

ORDINANCE 2003-001  
TOBACCO TAX

AN ORDINANCE TO LEVY A LICENSE TAX ON THE PERSONS, FIRMS, CORPORATIONS AND OTHERS ENGAGED IN THE BUSINESS OF SELLING, STORING OR DELIVERING CERTAIN TOBACCO PRODUCTS WITHIN THE CORPORATE LIMITS OFF THE TOWN OF VINCENT, OR ITS POLICE JURISDICTION ; TO PROVIDE FOR THE ENGAGEMENT OF SAID ORDINANCE; AND TO PROVIDE PENALTIES FOR ITS VIOLATION.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VINCENT, ALABAMA, as follows:

SECTION 1. **Definitions:** Unless the context clearly indicated a difference meaning, the following words and phrases used in this ordinance shall have the meaning ascribed to them in this section:

“PERSON” means a natural person, firm, corporation, association, club receiver and trustee or other person acting in a fiduciary capacity.

“TOWN” meaning the Town of Vincent.

“corporate LIMITS” meaning the corporate limits of the Town.

“POLICE JURISDICTION” meaning the area outside the corporate limits of the town lying within one and one-half miles from said corporate limits, and not within the corporate limits of any other municipality.

“TOBACCO PRODUCTS” means cigarettes, cigars, smoking tobacco, chewing tobacco, snuff, or any of them.

“CONTAINER OR CONTAINERS” means a) the original boxes from which cigarettes and chewing tobacco are customarily sold, and b) the individual packages or cans in which cigarettes, smoking tobacco and snuff are customarily sold at retail prices.

“SOLD” and “SALE” means any transfer of title or possession, or both, exchanged or bartered, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement therefore, including rewards, process or premiums of tobacco products given as a result of operations of punch boards, shooting galleries or other activities.

“RETAIL PRICE” means the retail selling price of the tobacco products before adding the amount of the tax assessed herein or any other tobacco tax imposed under the law of the State of Alabama.

“WHOLESALE DEALER” means a person who sales or delivers within the town limits or its police jurisdiction, at wholesale only, tobacco products to retail dealers for the purpose of resale only.

“RETAIL DEALERS” means any person, other than a wholesale dealer, who sells or delivers tobacco products within the town limits or its police jurisdiction.

“STORE and or STORES” refers to the storage or warehousing of tobacco products in any manner, or the withdrawal or use of the same for any purpose, other than for resale to reshipment outside the town limits or its police jurisdiction.

“STORES” meaning a person who stores tobacco products in the town limits or its police jurisdiction.

“DEALER” means any wholesale dealer, retail dealer or store as herein defined.

“STAMPS” means the stamp or stamps which are used to levy and collect the tax for which this ordinance is enacted.

The masculine gender shall include the feminine and neuter gender.

Wherever the context requires, the plural shall include the singular and the singular shall include the plural.

SECTION 2. LEVY OF TAX IN THE TOWN. In addition to all taxes now imposed by law every person who is engaged in the business of selling, storing or delivering tobacco products within the corporate limits of the Town of Vincent shall pay a license tax is hereby fixed and levied for engaging in such business within the corporate limits of the Town of Vincent, which license tax shall be in the following amounts (which amounts shall be in addition to all amounts of any license taxes levied with respect to such business in any general license code of the town):

- a) An amount equal to four cent (4c) for each twenty (20) cigarettes of fraction of said number , contained in each package sold within the corporate limits of the Town;
- b) An amount equal to Two cents (2c) for each pack of three to five cigars,  
Four cents (4c) for each pack of six or more,  
Twenty cents (20c) for a box of fifty.
- c) An amount equal to two cent (2c) for each ounce, or fraction thereof, contained in each individual package or can of smoking tobacco which is sold within said corporate limits of the Town.
- d) An amount equal to two cents (2c) for each individual package/can of three ounces and four cents (4c) for each individual package/can of four ounces or more of smokeless tobacco (snuff) within the said corporate limits of the Town.
- e) An amount equal to two cent (2c) for each plug or package of chewing tobacco up to three ounces and four cents (4c) for more than three ounces sold within the said corporate limits of the Town.

SECTION 3. LEVY OF TAX IN POLICE JURISDICTION. In addition to any taxes now imposed by law, every person who is engaged in the business of selling, storing or delivering tobacco products within the police jurisdiction of the Town shall pay a license tax to the Town and a license tax is herein fixed and levied for engaged in such business within the police jurisdiction of the Town, which license tax shall be in the following amounts (which amounts shall be in addition to all amounts of all amounts of any license taxes levied with respect to such business in any general license code of the Town):

- a) An amount equal to four cents (4c) for each twenty (20) cigarettes or fraction of said number contained in each package sold within the police jurisdiction of the Town:
- b) An amount equal to Two cents (2c) for each pack of three to five cigar  
Four cents (4c) for each pack of six or more cigars  
Twenty cents (20c) for a box of fifty  
sold within said police jurisdiction of the Town; and
- c) An amount equal to two cent (2c) for each ounce, or fraction thereof, container in each individual package or can of smoking tobacco which is sold within said police jurisdiction of the Town; and
- d) An amount equal to two cents (2c) for each individual package/ can of three ounces and four cents (4c) for each individual package/can of four ounces or more of smokeless tobacco (snuff) within the said police jurisdiction of the Town:  
and
- e) An amount equal to two cents (2c) for each plug or package of chewing tobacco up to three ounces, and four cents (4c) for more than three ounces sold within the said police jurisdiction of the Town.

SECTION 4. PAYMENT OF TAX. The license tax imposed by this ordinance shall be paid by the purchase of stamps from the Town Hall and affixing them to said products before offering said products for sale.

SECTION 5. STAMPS. The Town Clerk shall keep on hand for sale adequate quantity of stamps to be affixed to each container of tobacco products in denominations as required under this ordinance. Each stamp shall have inscribed thereon the words "Town of Vincent Tobacco Tax", but said words need not be arranged in the foregoing order and may be abbreviated. Said stamps may be sold to wholesale dealer only by the Town Clerk at a price equal to ninety per cent of the ~~full~~ amount thereof, the remaining ten per cent of such full amount representing compensation to the wholesale dealer for the labor of affixing such stamps to the containers of the tobacco product. All other persons, except such wholesale dealers, must pay the full amount of the stamps but no person shall be entitled to purchase any such number of stamps as shall cause the purchase price to include a fraction of a cent.

SECTION 6. AFFIXING STAMPS. Before any tobacco products shall be sold, stored or delivered within the corporate limits or of the police jurisdiction of the Town of Vincent by any dealer, such dealer shall affix to each container of tobacco products a stamp or stamps obtained from the Town Clerk in the amount set out in this ordinance in payment for the license taxes imposed by this Ordinance. Every dealer shall, within one hour after receipt of any tobacco products within the Town or its police jurisdiction, unless sooner offered for sale, cause stamps of the required amount of the tax to be affixed as herein provided and shall cause the same to be canceled by writing or stamping with water proofed ink across the face of each stamp such registered numbered as shall be furnished to such dealer by the Town Clerk. After such stamps has been begun it shall be continued with reasonable diligence by such dealer until all unstamped containers shall have been stamped and the stamps canceled as herein provided. No stamps required to be affixed to any container shall after the same has been affixed as herein provided be again used in payment of any part of the tax levied under this Ordinance. Stamps in the denomination equal to the amount of the tax shall be affixed to the container from or in which the tobacco product with respect to which the stamps are affixed are normally sold at retail; and shall be affixed in such a manner that their removal will require continued application of water or steam. In the case of cigars or chewing tobacco, sales of which are normally made from the original container, the stamp shall be torn in two or mutilated when the container is opened for the sale of the cigars and chewing tobacco. In the case of cigarettes and smoking tobacco, which are normally sold at retail in individual packages, the stamps shall be affixed to each individual package in such a way that such stamps shall be torn in two or mutilated when such package is opened.

SECTION 7. RECORDS. Every wholesale dealer shall, at the time of sale or delivery tobacco products into the Town or its police jurisdiction, make a true duplicate invoice of the same, which shall show full and complete details of the sale or delivery of such tobacco products and the prices thereof. Every wholesale dealer and every retail dealer shall keep a record of the purchase sale, exchange or receipt of tobacco products. All such invoices and canceled checks and other memoranda pertaining to any such purchase, sale, exchange or receipt shall be retained for a period of three years and shall be subject to inspection by the Town Clerk or his/her duly authorized representative who shall have the power and authority to enter upon the premises of any dealer at all reasonable times for the purpose of examining such invoices, records, cancellation check and other memoranda. Any person who purchased or received in any manner whatsoever tobacco products which do not have stamps affixed in the manner required by this Ordinance shall, within three days after receiving of such tobacco products, report the receipt or purchase, as the case may be, of such tobacco products to the Town Clerk, give the date of purchase or received, the name of the person or firm from whom purchase or receipt and the purchase price thereof. Such reports must be made by registered mail or in person.

SECTION 8. ILLEGAL ACTS. Among others, the following acts and omissions shall be unlawful:

(a) It shall be unlawful for any person who is required by this ordinance to affix stamps to any container of tobacco products to fail to affix such stamps or to fail to cancel such stamps in the manner and within the time required by this Ordinance.

(b) It shall be unlawful for any person to sell, offer for sale, store or deliver within the Town or its police jurisdiction any tobacco products where stamps have not been affixed and canceled as provided in this Ordinance.

(c) It shall be unlawful for any person to have in his possession or under his control any tobacco products with respect to which stamps have not been affixed in the manner required by this Ordinance for more than six hours after receipt of such tobacco products on the premises of such person. The possession of each container of tobacco products not having proper stamps affixed as required by this ordinance shall be deemed a separate offense.

(d) It shall be unlawful to manufacture, buy, sell, offer for sale, or possess, or attempt to possess, any reproduction or counterfeit of the stamps provided for this ordinance, or to possess tools, implements, instruments or materials of any kind necessary or appropriate to reproduce or counterfeit such stamps, or to alter or cause any stamps herein provided to be altered.

(e) It shall be unlawful to remove from a container or otherwise prepare any stamps with intent to use or cause the same to be used after it has already been used, or to buy, sell or offer for sale or give away any washed, removed, altered or restored stamps to any person, or to have in possession any such washed or removed or restored or altered stamps, or for the purpose of indication payment of any tax herein, to reuse and stamp which has heretofore been used for the payment of any tax provided in this Ordinance, or to sell any stamps provided for herein, except, however, sale made by the Town Clerk.

(f) It shall be unlawful to reuse or refill with tobacco products any container from which tobacco products have been removed and with respect to which the tax has theretofore been paid.

(g) It shall be unlawful for any person who is in this Ordinance required to keep records, to fail or omit to keep the records in the manner herein required, or to refuse to permit the Town Clerk or his/her authorized representative to inspect such documents.

(h) It shall be unlawful for any person who is herein required to file statements with the Town Clerk to fail or omit to make or file any statement herein specified within the time herein specified, or to make any false statement herein, and such offenses shall be a continuing offense against the Town and each day during which such person shall sell, store or deliver tobacco products in the Town or its police jurisdiction during such default shall constitute a separate offense.

(I) It shall be unlawful for any person who is required to pay the license tax herein provided to fail or omit to pay the same within the time herein specified, and such offense shall be a continuing offense against the Town and each day during which said person shall sell, store or deliver tobacco products in the Town or its police jurisdiction during such default shall constitute a separate offense.

## SECTION 9. CONSTRUCTION.

(a) This ordinance shall not be constructed to tax interstate commerce or any business if the United States Government or any branch or agency thereof.

(b) This Ordinance shall not be constructed to apply to tobacco products stored for the purpose of resale or reshipment outside the Town or its police jurisdiction and which are actually so resold or reshipped.

(c) This Ordinance shall not be constructed to repeal any of the provisions of the General License Code of the Town, but shall be held to be cumulative.

(d) Whenever the requisite amount of stamps has been affixed to the containers of tobacco products, as required herein, this Ordinance shall not be constructed to require amount stamps to be affixed thereunto in case of subsequent sale, deliveries or storage; provided, that where such tobacco products have been properly stamped for sale delivery or storage within the police jurisdiction, then before the same can be sold, delivered or stored in the corporate limits of the Town thereby must be properly affixed to such tobacco products and properly canceled an equal amount of stamps to those already affixed.

SECTION 10. TIME OF TAX PAYMENT. The license tax imposed by this section shall be paid from time to time as stamps are purchased from the Town Clerk and affixed as provided herein.

SECTION 11. PENALTY. Any person violating any of the provisions of this Ordinance shall upon conviction, be punished by a fine of no more that \$200.00 and may be sentenced to hard labor for a period not to exceed six months; provided that upon conviction for a second or subsequent offense. The minimum fine imposed shall be \$50.00.

SECTION 12. 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 or invalid and shall not affect any other provision hereof, and it is hereby declared that the other provisions of this Ordinance would have been enacted regardless off any provision which might be held invalid.

SECTION 13. This Ordinance shall become effective on September 1, 2003.

Adopted and approved this the 5th day of August, 2003.

Joe Thompson  
Mayor Joe Thompson

Mary Lee Reynolds  
Attested: Town Clerk, Mary Lee Reynolds


8-6-03  
Posted

TOWN OF VINCENT-CLERKS CERTIFICATION OF ORDINANCE  
PUBLICATION

I hereby certify that the above and foregoing Ordinance was published by me by posting copies of O2003-001 on August 6, 2003, in three public places within the city limits of the Town of Vincent.

The postings will be at the Vincent Town Hall, the Town of Vincent Water Board and the United States Post Office. The Ordinance will be posted for a period of five days as required by law.

In witness thereof, I have affixed the official corporate seal of the Town of Vincent, Alabama this day August 14, 2003.

  
Town Clerk

SEAL

