

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 AN USE OR EXCISE TAX WHICH PARALLELS THE LEVY OF USE OR EXCISE TAXES BY THE STATE OF ALABAMA AND PROVIDES FOR THE COLLECTION OF SAID TAX AND PENALTIES FOR THE VIOLATION OF THIS ORDINANCE OR RESOLUTION.

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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.

"Storage" shall mean any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased at retail.

"Use" shall mean the exercise of any right or power over tangible personal property incident to the ownership of that property, or by any transaction where possession is given, except that it shall not include the sale of that property in the regular course of business.

"Use or Excise Tax Statutes" shall mean §40-23-60, et seq, Code of Alabama, 1975, as heretofore amended and supplemented, all other statutes of the State of Alabama directly relating to such tax (including, without limiting the generality of the foregoing, all statutes exempting the gross proceeds of various sales from the measure of such tax 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, an use or excise 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) An use or excise tax is hereby imposed on the storage, use or other consumption in the county 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 of more than fifty (50) tons'

burden) purchased at retail on or after the effective date of this resolution or ordinance for storage, use or other consumption in the county, except as provided in subsections (b), (c) and (d), at the rate of one per cent (1.0%) of the sales price of such property.

(b) An use or excise tax is hereby imposed on the storage, use or other consumption in the county 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 resolution or ordinance at the rate of one-half of one per cent (1/2 of 1%) of the sale price of any such machine, within the county; 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 customarily so used.

(c) An use or excise tax is hereby imposed on the storage, use or other consumption in the county of any automotive vehicle or truck trailer, semitrailer or house trailer purchased at retail on or after the effective date of this resolution or ordinance for storage, use or other consumption in the county at the rate of one-half of one per cent (1/2 of 1%) of the sales price of such automobile vehicle, truck trailer, semitrailer or house trailer within the corporate limits of said city. Where any used automotive vehicle, truck trailer, semitrailer or housetrailer 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 use or excise tax is hereby levied and imposed on the storage, use or other consumption in the county 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 resolution or ordinance, for the storage, use or other consumption in the county at the rate of one-half of one per cent (1/2 of 1%) of the sales price of such property, regardless of whether the retailer is or is not engaged in the business in this county. Provided, however, the one-half of one per cent (1/2 of 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. When 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 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. 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, punishment and deductions that are applicable to the taxes levied by the State Department of Revenue and §40-23-60, et seq,

Code of Alabama, 1975, except where inapplicable or where herein 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 an use or excise 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. 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 1 day of January, 1992.

ADOPTED this 24 day of September, 1991.