



**ORDINANCE # 2017-04**

**AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ELBERTA, ALABAMA:**

**Section 1.** The Code entitled "Code of Ordinances of the Town of Elberta, Alabama," published by Municipal Code Corporation, consisting of chapters 1 through 30, each inclusive, is adopted.

**Section 2.** All ordinances of a general and permanent nature enacted on or before April 4, 2017, and not included in the Code or recognized and continued in force by reference therein, are repealed.

**Section 3.** The repeal provided for in section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

**Section 4.** Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine not exceeding \$500.00, imprisonment for a term not exceeding six months, or by any combination thereof. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the Town may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

**Section 5.** Additions or amendments to the Code when passed in such form as to indicate the intention to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

**Section 6.** Ordinances adopted after April 4, 2017, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

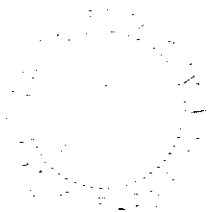
**Section 7.** This ordinance shall become effective upon its adoption and publication as provided by law.

**ADOPTED AND APPROVED THIS 19<sup>TH</sup> DAY OF SEPTEMBER, 2017**

  
Jim Hamby, Mayor

**ATTEST:**

  
Lisa Salter, Town Clerk



Chapter 18

**LICENSES, TAXES AND MISCELLANEOUS PROVISIONS**

**Article I. In General**

- Sec. 18-1. Annual property tax levy.
- Sec. 18-2. Commissions of tax assessor and tax collector; due date of taxes.
- Secs. 18-3—18-22. Reserved.

**Article II. Business Licenses**

- Sec. 18-23. Levy of tax.
- Sec. 18-24. Purpose of legal authority.
- Sec. 18-25. Definitions.
- Sec. 18-26. Requirements.
- Sec. 18-27. Term; minimums.
- Sec. 18-28. Shall be location specific.
- Sec. 18-29. Restriction on transfer.
- Sec. 18-30. Unlawful to do business without a license.
- Sec. 18-31. License must be posted.
- Sec. 18-32. Duty to file report.
- Sec. 18-33. Duty to permit inspection and produce records.
- Sec. 18-34. Unlawful to obstruct.
- Sec. 18-35. Privacy.
- Sec. 18-36. Failure to file assessment.
- Sec. 18-37. Lien for nonpayment of license tax.
- Sec. 18-38. Criminal penalties.
- Sec. 18-39. Civil penalties.
- Sec. 18-40. Penalties.
- Sec. 18-41. Prosecutions unaffected.
- Sec. 18-42. Procedure for denial of new applications.
- Sec. 18-43. Procedure for revocation or suspension of license.
- Sec. 18-44. Refunds on overpayments.
- Sec. 18-45. Delivery license.
- Sec. 18-46. Licenses governed by state law.
- Sec. 18-47. Other requirements.
- Sec. 18-48. Classifications.
- Sec. 18-49. Fee schedules.
- Sec. 18-50. Exchange of information.
- Sec. 18-51. Fees in police jurisdiction.
- Secs. 18-52—18-75. Reserved.

**Article III. Sales and Use Taxes**

- Sec. 18-76. Sales tax levied in town.
- Sec. 18-77. Levy of sales tax in the police jurisdiction.

## ELBERTA CODE

- Sec. 18-78. Use tax levied in town.
- Sec. 18-79. Levy of use tax in the police jurisdiction.
- Sec. 18-80. Provisions of state sales and use tax statutes applicable to this article and taxes herein levied.
- Sec. 18-81. This article cumulative to general license code or ordinance.
- Secs. 18-82—18-105. Reserved.

### Article IV. Tobacco Tax

- Sec. 18-106. Levied.
- Sec. 18-107. Police jurisdiction.
- Sec. 18-108. Reports and payments.
- Sec. 18-109. Records and inspection thereof.
- Sec. 18-110. Determination of tax when records insufficient.
- Sec. 18-111. Exemption.
- Sec. 18-112. Severability.
- Sec. 18-113. Violations.
- Sec. 18-114. Use of revenue.
- Sec. 18-115. Effective date.
- Sec. 18-116. Adoption date.
- Secs. 18-117—18-129. Reserved.

### Article V. Rental Tax

- Sec. 18-130. Leasing or renting tangible personal property.
- Secs. 18-131—18-146. Reserved.

### Article VI. Lodging Tax

- Sec. 18-147. Furnishing rooms, lodgings or accommodations to transients.
- Secs. 18-148—18-163. Reserved.

### Article VII. Motor Fuel Delivery Tax

- Sec. 18-164. Definitions.
- Sec. 18-165. Tax imposed.
- Sec. 18-166. Monthly tax return.
- Sec. 18-167. All distributors must have a business license.
- Sec. 18-168. Tax cumulative.
- Sec. 18-169. Payment due date.
- Sec. 18-170. Penalties for violations.
- Sec. 18-171. Duty to furnish information.
- Sec. 18-172. Pumps must be metered.
- Sec. 18-173. Exemption for subsequent deliveries of motor fuel already taxed.
- Sec. 18-174. Other exemptions.
- Sec. 18-175. Proceeds of tax deposited in general fund.

<i>Gross Revenue</i>	<i>Fee</i>
\$150,001.00—\$200,000.00	\$350.00
\$200,001.00—\$250,000.00	\$400.00
\$250,001.00—\$350,000.00	\$450.00
On gross sales, professional fees and/or charges in excess of \$350,000.00, the license shall be \$450.00, plus \$0.50 per \$1,000.00 on all gross sales, professional fees, and/or charges in excess of \$350,000.00, with a minimum, in any case, of \$100.00.	

(m) *Schedule I(1)*. Each person, firm or corporation engaged in the business of home building shall provide a copy of state certification and pay a minimum license fee of \$150.00; in addition, on the gross sales, professional fees and/or charges in excess of \$75,000.00, the license fee shall be based on Schedule I.

(n) *Schedule I(2)*. Each person, firm or corporation engaged in the business of general contracting shall provide a copy of state certification and pay a minimum license fee of \$200.00; in addition, on the gross sales, professional fees and/or charges in excess of \$100,000.00, the license fee shall be based on Schedule I.

(o) *Schedule J; utilities*. The amount of the license is state-regulated. See Code of Ala. 1975, § 11-51-129. For those utilities covered, the license shall not exceed an amount equal to three percent of the gross receipts of the business transacted in the town for the previous year.

(p) *Schedule K*.

(1) Alcohol.

<i>State of Alabama Code</i>	<i>Classification</i>	<i>Amount</i>
010 (Lounge retail liquor Class I)	312121	\$75.00
011 (Package store liquor Class II)	312122	\$75.00
020 (Restaurant retail liquor)	312121	\$75.00
032 (Club liquor Class II)	312121	\$75.00

(2) Retail dealers serving liquor for consumption on premises, in addition thereto, shall pay an amount equal to ten percent of the total gross purchases of all liquor, such amount to be paid monthly by the 20th of each month. Retail dealers conducting retail sales of packaged liquors for consumption off premises, in addition thereto, shall pay an amount equal to three percent of the total gross purchases of all liquor, such amount to be paid monthly by the 20th of each month.

a. All additional amounts due under these NAICS codes in subsection (1) of this section shall become due and payable no later than the 20th day of each month succeeding the date of taxable purchase of liquor. All persons owing such taxes shall file with the town an accounting of the total purchases and the tax due

Local Tax  
Self Adm.  
Amended  
by CODE

thereon, and further providing that each person, firm or corporation is hereby required to file a monthly tax return by the 20th of the month following the reporting period, whether or not any purchases were made in said period.

- b. Failure to file an accounting and/or pay the tax due under subsection (p)(1) of this section by the due date in subsections (p)(2) and (p)(2)a of this section shall subject the party owing such tax to a 25 percent penalty on the amount of tax due. It shall also be unlawful for any party responsible for filing such accounting to make a false statement therein. The town employee designated to receive such taxes and account for the same shall, upon ascertaining that any tax has not been paid when due or that a false accounting has been filed, cause a certified letter to be written to the taxpayer giving the taxpayer a ten-day period from the date of the letter within which time to pay the correct tax due, plus the penalty thereon. If it is not paid within such ten-day period, a warrant shall be issued for the arrest of the taxpayer. In the event that a warrant is issued for the arrest of such taxpayer, then, in addition to the 25 percent penalty, such taxpayer shall be subject to a fine of not less than \$50.00, nor more than \$500.00, and may be sentenced to hard labor for the town for a period not to exceed six months. In the event that a false statement is filed intentionally, the taxpayer filing a false statement shall be subject to an additional fine up to the maximum amount allowed by state law under ordinances of this kind. The town council may also, without notice, revoke the license for sale of alcoholic beverages held by the taxpayer upon failure to file an accounting and make the tax payments when due or filing a false statement (Code of Ala. 1975, § 28-3A-21).

(q) *Schedule K(1).*

<i>State of Alabama Code</i>	<i>Classification</i>	<i>Amount</i>
040 (beer on/off premises)	312121	\$75.00
050 (beer off premises only)	312122	\$50.00
060 (table wine on/off premises)	312131	\$75.00
070 (table wine off premises only)	312132	\$75.00
110 (wholesale table wine and beer)	312133	\$375.00

(r) *Schedule L.*

<i>Description</i>	<i>Fee</i>
One vehicle, per vehicle	\$100.00
Each vehicle in excess of one, per vehicle	\$25.00

(s) *Schedule M: special events licenses; commercially promoted special events.*

<i>Description</i>	<i>Fee</i>
One day only	\$250.00

**Sec. 18-50. Exchange of information.**

(a) The license officer may exchange tax returns, information, records, and other documents secured by the town, with other municipalities adopting similar ordinances for the exchange of taxpayer information, or with county or state authorities. The license officer may charge a reasonable fee for providing such information or documents. Any tax returns, information, records, or other documents so exchanged shall remain subject to the confidentiality provisions, restrictions, and criminal penalties for unauthorized disclosure, as provided under state or municipal law.

(b) Any such exchange shall be for one or more of the following purposes:

- (1) Collecting taxes due.
- (2) Ascertaining the amount of taxes due from any person.
- (3) Determining whether a person is liable for, or whether there is probable cause for believing a person might be liable for, the payment of any tax to a state, county, or municipal agency.

(c) Nothing herein shall prohibit the use of tax returns or tax information by the town in the proper administration of any matter administered by the license officer. The license officer may also divulge to a purchaser, prospective purchaser, as defined pursuant to the regulations of the state department of revenue, or successor of a business or stock of goods, the outstanding sales, use, or rental tax liability of the seller for which the purchaser, prospective purchaser, as defined pursuant to the regulations of the state department of revenue, or successor may be liable pursuant to the Code of Ala. 1975, § 40-23-25, 40-23-82, or 40-12-224.

**Sec. 18-51. Fees in police jurisdiction.**

Any person, firm, association, or corporation engaged in any business outside the town, but within the police jurisdiction hereof, shall pay one-half of the amount of the license imposed for like business within the town.

**Secs. 18-52—18-75. Reserved.**

**ARTICLE III. SALES AND USE TAXES**

*SEE Ordinance  
- "2017-03"  
This Article to be  
supplemented*

**Sec. 18-76. Sales tax levied in town.**

For the privilege of engaging or continuing within the town in the business activities referred to in this article, there is hereby imposed by law, and shall be collected as herein provided, a privilege, license or excise tax against persons, firms, or corporations storing, using, otherwise

consuming or engaged in the business of selling at retail tangible personal property, or conducting places of amusement within the town, an amount to be determined by the application of rates against gross sales, or gross receipts, as the case may be, as follows:

- (1) a. Upon every person, firm, or corporation (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, any association or other agency or instrumentality of such institutions) engaged or continuing within the town 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 material and supplies to any person for use in fulfilling a contract for the painting, repair, 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 three percent 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. 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.
- (2) Upon every person, firm, or corporation engaged or continuing within this town 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 institution within this state, or any athletic association thereof, or other association, whether the institution or association is a denominational, state, county, or 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, public dance halls of every kind and description within the state, an amount equal to three percent of the gross receipts of any such business; provided, however, notwithstanding any language to the contrary in the prior portion of this article, 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 subdivision, shall continue to be collected by the public or nonpublic primary or secondary school, but shall be retained by the school which collected it and shall be used by the school for school purposes.

- (3) Upon every person, firm or corporation engaged or continuing within the town 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 percent 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 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)
  - a. Upon every person, firm or corporation engaged or continuing within the town in the business of selling at retail any automotive vehicle or truck trailer, semitrailer or 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 one percent of the gross proceeds of sales of said automotive vehicle or truck trailer, semitrailer or house trailer, or mobile home set-up materials and supplies; provided, however, where a person subject to the tax provided for in this subdivision 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 \$5.00 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.
  - b. 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 partial 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.

- c. Sales of automobiles, motorcycles, trucks, truck trailers, or semitrailers, excluding travel trailers or housecars, as defined in Code of Ala. 1975, § 40-12-240, that will be registered or titled outside of the state, that are exported or removed from the state within 72 hours by the purchaser or his agent for first use outside of the state, are subject to state sales tax in an amount equal to only the state automotive sales tax rate, unless the sales tax laws of the state in which the purchaser will title or register the vehicle allow a state resident to purchase a motor vehicle for first titling and registering in the state without the payment of tax to that state. However, in no case shall the amount of state sales tax due on a motor vehicle that will be registered or titled for use in another state exceed the amount of sales tax that would otherwise have been due in the state where the vehicle will be registered or titled for first use. The tax collected under this export provision shall be state sales tax and shall exclude county and town sales tax. On January 1, 2016, and each January 1 thereafter, the state department of revenue shall publish to the state's website a list of states that do not allow drive-out provisions to state residents. Should the list, required by this subsection and relied upon by the taxpayer, be incorrect, the taxpayer shall be relieved from the liability concerning the miscollection of the state automotive sales tax. Sales of all other vehicles such as mobile homes, motor bikes, 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 the state or to a common carrier for transportation outside of the state. In order for the sale to be exempt from state tax, the information relative to the exempt sale shall be documented on forms approved by the revenue department.
- (5) a. Upon every person, firm or corporation engaged or continuing within the town 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 percent of the gross proceeds of sales thereof. Provided, however, the rates herein prescribed with respect to parts, attachments, and replacement 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.
- b. 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 partial 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.

- (6) Upon every person, firm or corporation engaged or continuing within the town 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 an amount equal to three percent on 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.

(Ord. No. 1998-1, § I(1), 6-9-1998)

**State law references**—Local sales taxes, Code of Ala. 1975, § 11-51-200 et seq.; state sales tax, Code of Ala. 1975, § 40-23-1 et seq.

**Sec. 18-77. Levy of sales tax in the police jurisdiction.**

Upon every person, firm or corporation engaged in the doing of an act or who shall do an act, or continuing in the business or who shall engage in the operation of any business, within the police jurisdiction of the town, but beyond the corporate limits of said town for which or upon which a privilege or license tax is levied or required within the corporate limits of the town in section 18-76, there is hereby levied, in addition to all other taxes of every kind now imposed by law or by town ordinance, to be collected, as herein provided for the privilege or license taxes herein levied within the corporate limits of the town, a privilege or license tax equal to one-half of that provided, levied or required in this article 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 town. Provided further, that, except for the amount of the privilege or license tax herein levied within the police jurisdiction of said town, but without the corporate limits thereof, all the provisions of this article extend and apply to all the area within the police jurisdiction of the town.

(Ord. No. 1998-1, § I(2), 6-9-1998)

**Sec. 18-78. Use tax levied in town.**

(a) An excise tax is hereby levied on the storage, use or other consumption within the town of tangible personal property (not including materials and supplies bought for use in fulfilling a contract for the painting, repair, or reconditioning of vessels, 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 the effective date of the ordinance from which this

article is derived for storage, use or other consumption in the county, except as provided in subsections (b), (c), and (d) of this section, at the rate of three percent of the sales price of such property.

(b) An excise tax is hereby levied on the storage, use or other consumption within the town 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 the ordinance from which this article is derived at the rate of one percent 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 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) (1) An excise tax is hereby levied on the storage, use or other consumption within the town of any automotive vehicle or truck trailer, semitrailer, 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 the ordinance from which this article is derived for storage, use or other consumption in the town at the rate of one percent of the sales price of such automotive vehicle or truck trailer, semitrailer, house trailer or mobile home set-up materials and supplies.
- (2) 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 partial 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) (1) An excise tax is hereby levied and imposed on the storage, use or other consumption within the town 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 on or after the effective date of the ordinance from which this article is derived, for the storage, use or other consumption at the rate of one percent of the sales price of such property; provided, however, that the rates 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.
- (2) 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 partial payment on a sale of a new or used machine, the excise tax 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.

(Ord. No. 1998-1, § I(3), 6-9-1998)

**State law references**—Local use taxes, Code of Ala. 1975, § 11-51-202 et seq.; state use tax, Code of Ala. 1975, § 40-23-60 et seq.

**Sec. 18-79. Levy of use tax in the police jurisdiction.**

Upon every person, firm or corporation storing, using or otherwise consuming such goods as herein provided, within the police jurisdiction of the town, but beyond the corporate limits of said town for which or upon which a privilege or license tax is in this article levied or required within the corporate limits of the town, there is hereby levied, in addition to all other taxes of every kind now imposed by law or by town ordinance, to be collected as herein provided for the privilege or license taxes herein levied within the corporate limits of the town, a privilege or license tax equal to one-half of that provided, levied or required in section 18-78 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 town; provided further that, except for the amount of the privilege or license tax herein levied within the police jurisdiction of said town, but without the corporate limits thereof, all the provisions of this article extend and apply to all the area within the police jurisdiction of the town.

(Ord. No. 1998-1, § I(4), 6-9-1998)

**Sec. 18-80. Provisions of state sales and use tax statutes applicable to this article and taxes herein levied.**

This article and the taxes herein levied shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, penalties, fines, punishments, and deductions that are applicable to the taxes levied by the state sales and use tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state sales and use tax statutes for enforcement and collection of taxes.

(Ord. No. 1998-1, § I(5), 6-9-1998)

**State law references**—State sales tax, Code of Ala. 1975, § 40-23-1 et seq.; state use tax, Code of Ala. 1975, § 40-23-60 et seq.

**Sec. 18-81. This article cumulative to general license code or ordinance.**

This article shall not be construed to repeal or replace any of the provisions of other taxes of every kind, but shall be held to be cumulative, and the amounts of taxes herein levied shall be in addition to the amount of all other license, privilege or excise taxes imposed by the town.

(Ord. No. 1998-1, § I(6), 6-9-1998)

**Secs. 18-82—18-105. Reserved.**"2003 Ordinance"**ARTICLE IV. TOBACCO TAX**Local Tax  
Self Adm.**Sec. 18-106. Levied.**

That in addition to all other taxes now imposed by law, every wholesaler, jobber, dealer or distributor who sells, stores or delivers any tobacco products for sale within the Town of Elberta shall pay a license tax to the Town of Elberta; and every retailer who sells, stores or delivers any tobacco products for sale within the Town of Elberta that were not purchased through a wholesaler, jobber, dealer, or distributor who sells, stores or delivers tobacco products for sale within the Town of Elberta shall pay a license tax to the Town of Elberta; and a license tax is hereby fixed and levied, which license shall be in the following amounts for the sale, storage, and/or delivery of the following named tobacco products in the Town limits of the Town of Elberta:

- (1) *Cigarettes.* All cigarettes made of tobacco or any substitute therefore, five cents (\$0.05) for each package.
- (2) *Cigars.* All cigars made of tobacco or any substitute therefore, five percent (5%) of the wholesale price.
- (3) *All other forms of tobacco.* All other forms of tobacco other than cigarettes 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, five percent (5%) of the wholesale price.

(Ord. No. 2003-03, § 1, 8-19-2003)

**Sec. 18-107. Police jurisdiction.**

That the tax levied by this Ordinance shall be applied to and be collectable in the Police jurisdiction shall be one-half of the amount of tax levied and prescribed within the Town limits as set forth in section 18-106 hereof.

(Ord. No. 2003-03, § 3, 8-19-2003)

**Sec. 18-108. Reports and payments.**

That each wholesaler, jobber, dealer, distributor, or retailer subject to pay a license tax to the Town of Elberta for the sale, storage or delivery of tobacco products for sale within the Town of Elberta as provided in section 18-106 and section 18-107 hereof shall submit to the Town Clerk of Elberta between the first day and the twentieth day of each calendar month on a form provided for the same by the Town Clerk a sworn statement setting forth the number of packs of cigarettes sold, the wholesale price of cigars sold, and the wholesale price of other Tobacco Products sold within the Town limits of Elberta and the police jurisdiction thereof and to

whom the said sales were made; and shall pay to the Town Clerk of Elberta prior to the twentieth day of each month the amount of license tax due on said sworn sales for the preceding calendar month as fixed and levied in section 18-106 and section 18-107 hereof.

(Ord. No. 2003-03, § 4, 8-19-2003)

**Sec. 18-109. Records and inspection thereof.**

That every wholesaler, jobber, dealer, or distributor subject to the license tax levied by this ordinance shall at the time of selling and/or to the license tax levied by this ordinance shall at the time of selling and/or delivering any tobacco products enumerated in section 18-106 hereof in the Town limits of the Town of Elberta or the police jurisdiction of the Town of Elberta, make a true duplicate invoice of the sale and/or delivery of such tobacco products and shall retain the same subject to the use and inspection of the Town Clerk of Elberta or said clerk's duly authorized deputy for the period of three years. That every wholesaler, jobber, dealer, distributor or retailer subject to the license tax levied by this ordinance shall keep a record of the purchase, sale, exchange and/or receipt of all the tobacco products encumbered in section 18-106 and hold all books, records, cancelled checks, and all other memoranda pertaining to such purchases, sales, exchanges and/or receipt for the period set forth herein, subject to the inspection of the Town Clerk of Elberta, or said clerk's duly authorized deputy, who shall have the power and authority to enter upon the premises of any wholesaler, jobber, dealer, distributor or retailer, and to examine such books, records and memoranda at all reasonable times.

(Ord. No. 2003-03, § 5, 8-19-2003)

**Sec. 18-110. Determination of tax when records insufficient.**

In the event the amount of tax due from a wholesaler, jobber, dealer, distributor or retailer cannot be accurately determined from the sworn monthly statement submitted to the Town Clerk of Elberta as provided in section 18-108, or adequate records are not kept as required in section 18-109, or if a wholesaler, jobber, dealer, distributor or retailer subject to the license tax levied by this ordinance refuses to allow an examination of his records, the amount of tax due may be determined from other information or data available, and the amount of the tax so determined shall be assessed against said wholesaler, jobber, dealer, distributor or retailer. Notice of such assessment shall be given to said wholesaler, jobber, dealer, distributor or retailer and a demand made for immediate payment.

(Ord. No. 2003-03, § 6, 8-19-2003)

**Sec. 18-111. Exemption.**

This ordinance shall not be applied so as to impose any unlawful tax or unlawful burden on interstate commerce or any business of the tobacco products mentioned herein stored by a wholesaler, jobber, dealer or distributor for the purpose of resale or reshipment outside the Town of Elberta and its police jurisdiction and which are actually so resold or reshipped.

(Ord. No. 2003-03, § 7, 8-19-2003)

**Sec. 18-112. Severability.**

If any part or parts of this ordinance shall be found unconstitutional by any court of competent jurisdiction, the remaining part shall remain in full force and effect.  
(Ord. No. 2003-03, § 8, 8-19-2003)

**Sec. 18-113. Violations.**

It shall be unlawful for any person who is required to file statements with the Town Clerk of Elberta as set forth in section 18-108 hereof to fail or omit to file such statements, and it shall also be unlawful to make false statements or to fail to pay the amount of tax, and each day after which said statements or payments are due shall be a separate offense and the person violating any of the provisions of this ordinance shall, upon conviction, be fined not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500.00) and may be sentenced to hard labor for the Town for a period not to exceed six (6) months.  
(Ord. No. 2003-03, § 9, 8-19-2003)

**Sec. 18-114. Use of revenue.**

The taxes generated by the increase shall be deposited into the General Fund.  
(Ord. No. 2003-03, § 10, 8-19-2003)

**Sec. 18-115. Effective date.**

This ordinance shall be effective October 1, 2003, upon its adoption and publication, as required by law.  
(Ord. No. 2003-03, § 11, 8-19-2003)

**Sec. 18-116. Adoption date.**

Adopted on the 19th day of August, 2003.  
(Ord. No. 2003-03, 8-19-2003)

**Secs. 18-117—18-129. Reserved.**

"New" - ARTICLE V. RENTAL TAX -

To be  
Adm. by  
A.D.O.R.

**Sec. 18-130. Leasing or renting tangible personal property.**

(a) *Levy of tax in the town.* 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 on each person engaging or continuing within the town in the business of leasing or renting tangible personal property at the rate of two percent of the gross proceeds derived by the lessor from the lease or rental of tangible personal property; provided that the said privilege or license tax on



each person engaging or continuing within the town in the business of leasing or renting any automotive vehicle or truck trailer, semi-trailer or house trailer shall be at the rate of one percent of the gross proceeds derived by the lessor from the lease or rental of such automotive vehicle or truck trailer, semi-trailer or house trailer; provided, further, that the tax levied in this section shall not apply to any leasing or rental, as lessor, by the state, or any municipality or county in the state, or any public corporation organized under the laws of the state, including without limiting the generality of the foregoing, any corporation organized under the provisions of Code of Ala. 1975, §§ 11-54-80 through 11-54-101; provided, further, that the privilege or license tax on each person or firm engaging or continuing within the city in the business of leasing or rental of linens and garments shall be at the rate of two percent of the gross proceeds derived by the lessor from the lease or rental of such linens and garments.

(b) *Tax levied in police jurisdiction.* Every person who is subject to the provisions of this section leasing tangible personal property within the police jurisdiction of the town shall remit one-half of the rental or license tax under subsection (a) of this section for the leasing or rental of property covered under the terms and provisions of this section.

(c) *Provisions of state rental tax statutes applicable to this section and taxes herein levied.* This section and the taxes levied herein 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 rental tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state rental tax statutes for enforcement and collection of taxes.

Secs. 18-131—18-146. Reserved.

"New" — ARTICLE VI. LODGING TAX

To be  
Adm. by A.D.O.R.

Sec. 18-147. **Furnishing rooms, lodgings or accommodations to transients.**

(a) There is hereby levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon every person, firm, or corporation engaging in the business of renting or furnishing any room or rooms, lodging, or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodging, accommodations are regularly furnished to transients for a consideration inside the corporate limits of the town in an amount to be determined by the application of the rate of seven percent of the charge for such room, rooms, lodging, or accommodations, including the charge for use or rental of personal property and services furnished in such room. Provided, however that any rentals or services taxed under the State sales tax law are hereby exempted from this tax.

(b) There is hereby levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon every person, firm, or corporation engaging in the business or renting or furnishing any room or rooms, lodging, or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodging, or accommodations are regularly furnished to transients for a consideration inside the police jurisdiction but outside the corporate limits of the town in an amount to be determined by the application of the rate of 3½ percent of the charge for such room, rooms, lodgings or accommodations, including the charge for use or rental of personal property and services furnished in such room. Provided, however that any rentals or services taxed under the State sales tax law are hereby exempted from this tax.

(c) The lodging tax charged by this article shall not apply to rooms, lodgings, or accommodations supplied:

- (1) For a period of 180 continuous days or more in any place;
- (2) By camps, conference centers, or similar facilities operated by recreational or educational programs for children, students, or members or guests of other nonprofit organizations during any calendar year; or
- (3) By privately operated camps, conference centers, or similar facilities that provide lodging and recreational or educational programs exclusively for the benefit of children, students, or members or guests of nonprofit organizations during any calendar year.

(d) This section and the taxes herein levied shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, penalties, fines, and punishments, and deductions that are applicable to the taxes levied by the state lodgings tax statutes currently codified in Code of Ala. 1975, § 40-26-1 et seq., except where inapplicable or herein otherwise provided.

(e) This section does not repeal, replace, or alter any of the provisions of the business license codes or ordinances of the town, and the lodging taxes levied hereby shall be cumulative and in addition to the amounts of all other taxes, license fees, and other charges imposed by the town on such businesses, people, or entities.

**Secs. 18-148—18-163. Reserved.**

"New"

**ARTICLE VII. MOTOR FUEL DELIVERY TAX**

Local Tax  
Self Adm

**Sec. 18-164. 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:

*Distributor* means any business, legal entity, association, trust or person who acquires motor fuel from a supplier in Alabama for subsequent sale at wholesale.

*Gallons* means the total volume of a product, exclusive of any temperature or pressure adjustments, considerations, or deductions, stated in U.S. gallons.

*Motor fuel* includes gasoline, naphtha, diesel fuel, bio-diesel, blended fuel, liquefied gas, and any other inflammable liquid or substance that is advertised as, offered for sale as, suitable for use as, or used as fuel for the propulsion of a motor vehicle on the public highways in the state. The term "motor fuel" shall not include kerosene oil, fuel oil, or crude oil which is more commonly used for heating, lighting, or industrial purposes, unless such products are blended with diesel or other products to cause them to be suitable for motor vehicle use. The term "motor fuel" shall also not include fuel specially designed for use in the operation of aircrafts and which is sold for aviation purposes.

**Sec. 18-165. Tax imposed.**

(a) A tax is hereby imposed on each gallon of motor fuel that is delivered into the corporate limits of the town by a distributor in an amount equal to \$0.03 per gallon.

(b) A tax is hereby imposed on each gallon of motor fuel that is delivered into the police jurisdiction, but outside of the corporate limits, of the town by a distributor in an amount equal to \$0.015 per gallon.

**Sec. 18-166. Monthly tax return.**

Each distributor shall, on or before the 20th day of each month, file with the town revenue department a motor fuel tax return on a form required by the town that contains the following data:

- (1) The total quantity, in gallons, of all motor fuel delivered by such distributor into the corporate limits of the town during the preceding month, and from this amount, the total quantity of taxable and exempt deliveries; and
- (2) The total quantity, in gallons, of all motor fuel delivered by such distributor outside of the corporate limits but within the police jurisdiction of the town during the preceding month, and from this amount, the total quantity of taxable and exempt deliveries.

For any deliveries which the distributor alleges to be exempt, the distributor shall attach such statements, documents, and evidence to their filing and return to justify and explain their claim of an exemption.

**Sec. 18-167. All distributors must have a business license.**

All distributors must hold a valid town business license. It shall be unlawful for any distributor to make any sales or deliveries of motor fuel in the corporate limits or police jurisdiction of the town without first having obtained a business license from the town, including any distributors who do not have a place of business within the corporate limits or police jurisdiction of the town.

**Sec. 18-168. Tax cumulative.**

This motor fuel tax established and levied under this article is in addition to and cumulative of all business privilege licenses, franchise fees, sales taxes, use taxes and other sums of money of any nature otherwise due to be paid to the town.

**Sec. 18-169. Payment due date.**

The motor fuel tax established and levied under this article is due and payable to the town revenue department no later than the twentieth day of each calendar month for all taxable motor fuel deliveries made during the preceding month. Payment shall accompany the distributor's monthly tax return. In addition to any other amounts then due, a distributor who fails to timely pay some or all of the motor fuel tax owed under this article shall also pay the town a default penalty equal to 20 percent of the amount of the delinquent tax owed.

**Sec. 18-170. Penalties for violations.**

Any distributor failing or omitting to pay all such motor fuel taxes when due, or failing or omitting to timely file an accurate and complete monthly tax return, as required by this article shall be guilty of an offense against the town, and such offense shall be deemed a continuing offense for each day that the distributor remains in default which shall constitute a separate offense. Punishment for each such offense shall be a maximum fine of \$500.00 per offense, and shall constitute good cause for the mayor and council to suspend or revoke a distributor's business license.

**Sec. 18-171. Duty to furnish information.**

Upon demand by the town clerk or a town revenue department representative, or their authorized representatives, all such information as may be required to prove the correct amount of tax to which any person is subject shall be furnished to the town, and it shall be the duty of such person, upon such demand, to submit to the town for inspection and examination, all books of account, invoices, papers, reports and memoranda containing entries showing the amount of purchases, sales, receipts, deliveries, transfers, exchanges, inventory and other information from which the correct amount of tax may be determined.

**Sec. 18-172. Pumps must be metered.**

It shall be the duty of every distributor to have a meter in good working order on each tank and on each pump which is used to make or accept deliveries of motor fuel and/or which is used to dispense motor fuel. It shall further be the duty of every distributor to keep and maintain accurate records of the readings of the meters and of their transactions so as to enable the distributor and the town to audit and verify that the distributor's statement of activity and tax return and to verify that the distributor's tax remittance under this article is in the correct amount.

**Sec. 18-173. Exemption for subsequent deliveries of motor fuel already taxed.**

The motor fuel tax established by this article is owed in connection with the first time a motor fuel gallon enters the police jurisdiction or corporate limits of the town, and if the motor fuel tax has already been received by the town, any subsequent re-deliveries of that same motor fuel gallon will be exempt from further taxation under this article unless such subsequent re-delivery causes the motor fuel to be moved from the police jurisdiction to the corporate limits for the first time in which event the distributor responsible for the subsequent re-delivery into the corporate limits shall be liable for the additional tax owed hereunder.

**Sec. 18-174. Other exemptions.**

Any distributor who is delivering motor fuel to the United States, the state, the county, the town, or any of their departments or agencies shall be exempt from paying the motor fuel tax under this article on such deliveries.

**Sec. 18-175. Proceeds of tax deposited in general fund.**

The proceeds derived from the motor fuel tax levied in this article shall be placed in the general fund of the town subject to appropriation by the mayor and council for any lawful purpose of the town.



# CERTIFICATION OF POSTING

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I, **Lisa Salter**, duly appointed Town Clerk of the Town of Elberta, Alabama, do hereby certify that the attached "Public Notice" was posted on AUGUST 29, 2017

**BOUND COPY**

**CODE OF ORDINANCES  
TOWN OF ELBERTA, ALABAMA  
MUNICODE - MUNICIPAL CODE CORPORATION**

**Posted in Elberta at the following locations:**

**Elberta Town Hall - HALLWAY TABLE, PUBLIC ENTRANCE, CHAINED**

**Elberta Post Office - Interior Message Board, CHAINED**

**Centennial Bank, Elberta location - Interior Message Board, CHAINED**

  
\_\_\_\_\_  
Lisa Salter, Town Clerk

Date: 8/29/17

# TOWN OF ELBERTA, ALABAMA

## CERTIFICATE OF PUBLICATION

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This is to certify that Ordinance # 2017-04, Town of Elberta, Alabama, was published by posting on at least three (3) bulletin boards in the town, from **September 20, 2017** through **October 31, 2017**.

### LOCATIONS:

1. Elberta Town Hall Message Board
2. Elberta Post Office Message Board
3. Elberta Pharmacy Message Board
4. Miflin Community Center Message Board
5. Elberta Grocery Store Message Board

  
Lisa Salter, Town Clerk

Date: Oct. 31, 2017