

ORDINANCE NO. 806-11

AN ORDINANCE LEVYING AN ADDITIONAL SALES, USE, PRIVILEGE, LICENSE, OR EXCISE TAX AGAINST PERSONS, FIRMS OR CORPORATIONS STORING, USING OR OTHERWISE CONSUMING OR ENGAGING IN THE BUSINESS OF SELLING AT RETAIL TANGIBLE PERSONAL PROPERTY OR CONDUCTING PLACES OF AMUSEMENT IN THE CITY OF HELENA, ALABAMA.

Pursuant to the provisions of Section 11-51-200 et seq., Code of Alabama 1975, as amended, and other applicable provisions of law, BE IT ORDAINED by the City Council of the City of Helena in the State of Alabama as follows:

SECTION 1. 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 sales, 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, 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 agency or instrumentality of such institutions) engaged or continuing within the City of Helena, in 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 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 of over fifty tons burden), an amount equal to one percent (1%) 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 a retailer on the gross sales of the business.

(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, vaudevilles, 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 institutional within the City, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, a 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 houses, public dance halls of every kind

and description within the City, an amount equal to one percent (1%) of the gross receipts of any such business.

(c) Upon every person, firm or corporation engaged or continuing within the City of Helena in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, an amount equal to one-third of one percent (1/3%) 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 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.

(d) Upon every person, firm or corporation engaged or continuing within the City of Helena in the business of selling at retail any automotive vehicle, truck trailer, semi-trailer or house trailer, an amount equal to one-third of one percent (1/3%) of the gross proceeds of sale of said vehicle, truck trailer, semi-trailer or house trailer, provided, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle, 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 \$0.33 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, semi-trailer or house trailer shall remain 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 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 of Helena 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 agriculture produce or products, livestock or poultry on farms, and the parts of such machine, 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-third of one percent (1/3%) of the gross proceeds of the sale thereof. Provided, however, the one-third of one percent (1/3%) 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 agriculture 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 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, 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 of Helena 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 therefor, there is hereby levied a tax equal to one percent (1%) 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 of such business.

SECTION 2. Provisions of State Sales Tax Statutes 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, discounts, penalties, fines, punishments, and deductions that are applicable to the taxes levied by the State sales tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the State sales tax statutes for enforcement and collection of taxes.

SECTION 3. (a) An excise or use tax is hereby imposed on the storage, use or other consumption in the City of Helena 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 of more than fifty tons burden) purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in the City of Helena, at the rate of one percent (1%) of the sales price of such property within the corporate limits of the City, except as provided in subsections (b), (c) and (d) of this section.

(b) An excise or use tax is hereby imposed on the storage, use or other consumption in the City of Helena 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 one-third of one percent (1/3%) of the sales price of any such machine, within the corporate limits of the City of Helena; 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 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 or use tax is hereby imposed on the storage, use, or other consumption in the City of Helena of any automotive vehicle, truck trailer, semi-trailer or house trailer purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in the City of Helena at the rate of one-third of one percent (1/3%) of the sales price of such automotive vehicle, truck trailer, semi-trailer or house trailer within the

corporate limits of the City of Helena. Where any used automotive vehicle, 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 or use tax is hereby levied and imposed on the storage, use or other consumption in the City of Helena of any machine, machinery or equipment which is used in planting, cultivating, and harvesting farm products, or used in connection with the production of agriculture 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 after the effective date of this ordinance, for storage, use or other consumption in the City of Helena at the rate of one-third of one percent (1/3 %) of the sales price of such property within the corporate limits of the City of Helena, regardless of whether the retailer is or is not engaged in business in this City. Provided, however, the one-third of one percent (1/3%) 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 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 statutes for enforcement and collection of taxes.

SECTION 5. This Ordinance Cumulative to General License Code or Ordinance and Other Taxes. This ordinance shall not be construed to repeal any of the provisions of the general license code or ordinance of the City of Helena, or any other privilege, sales, use, or excise taxes imposed by the City of Helena, 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 and taxes imposed by the City of Helena by its general license code or ordinance and other ordinances.

SECTION 6. Penalty for Failure to Pay Tax: Interest. Any person, firm, partnership, corporation, or other entity who fails to pay the sales, privilege or license tax, or the excise or use tax herein levied within the time required shall 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 one percent (1%) per month, or fraction thereof, from the date at which the tax levied became due and payable, such penalty and interest to be assessed and collected as part of the tax. The City Council, if good and sufficient reason is shown, may waive or remit the penalty portion thereof.

SECTION 7. Levy of the Tax in Police Jurisdiction. Upon every person, firm, or corporation engaged in the doing of any act, or who shall do any act, or continuing in the doing of any act, or engaged in the operation of any business or who shall engage in the operation of any business, within the police jurisdiction of the City but beyond the corporate limits of said City for which or upon which a sales, privilege or license tax or excise or use tax is in this ordinance levied or required within the corporate limits of the City, there is hereby levied, in addition to all other taxes of every kind now imposed by law or by municipal ordinance, to be collected as herein provided for the sales, privilege or license taxes or excise or use taxes herein levied within the corporate limits of the City, a sales, privilege or license tax or excise or use tax equal to one-half of that provided, levied or required in this ordinance for the doing of such act, or the engaging or continuing therein, or the engaging or continuing in the operation of such business within the corporate limits of the City. Provided further, that except for the amount of the sales, privilege or license tax or excise or use tax herein levied within the police jurisdiction of said City but without the corporate limits thereof, all the provisions of this ordinance extend and apply to all the area within the police jurisdiction of the City.

SECTION 8. Expenditure of Proceeds. The proceeds collected through the levy of the sales taxes imposed by Section 1 of this ordinance shall be expended only for the purchase of land for Helena High School and for any other expenses deemed necessary for the support of the public schools located within the city limits of Helena, as directed and appropriated by the City Council. The proceeds collected through the levy of the use taxes imposed by Section 3 of this ordinance shall be used for other expenses as directed and appropriated by the City Council. None of the proceeds are intended to or shall be granted or paid for loans to non-governmental entities pursuant to Sec. 94.01 of the Alabama Constitution.

SECTION 9. 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.

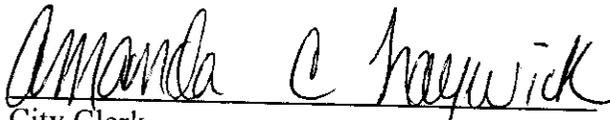
SECTION 10. This ordinance shall become effective on the 1 day of July, 2011.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF HELENA, ALABAMA, on this, the 25th day of April, 2011.



Mayor

ATTEST:

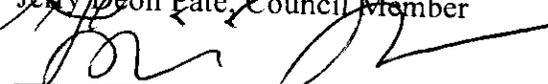


City Clerk





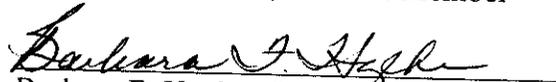
Jerry Leon Pate, Council Member



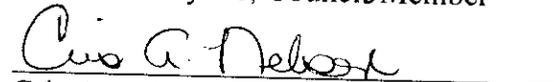
Leigh Hulsey, Council Member

voted NAY

Katherine E. Ennis, Council Member



Barbara F. Hyche, Council Member



Cris A. Nelson, Council Member