

AN ORDINANCE LEVYING A PRIVILEGE OR LICENSE TAX AGAINST PERSONS, FIRMS, OR CORPORATIONS ENGAGED IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT RETAIL OR CONDUCTING PLACES OF AMUSEMENT IN THE TOWN OF HAMILTON, ALABAMA, OR WITHIN ITS POLICE JURISDICTION; PROVIDING FOR THE COLLECTION OF THE SAID TAXES; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE

BE IT ORDAINED By the Town Council of the Town of Hamilton, Alabama, as follows:

Section 1. Definitions and Use of Phrases

The term "town", wherever used herein, shall mean the Town of Hamilton, Alabama.

The term "town clerk", wherever used herein, shall mean the Town Clerk of the Town.

The term "Town Council", wherever used herein, shall mean the Town Council of the Town.

The term "State Department of Revenue", wherever used herein, shall mean the Department of Revenue of the State of Alabama.

The term "State sales tax statutes", wherever used herein, shall mean Act No. 100 adopted at the Second Extraordinary Session of 1959 of the Legislature of Alabama as heretofore amended and supplemented.

The term "tax proceeds within the Town", wherever used herein, shall mean the proceeds from the taxes herein levied with respect to business conducted within the corporate limits of the Town.

The term "Tax proceeds in the police jurisdiction", wherever used herein, shall mean the proceeds from the taxes herein levied with respect to business conducted within the police jurisdiction of the Town but outside of its corporate limits.

The definitions set forth in the State sales tax statutes shall be effective as definitions of the words, terms and phrases used in this Ordinance. All words, terms, and phrases used herein, other than those hereinabove specifically defined, shall have the respective meanings ascribed to them in the State sales tax statutes, and shall have the same scope and effect that the same words, terms and phrases have when used in the State sales tax statutes.

Section 2. Local Tax in the Town

There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the person on account of the business activities and in the amounts to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

(a) Upon every person, firm or corporation engaged, or continuing within the Town in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidence of debt or stocks), an amount equal to one per cent (1%) of the gross proceeds of sales of the business except where a different amount is expressly provided herein; provided, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax measured by the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay as a retailer the tax measured by the gross sales of the business; and provided, further, that where all sales of a company are single sales of peanut products, milk products, coffees, and confections sold in dispensing machines located in industrial plants or on private property for employees where such machines dispense exclusively articles not to exceed ten cents (10¢) per sale, and the person operating such machines shall be engaged in the business of selling exclusively articles not to exceed ten cents (10¢) per sale and shall have filed with the State Department of Revenue a sworn statement to that effect and shall keep and maintain records satisfactory to the State Department of Revenue, the tax herein provided for shall not be levied with respect to such business;

(b) Upon every person, firm, or corporation engaged, or continuing with <sup>in</sup> the Town, in the business of conducting, or operat-

as places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudeville, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution within this State, or any athletic association thereof, or other association whether such institution or association be a denominational, a State, or County, or a municipal institution or association or a State, County, or town school, or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public, or place or places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the State of Alabama, an amount equal to one per cent (1%) of the gross receipts of any such business;

(c) Upon every person, firm or corporation engaged or continuing within the Town of Hamilton in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, an amount equal to one-half <sup>of one</sup> per cent ( $\frac{1}{2}$  of 1%) of the gross proceeds of the sale of such machines; and

(d) Upon every person, firm or corporation engaged or continuing within the Town in the business of selling at retail any automotive vehicle, truck trailer, semi-trailer, or house trailer, an amount equal to one-half of one per cent ( $\frac{1}{2}$  of 1%) of the gross proceeds of the sale of said automotive vehicle, truck trailer, semi-trailer or house trailer; provided that when any used automotive vehicle, truck trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

Section 3. Provisions of State Sales Tax Statutes Applicable to this Ordinance and Taxes Herein Levied

This Ordinance and the taxes herein levied shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, penalties, fines, punishments and deductions that are applicable to the taxes levied by the state sales tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state sales tax statutes for enforcement and collection of taxes.

Section 4. Collection and Payment of Taxes Herein Levied

The taxes levied under the provisions of this Ordinance shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues. On or before the twentieth day of each month beginning with the month of Sept. 1936, every person on whom the taxes levied by this Ordinance are imposed shall render a true and correct statement showing the gross sales, the gross proceeds of sales, or gross receipts of his business, as the case may be, for the month preceding month, the amount of gross proceeds or gross receipts which are not subject to the said taxes, or are not/used as a measurement of the taxes due by such person, and the nature thereof, together with such other information as may be required, as herein provided, and at the time of making said monthly report such person shall compute the amount of the taxes due and shall pay the amount of taxes shown to be due. The taxes herein levied shall be collected by the State Department of Revenue at the same time and along with the collection by the said Department of Revenue of the taxes collected for the State under the provisions of the state sales tax statutes, the taxes herein levied shall be paid by each taxpayer to the State Department of Revenue, and the monthly reports or statements herein provided for shall be made to the State Department of Revenue, all pursuant to and in accordance with the applicable procedures of the State Department of Revenue and any statutes that may at the time be applicable to the collection by the State Department:

of Revenue of the taxes herein levied; provided, however, that if at any time the State Department of Revenue shall cease to make collections of the taxes herein levied, then the said taxes shall be paid to the Town Clerk and the monthly statements or reports herein provided for shall be filed with the Town Clerk and shall be in such form as the Town Council may prescribe. If any person subject to this Ordinance should wilfully make a false return or false statement of facts in any statement or report required hereunder, he shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 8 of this Ordinance.

Section 5. Adding Amount of Tax to Price

Any person on whom the taxes levied by this Ordinance are imposed may add the tax herein levied to the sales price of the goods sold or to the admission price to a place of amusement and may collect the amount so added from the purchaser, or person paying the admission price, but this section is not mandatory.

Section 6. Reporting of Credit Sales

Any person taxable under this Ordinance having cash and credit sales, may, if he desires, report such cash sales only, and he shall thereafter include in each monthly report all credit collections made during the month preceding and shall pay the taxes due thereon at the time of filing such report.

Section 7. Records

It shall be the duty of every person engaging or continuing in any business for which a privilege tax is imposed by this Ordinance, to keep and preserve suitable records of the gross sales, gross proceeds of sales and gross receipts of sales of such business and such other books or accounts as may be necessary to determine the amount of tax for which he is liable, under the provisions of this Ordinance, and it shall be the duty of every person to keep and preserve for a period of three years, all invoices of goods, wares and merchandise purchased for resale or

Merchandise, and all such books, invoices, and other records shall be open for examination at any time by the Town or its agent. Any person selling both at wholesale and retail shall keep his books so as to show separately the gross proceeds of wholesale sales and the gross proceeds of retail sales. The books, records, and accounts provided for in this section shall at all times be open to examination by the State Department of Revenue, by the Town Clerk, and by any other person designated by the Town Council.

Section 8. Penalty for Violation Hereof

Any person who shall fail to keep the records provided for in section 7 hereof, or who shall refuse to permit such examination thereof, or who violates any other provisions hereof, shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$100.00 for each offense. Each month of such failure shall constitute a separate offense. Any person failing to render any report required by Section 4 of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$100.00 and each failure shall constitute a separate offense.

Section 9. Levy of Tax in Police Jurisdiction

There is hereby levied, in addition to all taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against the persons on account of the business activities and in the amounts to be determined by the application of rates against gross sales or gross receipts, as the case may be as follows:

(a) Upon every person engaged or continuing within the police jurisdiction of the Town and beyond the corporate limits thereof in the business of selling at retail any tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, bonds or other evidences of debt or stocks), an amount equal to one-half of one per cent (1/2 of 1%) of the gross proceeds of sales of the business except where a different amount is expressly provided herein; provided

that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax measured by the gross proceeds of retail sales of such business at the rates specified, when his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay as a retailer the tax measured by the gross sales of the business; and provided, further, that where all sales of a company are single sales of peanut products, milk products, coffee, and confections sold in dispensing machines located in industrial plants or on private property for employees where such machines dispense exclusively articles not to exceed ten cents (10c) per sale, and the person operating such machines shall be engaged in the business of selling exclusively articles not to exceed ten cents (10c) per sale and shall have filed with the State Department of Revenue a sworn statement to that effect and shall keep and maintain records satisfactory to the State Department of Revenue, the tax herein provided for shall not be levied with respect to such business;

(b) Upon every person, firm, or corporation engaged, or continuing within the police jurisdiction of the Town, and beyond the corporate limits thereof, in the business of conducting or operating places of amusement or entertainment, billiard and pool rooms, bowling alleys, amusement devices, musical devices, theaters, opera houses, moving picture shows, vaudevilles, amusement parks, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football and baseball games (including athletic contests conducted by or under the auspices of any educational institution within this State, or any athletic association thereof, or other association whether such institution or association be denominational, a State, County, or municipal institution or association or a State, County or Town school or other institution, association or school), skating rinks, race tracks, golf courses, or any other place at which any exhibition, display, amusement or entertainment is offered to the public, or place or places where an admission fee is charged, including

the machine plates, public domain, of every kind and description within the State of Alabama, an amount equal to one-half of one per cent (1/2 of 1%) of the gross receipts of any such business;

(c) Upon every person, firm or corporation engaged or continuing within the police jurisdiction of the Town and beyond the corporate limits thereof in the business of selling at retail machines used in mining, quarrying, cementing, processing and manufacturing of tangible personal property, an amount equal to one-eighth of one per cent (1/8 of 1%) of the gross proceeds of the sale of such machines; and

(d) Upon every person, firm or corporation engaged or continuing within the police jurisdiction of the Town and beyond the corporate limits thereof in the business of selling at retail any automotive vehicle, truck trailer, semi-trailer or house trailer, an amount equal to one-eighth of one per cent (1/8 of 1%) of the gross proceeds of said automotive vehicle, truck trailer, semi-trailer or house trailer, provided, that when any used automotive vehicle, truck trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold less the credit for the used vehicle taken in trade.

All the provisions of this Ordinance, other than the rate of taxation, which apply to persons engaging in business within the corporate limits of the Town shall apply to and govern and be binding upon all persons engaging in such business within the police jurisdiction of the Town and beyond its corporate limits.

#### Section 10. Discount for prompt Payment

A discount equal to 3% of the first \$100 of each monthly installment of the taxes herein levied and 2% of that portion of each monthly installment of the said taxes in excess of \$100 shall be allowed to each taxpayer on the filing of the monthly report



with respect to such installment in the form and at the time herein provided, upon payment of the amount of such weekly installment (plus said discount) at the time when such installment is required herein to be paid. If the report is not filed and payment is not made within the time herein provided with respect to any weekly installment of the tax herein levied, the taxpayer shall not be entitled to the said discount with respect to that weekly installment but shall pay the full amount of the tax then due together with interest at the rate of 6% per annum from the date on which payment becomes due.

Section 11. Severability

Each and every provision of this Ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void and invalid shall not affect any other provision hereof, and it is hereby declared that the other provisions of this Ordinance would have been enacted regardless of any provision which may here be held invalid.

Section 12. This Ordinance Cumulative

This Ordinance shall not be construed to repeal any of the provisions of the General License Code or Ordinance of the Town or of any other Ordinance of the Town, but shall be held to be cumulative, and the amount of the taxes herein levied shall be in addition to the amounts of all other license taxes imposed by the Town.

Section 13. Effective Date

This Ordinance shall become effective on the 1st day of August, 1966, and the first payment of taxes hereunder shall be due and payable on the 20th day of September, 1966. This Ordinance shall remain in full force and effect and apply to each month in the year 1966, and to each month of each calendar year thereafter from year to year.

ADOPTED AND APPROVED THIS, THE 11TH DAY OF JULY, 1966.

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Mayor

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