

ORDINANCE NO. 2002-09

BE IT ORDAINED by the City Council of the City of Alexander City, Alabama, as follows:

SECTION 1. That Chapter 82, Taxation, Article VIII, Tobacco Tax, Section 82-211, Definitions, of the Code of Ordinances of the City of Alexander City, Alabama, be amended to read as follows:

Section 82-211. Definitions.

Retail dealer. Any person, firm or corporation, other than a wholesale dealer, who sells, stores, delivers, or offers for sale any tobacco products, regardless of the quantity or amount, or the number of sales; and all persons operating under a retail dealer's license.

Retail sale. All sales except sales by a wholesaler to a licensed retail dealer or other wholesaler for resale.

Tobacco. Cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco, snuff or tobacco in any form or condition or any substitute therefor.

Wholesale dealer. Any person, firm or corporation who sells, stores, delivers, or offers for sale at wholesale only any tobacco products to licensed retail dealers within the city or police jurisdiction for the purpose of resale only.

SECTION 2. That Chapter 82, Taxation, Article VIII, Tobacco Tax, Section 82-212, Applicability of article, of the Code of Ordinances of Alexander City, Alabama, be amended to read as follows:

Section 82-212. Applicability of article.

- (a) This article shall not be applied so as to impose any unlawful tax or unlawful burden on interstate commerce or any business of the United States Government or any branch or agency thereof.
- (b) This article shall not apply to the tobacco products stored by a wholesale dealer or jobber for the purpose of resale or reshipment outside the city and its police jurisdiction and which products are actually so resold or reshipped.
- (c) This article shall not repeal any of the provisions of article III of this chapter, but shall be held to be cumulative.

SECTION 3. That Chapter 82, Taxation, Article VIII, Tobacco Tax, Section 82-213, Levy, of the Code of Ordinances of Alexander City, Alabama, be amended as follows:

Section 82-213. Levy.

(a) Within corporate limits. In addition to all other taxes now imposed by law, every wholesale dealer and every retail dealer in tobacco products within the city shall pay a license tax. A license tax is hereby fixed and levied in the following amounts for the sale, storage and/or delivery of the following tobacco products within the corporate limits of the city:

- (1) Cigarettes. All cigarettes made of tobacco or any substitute thereof, two mills on each such cigarette.
- (2) Cigars. All cigars made of tobacco or any substitute thereof, one-half cent (\$0.005) for each ten cents (\$0.10) or fraction thereof of the wholesale selling price.

- (3) All other forms of tobacco. All other forms of tobacco including granulated, plug, cut, crimp, ready rubbed and other kinds and forms of tobacco prepared in such a manner as to be suitable for smoking, chewing, dipping and/or sniffing, one-half (\$0.005) cent for each ten (\$0.10) or fraction thereof of the wholesale selling price.

(b) Within police jurisdiction. In addition to all other taxes now imposed by law, every wholesale dealer and every retail dealer in tobacco products shall pay a license tax to the city. A license tax is hereby fixed and levied in the following amounts for the sale, storage and/or delivery of the following tobacco products outside the corporate limits of the city and within its police jurisdiction:

- (1) Cigarettes. All cigarettes made of tobacco or any substitute thereof, one mill on each such cigarette.
- (2) Cigars. All cigars made of tobacco or any substitute thereof, one-fourth cent (\$0.0025) for each ten cents (\$0.10) or fraction thereof of the wholesale selling price.
- (3) All other forms of tobacco. All other forms of tobacco including granulated, plug, cut, crimp, ready rubbed and other kinds and forms of tobacco prepared in such a manner as to be suitable for smoking, chewing, dipping and/or sniffing, one-fourth (\$0.0025) cent for each ten (\$0.10) or fraction thereof of the wholesale selling price.

SECTION 4. That Chapter 82, Taxation, Article VIII, Tobacco Tax, Section 82-214, Stamps, be deleted.

SECTION 5. That Chapter 82, Taxation, Article VIII, Tobacco Tax, Section 82-215, Records, of the Code of Ordinances of Alexander City, Alabama, be amended as follows:

Section 82-215. Records.

Every wholesale dealer and retail dealer shall, at the time of selling or delivering any tobacco products within the city or its police jurisdiction, make a true duplicate invoice showing full and complete details of the sale or delivery of such tobacco products. Every wholesale and retail dealer shall keep a record of the purchase, sale, exchange or receipt of tobacco products. All such invoices and records, along with all canceled checks and memoranda pertaining to any such purchase, sale, exchange or receipt of tobacco products shall be retained for a period of five (5) years and shall be subject to inspection by an agent of the city, 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, canceled checks or other memoranda.

SECTION 6. That Chapter 82, Taxation, Article VIII, Tobacco Tax of the Code of Ordinances of Alexander City, Alabama be amended by the following addition:

Monthly statement and payment.

The tax levied on tobacco products shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrued. On or before the twentieth day of each month every wholesale dealer who sells, stores or delivers any tobacco products for sale within the city or police jurisdiction that were not purchased through a wholesale dealer who sells, stores or delivers any tobacco products for sale within the city or police jurisdiction shall:

- (a) File with the city clerk-treasurer a true and correct monthly statement in writing (on a form approved by the city clerk-treasurer) of all tobacco products sold or delivered during the preceding month, for which he is or shall be liable for the payment of the license tax;
- (b) In each and every instance, upon the filing of said statement, furnish to the city clerk-treasurer such additional information, either oral or in writing, as the city clerk-treasurer or his duly authorized representative may require as to the sale or delivery of any tobacco products covered by such statement; and
- (c) At the time of making such statement, pay to the City of Alexander City the amount of license tax for the preceding month covered by such statement.

SECTION 7. That Chapter 82, Taxation, Article VIII, Tobacco Tax of the City of Alexander City, Alabama, by the following addition:

Penalties for violation of the article.

- (a) Any person who fails to pay the tax levied within the time required shall pay, in addition to the tax, a penalty of ten percent of the amount of tax due, together with interest thereon at the rate of one percent per month, or fraction thereof, from the date at which the tax levied in this article became due and payable.
- (b) It shall be unlawful for any person who is required to file a statement with the city clerk-treasurer to fail or omit to file the statement. It shall also be unlawful to make a false statement or to fail to pay the amount of the tax. Each day after which a statement or payment is due shall be a separate offense. Upon conviction, any person violating any provisions of this article shall be fined not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) and may be sentenced to jail for a period not to exceed six (6) months, or receive both fine and imprisonment.

SECTION 8. That Chapter 82, Taxation, Article VIII, Tobacco tax, Section 82-216, Illegal acts, be deleted.

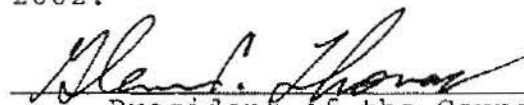
SECTION 9. That Chapter 82, Taxation, Article VIII, Tobacco tax, Section 82-217, Confiscation, be deleted.

SECTION 10. If any paragraph, section, subsection, or provision of this ordinance be declared invalid in a court of competent jurisdiction for any reason, it shall not effect the remainder of the ordinance as pertains to its validity or to other applications.

SECTION 11. Any ordinance or provisions of ordinances in conflict with the provisions of this ordinance are hereby repealed and rescinded insofar as they conflict with the provisions of this ordinance.

SECTION 12. This ordinance shall become effective March 1, 2002.

ADOPTED this 22nd day of January, 2002.


President of the Council

APPROVED this 22nd day of January, 2002.


Mayor

ATTEST:


City Clerk


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CERTIFICATION OF CITY CLERK

The undersigned, as Clerk of the City of Alexander City, Alabama, hereby certifies that the foregoing is a true, correct, and complete copy of Resolution No.2002-09 which was adopted by the Council on the 22nd day of January, 2002.

WITNESS MY SIGNATURE, as Clerk of the City of Alexander City, Alabama, under the seal thereof, this 22nd day of January, 2002.


As Clerk of the City of
Alexander City, Alabama

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