

ORDINANCE 2003-015

AN ORDINANCE TO PROVIDE FOR A LICENSE TAX ON PERSONS, FIRMS, CORPORATIONS AND OTHERS ENGAGED IN THE BUSINESS OF SELLING, STORING, OR DELIVERING TOBACCO PRODUCTS WITHIN THE CORPORATE LIMITS OF THE CITY OF SMITHS STATION, ALABAMA.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SMITHS STATION, ALABAMA AS FOLLOWS:

SECTION 11-01. DEFINITIONS:

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

Generally: Any words or phrases used in this article and not herein defined which are defined in Code of Ala. 1975, § 40-25-2, shall have the meanings ascribed to them by such section of the Code of Alabama.

Cigarette means roll or finely cut tobacco, or any substitutes, enclosed in paper prepared for smoking by individuals.

Dealer means any wholesale or retail dealer.

Package means the individual box or other container from which or in which retail sales of tobacco products are normally made or intended to be made.

Retail dealer means any person, other than a wholesale dealer, who sells or delivers tobacco products within the city and any person operating under a retail dealer's license.

Retail price means the retail-selling price of the tobacco products before adding the amount of tax assessed herein or any tobacco tax assessed by the state.

Sold and sale means any transfer of title or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a consideration or agreement, including rewards, prizes or premiums of tobacco products given as a result of operation on punch boards, shooting galleries or other activities.

Store and stored means the storage of warehousing of tobacco products in any manner, or the withdrawal or use of tobacco products for any purpose, other than for resale or reshipment outside the city.

Tobacco products means cigarettes, cigars, and chewing tobacco, smoking tobacco, snuff or any substitute therefore.

Wholesale dealer means a person who sells or delivers within the city at wholesale only, tobacco products to retail dealers for the purpose of resale.

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SECTION 11-02. CONSTRUCTION OF PROVISIONS.

- (a). This article shall not be construed to tax interstate commerce or any business of the United States government or any branch or agency of the government.
- (b). This article shall not be construed to apply to tobacco products stored for the purpose of resale or reshipment outside the city and which are actually so resold or reshipped.
- (c). This article shall not be construed to repeal any of the provisions of the general license provisions of the city but shall be held to be cumulative.

SECTION 11-03. TAX LEVIED IN THE CITY.

In addition to all other taxes of every kind now imposed by law, every person who sells, stores or delivers tobacco products in the corporate limits of the city shall pay a license tax to the city; and a license tax is fixed and levied for the sale, storage or delivery of tobacco products in the corporate limits of the city in the following amounts:

- (1). *Cigarettes*: A license tax in the sum of \$0.03 for each package of 20 cigarettes sold, stored or delivered.
- (2). *Cigars, including cheroots, stogie*: A license tax in the sum of three (3%) for each individual cigar, or substitute, sold, stored or delivered.
- (3). *Chewing tobacco*: A license tax in the sum of three percent (3%) for each package of chewing tobacco prepared in such a manner as to be suitable for chewing only and not suitable for smoking sold, stored or delivered.
- (4). *Smoking tobacco*: A license tax in the sum of three percent (3%) for each package of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such a manner as to be suitable for smoking in a pipe or cigarette sold, stored or delivered.
- (5). *Snuff and other tobacco products used in a similar manner*: A license tax in the sum of three percent (3%) for each package of all snuff and other tobacco products used in a similar manner, not smoked or chewed, sold, stored or delivered.
- (6). *Little Cigars*: A license tax in the sum of three percent (3%) for each package of 20 cigars, or substitute, sold stored or delivered.

SECTION 11-04. RECORDS AND REPORTS OF DEALERS.

Every wholesale dealer shall, at the time of selling or delivering tobacco products into the city, make a true and duplicate invoice of the products, which shall show full and complete details of the sale or delivery of such tobacco products. Every wholesale and every retail dealer shall keep a record of the purchase, sale, exchange or receipt of tobacco products. All such invoices and records and all canceled checks and memoranda pertaining to any such purchase, sale exchange or receipt of tobacco products shall be retained for a period of 24 months 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.

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SECTION 11-05. WHEN TAX IS DUE AND MONTHLY STATEMENT IS FILED.

The tax levied hereunder on all tobacco products shall be due and payable in monthly installments on or before the 20th day of the next succeeding month in which the tax accrued. On or before the 20th day of each month, every wholesaler, jobber, dealer or distributor who sells, stores, or delivers any tobacco products for sale within the city and every retailer who sells stores or delivers any tobacco products for sale within the city that were not purchased through a wholesaler, jobber, dealer or distributor who sells, stores, or delivers tobacco products for sale within the city:

- (1). Shall file with the City Clerk a true and correct monthly statement in writing (on a form approved by the City Clerk) 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;
- (2). Shall, in each and every instance, upon the filing of said statement, furnish to the City Clerk such additional information, either oral or in writing, as the Clerk may require as to the sale or delivery of any tobacco products covered by such statement; and
- (3). Shall at the time of making such statement, pay to the City Clerk the amount of the license tax for the preceding month covered by such statement.

SECTION 11-06. ACTS PROHIBITED AND PENALTY.

- (a). It shall be unlawful for any person required by this article to keep records to fail or omit to keep the records in the manner provided in this article, or to refuse to permit the agent of the city to inspect the records at any reasonable hour, or to interfere with or obstruct the agent of the city in the making of any such inspection.
- (b). It shall be unlawful for any person required by this article to file statements with the Clerk or fail or omit to make or file any statement provided in this article, within the time specified, or to make any false statement in such statement; and such offense shall be a continuing offense against the city; and each day during which such person shall sell or deliver tobacco products in the city during such default shall constitute a separate offense.
- (c). It Shall be unlawful for any person required by this article to pay the license tax to fail or omit to pay the tax within the time specified in this article; and such offense shall be a continuing offense against the city; and each day during which such person shall sell, store or deliver tobacco products in the city during such default shall constitute a separate offense.
- (d). Any person who fails to pay the tax herein levied within the time required hereunder shall pay, in addition to the tax, a penalty of ten (10%) percent of the amount of tax due. Such penalty shall be assessed and collected as part of the tax. Any tax not paid by the twentieth of the month following the date due shall be considered delinquent and the City Clerk or the City Clerks designee shall proceed to collect the delinquent tax. In addition, the failure to pay this tax when due shall constitute grounds for revocation of any license issued under this article.

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(e). Any person or entity who or which violates any provision of this article shall be guilty of a misdemeanor for each such violation and, upon conviction, shall be punished by a fine not less than \$50.00 nor more than \$500.00 plus court costs, or by a jail sentence not to exceed six months, or by both such fine and imprisonment for each such conviction.

SECTION 11-07

The provisions of this Ordinance are severable. If any part hereof shall be held unconstitutional or invalid, the remaining portions shall nonetheless be construed as effective as though any such invalid portion were not included.

SECTION 11-08

Ordinance 2003-011 is hereby repealed.

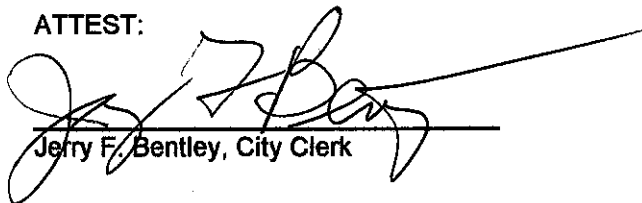
SECTION 11-09

This Ordinance shall be effective the first day of January 2004 following its adoption and publication of this ordinance according to law.

ADOPTED AND APPROVED THIS 10th DAY OF November, 2003


LaFaye Dellinger, Mayor

ATTEST:

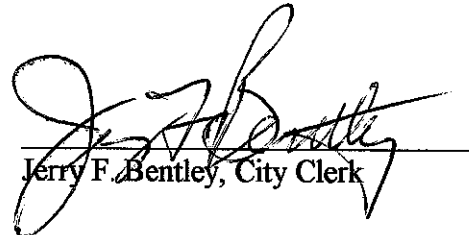

Jerry F. Bentley, City Clerk

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CERTIFICATION OF CITY OF SMITHS STATION TOBACCO ORDINANCE

I, Jerry F. Bentley, City Clerk of the City of Smiths Station, Alabama hereby certify the attached to be a true and correct copy of the ordinance adopted by the City Council of Smiths Station, Alabama at the regular meeting held on November 10, 2003 as same appears in minutes of record of said meeting, and published by posting copies thereof on November 12, 2003 at the public places listed below, which copies remained posted for five business days (through November 19, 2003).

City Hall	2800 Lee Road 243	Smiths Station, AL 36877
Piggly Wiggly	2461 Lee Road 430	Smiths Station, AL 36877
Terry's Grocery,	9309 Lee Road 246	Smiths Station, AL 36877
U.S. Post Office,	2720 Lee Road 430	Smiths Station, AL 36877


Jerry F. Bentley, City Clerk

(SEAL)

