

ORDINANCE NO. 2015-72

Clerk: LYNN

**AN ORDINANCE LEVYING AN ADDITIONAL SALES AND USE TAX
IN THE CITY OF PINSON, ALABAMA**

WHEREAS, the City Council of the City of Pinson, Alabama enacted a municipal sales and use tax on most sales transactions in the City of Pinson, Alabama, pursuant to Ordinance No. 2010-08; and

WHEREAS, pursuant to the provisions of §§ 11-51-200 through 11-51-205 of the *Code of Alabama*, the City Council wishes to enact an additional sales and use tax on most sales transactions in the City of Pinson, Alabama, as stated in more detail herein.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PINSON, ALABAMA, pursuant to the provisions of §§ 11-51-200 through 11-51-205 of the *Code of Alabama*, and while in regular session on December 3, 2015, at 7:00 p.m., as follows:

Section 1. Additional Sales 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 sales, or gross receipts, as the case may be, as follows:

(a) Upon every person, firm, or corporation, (including the State of Alabama and its Alcoholic Beverage Control Board in the sale of alcoholic beverages of all kinds, 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 or continuing within the City of Pinson, Alabama 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 and commercial fishing vessels of over five (5) tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources), an amount equal to two percent (2%) 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 retailer on the gross sales of the business. Where any used part including tires of an automotive vehicle or a truck trailer, semitrailer, or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or rebuilt part or tire, the tax levied herein shall be paid on the net difference, that is, the price of the new or used part or tire sold less the credit for the used part or tire taken in trade, provided, however, this provision shall not be construed to include batteries.

(b) Upon every person, firm or corporation engaged 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, prize fights, 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 two percent (2%) of the gross receipts of any such business. Provided, however, notwithstanding any language to the contrary in the prior portion of this subsection, the tax provisions so specified shall not apply to any athletic event conducted by a public or nonpublic primary or secondary school, or any athletic event conducted by or under the auspices of the Alabama High School Athletic Association. The tax amount, which would have been collected pursuant to this subsection, shall continue to be collected by said public or nonpublic primary or secondary school but shall be retained by the school which collected it and shall be used by said school for school purposes.

(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 zero percent (0%) 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, house trailer or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto an amount equal to zero percent (0%) of the gross proceeds of sale of said automotive vehicle, truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies provided, however, 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 \$5.00 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 automotive vehicle, truck 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 zero percent (0%) of the gross proceeds of the sale thereof. Provided, however, the zero percent (0%) 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 two percent (2%) of the retail selling price of such food, food products and beverages sold through such machines.

Section 2. Provisions of State Sales Tax Statutes Applicable to this Ordinance and Taxes herein levied. Pursuant to state law, this Ordinance and the taxes levied herein shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act, direct pay permit and drive-out certificate procedures, statutes of limitation, discounts, penalties, fines, punishments, and deductions that are applicable to the taxes levied by the State Sales Tax Statutes (including § 40-2A-7, § 40-23-1, § 40-23-2, § 40-23-2.1, § 40-23-4 to § 40-23-31 inclusive, § 40-23-36, § 40-23-37 (except for the provisions relating to the tax rate), and § 40-23-38 of the *Code of Alabama*, as amended), except where inapplicable or where herein otherwise provided, including all provisions of the same for enforcement and collection of taxes.

Section 3. Additional Use Tax.

(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 and commercial fishing vessels of over five (5) tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources) purchased at retail on or after the effective date of this for storage, use or other consumption in the City, except as provided in subsections (b), (c), and (d), at the rate of zero percent (0%) 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 zero percent (0%) of the sales price of any such machine; 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 on any automotive vehicle or truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto

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 zero percent (0%) of the sales price of such automotive vehicle, truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies within the corporate limits of said City. 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.

(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 zero percent (0%) 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 zero percent (0%) 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.

Section 4. Provisions of State Use Tax Statutes Applicable to this Ordinance and Taxes Herein Levied. Pursuant to state law, this Ordinance and the taxes levied herein shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act, direct pay permit and drive-out certificate procedures, statutes of limitation, discounts, penalties, fines, punishments, and deductions that are applicable to the taxes levied by the State Use Tax Statutes (including § 40-2A-7 and Article 2 of Chapter 23 of Title 40 of the *Code of Alabama*, as amended), except where inapplicable or where herein otherwise provided, including all provisions of the same for enforcement and collection of taxes.

Section 5. Use of Proceeds. The proceeds from the tax herein levied remaining after payment of the costs of collecting said tax, including all charges of the

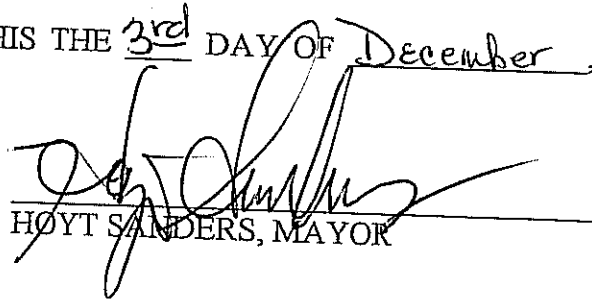
administration for such collection and paid over to and received by the City shall be distributed to the City of Pinson for general municipal purposes as permitted by state law.

Section 6. This Ordinance Cumulative. The tax levied and assessed by this Ordinance is levied and assessed in addition to, and not lieu of, all other taxes of every kind now imposed by law, including but not limited to the sales and use taxes currently imposed by the City of Pinson pursuant to Ordinance No. 2010-08. The tax imposed by this Ordinance shall not be construed to repeal, but shall be cumulative and in addition to, any and all other taxes of every kind now imposed by law, including but not limited to those sales and use taxes imposed pursuant to Ordinance No. 2010-08 and any amendments thereto.

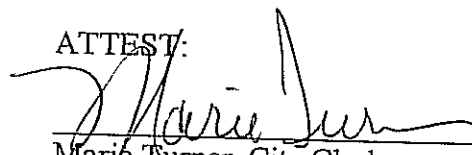
Section 7. Severability. Each and every provision of this Ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void and invalid for any reason shall not affect any other provision hereof, and it is hereby declared that the other provisions of this Ordinance would have been enacted regardless of any provision which might have been held invalid.

Section 8. Effective Date. This Ordinance shall become effective on the first day of January, 2016, and the first payment of taxes hereunder shall be due and payable on the twentieth day of February, 2016.

ADOPTED AND APPROVED THIS THE 3rd DAY OF December, 2015.


HOYT SANDERS, MAYOR

ATTEST:


Marie Turner, City Clerk

CERTIFICATION OF CITY CLERK

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, Marie Turner, City Clerk of the City of Pinson, Alabama, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance duly adopted by the City Council of the City of Pinson, Alabama, on the 3rd day of December, 2015.

The above and foregoing ordinance was published on the 3rd day of

December 3, 2015, by posting copies thereof in three public places within the City of Pinson, one of which was the post office or the Mayor's office in the City of Pinson.

Witness my hand and seal of office this 3rd day of December, 2015.

Marie Turner
Marie Turner, City Clerk