

ORDINANCE 02-19-08

AN ORDINANCE PURSUANT TO THE PROVISIONS OF THE LOCAL TAX SIMPLIFICATION ACT OF 1998, ACT 98-192. SECTION 11-51-200 et. seq. CODE OF ALABAMA 1975 AND ANY OTHER ACT OR ACTS GRANTING SUCH AUTHORITY OR PERMISSION, 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 ENTERPRISE, COFFEE COUNTY, ALABAMA, OR WITHIN ITS POLICE JURISDICTION; AND PROVIDING FOR THE COLLECTION OF SAID TAXES AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND REPEALING A PRIOR ORDINANCE LEVYING SIMILAR TAXES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENTERPRISE IN THE STATE OF ALABAMA 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 in 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, nor 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 of over fifty tons burden), an amount equal to three and one half percent (3 ½ %) 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 a retailer on the gross sales of the business.

(b) Upon every person, firm or corporation engaged in 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, prizefights, 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 three and one-half percent (3 ½ %) of the gross receipts of any such business.

(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 two percent (2%) 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) Upon every person, firm or corporation engaged or continuing within the City in the business of selling at retail any automotive vehicle or truck trailer, semi-trailer or house trailer, an amount equal to one and one-fourth percent (1 ¼ %) of the gross proceeds of sale of said automotive vehicle or truck trailer, semi-trailer or house trailer, provided, where a person subject to the tax provided for in this subsection 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 49/100 dollars (\$2.49) 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

(d, continued) 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 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 one and one-fourth percent ($1 \frac{1}{4} \%$) of the gross proceeds of the sale thereof. Provided, however, the one and one-fourth percent ($1 \frac{1}{4} \%$) 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 therefore, there is hereby levied a tax equal to three and one-half percent ($3 \frac{1}{2} \%$) 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 2. Levy of the Tax in 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 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.

SECTION 3. Provisions of State Sales Tax Statutes Applicable to this Ordinance and Taxes Herein Levied. The taxes levied by Sections 1 and 2 of this Ordinance 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.

(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 of more than fifty tons burden) 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 three and one half percent ($3 \frac{1}{2} \%$) 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 two percent (2%) 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 one and one-fourth percent (1 ¼ %) of the sales price of 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 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 and one-fourth percent (1 ¼ %) 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 and one-fourth percent (1 ¼ %) 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.

An excise tax is hereby imposed on tangible personal property at one half 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.

SECTION 5. The taxes levied by Section 4 of this Ordinance 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 use tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the State use tax statutes for enforcement and collection of taxes.

SECTION 6. Discounts are allowed for prompt payment of sales tax only. Discounts in the amount of five percent (5%) on the first one hundred dollars (\$100.00) or less in taxes or in the amount of two percent (2%) of any tax over one hundred dollars (\$100.00), if any, are allowed when taxes are paid before becoming delinquent, but no discount shall be allowed if not paid when due. A penalty of ten percent (10%) and interest at the current rate shall be added to, taxes not paid when due.

SECTION 7. This Ordinance Cumulative to General License Code or Ordinance. This Ordinance shall not be construed to repeal any of the provisions of the general license code or ordinance of the City, but shall be held to be cumulative, and the amount 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 8. 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 for any reason 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 might have been held invalid.

SECTION 9. Ordinance 06-23-89 and the amendment of the caption thereto, being adopted as Ordinance 06-23-89, 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 City of Enterprise, Alabama, and its police jurisdiction, which was adopted and ordained by the City Council on June 23, 1989, is hereby rescinded and repealed as of the effective date of this Ordinance.

SECTION 10. The public welfare, the public health and the public school system requiring it, this Ordinance shall become effective on the first day of May 2008, and the first payment of taxes hereunder shall be due and payable on the 20th day of June, 2008. This Ordinance shall remain in full force and effect and shall apply to each month of the year 2008, beginning with the month of May and to each month of each calendar year thereafter from year to year.

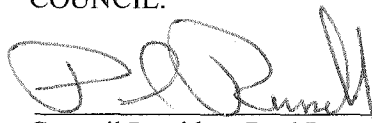
Section 11. The receipts from the taxes herein derived are pledged as follows:

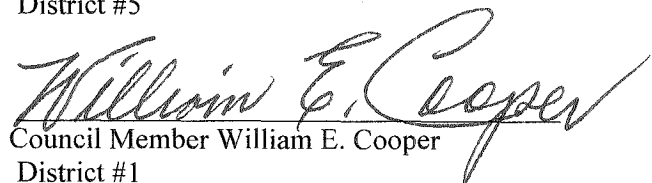
- (a) To the payment of the general obligation bonds issued by the City dated December 1, 2004, and January 1, 2002, respectively, in accordance with the terms thereof; and
- (b) To the payment of a general obligation bonds issued by the City for school construction purposes to be issued at a date to be determined at an amount not to exceed \$30 million plus issuance costs, in accordance with the terms thereof; and
- (c) To the payment to the Enterprise City Board of Education by the City Clerk of an amount equal to 30% of the adjusted net receipts at the base rate being the rate in effect prior to the passage of this ordinance, payable monthly; and
- (d) To the payment to the Enterprise City Board of Education by the City Clerk of an amount equal to 15% of the adjusted net receipts of the additional ½% sales tax provided for by this ordinance after bonds issued for school construction purposes are paid in full, payable monthly.

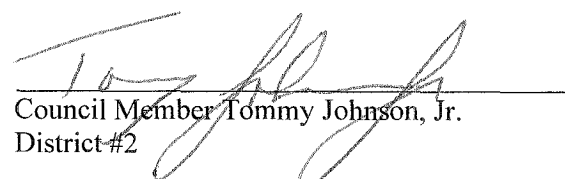
SECTION 12. The City Clerk is hereby directed to cause a copy of this Ordinance to be published in a newspaper of general circulation in the City of Enterprise, Alabama.

Duly Passed and Adopted This 4 Day Of March 2008.

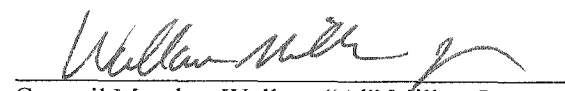
COUNCIL:


Council President Paul Russell
District #5


Council Member William E. Cooper
District #1


Council Member Tommy Johnson, Jr.
District #2

ABSENT
Council Member Kirk Donaldson
District #3


Council Member Wallace "Al" Miller, Jr.
District #4

ATTEST:


Steve W. Hicks
City Clerk/Treasurer

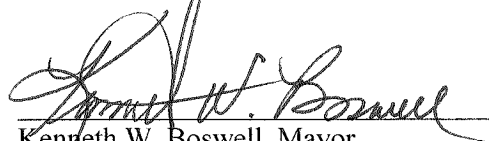
Transmitted to the Mayor this 5 day of March 2008.



Steve W. Hicks, City Clerk/Treasurer

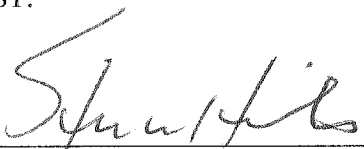
ACTION OF THE MAYOR:

Approved this 5 day of March, 2008.



Kenneth W. Boswell, Mayor

ATTEST:



Steve W. Hicks
City Clerk/Treasurer