

ORDINANCE NO 1687

AN ORDINANCE TO REVISE, AMEND, CODIFY AND/OR RECODIFY ORDINANCE #1279, ORDINANCE #1566, ORDINANCE #1571 AND ORDINANCE #1673 AND ANY AND ALL OTHER EXISTING ORDINANCES, PERTAINING TO ALA. CODE 1975, SECTIONS 11-51-200 THROUGH 11-51-211, REGARDING THE LEVY OF A PRIVILEGE, LICENSE, EXCISE OR USE TAX AGAINST PERSONS, FIRMS OR CORPORATIONS STORING, USING OR OTHERWISE CONSUMING, OR ENGAGED IN THE BUSINESS OF SELLING AT RETAIL ANY TANGIBLE PERSONAL PROPERTY, INCLUDING SALES OF FOOD AND FOOD PRODUCTS THROUGH COIN-OPERATED DISPENSING MACHINES; OR CONDUCTING OR OPERATING PLACES OF AMUSEMENT OR ENTERTAINMENT, WITHIN THE CITY OF TALLADEGA, OR ITS POLICE JURISDICTION; PROVIDE FOR THE COLLECTION OF SAID TAXES; TO PROVIDE FOR THE DATE OF BEGINNING COLLECTION OF THE REVISED SALES TAX AND USE TAX; AND PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF TALLADEGA, ALABAMA, PURSUANT TO THE PROVISIONS OF ALA. CODE 1975, SECTIONS 11-51-200 THROUGH 11-51-211, AND AS MAY BE AMENDED, AS FOLLOWS:

SECTION 1. Sales Tax: 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, firm or corporation on account of the business activities and in the amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

(a) **Tangible Personal Property**. Upon every person, firm or corporation (including the State of Alabama, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominations, state, county or municipal institutions, any association or other agency or instrumentality of such institutions), engaged or continuing within this City, 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 debts or stocks, nor sales of materials and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships, other water craft and commercial fishing vessels of over five tons load displacement as registered with the U.S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources), an amount equal to five percent (5%) of the gross proceeds of the business, except where a different amount is expressly provided herein. Provided, however, that any person engaging or continuing in business as a retailer and wholesaler or jobber shall pay the tax required on 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 the tax as a retailer, on the gross sales of the business.

(b) **Places of Amusement or Entertainment**. Upon every person, firm or corporation engaged or continuing within the City 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, 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 the City, 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 City 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 five percent (5%) of the gross receipts of any such business.

(c) **Machines Used in Mining, Quarrying, etc.** Upon every person, firm or corporation engaged or continuing within this City 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 percent (1%) of the gross proceeds of the sale of such machines; provided that the term "machines", as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefore, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(d) **Automotive Vehicles. Truck Trailers, etc.** Upon every person, firm or corporation engaged or continuing within this City in the business of selling at retail any automotive vehicle or truck trailer, semi-trailer or house trailer, or mobile home set-up materials and supplies, including, but not limited to, steps, blocks, anchoring, cable pipes and any other materials pertaining thereto, an amount equal to .75 percent (.75%) of the gross proceeds of sale of said automotive vehicles or truck trailer, semi-trailer or house trailer, or mobile home set-up materials and supplies, provided, however, where a person subject to the tax provided for in this subdivision withdraws from his stock in trade any automotive vehicle or truck trailer, semi-trailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein a fee of Two and 50/100 (\$2.50) dollars per year, or part thereof, during which such automotive vehicle, truck trailer, semi-trailer or house trailer shall remain the property of such person. Each such year, or part thereof, shall begin with the day or anniversary date, as the case may be, of such withdrawal and shall run for the twelve succeeding months, or part thereof, during which such automotive vehicle, truck trailer, semi-trailer or house trailer shall remain the property of such person.

Where any used automotive vehicle or 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 here 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.

(e) **Food Sold Through Coin-Operated Dispensing Machines.** Upon every person, firm or corporation engaged or continuing within this City in the business of selling, through coin-operated dispensing machines, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes therefore, there is hereby levied a tax equal to three percent (3%) of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subdivision shall be the gross proceeds of sales of such business.

(f) **Machines For Planting, Cultivating and Harvesting Farm Products.** Upon every person, firm or corporation engaged or continuing within this City in the business of selling, at retail, any machines, machinery or equipment, either that which is self-propelled or otherwise propelled or drawn, and which is used in planting, cultivating and harvesting farm products, or that which is used in connection with the production of agricultural, produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefore, which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and which are necessary to and customarily used in the operation of such machine, machinery or equipment an amount equal to one percent (1%) of the gross proceeds of the sale thereof. The rate herein prescribed with respect to parts, attachments and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment, either that which is self-propelled or otherwise propelled or drawn and which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms, is taken in trade or in a series of trades as a credit or part-payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.

SECTION 2: Use or Excise Tax: (a) An excise tax is hereby imposed on the storage, use or other consumption in the City of all tangible personal property whatsoever, including merchandise and commodities of every kind and character (not including, however, sales of materials and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships, other water craft and commercial fishing vessels of over five tons load displacement, as registered with the U.S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources), purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in the City, at the rate of five percent (5%) of the sales price of such property within the corporate limits of said City, except as provided in Sections (b), (c), and (d) hereafter.

(b) An excise tax is hereby imposed on the storage, use or other consumption in the City of any machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property purchased at retail on or after the effective date of this ordinance, at the rate of one per cent (1%) of the sales price of any such machine, within the corporate limits of the City, provided that the term "machine" as herein used, shall include machinery which is used for mining, quarrying, compounding, processing or manufacturing tangible personal property, and

the parts of such machines, attachments and replacements therefore, which are made or manufactured for use on or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(c) An excise tax is hereby imposed on the storage, use or other consumption in the City of any automotive vehicle or truck trailer, semi-trailer or house trailer purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in the City at the rate of .75 percent (.75%) of the sales price for such automotive vehicle, truck trailer, semi-trailer or house trailer within the corporate limits of said City. Where 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.

(d) An excise tax is hereby levied and imposed on the storage, use or other consumption in the City of any machine, machinery or equipment which is used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements therefore, which are made or manufactured for use on or in the operation of such machine, machinery or equipment and which are necessary to and customarily used in the operation of such machine, machinery or equipment, which is purchased at retail after the effective date of this ordinance, for the storage, use or other consumption in the City, at the rate of one percent (1%) of the sales price of such property within the corporate limits of said City, regardless of whether the retailer is or is not engaged in the business in this City; provided, however, the one percent (1%) rate herein prescribed with respect to parts, attachments and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities. Where any used machine, machinery or equipment which used in planting, cultivating and harvesting farm products, or used in connection with the production of agricultural produce or products, livestock and poultry on farms, is taken in trade, or in a series of trades, as a credit or part-payment on a sale of a new or used machine, machinery or equipment, the tax levied herein shall be paid on the net difference, that is, the price of the new or used machine, machinery or equipment sold, less the credit for the used machine, machinery or equipment taken in trade.

SECTION 3. Levy of the Tax in the Police Jurisdiction: Upon every person, firm or corporation engaged in the doing of any act, or who shall do any act, or continuing in the doing of any act, or engaged in the operation of any business, or who shall engage in the operation of any business, within the police jurisdiction of the City, but beyond the corporate limits of said City, for which or upon which a privilege, license, excise or use tax is in this ordinance levied or required within the corporate limits of the City, there is hereby levied, in addition to all other taxes of every kind now imposed by law or by municipal ordinance, to be collected as herein provided for the privilege, license, excise or use tax equal to one-half of that provided, levied or required in this ordinance for the doing of such act, or the engaging or continuing therein, or the engaging or continuing in the operation of such business within the corporate limits of the City; provided, further, that except for the amount of the privilege or license tax herein levied within the police jurisdiction of said City, but without the corporate limits thereof, all the provisions of this ordinance extend and apply to all the area within the police jurisdiction of the City.

SECTION 4. Applicability of Provisions of State Sales and Use Tax Law: All taxes levied or assessed pursuant to this ordinance shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, regulations, procedures, penalties, fines, punishments and deductions as provided by the revenue laws of the State of Alabama regarding sales and use taxes, Ala. Code 1975, Title 40, Chapter 2A and Chapter 23, except where inapplicable or where otherwise provided in this ordinance. Notwithstanding the foregoing, the following shall apply as to the filing of taxes and reports and for the granting of discounts:

A. The filing of all taxes and reports required under Ala. Code 1975, Section 40-23-7 and all other applicable sections of the Code of Alabama (1975) shall be made electronically; and

B. No discount shall be allowed to any taxpayer for the payment of taxes due by such taxpayer before the same becomes delinquent.

SECTION 5. Allocation of Sales Tax and Use Tax Collected Under This Ordinance:

(a) The sales tax and use tax collected under the provisions of Section 1(a) and (b) and Section 2(a) and (b) are hereby allocated as follows:

A. Four percent (4%) of the total sales tax and use tax collected shall be allocated to the general operating fund of the City of Talladega; and,

B. One percent (1%) of the total sales tax and use tax collected shall be allocated as follows:

- i. One-half (1/2) of the one percent (1%) shall be allocated for the exclusive use of capital improvements by the City of Talladega;
- ii. One-fourth (1/4) of the one percent (1%) shall be allocated to the general operating fund of the City of Talladega;
- iii. One-fourth (1/4) of the one percent (1%) shall be held in escrow each fiscal year until the end of the fiscal year. At the end of each fiscal year, the City Council of the City of Talladega shall by ordinance provide for the allocation or expenditure of said funds or for the continued escrow of said funds.

SECTION 6. Effective Date for Beginning Collection of Revised Sales Tax and Use Tax:

The collection of sales tax and use tax at the revised rate under the provisions of Section 1(a) and (b) and Section 2(a) and (b) shall begin on April 1, 2011.

SECTION 7. Wherever any pronoun is used in referring to any person, firm or corporation it shall be construed either as singular or plural in number, and masculine, feminine or neuter in gender, whichever is proper in accordance with the context of this ordinance.

SECTION 8. (a) The provisions of this ordinance, so far as they are the same as those of the ordinances existing at the time of the adoption of this ordinance, shall be considered as a continuation thereof, and not as new enactments.

(b) This ordinance is a revision, codification or re-codification of Ordinances Numbered 897, 980, 1237, 1279, 1566, 1571 and 1673. This ordinance shall not be construed to repeal any other provisions of the general license code or ordinances of the City, but it shall be held to be cumulative, and the amounts of the taxes herein levied shall be in addition to the amount of all other license taxes imposed by the City by its general license code or ordinance.

SECTION 9. This ordinance shall take effect immediately upon its adoption and publication, as required by law.

APPROVED AND ADOPTED this the 21st day of February 2011.

Dr. Horace Patterson, Council President

Dr. Jimmy Davis, Council Member

Ms. Elizabeth Grissett, Council Member

Mr. Brian Muenger City Manager

Attested to by Elizabeth Cheeks, City Clerk