

ORDINANCE NO. 2016- 01

AN ORDINANCE TO AMEND ARTICLE I, SECTION 1.D AND ARTICLE III, SECTION 3.D OF ORDINANCE NO. 2015-09 OF THE CITY OF PHENIX CITY LEVYING A PRIVILEGE, LICENSE OR EXCISE TAX AGAINST PERSONS, FIRMS, OR CORPORATIONS STORING, USING, OR OTHERWISE CONSUMING OR ENGAGING IN THE BUSINESS OF SELLING AT RETAIL TANGIBLE PERSONAL PROPERTY OR CONDUCTING PLACES OF AMUSEMENT IN THE CITY OF PHENIX CITY, ALABAMA OR WITHIN ITS POLICE JURISDICTION.

BE IT ORDAINED by the City Council of the City of Phenix City, in the State of Alabama, as follows:

I. Section 1 of Ordinance No. 2015-09 of the City of Phenix City, which was adopted and approved by the City Council of the said City on September 1, 2015 is hereby amended so that the said Section 1 shall read in its entirety as follows:

Section 1. 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 amount 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, (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 denominational, state, county or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged, or continuing within the 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, not sale or sales of material and supplies to any person for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, barges, ships and other watercraft and commercial fishing vessels of over five (5) 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 four percent (4.0%) of the gross proceeds of sales 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 retailer on the gross sales of the business.

(b) 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, 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 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 City, an amount equal to four percent (4.0%) of the gross receipts of any such business. Provided, however, notwithstanding any language to the contrary in the prior portion of this subsection, the tax provisions so specified shall not apply to any athletic event conducted by a public primary or secondary school. The tax amount which would have been collected pursuant to this subsection shall continue to be collected by said public primary or secondary school but shall be retained by the school which collected it and shall be used by said school for school purposes.

(c) Upon every person, firm or corporation engaged or continuing within the 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 four percent (4.0%) 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 therefor 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) Upon every person, firm or corporation engaged or continuing within the City in the business of selling at retail any automotive vehicle, watercraft or truck trailer, semi-trailer, 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 three percent (3.0%) of the gross proceeds of sale of said automotive vehicle, watercraft, truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies provided, however, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle watercraft 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 20.00 per year or part thereof during which such automotive vehicle, watercraft, 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, watercraft, truck trailer, semi-trailer or house trailer shall remain the property of such person.

Where any used automotive vehicle watercraft, 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 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.

(e) Upon every person, firm or corporation engaged or continuing within the City in the business of selling at retail 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, an amount equal to four percent (4.0%) of the gross proceeds of the sale thereof. Provided, however, the four percent (4.0%) 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 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.

(f) Upon every person, firm or corporation engaged or continuing within the 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 therefor, there is hereby levied a tax equal to four percent (4.0%) of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.

II. Section 2 of Ordinance No. 2015-09 of the City of Phenix City which was adopted and approved by the City Council of said City on September 1, 2015 is hereby amended so that the said Section 2 shall read in its entirety as follows:

Section 2. Levy of the Tax in Police Jurisdiction. Upon every person, firm or corporation engaged in the doing of an act, or who shall do an act, or continuing in the doing of an 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 or license 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 or license taxes herein levied within the corporate limits of the City, a privilege or license tax equal to one-half (1/2) 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.

III. Section 3 of Ordinance No. 2015-09 of the City of Phenix City which was adopted and approved by the City Council of said City on September 1, 2015 is hereby amended so that the said Section 3 shall read in its entirety as follows:

Section 3. (a) An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property (not including materials and supplies bought for use in fulfilling a contract for the painting, repairing, or reconditioning of vessels, barges, ships and other watercraft and commercial fishing vessels of over five (5) 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, except as provided in subsections (b), (c), and (d), at the rate of four percent (4.0%) of the sales price of such property within the corporate limits of said City.



(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 four percent (4.0%) 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 therefor, 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 watercraft, or truck trailer, semi-trailer, 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 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 three percent (3.0%) of the sales price of such automotive vehicle, watercraft, truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies within the corporate limits of said City. Where any used automotive vehicle watercraft, 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 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 therefor 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 four percent (4.0%) 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 four percent (4.0%) 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 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.

(e) An excise tax is hereby imposed on tangible personal property at one-half (1/2) the rates specified in subsections (a), (b), (c), and (d) of this section on the storage, use or other consumption of such tangible personal property outside the corporate limits of the City, but within the police jurisdiction.



IV. This ordinance shall become effective on the 13<sup>th</sup> day of February, 2016.

All ordinances or parts of ordinances in conflict herewith are hereby repealed by this ordinance.

If any part, section, or subdivision of the ordinance is declared unconstitutional or invalid for any reason, it shall not automatically void or invalidate the remaining sections.

PASSED, APPROVED AND ADOPTED this 5<sup>th</sup> day of January, 2016..

  
MAYOR

  
MEMBERS OF THE CITY COUNCIL OF  
THE CITY OF PHENIX CITY, ALABAMA

ATTEST:

  
CITY CLERK