

ORDINANCE 2003-04

A SALES TAX ORDINANCE LEVYING A PRIVILEGE LICENSE, OR EXCISE TAX AGAINST PERSONAL, FIRMS OR CORPORATIONS STORING, USING OR OTHERWISE CONSUMING OR ENGAGING IN THE BUSINESS OF SELLING AT RETAIL TANGIBLE PERSONAL PROPERTY OR CONDUCTING PLACE OF AMUSEMENT IN THE TOWN OF VINCENT, ALABAMA, TO THE AMOUNT OF 4% SALES TAX, DEPOSITING SAID TAX, AND PROVIDING PENALTIES FOR THE VIOLATION OF THE ORDINANCE.

THIS ORDINANCE AMENDS SALES TAX ORDINANCE 2% ADOPTED ON 11/20/79 AND SALES TAX ORDINANCE 92-002 ADOPTED ON 12/22/92 INCREASING TAX TO 3%

Pursuant to the provision of Section 11-51-200, Code of Alabama, 1975, as amended, and other applicable provisions of law, BE IT ORDAINED by the Town Council of the Town of Vincent in the State of Alabama, as that the above set ordinance number 2003-04 which was heretofore adopted by the Town Council is hereby amended to read as follows:

SECTION 1. The following words, terms and phrases, when used in this Ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

a. The term, " Person" or the term, "Company", herein used interchangeably, includes any individual, firm or co-partnership, association, corporation, receiver, trustee or any other group or combination acting as a unit and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the contest.

b. The term "Town Clerk" shall mean the Clerk of the Town of Vincent, Alabama.

c. The term "tax year" or "taxable year" means the calendar year.

d. The term "sale" or "sales" includes installment and credit sales and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale.

e. The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property (and including the proceeds from the sale of any property handled on consignment by the taxpayer) including merchandise of any kind and character without any deductions on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever and without any deductions on account of losses; provided, that cash discounts allowed and taken on sales shall not be included, and "gross proceeds of sales" shall not include the sale price or property returned by customers when the full sales price thereof is refunded either in cash or by credit. Said term "gross proceeds of sales" shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock and used or consumed in connection with said business, and shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn from the business or stock and used or consumed by any person so withdrawing the same except property which has been previously withdrawn from said business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumptions, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and or for the personal and private use or consumption of any person so withdrawing, using or consuming the same. The term "gross proceeds of sales" shall also mean the gross proceeds of all sales regardless of the place where

the sale was solicited or place where the contract of sale was consummated, or the place of delivery. Said term "gross proceeds of sales" shall also mean and included the reasonable and fair market value of any building materials or other tangible personal property previously purchased or delivered under circumstances such that no tax was paid under this ordinance because of such sale or delivery, which said personal property is withdrawn, used or consumed in the construction, improvement or repair of a building, structure, road street, highway, sewer or pipe line.

f. The word "taxpayer" means any person liable for taxes hereunder.

g. The term "gross receipts" means the value proceeding or accruing from the sale of tangible personal property, including merchandise and commodities of any kind and character, all receipts actual and accrued, by reason of any business engaged in (not including, however, interest, discounts, rentals of real estate or royalties) and without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever and without any deductions on account of losses. Said term "gross receipts" shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock and used or consumed in connection with said business, and shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale with is withdrawn from the business or stock and used or consumed by any person so withdrawing the same, except property which has been previously withdrawn from such business or stock so used or consumed by any person so withdrawing the same, except property which has been previously withdrawn from such business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming the same. The said term "gross receipts" shall also mean the entire receipts of the business including all receipts from sales regardless of the place where the sale was solicited, or place where the contract of sale was consummated, or the place of delivery. Said term "gross receipts" shall also mean and include the reasonable and fair market value of any building materials or other tangible personal property previously purchased or delivered under circumstances such that no tax as paid under this ordinance because of such sale or delivery, which said personal property is withdrawn, used or consumed in the construction, improvement, or repair of a building, structure, road, street highway, sewer or pipeline.

h. The term "wholesale sale" or "sale at wholesale" means a sale of tangible personal property by wholesalers to licensed retail merchants, jobbers, dealers or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale. The term "wholesale sale" shall include a sale of tangible personal property or products (including iron ore) to a manufacturer or compounder which enters into and becomes an ingredient or component part of the tangible personal property or products which he manufactures or compounds for sale and the furnished container and label thereof. The term "wholesale sale" or "sale at wholesale" shall also include a sale of containers intended for one-time use only, and the labels thereof, when such containers are sold without contents to persons who sell or furnish such containers along with the contents placed therein for sale by such persons. Moreover, such terms include a sale to a manufacturer or compounder, of crowns, caps and tops intended for one-time use employed and used upon the containers in which he markets his products; but such terms do not include a sale of reusable containers which in the usual and ordinary course and manner of doing business are repurchased or otherwise recovered for reuse. The term "sale at wholesale" or "wholesale sale" shall include the parts or materials purchased or withdrawn from stock by a sealer licensed under this Ordinance where such parts or materials are such parts or materials are used in repairing or reconditioning the tangible personal property of such licensed dealer, which tangible personal property is a part of the stock of goods of such licensed dealer, offered for sale by him, and is not for his use or consumption, but for sale. It is further provided that the terms "wholesale sale" or "sale at wholesale" shall include the sale of containers to persons engaged in selling or otherwise supplying or furnishing baby chicks to growers thereof where such containers are used for the delivery of such chicks. The term "wholesale sale" or "sale at

wholesale” means a sale of tangible personal property wholesalers to licensed retail merchants, jobbers, dealers or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale. The term “wholesale sale” shall include a sale of tangible personal property or products (including iron ore) to a manufacturer or compounder which enters into and becomes an ingredient or component part of the tangible personal property or products which he manufactures or compounds for sale and the furnished container and label thereof.

The term “wholesale sale” or “sale at wholesale” shall also include a sale of containers intended for one time use only, and the Tables thereof, when such containers are sold without contents to persons who sell or furnish such containers along with the contents placed therein for sale by such persons. Moreover, such terms included a sale to a manufacturer or compounder, of crowns, caps and tops intended for on-time use employed and used upon the containers in which he markets his products; but such terms do not include a sale of reusable containers which in the usual and ordinary course and manner of doing business are repurchased or otherwise recovered for reuse. The term “sale at wholesale” or “wholesale sale” shall include the parts or materials purchased in containers sold for use in the delivery of eggs by the producer thereof to the distributor or packer of such eggs even though such containers used for delivery of baby chicks or eggs may be recovered for reuse. Such terms shall also include the sale or sales of bagging and ties used in preparing cotton for market.

I. The term “sale at retail” or “retail sale” shall mean all sales of tangible personal property except those above defined as wholesale sales. The quantities of goods sold, or prices at which sold, are immaterial in determining whether or not a sale is at retail. Sales of building materials to contractors, builders, or land owners for resale or use in the form of real estate are retail sales in whatever quantity sold. Sales of tangible personal property or products to manufacturers, quarry operators, mine operators or compounders, which are used or consumed by them in manufacturing, mining, quarrying, or compounding and do not become an ingredient or component part of the tangible personal property manufactured or compounded, are retail sales. The term “sale at retail” or “retail sales” shall also mean and include the withdrawal, use or consumption of any tangible personal property by anyone who purchases same at wholesale, except property which has been previously withdrawn from the business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming the same; and such wholesale purchaser shall report and pay the taxes thereon. The term “sale at retail” or “retail sale” shall also mean and include the withdrawal, use or consumption of any building materials or other tangible personal property by any contractor or builder in the construction, improvement or repair of a building, structure, road, street, highway, sewer or pipe line where such building material or other tangible property was purchased by or delivered to such contractor or builder and no tax was paid under this ordinance based upon such sale or delivery.

j. The word “business”, as used in this Ordinance, shall include all activities engaged in, or caused to be engaged in, with the object of gain, profit or advantage, either direct or indirect, and not excepting activities producing marketable commodities used or consumed in the main business activity, each of which sub-activity shall be considered business engaged in, taxable in the class in which it falls. Without limiting the meaning of the word “business”, as herein set out, the delivery in the Town of Vincent of tangible personal property in consummation of a retail sale to a purchaser by a seller located without the corporate limits of the Town of Vincent shall also constitute engaging in the business of selling at retail tangible personal property within the Town of Vincent by such seller and such seller shall be liable for the tax levied by this Ordinance.

k. The term “automotive vehicle” shall include a power shovel, drag line, crawler, crawler crane, ditcher, or any similar machine which is self-propelled, in addition to self-propelled machines which are used primarily as instruments of conveyance.

l. The term “Town of Vincent” shall mean Town of Vincent, Alabama.

m. The term "Town" shall mean Town of Vincent, Alabama.

Section 2. PRIVILEGE OR LICENSE TAX. 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 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, any association or other agencies or instrumentality of such institutions) engage or continuing within the Town of Vincent, in business of selling or 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 sales of materials and supplies to any person for use in fulfilling a contract for the painting, repairs, or reconditioning of vessels, barges, ships and over watercraft of over fifty tons burden), an amount equal to four percent (4%) of the gross proceeds of sales of the business except where a difference amount is expressly provided herein. Provided however, that any person engaged or continuing in business as a retailer and wholesale or jobber shall pay the tax received on the gross proceeds of retail sales of such business at the rate specified, when his books are kept so to show separate 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 sale of the business.

b. Upon every person, firm or corporation engaged or continuing within the Town in the business of conducting or operating places of amusement or entertainment, billiards and pool rooms, bowling alleys, amusement devices, musical entertainment, theaters, opera houses, moving picture shows, athletic contests, including wrestling matches, prize fights, boxing and wrestling exhibitions, football or baseball games (including athletic contests conducted by or under the auspices of any educational institution within the Town, or any athletic associations, thereof, or other association whether such institutions or associations be a denominational, a state, county or town school, or other institutional, association or school), skating rink, race track, golf course, or any other place at which any exhibition, display, amusement or entertainment is offered to the public or place or places where an admittance fee is charged including public beauty shops, spas, swimming pools, public dance studios of every kind and description within the Town, an amount equal to four per cent (4%) of the gross receipts of any such business shall be collected.

c. Upon every person, firm or corporation engaged or continuing within the Town of Vincent in the business of selling at retail, machines used in mining, quarrying, compounding, processing or manufacturing of tangible personal, an amount equal to four per cent (4%) of the gross proceeds of the sales of such machines; provided, that the term "machines" as herein used, shall include manufacturing which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments and replacements thereof, which are made or manufactured for use of or in 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 Town of Vincent in the business of selling at retail any automotive vehicle, truck, trailer, semi-trailer or house trailer, an amount equal to one percent (1%) of the gross process of sale of said vehicle, truck trailer, semi-trailer or house trailer, provided, where a person subject to the tax provided for in this sub-section withdraws from his stock in the trade any automotive vehicle, truck trailer, semi-trailer or house trailer for use by him or by his employer or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee of \$1.00 per year or part thereof during which such automotive vehicle, truck trailer, semi-truck 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, truck, trailer, semi-trailer or house

trailer shall the property of such person.

Where any used automotive vehicle, truck trailer, semi-trailer or house trailer is taken in trade or in a series or trade, 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 Town of Vincent 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 connecting with the production of agriculture products, livestock or poultry on farms, and the parts of such machinery or equipment, attachments and replacements therefor which are made or manufactured for use on or in the operation of such machines, 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 per cent (4%) of the gross proceeds of the sale thereof. Provided, however, the four percent (4%) rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designate primarily for public highway use, except farm trailers used primarily in the predestine and harvesting of agriculture commodities.

Where any used machines, machinery or equipment which is used in planting, cultivation and harvesting farm produce, or used in commercial with the production of agricultural produce or produces. Livestock or 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 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 Town of Vincent in the business of selling through coin operated dispensing machine, food and food products for human consumption, not including beverages other than coffee, milk, milk products and substitutes, therefor, is hereby levied a tax equal to four percent (4%) 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 sale of such business.

g. The use within the corporate limits of the Town of Vincent of tangible personal property by the manufacturer thereof, as building materials in the performance of a construction contract, shall for the purpose of this Ordinance be considered as a retail sale thereof by such manufacturer, who shall also be construed as the ultimate consumer of such materials or property and who shall be required to report such transaction and pay the tax thereon based upon the reasonable and fair market price thereof at the time and place where same are used or consumed by him or it. The provisions of this subsection shall not apply to any tangible personal property which is specifically exempted from the tax levied in this ordinance. The use within the corporate limits of the Town of Vincent of tangible personal property by any contractor or builder in the construction, improvement or repair of a building, structure, road, street, highway, sewer or pipe line shall, for the purpose of this ordinance, be considered as a retail sale thereof based upon the reasonable and fair market price thereof at the time and place where the same are used or consumed by him or it. Provided, however, that such contractor or builder shall not be required to pay such tax if a tax under the provisions of this ordinance is paid because of such as sale or delivery to said contractor or builder.

h. A sale of lumber by a lumber manufacturer to a trucker for resale is a sale at wholesale as such sales are defined herein, where the trucker is either a licensed dealer in lumber or if a resident of Alabama has registered with The State Department of Revenue and has received therefrom a certificate of such registration, or if a nonresident of this state purchasing lumber for resale outside of Alabama, has furnished to the lumber manufacturer his name, address and the vehicle license number of the truck in which the lumber is to be transported, which name, address and vehicle license number shall be shown on the sales invoice rendered by the lumber manufacturer. The certificate provided for herein shall be valid for the calendar year of its issuance and may be renewed from year to year on application to the Department of Revenue on or before the thirty-first day of January of each succeeding year; provided, however, that if not

renewed the certificate shall become invalid for the purpose of this Ordinance on the first day of February.

Provisions of State Sales Tax Statute applicable to this ordinance and taxes herein levied. The taxes levied by Section 1 of this ordinance shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, penalties, fines, punishments, and deduction that are applicable to the taxes levied by the State sales statutes, except where inapplicable or whether herein otherwise provided, including all provisions of the State sales tax statute for enforcement and collection of tax.

Section 3. STORAGE.

a. An excise tax is hereby imposed on the storage, use or other consumption in the Town of Vincent of tangible personal property (not including materials and supplies brought for the painting, repairs, or reconditioning of vessels, barges, ships and other watercraft of more than fifty ton burden) purchased at retail on or after the effective date of the ordinance for storage, use or other consumption in the Town of Vincent, at the rate of four percent (4%) of the sale price of such property within the corporate limits of the Town, except as provided in subsection (b), © and (d) of this section.

b. An excise tax is hereby imposed on the storage, used or other consumption in the Town of Vincent 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%) of the sale price of any such machine, within the corporate limits of the Town of Vincent; 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 whereof, which are necessary to the operation of such machines and are customarily so used.

c. An excise tax is hereby imposed on the storage, used or other consumption in the Town of Vincent of any automotive vehicle, truck trailers, semi-trailers or house trailers purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in the Town of Vincent at the rate of (1%) of the sale price of such automotive vehicle, truck trailers, semi-trailers or house trailers within the corporate limits of the Town of Vincent. Where any used automotive vehicle, truck trailers semi-trailers or house trailers 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, used or other consumption in the Town of Vincent of any machine, machinery or equipment which is used in planting, cultivating, and harvesting farm produce, or used in connection with the production, livestock or poultry on farms, and the parts of such machines, machinery or equipment, attachments and replacements thereof which are made or manufactured for use on or in the operation of such machine, machinery, or equipment, and which are necessaria to and customarily used in the operation of such machine, machinery, or equipment which is purchased at retail after the effective date of the ordinance, for storage, used or other consumption in the Town of Vincent at the rate of four percent (4%) of the sale price of such property within the corporate limits of the Town of Vincent, regardless of whether the retailer is or is not engaged in business in this Town. Provided, however the four percent (4%) rate herein prescribes 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, cultivation and harvesting farm products or used in connection with the productions of agricultural products or products, livestock or poultry on farms is taken in trade or in a series of trades as a credit or part payment of 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 4. The taxes levied by Section 3 of this ordinance shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, discounts, 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 statute for enforcement and collection of tax.

Section 5. 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 Town of Vincent, but shall be held to be cumulative, and the amounts of the taxes herein levied shall be in addition to the amounts of all other license fees imposed by the Town of Vincent by its general license code or ordinance.

SEVERABILITY. Each and every provision of this ordinance is hereby to be an independent provision and the holding of any provision hereby to be void and invalid for any reason shall not affect any other provision hereof, and 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 6. BUSINESS NOT NAMED. If any person shall engage or continue in any business for which any tax is imposed by Section Two, Three, and Four of this Ordinance, as a condition precedent to engaging or continuing in such business, he shall apply for and obtain from the City a license to engage in and to conduct such business for the current tax year upon the condition that he shall pay the taxes accruing to the City under the provisions of this Ordinance; provided, however, that no license shall be issued under the provisions of this Ordinance to any person who has not complied with the provisions of this Ordinance, and no provisions of this Ordinance shall be construed as relieving any person from the payment of any license or privilege tax now or hereafter imposed by law.

Section 7. POSTING OF LICENSE. Each license shall be posted in a conspicuous place where such business or occupation is carried on, and the holder of such license shall immediately show such license to the License Inspector or Collector, or his deputy, or any police office of the Town upon being so requested by such inspector, deputy or officer to do so.

Section 8. DUE AND PAYABLE. The tax levied under the provisions of this Ordinance shall be due and payable in monthly installments on or before the twentieth day of the month next preceding the month in which the tax accrues. On or before the twentieth day of each month after the Ordinance shall have taken effect, every person on whom the taxes levied by this Ordinance are imposed shall render to the Town of Vincent on a form prescribed by the Town Clerk a true and correct statement showing the gross sales, the gross proceeds of sales, or gross receipts of his business, as the case may be, for the next preceding month, the amount of gross proceeds or gross receipts which are not subject to the tax, or are not to be used as a measurement of the taxes due by such person and the nature thereof, together with such other information as the Town may require, and at the time of making such monthly report such person shall compute the taxes due and shall pay to the Town of Vincent the amount of taxes shown to be due. Unless other forms be prescribed by the Town such person may use the forms prescribed and used by the State of Alabama under the State Sales Tax Law of Alabama. In making the statements and reports herein provided, the same information shall be given to the Town as is furnished to the State under the State Sales Tax Law.

Section 9. FALSE RETURN. Any person subject to this Ordinance willfully makes a false return or false statement of facts in the statements or returns required hereunder, shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 10 of this Ordinance. The Town Clerk, for good cause, may extend the time for making any monthly statement required under the provisions of this Ordinance, but the time for filing any such statement shall not be extended for a period greater than thirty (30) days from the day such statement is due to be made. An amendment of a monthly statement may be filed at any time within one (1) year from the date such statement was due to be filed; provided, however, the

filing of such amendment shall not prevent penalty and interest from being assessed and collected unless such amendment was filed on or before the twentieth (20th) day of the month next succeeding the month in which the tax accrues or within the time allowed by an extension..

Section 10. TAX ADDED TO SALES PRICE. All person subject to the provisions of this Ordinance may add the tax herein levied to the sale price of the goods sold and collect the same from the purchasers, but this section is not mandatory.

Section 11. CASH AND CREDIT SALES. Any person taxable under this Ordinance 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 tax due thereon at the time of filing such report.

Section 12. RECORD KEEPING. It shall be the duty of every person engaging or continuing in the Town in any business for which a business/ privilege tax is imposed by this Ordinance to keep and preserve suitable records of the gross sales, gross proceeds of sales and gross receipts or 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. And it shall be the duty of every person to keep and preserve for a period of five (5) 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 Town or its duly authorized agent. 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.

Section 13. EXAMINATION OF RECORDS.

a. The books, records and account mentioned in the next preceding section shall at all times be open to examination by the Town Clerk or any person designated by him. Any person who shall fail to keep such records or who shall refuse to permit such examination thereof, or who violates any other provision hereof, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less that Twenty Five and no/100 Dollars (\$25.00), nor more than One Hundred and no/100 Dollars (\$100.00) for each offense. Each month of such failure shall constitute a separate offense. Each month of such failure shall constitute a separate offense. Any person failing to render any report required by Section Six of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than Twenty Five and no/100 Dollars (\$25.00) nor more than One hundred and no/100 Dollars (\$100.00), and each failure shall constitute a separate offense.

b. Any person who fails to pay the tax herein levied within the time required by this Ordinance shall, subject to the provision hereinafter set out, pay, in addition to the tax, a penalty of ten percent (10%) of the amount of tax due, together with interest thereon at the rate of six percent (6%) per annum, from the date at which the tax herein levied became due and payable, and such penalty and interest to be assessed and collected as a part of the tax. Provided, the Town Clerk, if a good and sufficient reason is shown for the failure to pay the tax within the time required, may waive or remit the said penalty and interest or a portion of either.

Section 14. FAILURE TO OBTAIN LICENSE/TC PAY TAX. If any taxpayer fails to obtain a license or fails to pay the taxes accruing to the Town under the provisions of the Ordinance, it shall be the duty of the Town Clerk to ascertain the tax of such person from the best information and data obtainable (including previous returns filed under the provisions of this Ordinance or other tax Ordinances), and to assess against such person the correct amount of tax due. When the amount of tax demanded be not paid within ten (10) days of the date of mailing of such demand, such determination shall be received as prima facie evidence of the correct amount of tax due the Town in any subsequent proceedings to collect said tax whether civil or criminal, in any court.

Section 15. ACCESSING AND COLLECTING TAXES. The Town Clerk shall from time to time be empowered to promulgate such rules and regulations for obtaining licenses and for ascertainment, assessment and collection of the tax imposed by the provisions of this Ordinance

as he may deem necessary to enforce its provisions; and upon request such Town Clerk shall furnish any taxpayer with a copy of such rules and regulations. Without limiting the scope of the preceding sentence, the Town Clerk may issue, subject to such rules and regulations as he may promulgate, a numbered certificate in such form as he may determine to any person, firm, or corporation engaged in a business within the corporate limits of the Town of Vincent, and a seller of tangible personal property to such business may eliminate from the gross proceeds of sales of such seller the amount of the sales price of all tangible personal property sold by such seller to said business, provided such seller keeps a true and correct record of each such transaction and determines that such purchaser is in possession of a valid and unrevoked certificate, as herein provided, and a record is made of the number of such certificate in the report of such seller to the Town Clerk. Any tangible personal property sold under the provisions of the immediately preceding sentence shall be considered for the purpose of this Ordinance a wholesale sale and the purchaser thereof shall pay the tax due, upon its withdrawal and use or any subsequent sale thereof.

Section 16. DEFAULT ON PAYMENT. If the Town Clerk finds that a person liable for tax under any provisions of this Ordinance designs quickly to depart from the state or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect such tax unless such proceedings be brought with delay, the Town Clerk shall cause notice of such finding to be given such person, together with a demand for an immediate statement or report and immediate payment of such tax. Thereupon, such tax shall become immediately due and payable. If such person is not in default in making such statement or paying any tax prescribed by this Ordinance, and furnishes evidence satisfactory to said Town Clerk that he will duly file such statement and pay the tax to which the Town Clerk's finding relates, then such tax shall not be payable prior to the time otherwise fixed for payment. If such person fails to appear and make such showing, then the Town Clerk shall commence such proceedings as are allowed by law to collect the tax due.

Section 17. ITINERANT VENDORS. Every itinerant vendor engaged in the business of selling tangible personal property at retail within the corporate limits of the Town of Vincent shall be subject to the terms of this Ordinance and before making any sales therein is required to give bond to the Town in the sum of Fifty Dollars (\$50.00), to be approved by the Town Clerk, or deposit the sum of Fifty Dollars (\$50.00) in cash with the Town Clerk before making any such sales, to secure the payment of any tax which may become due hereunder, and separate security shall be given for every five (5) days in which such person may be so engaged. A failure to give such security shall be a misdemeanor and punished as such.

Section 18. CLOSING BUSINESS. Any person subject to the provisions of this Ordinance who shall sell out his business or stock of goods, or shall quit business, shall be required to file the monthly statement required herein with thirty (30) days after the date he sold out his business or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of said taxes due and unpaid until such time as the former owner shall produce a receipt from the department showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, the taxes shall be due and unpaid after the thirty (30) day period allowed, he shall be liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner.

Section 19. DISCOUNT. A discount equal to one and one-half of one percent of the total amount of any monthly installment of the tax provided for herein shall be allowed to each taxpayer upon the filing of the monthly report with respect to such installment in the form and at the time herein provided for and upon payment of the amount of such monthly installment (minus the said one and one-half of one percent reduction) at the time when such installment to the tax levied unless the same is paid and the report applicable thereto is filed in the form and at the time required hereunder.

Section 20. PRIVACY. It shall be unlawful for any person connected with the administration of this Ordinance to divulge any information obtained by him in the course of inspection and examination of the books, papers, reports and memoranda of the taxpayer made pursuant to the

provisions of this Ordinance, except to the Mayor, members of the Council, Town Clerk, the Town Attorney and others connected with the administration of this Ordinance, or as required by an order of a court of competent jurisdiction.

Section 21. DEPOSIT AND TRANSFER OF FUNDS.

a. All tax revenues collected pursuant to this Ordinance as amended shall initially be deposited in the Town's General Fund to be used for any lawful purpose.

b. One-fourth (1/4) of total tax levied by Sections Two, Three and Four of this Ordinance shall be transferred to Town of Vincent Municipal Parks Fund to be used for any lawful purpose.

Section 22. PROVISIONS. Each and every provision of this Ordinance, including any part of any definition contained herein, is hereby declared to be an independent provision, and the holding of any provision hereof to be void and invalid 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 23. POSTING OF ORDINANCE. The Clerk is hereby authorized and directed to publish this ordinance by posting a copy hereof in three public places within the limits of the Town of Vincent, Alabama, one of which places shall be at the Post Office or the Mayor's Office.

Section 24. This Ordinance shall become effective five days after posting of said ordinance. This Ordinance shall continue in full force and effect from month to month and year to year from its effective date until repealed or amended by the governing body of the Town of Vincent.

APPROVED AND ADOPTED this the 18 Day of November, 2003.

APPROVED

Joe A. Thompson
Joe A. Thompson, Mayor

Paul Summers
Paul Summers, Council member

Robert E. Kidd
Robert Kidd, Council member

Vivian Denty
Vivian Denty, Council member

Mark J. Brown
Mark Brown, Council member

Rex Smiley
Rex Smiley, Council member

ATTEST:

Mary Lee Reynolds
Mary Lee Reynolds, Town Clerk

CERTIFICATION OF CITY CLERK

I, Mary Lee Reynolds, Town Clerk of the Town of Vincent, Alabama, hereby certify that the above Ordinance was duly adopted by the Town Council of the Town of Vincent at a regular meeting of the City Council held on the 18 Day of November, 2003, and that said Ordinance was duly published in accordance with the law by posting a copy thereof on November 19, 2003, in three (3) public places within the city limits of the Town of Vincent, one of which was the Mayor's Office in the Town of Vincent, Alabama.

Mary Lee Reynolds
Mary Lee Reynolds, Town Clerk