

Having previously been introduced at the February 13, 2023 council meeting, Council Member FARRELL moved the adoption of the following Ordinance, which was seconded by Council Member COLE:



ORDINANCE 23-173

SUMMARY: AN ORDINANCE TO AMEND CERTAIN SALES AND USE TAX PROVISIONS OF CHAPTER 38, ARTICLE III OF THE CODE OF ORDINANCES OF THE CITY OF ALABASTER, ALABAMA (2015).

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALABASTER, ALABAMA, AS FOLLOWS:

Section 1. Section 38-48 of the *Code of Ordinances of the City of Alabaster, Alabama* (2015), is hereby amended to read as follows:

Section 38-48. Sales tax levied.

There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as provided in this article, a privilege or license tax against persons 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:

(1) Upon every person (including the state, the University of Alabama, Auburn University, and all other institutions of higher learning in the state, whether such institutions are denominational, state, county or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged 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 sales of materials and supplies to any person for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships, other watercraft and commercial fishing vessels of over five tons' load displacement, as registered with the U.S. Coast Guard and licensed by the state department of conservation and natural resources, an amount equal to **five percent** of the gross proceeds of sales of the business, except where a different amount is expressly provided in this section; 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 separately show 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. 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 in this subsection 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.

(2) Upon every person 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 is 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 where an admission fee is charged, including public bathing places and public dancehalls

of every kind and description within the city, an amount equal to **five percent** 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 primary or secondary school. The tax amount which would have been collected pursuant to this subsection shall continue to be collected by such public primary or secondary school but shall be retained by the school which collected it and shall be used by such school for school purposes.

(3) Upon every person 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 **five percent** of the gross proceeds of the sale of such machines, provided that the term "machines," as used in this subsection, 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 therefor, 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.

(4) Upon every person engaged or continuing within the city in the business of selling at retail any automotive vehicle or truck trailer, semitrailer or house trailer, or mobile home setup materials and supplies, including, but not limited to, steps, blocks, anchorings, cable pipes and any other materials pertaining thereto, an amount equal to one-half of one percent of the gross proceeds of the sale of such automotive vehicle or truck trailer, semitrailer, or house trailer, or mobile home setup 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, semitrailer 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 \$0.83 per year or part thereof during which such automotive vehicle, truck trailer, semitrailer 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 12 succeeding months or part thereof during which such automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of such person, and:

a. Where any used automotive vehicle or 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 used vehicle, the tax levied in this subsection 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.

b. Sales of automobiles, motorcycles, trucks, truck trailers or semitrailers that will be registered or titled outside the state, that are exported or removed from the state within 72 hours by the purchaser or his agent for first use outside the state, are not subject to the city sales tax. Sales of other vehicles, such as mobile homes, motorbikes, all-terrain vehicles and boats do not qualify for the export exemption provision and are taxable unless the dealer can provide factual evidence that the vehicle was delivered outside of this state. In order for the sale to be exempt from this tax, the information relative to the exempt sale must be documented on forms approved by the state revenue department.

(5) Upon every person 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 therefor 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-half of one percent of the gross proceeds of the sale thereof; provided, however, the one-half of one percent rate prescribed in this subsection 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 in this subsection 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.

(6) Upon every person 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 thereof, a tax equal to **five percent** 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 and such business.

Section 2. Section 38-50 of the Code of Ordinances of the City of Alabaster (2005), is hereby amended to read as follows:

Section 38-50. Use tax levied.

(a) An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property, not including, however, materials and supplies bought for use in fulfilling a contract for the painting, repairing or reconditioning of vessels, barges, ships, other watercraft and commercial fishing vessels of over five tons' load displacement as registered with the U.S. Coast Guard and licensed by the state department of conservation and natural resources, purchased at retail on or after October 1, 1965, for storage, use or other consumption in this city, at the rate of **five percent** of the sales price of such property, except as provided in subsections (b)—(d) of this section.

(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 October 1, 1965, at the rate of **five percent** of the sales price of any such machine, provided that the term "machine" 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 therefor, 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 this city of any automotive vehicle or truck trailer, semitrailer or house trailer, and mobile home setup materials and supplies, including, but not limited to, steps, blocks, anchorings, cable pipes and any other materials pertaining thereto, purchased at retail on or after December 1, 1994, for storage, use or other consumption in this city at the rate of one-half of one percent of the sales price of such automotive vehicle or truck trailer, semitrailer or house trailer, and mobile home setup materials and supplies as specified above. Where any used automotive vehicle or 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 used vehicle, the tax levied in this subsection 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 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 therefor 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 for storage, use or other consumption in the city, at the rate of one-half of one percent of the sales price of such property within the corporate limits of the city, regardless of whether the retailer is or is not engaged in the business of the city; provided, however, the one-half of one percent rate prescribed in this subsection 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 in this subsection 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 3. Each and every provision of this Ordinance is hereby declared to be severable and an independent provision, and the holding of any provision hereof to be void or invalid for any reason shall not affect any other provision, 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 4. This ordinance is intended to replace and supersede Section 38-48 and Section 38-50 of the Code of Ordinances of the City of Alabaster (2015) upon the effective date, as specified herein.

Section 5. This ordinance shall become effective on May 1, 2023, after its passage and adoption by the City Council of the City of Alabaster, Alabama and publication as required by law.

ADOPTED AND APPROVED THIS THE 27th DAY OF FEBRUARY 2023.

ATTEST:




J. Mark Frey, City Clerk

CITY OF ALABASTER


Sophie Martin, Council President

APPROVED:


Scott Brakefield, Mayor

	Y	N
<u>ROLL CALL</u>		
ELLIS	Y	
RAKESTRAW	Y	
FARRELL	Y	
COLE	Y	
ZAHARIADIS	Y	
PATE	Y	
MARTIN	Y	