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PURSUANT TO THE LAWS OF THE STATE OF ALABAMA WHICH ENABLE THE ST. CLAIR COUNTY COMMISSION TO LEVY THE TAXES HEREINAFTER DEFINED, THIS RESOLUTION OR ORDINANCE LEVIES A SALES TAX WHICH PARALLELS THE LEVY OF SALES TAX BY THE STATE OF ALABAMA AND PROVIDES FOR THE COLLECTION OF SAID TAX AND PENALTIES FOR THE VIOLATION OF THIS ORDINANCE OR RESOLUTION.

Pursuant to the provisions of the laws of the State of Alabama BE IT ORDAINED OR RESOLVED by the St. Clair County Commission of St. Clair County, Alabama, as follows:

Section 1. Definitions and Use of Phrases:

The following words and phrases and others evidently intended as the equivalent thereof shall, in the absence of clear implication herein otherwise, be given the following respective interpretations herein:

"Commission" means the St. Clair County Commission or other governing body of the County that may succeed to the functions of said St. Clair County Commission.

"County" means St. Clair County in the State of Alabama.

"This ordinance or resolution" means this resolution or ordinance.

"State Department of Revenue" shall mean the Department of Revenue of the State of Alabama.

"Persons" shall mean those persons, partnerships, firms or corporations or any other entity engaged in any business that makes them subject to the provisions of this ordinance or resolution.

"State Sales Tax Statutes" shall mean Act No. 100 enacted at the Second Extraordinary Session of 1959 of the Legislature of Alabama, as heretofore amended and supplemented, all other statutes of the State of Alabama directly relating to the subject matter of Act No. 100 (including, without limiting the generality of the foregoing, all statutes exempting the gross proceeds of various sales from the measure of the tax levied by the said Act No. 100) as said other statutes now exist.

Section 2. Levy of Tax in the County:

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 County, 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 materials and supplies sold to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of over fifty tons burden), an amount equal to one per cent (1.0%) 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 busi-

ness.

(b) Upon every person, firm or corporation engaged or continuing within the County 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 (except athletic events or contests conducted by or under the auspices of any primary and secondary public schools; provided further, this exemption applies to receipts from admissions, advertising, parking, sales of programs, food, snacks, candy, drinks and all other receipts accruing to these schools from such athletic events), 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 county, an amount equal to one per cent (1.0%) of the gross receipts of any such business.

(c) Upon every person, firm or corporation engaged or continuing, within the County, 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 of one per cent (1/2 of 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 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 County, in the business of selling at retail any automotive vehicle, truck trailer, semitrailer or house trailer, an amount equal to one-half of one per cent (1/2 of 1%) of the gross proceeds of the sale of said automotive vehicle, truck trailer, semitrailer or house trailer; provided, that when any used automotive vehicle, truck trailer, semitrailer 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 computed 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; and provided further, that when a taxpayer subject to the tax provided for in this subsection (d) withdraws from his stock in trade any automotive vehicle or truck trailer, semitrailer or house trailer for use by such taxpayer or by an employee or agent of such taxpayer in the operation of such business, the tax of such taxpayer hereunder shall be measured with respect to the item so withdrawn by him by the sum of Five and no/100 Dollars (\$5.00) for each year or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer so withdrawn shall remain the property of such taxpayer. Each such year or part thereof shall begin with the day or the 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, semitrailer or house trailer so withdrawn shall remain the property of such taxpayer.

(e) Upon every person, firm or corporation engaged or continuing, within the county, 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 or 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, an amount equal to one-half of one per cent (1/2 of 1%) of the gross proceeds of the sale thereof; provided, however, the rate prescribed in this subsection (e) 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; provided, that 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 part payment on a sale of a new or used machine, machinery or equipment, the measure of the tax levied herein shall be 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 County 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 one per cent (1.0%) 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.

Section 3. Provisions of Certain Statutes Applicable to This Ordinance and Taxes Herein Levied:

This Ordinance or Resolution 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 wherein otherwise provided.

Section 4. Collection and Payment of Taxes Herein Levied:

The taxes levied under the provisions of this Ordinance or Resolution shall be due and payable in monthly installments on or before the twentieth (20th) day of the month next succeeding the month in which the tax accrues. On or before the twentieth (20th) day of each month, every person on whom the taxes levied by this Ordinance or Resolution are imposed shall render a true and correct statement showing (a) the gross sales, the gross proceeds of sales, or gross receipts of his business, as the case may be, for the next preceding month; (b) the amount of gross proceeds or gross receipts which are subject to the said taxes or are not to be used as a measurement of the taxes due by such person and the nature thereof; and (c) such other information as may be required as herein provided. 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 paid to and collected by the Commission or its duly authorized and designated agent. The taxes herein levied shall be paid by each taxpayer to the said Commission or its duly authorized and designated agent. If any person subject to this Ordinance or Resolution 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 hereof.

Section 5. Adding Amount of Tax to Price:

Any person on whom the taxes levied by this ordinance or resolution are imposed shall add the tax herein levied to the sales

price of the goods sold or to the admission price to a place of amusement and shall collect the amount so added from the purchaser or person paying the admission price. It shall be unlawful for any person on whom the tax is levied or imposed by this Ordinance or Resolution to fail or refuse to add the tax herein levied to the said price. It shall likewise be unlawful to refund or offer to refund all or any part of the amount collected or to absorb or advertise directly or indirectly the absorption or refund of the amount required to be added to the sales or admission price and collected from the purchaser or person paying the admission price or any portion of such amount. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Fifty Dollars (\$50.00) nor more than One Hundred Dollars (\$100.00) or may be imprisoned in the county jail for not more than six (6) months or by both such fine and imprisonment, and each act in violation of the provisions of this article shall constitute a separate offense. The foregoing provisions of this section shall in no way relieve any person from payment of the tax levied by this Ordinance or Resolution nor shall the inability, impracticability, refusal or failure to add to the sales price and collect from the purchaser the amounts provided herein relieve such person, firm, corporation, association or co-partnership from the tax levied by this Ordinance or Resolution. All taxes paid in pursuance of this Ordinance or Resolution shall conclusively be presumed to be a direct tax on the retail consumer, precollected for the purpose of convenience and facility only.

Section 6. Reporting of Credit Sales:

Any person taxable under this Ordinance or Resolution 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 or Resolution 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 or Resolution, and it shall be the duty of every person to keep and preserve for a period of three (3) years all invoices of goods, wares and merchandise purchased for resale or otherwise, and all such books, invoices and other records shall be open for examination at any time by the County or its agents. 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 Commission or its duly authorized and designated agent.

Section 8. Penalties for Violation Hereof:

(a) Any person who shall fail to keep the records provided for in Section 7 hereof or who shall refuse to permit such examination thereof shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$500.00 for each offense, and each month in which such failure, refusal or violation shall occur shall constitute a separate offense. Any person failing to render any report required by Section 4 of this Ordinance or Resolution shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$500.00 and each failure shall constitute a separate offense.

(b) Any person who fails to pay, within the time provided in Section 4 hereof, any tax levied by this Ordinance or Resolution

for which he is liable shall be deemed to be doing business without a license and shall pay, in addition to the tax, a penalty of ten per cent (10%) of the amount of tax due (but in no instances less than \$5.00), together with interest thereon at the rate of one-half of one per cent (1/2 of 1%) per month from the date on which the tax became due until it is paid, the penalty and interest to be assessed and collected as a part of the tax; provided that the County may for good and sufficient reason shown to it waive or remit the said ten per cent (10%) penalty or any portion thereof.

Section 9. Discount for Prompt Payment:

A discount equal to two per cent (2%) of each monthly installment of said taxes 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 monthly installment (minus said discount) at or prior to 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 monthly installment of the tax herein levied, the taxpayer shall not be entitled to the said discount with respect to that monthly installment but shall pay the full amount of the tax then due, together with the applicable penalty and interest provided in Section 8 hereof.

Section 10. Use of Proceeds:

All proceeds from the tax hereby levied shall be paid into the general fund of the county treasury for use by the county commission for any purpose for which the general funds of the county may now be used by law and for the costs incurred in the administration and enforcement of said Ordinance or Resolution.

Section 11. Severability:

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

Section 12. Repealer:

The sales tax approved by the St. Clair County Commission on the 22nd day of September, 1987, which became effective on the 1st day of January, 1988, is hereby repealed, nullified, cancelled and held for naught.

Section 12. Exemptions:

The only exemptions permitted under this Ordinance or Resolution are one and the same as permitted or allowed by the State Department of Revenue of the State of Alabama for the same or similar taxes imposed by the State of Alabama.

Section 13. Effective Date:

This Ordinance or Resolution shall become effective as of the 1st day of January, 1992.

ADOPTED this 24 day of September, 1991.