proposed Operator;
- C. Any verified blight on the subject property has been abated and any case of a complaint to the City regarding blighted conditions on the subject property has been closed; and
- D. The proposal is consistent with all the requirements of this chapter.

- E. For renewals, the site does not have a history of being an attractive nuisance even if incidents of blight were abated. For the purpose of this subsection, "history of attractive nuisance" means the UDCB received three administrative citations in the previous 12 months.

Sec. 10– Time Limit for Final Decision

The Inspections Department shall provide a written decision regarding the placement of a UDCB within 30 calendar days of the submission of a complete application for a UDCB Permit.

Sec. 11 – Appeal and Petition Processes

- A. Within 10 calendar days after the date of a decision by the Building Department on an application for a UDCB permit or a renewal of such, an appeal from said decision must be filed by the applicant or any other interested party. The appeal shall be submitted to the City Council Clerk at City Hall. In the event the last date of appeal falls on a weekend or holiday when City offices are closed the next date such offices are open for business shall be the last date of appeal. Such appeal shall be made on a form prescribed by the City. The appeal application must be complete and shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning Department or wherein his or her decision is not supported by the evidence in the record. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record, which supports the basis of the appeal. If a hearing is held on the appeal, then during such hearing, the appellant will be limited to issues and/or evidence previously raised in the appeal itself. The appellant shall not be permitted to present any other issues and/or oral, written and/or documentary evidence during the appeal process. In considering the appeal, the City Council shall determine whether the proposal conforms to the requirements of this chapter, and may grant or deny a permit or require such changes in the proposed use or impose such reasonable conditions of approval as are in its judgment necessary to ensure conformity to said criteria. The written decision of the City Council shall be final and shall be made within 60 calendar days of the submission of the appeal.
- B. The applicant seeking placement of a UDCB which would be affected by this chapter and who contends that the ordinance as applied to him or her would be unlawful under and/or conflict with federal, state, or local law or regulation, must submit a petition to the City Administrator requesting relieve from the ordinance. Petitions must be on the appeal form provided by the City and submitted to City Hall. The Petition shall identify the name and address of the applicant and property owner, the affected application number, and shall state specifically and completely how the ordinance as applied to him or her would be unlawful under and/or in conflict with federal, state, or local law or regulation. Failure to raise each and every issue that is contested in the petition and provide appropriate supporting evidence will be grounds to deny the petition. If a hearing is held on the petition, then during such hearing, the petitioner will be limited to issues and/or evidence previously raised in the petition itself. The petitioner shall not be permitted to present any other issues and/or oral, written and/or documentary evidence during the petition process. Within 60 calendar days of receipt of the completed petition, the City Council, or designee, shall mail to the applicant a written determination accepting or rejecting the petition. The written decision of the City Council is final. The City Council will utilize reasonable time, place and manner criteria to determine if the petition should be granted or denied consistent with this chapter. If the petition is granted, the City may impose reasonable time, place and manner-related conditions on the UDCB consistent with this chapter.

PART III – STANDARDS AND REQUIREMENTS

Sec. 12 – Location

- A. No more than one UDCB is permitted per parcel unless approved in advance by the City. UDCB's placed on separate, adjacent parcels, must be placed at least 500 feet away from the nearest UDCB.
- B. UDCBs are only allowed to be located in the industrial and commercial zones, which is designated in the zoning maps described in the City of Montgomery Zoning Ordinance. They may also be located on property used for religious facilities.
- C. No UDCBs are permitted in any other zones.
- D. A UDCB is only permitted on a lot that also contains a principal building that contains at least one operating business.
- E. UDCBs are prohibited within any of the following locations:
 - 1. The public right-of-way;
 - 2. Ten feet from the front or corner property line or Five feet from other property lines; or
 - 3. Landscaping or landscaping buffer
 - 4. Within public view in historic districts unless approved by the Architectural Review Board.
- F. UDCBs cannot block or impede access to:
 - 1. Required parking or driveways;
 - 2. Pedestrian routes;
 - 3. Emergency vehicle routes;
 - 4. Building ingress and egress;
 - 5. Required handicapped accessibility routes;
 - 6. Required easements;
 - 7. Trash enclosure areas or access to trash bins/trash enclosures; or
 - 8. Lot ingress and egress.
- G. UDCBs cannot impede the functioning of exhaust, ventilation, or fire extinguishing systems.
- H. The donation/collection area must be visible from the principal building and be no more than ten feet from a continually operating light source.

Sec. 13 – Physical Attributes

- A. UDCBs shall:
 - 1. Be fabricated of steel;
 - 2. Be placed on ground that is paved with cement or asphalt;
 - 3. Have a collection opening that has a tamper-resistant locking mechanism;
 - 4. Not be more than 84 inches high, 72 inches wide and 72 inches deep;
 - 5. Not be electrically or hydraulically powered or otherwise mechanized;
 - 6. Not be a fixture of the site or considered an improvement to real property; and
 - 7. Have the following information conspicuously displaced on at least two-inch type visible from the front on the UDCB:
 - i. The name, address, 24-hour telephone number, and, if available, the Internet Web address, and email address of the owner and Operator of the UDCB and the Parcel Owner/Agent;
 - ii. Address and parcel number of the site;

- iii. Instructions on the process to register a complaint regarding the UDCB to the City Code Enforcement Division, in substantially the following form: "To register a complaint regarding this UDCB, contact the City of Montgomery at 311 or with the permit number and location of the UDCB detaining the complaint.
- iv. The type of material that may be deposited;
- v. A notice stating that no material shall be left outside the UDCB.
- vi. The pickup schedule for the UDCB;
- vii. A City provided sticker that identifies the box as being properly permitted by the City;
- viii. If the UDCB is owned by a non-profit organization:
 - a. A statement describing the charitable cause that will benefit from the donations;
 - b. The Federal Tax identification number of the nonprofit organization operating the UDCB; and
 - c. The statement "This collection box is owned and operated by a nonprofit organization or religious facility."
- ix. If the UDCB is owned by a for-profit entity:
 - a. "This donation is not a tax deductible" and
 - b. "This collection box is owned and operated by a for-profit organization."

- B. The parcel containing the UDCB shall display an additional standalone sign with text in at least two-inch typeface stating that no material shall be left outside the UDCB. This sign shall be installed at a visually conspicuous location within a radius of 20 feet from the UDCB.

Sec. 14 – Maintenance

- A. No blight shall be within 20 feet of the UDCB including, but not limited to donation/collection overflow, litter, debris, and dumped material.
- B. UDCBs shall be maintained and in good working order. Items to be repaired, removed, and/or abated include, but are not limited to graffiti, removed or damaged signs and notifications, peeling paint, rust, and broken collection operating mechanisms.
- C. UDCBs shall be serviced not less than weekly between 7:00 a.m. and 7:00 p.m. on weekdays and 10:00 a.m. and 6:00 p.m. on weekends. This servicing includes the removal of donated/collected material and abatement of the blight described in this section.
- D. The operator shall maintain an active email address and a 24-hour telephone service with recording capability for the public to register complaints.
- E. UDCBs cannot be used for the collection of solid waste and/or any hazardous materials.

Sec. 15 – Liability

Applicants and/or owner(s) Agent shall maintain a minimum general liability insurance of \$100,000 for the duration of the operation of a UDCB at each site, to cover any claims or losses due to the placement, operation, or maintenance of the UDCB and naming the City of Montgomery as additional insured.

PART IV – CODE ENFORCEMENT

Sec. 16 – Compliance Process

- A. Whenever the Inspections Department determines that a UDCB with a valid permit does not conform to any requirement in this chapter he/she shall promptly notify the Parcel Owner/Agent and UDCB Operator through U.S. Mail of the violation. The violation must be abated and proof of such submitted to the City within 10 calendar days after receipt of such notification.
- B. If an Unpermitted UDCB is not within a permissible geographic area according to this ordinance then both the UDCB and any blight within 20 feet of the UDCB shall be removed within 10 days after the Parcel Owner/Agent and UDCB Operator is notified of the violation.
- C. If an Unpermitted UDCB is within a permissible geographic area according to this ordinance then

any blight within 20 feet of the site shall be removed and the Parcel Owner/Agent and/or Operator shall either: 1) apply for all UDCB Permits required by this chapter; or 2) remove the UDCB. This requirement shall be met within 72 hours after the Parcel Owner/agent and/or UDCB Operators are notified of the violation.
- D. Each day, after the 10-business day cure period, that a violation of a requirement of this chapter is not abated constitutes a new and separate offense.
- E. The operation or maintenance of an Unpermitted UDCB may be abated or summarily abated by the City in any manner by the Code or otherwise by law for the abatement of public nuisances. All expenses incurred by the City in connection with any action relating to public nuisances. All expenses incurred by the City in connection with any action to abate a public nuisance will be chargeable to the persons creating, causing, committing, or maintaining the public nuisance and is an express condition of the permit.
- F. The City shall issue administration citations against a Parcel Owner and/or Operator who fails to timely resolve a violation or verified compliance is not sent to the City showing the resolution of the violation relating to a UDCB after notice. The City shall issue administrative citations as follows:
 - 1. Not more than \$150.00 for the first citation after the 72-hour abatement period;
 - 2. Not more than \$250.00 for the second citation after the 72-hour abatement period; and
 - 3. Not more than \$500.00 for the third and each subsequent citation after the 72-hour abatement period.
- G. The daily administrative citations described in the Subsection F shall continue until either the violation is abated or the UDCB is removed. Removal of the UDCB shall be at the expense of the Parcel Owner and/or Operator. Any UDCBs removed shall also have any of its UDCB Permits revoked.
- H. The property owner and operator are jointly and severally liable and responsible for all fees, administrative citations, and compliance with the regulations.
- I. A party aggrieved by a final administrative decision of the City, after an appeal has been made pursuant to this ordinance, may seek judicial review of the administrative decision within fourteen days of the final decision of the City.
- J. All notices for Unpermitted UDCBs shall be in writing and personally delivered to the Parcel Owner/Agent and UDCB Operator or by depositing such notice in the United States mail, postage paid, and addressed to the Parcel Owner/Agent at the

owner(s) last known address as it appears on the last Montgomery County tax assessment and tax records rolls, as well as placed on the UDCB itself. If the City cannot reasonably determine the name and/or address of the Unpermitted UDCB Operators, placing the written notice on the UDCB itself constitutes sufficient notice. All notices regarding permitted UDCBs shall be through electronic mail.

- K. Administrative citations established in this chapter are in addition to any other administrative or legal remedy which may be pursued by the City to address violations identified in this chapter.

Sec. 17 – Notice Required for Removal

- A. Any UDCB scheduled to be removed by either the City or the operator shall clearly display a notice on the UDCB with at least four-inch type visible from the front on the UDCB that states the following text in capital letters: THIS BOX WILL BE REMOVED BY” followed by the date the UDCB is scheduled for removal. The entity who is removing the UDCB is responsible for placement of the notice on the UDCB.
- B. For UDCBs required to be removed by the City of Montgomery due to a nuisance resolution, the notice shall be posted immediately after the City notifies the Operator and/or Parcel Owner that the facility is required to be removed.
- C. Notice that a UDCB will be removed by the owner operator shall be posted at least 14 calendar days prior to the removal of the facility.

PART V – MISCELLANEOUS PROVISIONS

Sec. 18 – Forms

The required application material referenced in this ordinance, including the application and parcel owner agreement, are available on the City’s website or may be requested at the Land Use Division, 25 Washington Ave., Montgomery, AL.

Sec. 19 - Findings

The City Council expressly finds and determines: (a) the sole purpose of this Ordinance is to promote the public health, safety and/or welfare by reducing and/or eliminating the secondary, nuisance-related conditions that have become associated with UDCBs in a content neutral manner, based upon reasonable time, place and manner restrictions; (b) this Ordinance is not intended to, nor does it operate to, discriminate against any particular viewpoint, content, and/or UDCB operators/operations; (c) this Ordinance is the least restrictive means to regulate UDCBs; (d) this Ordinance is intended to, and does, function without regard to a UDCB, or UDCB Operator’s charitable purpose, or lack thereof; and UDCBs are deserving of regulatory treatment because UDCBs are not currently regulated in the Municipal Code as they are not considered accessory structures, they can attract dumping, graffiti, and/or blight and existing regulations for other box/container-type facilities are either not appropriate or insufficient for UDCBs.

Sec. 20 – Sequence

After the effective date of this Ordinance, any applications for UDCBs shall be taken on a first come, first serve basis in regard to the distance requirements in this Ordinance. Any applications received at the same time shall be entered into a lottery in the event of conflict of location under the requirements of this Ordinance.

Sec. 21 – Severability

If any section, paragraph, clause or provision of this ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any other provision of this ordinance.

Sec. 22 - Repealer

All ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this ordinance, are to the extent of such conflict hereby repealed.

Sec. 23 - That this Ordinance shall become effective on January 1 of the year following adoption, and upon passage, approval and publication.

ADOPTED this the ____ day of _____, 2021.

STEVEN L. REED, MAYOR

ATTEST:

BRENDA GALE BLALOCK, CITY CLERK

RESOLUTION NO. _____

WHEREAS, pursuant to Resolution No. 199-2020, the right to operate a business was revoked for Yumaracus Manuel, d/b/a The Yu Bar & Grill Inc., 163 Eastern Boulevard, Montgomery, Alabama 36117, due to failure to adhere to the stipulations agreed upon with the Montgomery Police Department and due to shooting inside the establishment; and

WHEREAS, Yumaracus Manuel, d/b/a The Yu Bar & Grill Inc., 163 Eastern Boulevard, Montgomery, Alabama 36117, has made application for a Business License; and

WHEREAS, Yumaracus Manuel has paid the Montgomery Fire Department's overcrowding fine; and

WHEREAS, pursuant to said resolution the owner/proprietor of the business must appear before the City Council prior to the issuing of any future business license; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, Yumaracus Manuel, d/b/a The Yu Bar & Grill Inc., 163 Eastern Boulevard, Montgomery, Alabama 36117, be and is hereby approved for a Business License.

STATE OF ALABAMA)
COUNTY OF MONTGOMERY)
CITY OF MONTGOMERY)

I, Brenda Gale Blalock, City Clerk of the City of Montgomery, Alabama, DO HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution which was duly adopted by the Council of the City of Montgomery, Alabama, at its regular meeting held the _____ day of _____, 2021.

GIVEN under my hand and the official SEAL of the City of Montgomery, Alabama, this the _____ day of _____, 2021.

BRENDA GALE BLALOCK, CITY CLERK

APPROVED: _____

STEVEN L. REED, MAYOR

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE II, DIVISION 1 OF THE CODE OF THE CITY OF MONTGOMERY

WHEREAS, to provide for the safety, health, and welfare of the citizens of the community, including pedestrian and automobile travelers, by minimizing distractions, obstructions, and other hazards that may be caused by the display of signs; and

WHEREAS, to preserve the natural, historic, and scenic beauty of the community; and

WHEREAS, to encourage the effective and creative use of signs as a means of communication within the city through enhanced architecture and design of signs within the city; and

WHEREAS, to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth;

WHEREAS, to minimize the possible adverse effects of signs on nearby public and private property;

WHEREAS, to provide for a reasonable display of signs, without interference from other signage, in a fair and equitable manner;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, as follows:

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, that Chapter 12, Article II, of the Code of Ordinances for the City of Montgomery, Alabama, be amended as follows:

- 1. Chapter 12, Article II, Division 1, Section 12-31 shall be amended to read as follows:

Sec. 12-31 – Definitions

For the purposes of this article, the following terms are defined as hereinafter set forth, to wit:

Abandoned and/or Obsolete Sign — Any sign that advertises a business, lessee, owner, product, or service that is no longer located or being offered on the premises. Also any sign that advertises an event or activity that is no longer being conducted on the premises. Any sign structures or supports that have been erected and have no advertisement or signs that are in disrepair shall be considered an obsolete sign, unless otherwise determined by the City to be a historic/exempt sign.

Foul water means water that has an offensive odor, is visibly filled with algae or is polluted with oil or other pollutants.

Front yard means the yard extending across the entire width of the lot between the main building, including covered porches, and the front lot line; or if an official future street right-of-way line has been established, between the main building including covered porches and the right-of-way line. On corner lots, the narrower side shall be considered the front regardless of the location of the main entrance of the dwelling. Where both frontages of the lot are equal, the front yard shall be considered the side on which the majority of the lots front in the block.

Graffiti means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the city council.

Graffiti implement means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark or sign on any natural or manmade surface.

Junk means all vehicle parts, rubber tires, appliances, dilapidated furniture, machinery equipment, building material or other items which are either in a wholly or partially rotted, rusted, wrecked, junked, dismantled or inoperative condition. A motor vehicle will be considered inoperative for the purposes of this section if it cannot be safely operated or if it is incapable of being moved under its own power or if it may not be legally operated due to lack of any legal requirement including an expired license plate.

Improved subdivision means a division of a tract of land or acreage into tracts or parcels, and the improvement thereof by construction of streets, water lines and, where applicable, sewer lines to serve the subdivided property.

Litter means all uncontainerized man-made waste materials including, but not limited to, paper, plastic, garbage, bottles, cans, glass, crockery, scrap metal, construction materials, rubbish, disposable packages or containers.

Motor vehicle means any vehicle, machine, tractor, trailer or semi trailer, propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property. Motor vehicles do not include "recreational vehicles" as defined in section 11 of the zoning ordinance of the city.

Mud means a slimy, sticky mixture of soft, wet earth, or sand, or dirt.

Overgrown grass or weeds exist if any of the following conditions are met:

- (1) The grass or weeds provide breeding grounds and shelter for rats, mice, snakes, mosquitoes and other vermin, insects and pests;
- (2) The grass or weeds attain such heights and dryness so as to constitute serious fire threat or hazard;

- (3)The grass or weeds bear wingy or downy seeds, when mature, that cause the spread of weeds, and when breathed, irritation to the throat, lungs and eyes of the public;
- (4)The grass or weeds are capable of hiding debris, such as broken glass or metal, which could inflict injury on any person going upon the property;
- (5)The grass or weeds are unsightly; or
- (6)If not grown as ornamental plant growth, the grass or weeds exceed 12 inches in height.

Regular/preventative maintenance means those activities and services which are regularly performed to keep a motor vehicle in good running order including, but not limited to, the changing of oil, filters, belts, tires or spark plugs.

Trash means all organic material, including but not limited to, tree limbs, tree trunks, wood, building material, dead shrubbery. Included are grass clippings and leaves, except when prepared as and contained in a compost bin.

2. Chapter 12, Article II, Division 4, shall be amended to read as follows:

DIVISION 4. – Abandoned or Obsolete Signs

Sec. 12-106. - Abandoned or Obsolete Signs Prohibited

It shall be unlawful and declared a nuisance and injurious to public health, safety and general welfare for any occupant, owner, lessee, or person in control of any property within the city or any occupant, owner, lessee or person in control of any property within the city to allow an abandoned or obsolete sign to remain on their property.

Sec. 12-107. – Exceptions

However, permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed obsolete unless the premises remains vacant for a period of six (6) months or more.

3. Chapter 12, Article II, Division 5 shall be created to read as follows:

DIVISION 5. - ABATEMENT OF NUISANCES AND ASSESSMENT PROCEDURE

Sec. 12-131. - Right of entry for inspection.

Whenever the housing code department of the city has reasonable cause to believe that a condition prohibited by this article exists, employees and duly authorized agents of the housing code department shall have the right to enter the private property in question for the purpose of inspecting the property. Reasonable cause may be established by, but is not limited to, the filing of an oral or written complaint with the city.

Sec. 12-132. - Notice of public hearing to approve abatement and assess costs.

- (a) Whenever a condition prohibited by this article is found to exist on private property within the city, the housing code department shall declare the condition a public nuisance and cause a written notice to be mailed by first class mail to "Occupant" at the address of the property upon which the nuisance exists and to the owner of said property as the information is listed in the records of the tax assessor or revenue commissioner. If the property is a vacant lot, written notice will be mailed by first class mail to the owner of said property as the information is listed in the records tax assessor or revenue commissioner.
- (b) Said notice shall contain the following:
 - (1) A description of the real property, by street address or otherwise, on which the nuisance exists;
 - (2) A direction to abate the nuisance within ten days from the date of the notice;
 - (3) A description of the nuisance;
 - (4) A statement that unless the nuisance is abated, the city will abate the nuisance and the cost of abatement may be assessed against the property and may be added to the next regular taxes levied against the property;
 - (5) The date of the regularly scheduled city council meeting in which a resolution will be presented to the city council to approve the abatement of the nuisance and authorize assessment of the cost of abatement;
 - (6) A statement regarding the procedure for filing an objection to abatement of the nuisance and assessment of the cost of abatement against said property;
 - (7) A statement that an administrative fee of \$150.00 also shall be assessed upon the property if the nuisance is not abated within ten days of the notice to the owner and may be added to the next regular taxes levied against the property; and
 - (8) A statement that failure to abate the nuisance with ten days from the date of the notice may result in criminal prosecution.
- (c) In addition, a sign entitled "Notice to Abate Nuisance" shall be conspicuously posted on the property where the nuisance exists notifying the owner/occupant that a nuisance exists and that the city will take action to abate said nuisance if the nuisance is not abated within ten days.

Sec. 12-133. - Public hearing and objections to abatement of nuisance.

- (a) Filing of timely objection to condition declared a nuisance.
 - (1) The owner, occupant, lessee or person in control of said property may file an objection to the declaration by the city that the

condition constitutes a nuisance by notifying in writing the chief housing code inspector or his representative at least four business days prior to the date of the regular scheduled meeting of the city council for which the resolution ordering the abatement of the nuisance and assessing the cost of abatement has been scheduled.

- (2) The owner, occupant, lessee or person in control of said property shall also file the objection to the declaration by the city that the condition constitutes a nuisance by notifying in writing the city clerk's office at least four business days prior to the date of the regular scheduled meeting of the city council for which the resolution ordering the abatement of the nuisance and assessing the cost of abatement has been scheduled.
- (b) The city council shall hear and consider all evidence, objections, and protests regarding whether or not the condition constitutes a nuisance and whether same should be ordered abated or removed. The city council may continue the hearing from time to time. Upon the conclusion of the hearing, the city council shall decide whether a public nuisance exists and, if so, shall order it to be removed or abated with respect to any property or part thereof described. The city council, by passage of the resolution, shall be deemed to have acquired jurisdiction to proceed and to perform or have performed the work of removal or abatement with respect to the property or part thereof. The decision of the city council on the matter shall be deemed final and conclusive.
 - (c) If a timely objection is not filed with the city clerk or chief housing code inspector or his representative or if the owner, occupant, lessee or person in control of the property fails to appear at the hearing, no additional public hearing will be held on an individual property and abatement of the nuisance will proceed and costs of the abatement assessed. In such instance, the city council shall be deemed to have acquired jurisdiction to proceed and either to perform or have performed the work of removal or abatement with respect to the property or part thereof and the decision of the city council shall be deemed final and conclusive.

Sec. 12-134. - Abatement of nuisance.

- (a) Unless otherwise notified, the designated registered nuisance abatement agents on file with the city clerk's office shall meet with the chief housing code inspector or his representative at 9:00 a.m. on the first day following each city council meeting at which the city council authorizes the abatement and removal of a nuisance to identify the property or properties that the council has authorized to be abated. All registered nuisance abatement agents interested in abating and removing the nuisance(s) shall submit bids to the chief housing code inspector by 11:00 a.m. on the first Friday following each city council meeting at which the city council

authorizes the abatement and removal of said nuisance(s). The designated registered nuisance abatement agent shall be selected on a competitive bid basis; however, strict compliance with state competitive bid laws is not required. Those persons so designated are hereby authorized to enter upon private property for purposes of abating or removing said nuisance and if said persons encounter obstructions to the removal of said nuisances, may remove the obstruction.

- (b) The registered nuisance abatement agent shall have ten days to abate the nuisance and 15 days to submit the bill to the housing codes office. In special circumstances, the chief housing codes inspector may grant an extension. However, failure to complete the abatement and submit a bill in the required time will result in the chief housing codes inspector awarding the abatement of the nuisance to subsequent designated registered nuisance abatement agent selected on a competitive bid basis.
- (c) The chief housing codes inspector has the authority to remove any registered nuisance abatement agent from the list for non-performance.
- (d) Any owner, occupant, lessee or person in control of said property shall have the right to have any nuisance removed at his or her own expense providing the removal is done prior to the commencing of the work by the employees or agents of the municipality to do the removal.

Sec. 12-135. - Collection of nuisance or weed liens.

- (a) The city housing code department shall keep an account of the cost of abating or removing a nuisance where the work is done by a city employee or by a duly authorized registered nuisance abatement agent.
- (b) The amounts of the cost for abating the nuisance on the various parcels of land mentioned in the report shall hereinafter be referred to as "nuisance or weed liens," and shall constitute a nuisance or weed lien against the property for the amount of the abatement of said nuisance. After confirmation of the reports, a copy may be given to the appropriate official who is charged with the collection of taxes or assessments. It shall be the duty of said official to add the costs of the respective nuisance or weed liens to the next regular bills for taxes levied against the respective lots and parcels of land subject to each nuisance or weed lien, and thereafter, the costs shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency. In cases where cost for the abatement has been paid for by another source other than the city, no nuisance or weed lien may be placed against the owner's property.
- (c) The city may assess the abatement costs authorized against any lot or lots or parcel or parcels of land purchased by the state or any purchaser at any sale for the nonpayment of taxes and where an assessment is made against a lot or lots or parcel or parcels of land, a subsequent redemption thereof by a person authorized to redeem or sale thereof by the state, shall not operate

to discharge, or in any manner affect the nuisance or weed lien for the assessment, but a person redeeming the property or purchaser at a sale by the state of any lot or lots or parcel or parcels of land upon which an assessment has been levied, whether prior to or subsequent to a sale to the state or purchaser for the nonpayment of taxes, shall take the same subject to the assessment.

Sec. 12-136. - Administrative cost of abatement.

- (a) If the nuisance is not abated within ten days of the date of the notice, there shall be an administrative fee \$150.00, which shall be added to the actual cost for abatement of the nuisance and shall be included in the amount of the lien filed with the appropriate official who is charged with the collection of taxes or assessments. The administrative fee shall be assessed against the owner of the property even if the nuisance is not ultimately abated by employees of the city or a registered nuisance abatement agent. The city may collect said fee through court action or any other lawful means; however, no lien may be placed against the owner's property solely to recover administrative costs.
- (b) If the city initiates the removal and abatement of multiple nuisance conditions on the same property at the same time, only one administrative fee will be assessed.

Secs. 12-137—12-140. - Reserved.

4. This ordinance shall go into effect ninety (90) days after its passage and approval.

ADOPTED this the _____ day of _____, 2020.

STEVEN L. REED, MAYOR

ATTEST:

BRENDA GALE BLALOCK, CITY CLERK

Resolution to declare abandoned and obsolete signs located on private property a blight on the community.

(1) To provide for the safety, health, and welfare of the citizens of the community, including pedestrian and automobile travelers, by minimizing distractions, obstructions, and other hazards that may be caused by the display of signs;

(2) To preserve the natural, historic, and scenic beauty of the community;

(3) To encourage the effective and creative use of signs as a means of communication within the city through enhanced architecture and design of signs within the city;

(4) To maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth;

(5) To minimize the possible adverse effects of signs on nearby public and private property;

(6) To provide for a reasonable display of signs, without interference from other signage, in a fair and equitable manner; and

Abandoned and/or Obsolete Sign — Any sign that advertises a business, lessee, owner, product, or service that is no longer located or being offered on the premises. Also any sign that advertises an event or activity that is no longer being conducted on the premises. Any sign structures or supports that have been erected and have no advertisement or signs that are in disrepair shall be considered an obsolete sign, unless otherwise determined by the City to be a historic/exempt sign. However, permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed obsolete unless the premises remains vacant for a period of six (6) months or more.

Any sign that is abandoned or becomes obsolete or is obsolete at the time of adoption of this resolution shall be removed by the owner or agent of the property upon which such sign may be found under the provisions set forth in State Statute 11-53b.

Item No. 4

To be provided at council meeting.

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING SHOW CAUSE HEARING

WHEREAS, Section 16-101 of the Code of Ordinances provides procedure for revocation or suspension of license or refusing to grant a license; and

WHEREAS, Montgomery Fire Chief Jordan has requested a Show Cause Hearing for Walter Griffin, Jr., d/b/a Southeast Pallet & Box, Inc., 4596 Washington Ferry Road, Montgomery, AL, by the Council pursuant to the attached MFD Memorandum (Exhibit A) listing violations of the International Fire Code 2018; and

WHEREAS, the Council of the City of Montgomery desires to schedule a show cause hearing for Walter Griffin, Jr., d/b/a Southeast Pallet & Box, Inc., 4596 Washington Ferry Road, Montgomery, AL, as to why this business license should not be revoked pursuant to charges that they have failed to adhere to notice given by the Montgomery Fire Department to removed pallets and tractor trailers blocking the roadway or emergency fire access

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, that, Walter Griffin, Jr., d/b/a Southeast Pallet & Box, Inc., 4596 Washington Ferry Road, Montgomery, AL, is hereby set for a Show Cause Hearing on Tuesday, May 18, 2021 at 5:00 p.m. to show cause why this business license should not be revoked, and City Clerk is instructed to notify licensee. Licensee may be represented by an attorney and have witnesses to appear at said hearing.

STATE OF ALABAMA
COUNTY OF MONTGOMERY
CITY OF MONTGOMERY

I, Brenda Gale Blalock, City Clerk of the City of Montgomery, Alabama, DO HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution which was duly adopted by the Council of the City of Montgomery, Alabama, at its regular meeting held the _____ day of _____, 2021.

Given under my hand and the official SEAL of the City of Montgomery, Alabama, this the _____ day of _____, 2021.

BRENDA GALE BLALOCK, CITY CLERK

APPROVED: _____

STEVEN L. REED, MAYOR

RESOLUTION NO. _____

WHEREAS, Air Base Inc., d/b/a Quick Serve 37, 4200 Carmichael Road, Montgomery, AL 36106, has filed an application for Retail Beer (Off Premises Only) and Retail Table Wine (Off Premises Only) Licenses, as indicated on the application form of the State of Alabama Alcoholic Beverage Control Board:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, Air Base Inc., d/b/a Quick Serve 37, 4200 Carmichael Road, Montgomery, AL 36106, be and is hereby approved for Retail Beer (Off Premises Only) and Retail Table Wine (Off Premises Only) Licenses, and concurrence in the issuance of the licenses by the State of Alabama Alcoholic Beverage Control Board.

STATE OF ALABAMA)
COUNTY OF MONTGOMERY)
CITY OF MONTGOMERY)

I, Brenda Gale Blalock, City Clerk of the City of Montgomery, Alabama, DO HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution which was duly adopted by the Council of the City of Montgomery, Alabama, at its regular meeting held the _____ day of _____, 2021.

GIVEN under my hand and the official SEAL of the City of Montgomery, Alabama, this the _____ day of _____, 2021.

BRENDA GALE BLALOCK, CITY CLERK

APPROVED: _____

STEVEN L. REED, MAYOR

RESOLUTION NO. _____

WHEREAS, Air Base Inc., d/b/a Quick Serve 38, 4101 Troy Highway, Montgomery, AL 36116, has filed an application for Retail Beer (Off Premises Only) and Retail Table Wine (Off Premises Only) Licenses, as indicated on the application form of the State of Alabama Alcoholic Beverage Control Board:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, Air Base Inc., d/b/a Quick Serve 38, 4101 Troy Highway, Montgomery, AL 36116, be and is hereby approved for Retail Beer (Off Premises Only) and Retail Table Wine (Off Premises Only) Licenses, and concurrence in the issuance of the licenses by the State of Alabama Alcoholic Beverage Control Board.

STATE OF ALABAMA)
COUNTY OF MONTGOMERY)
CITY OF MONTGOMERY)

I, Brenda Gale Blalock, City Clerk of the City of Montgomery, Alabama, DO HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution which was duly adopted by the Council of the City of Montgomery, Alabama, at its regular meeting held the _____ day of _____, 2021.

GIVEN under my hand and the official SEAL of the City of Montgomery, Alabama, this the _____ day of _____, 2021.

BRENDA GALE BLALOCK, CITY CLERK

APPROVED: _____

STEVEN L. REED, MAYOR

RESOLUTION NO. _____

WHEREAS, Hookah House LLC, d/b/a Hookah House, 105 North Burbank Drive, Montgomery, Alabama 36117, has filed an application for a Lounge Retail Liquor – Class I License, as indicated on the application form of the State of Alabama Alcoholic Beverage Control Board:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, Hookah House LLC, d/b/a Hookah House, 105 North Burbank Drive, Montgomery, Alabama 36117, be and is hereby approved for a Lounge Retail Liquor – Class I License, and concurrence in the issuance of the license by the State of Alabama Alcoholic Beverage Control Board.

STATE OF ALABAMA)
COUNTY OF MONTGOMERY)
CITY OF MONTGOMERY)

I, Brenda Gale Blalock, City Clerk of the City of Montgomery, Alabama, DO HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution which was duly adopted by the Council of the City of Montgomery, Alabama, at its regular meeting held the _____ day of _____, 2021.

GIVEN under my hand and the official SEAL of the City of Montgomery, Alabama, this the _____ day of _____, 2021.

BRENDA GALE BLALOCK, CITY CLERK

APPROVED: _____

STEVEN L. REED, MAYOR