



**CITY OF CREOLA**  
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Mayor City Council

Carolyn Sue Cain  
City Clerk

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Court Clerk

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Jeff Reeves  
Fire Chief

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ORDINANCE 17-001

AN ORDINANCE LEVYING A PRIVILEGE, LICENSE OR EXCISE TAX FOR THE SALE, DISTRIBUTION, USE OR DELIVERY OF GASOLINE, MOTOR FUEL, DIESEL FUEL OR ANY OTHER FUEL USED IN THE PROPULSION OF; PROVIDING FOR THE COLLECTION OF THE SAID TAX; AND PROVIDING FOR PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

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

Section 1. Definitions: For the purpose of this ordinance, the following terms have the respective meaning as ascribed by this section:

- (1) "Aviation Fuel" shall mean aviation gasoline or aviation jet fuel.
- (2) "Aviation Gasoline" shall mean motor fuel designed for the use in the operation of aircraft other than jet aircraft, and sold or used for that purpose.
- (3) "Aviation Jet Fuel" shall mean motor fuel designed for use in the operation of jet or turbo-prop aircraft and sold or used for that purpose.
- (4) "Butane" shall mean any organic compound found in natural gas which is commonly referred to as butane, and produced from petroleum and used, among other purposes, as a household fuel, refrigerant, and propellant in aerosol cans.
- (5) "Condensate" shall, for purposes of this ordinance, shall include "gas condensate" and "natural gas condensate", and shall refer to any low density mixture of hydrocarbon liquids that are present as gaseous components in the raw natural gas produced from crude oil wells, dry gas wells, or condensate wells.
- (6) "Distributor" shall mean any person or individual, wholesaler, corporation, or partnership who engages in the selling of gasoline or motor fuel within the Town by wholesale domestic trade.

- (7) "Gasoline" shall mean any product commonly known as gasoline that is advertised or offered for sale, or sold for use or used as a motor fuel in an internal combustion engine, including gasohol and blended fuels which contain gasoline. The term shall include naphtha and blend stocks defined in Section 4081, Title 26 of the United States Code, or any regulations promulgated thereunder, provided that such term shall not be held to apply to those products known commercially as "kerosene oil", "fuel oil" or "crude oil" when used for lighting, heating or industrial purposes. Gasoline shall not include "Aviation Gasoline" which shall be specifically exempted from this tax.
- (8) "Motor Fuel" shall mean diesel or tractor fuel, gas, oil, distillate or liquefied gas or any substitutes devices therefor when used in the operation of any motor vehicle upon the highways of this state.
- (9) "Natural gas" shall mean naturally occurring hydrocarbon gas mixtures consisting primarily of methane, and commonly including varying amounts of other higher alkanes, used for such purposes as providing an energy source for heating, cooking, and electricity generation, among other things. This term shall include any component material or gaseous substance or any derivative or by product thereof.
- (10) "Person" shall mean persons, corporations, co-partnerships, companies, agencies, associations, incorporated or otherwise, singular or plural.
- (11) "Propane" shall mean a gaseous substance (Also referred to as liquefied petroleum gas or LP gas) consisting of a three carbon alkane with the molecular formula  $C_3H_8$ , commonly used, among other things, as fuel for engines, oxy-gas torches, portable stoves, and residential central heating.
- (12) "Refiner" shall mean any person who manufactures, distills, blends, and compounds or mixes any one or more products in the production of gasoline or motor fuel as herein described, and who owns, operates, or otherwise controls a refinery.
- (13) "Retail Dealer" shall mean any person herein defined as a distributor who is also engaged in the selling of gasoline or motor fuel within the Town in broken quantities.
- (14) "Storer" shall mean any person who ships or causes to be shipped or receives gasoline or motor fuel into the Town in any quantities and stores the same in any manner and withdraws or uses the same for any purpose.
- (15) "User" shall mean any person who uses or consumes gasoline or motor fuel in this state in any manner or for any purpose; provided that the term "user" is not to include any refiner who has a refinery or refineries located within the state of Alabama when using gasoline or motor fuel in the manufacturing or refining process, or any person who holds a federal permit to blend motor fuels under the federal law and statutes and who pays the federal excise tax on such motor fuels directly to the federal



government, which such person uses gasoline in this state in such blending process.

(16) "City" shall mean the City of Creola, Alabama, which includes the police jurisdiction of the City of Creola.

Section 2. Levy of Tax in the Corporate Jurisdiction of the City: An excise tax is hereby levied on persons selling, distributing, using, storing or withdrawing from storage for any purpose whatever, gasoline or motor fuel within the corporate limits of the City at the rate of three (3) cents per gallon (or other equivalent measurement) and to require every distributor, retail dealer or storer of gasoline or motor fuel and diesel fuel as herein defined to pay such excise tax upon the selling, distributing or withdrawing from storage for any use, gasoline or motor fuel as herein defined; provided that the excise tax levied pursuant to the provisions of this ordinance shall not be levied upon the sale of gasoline or motor fuel in interstate commerce, and provided further that if the excise tax levied pursuant to this ordinance upon the sale of such gasoline or motor fuel shall have been paid by a distributor or by retail dealer or storer, such shall be sufficient, the intention being that the tax shall not be paid but once. The excise tax levied pursuant to the provisions of this ordinance shall apply to persons, firms, corporations, dealers or distributors storing gasoline or motor fuel and distributing the same or allowing the same to be withdrawn from storage, whether such withdrawal be for sale or other use, provided that sellers of gasoline or motor fuel and its substitutes paying the tax herein authorized may pay the same computed and paid on the basis of their sales as hereinafter required, and storers and distributors shall compute and pay such tax on the basis of their withdrawals or distributions. The tax herein authorized shall be in addition to any and all excise or other taxes imposed on gasoline or motor fuel or any device or substitute therefore, or in the business of selling, distribution, storing or withdrawing from storage for any purpose, gasoline or motor fuel as herein defined.

Section 3. Tax Levied in Police Jurisdiction: An excise tax is hereby levied on persons selling, distributing, using, storing or withdrawing from storage for any purpose whatever, gasoline or motor fuel within the police jurisdiction of the City, but outside the corporate limits, at the rate of one and one-half (1.5) cents per gallon (or other equivalent measurement) and to require every distributor, retail dealer or storer of gasoline or motor fuel and diesel fuel as herein defined to pay such excise tax upon the selling, distributing or withdrawing from storage for any use, gasoline or motor fuel as herein defined; provided that the excise tax levied pursuant to the provisions of this ordinance shall not be levied upon the sale of gasoline or motor fuel in interstate commerce, and provided further that if the excise tax levied pursuant to this ordinance upon the sale of such gasoline or motor fuel shall have been paid by a distributor or by retail dealer or storer, such shall be sufficient, the intention being that the tax shall not be paid but once. The excise tax levied pursuant to the provisions of this ordinance shall apply to persons, firms, corporations, dealers or distributors storing gasoline or motor fuel and distributing the same or allowing the same to be withdrawn from storage, whether such withdrawal be for sale or other use, provided that sellers of gasoline or motor fuel and its substitutes paying the tax herein authorized may pay the same computed and paid on the basis of their sales as hereinafter required, and storers and distributors shall compute and pay such tax on the basis of their withdrawals or distributions. The tax herein authorized shall be in addition to any and all excise or other taxes imposed on gasoline or motor fuel or any device or substitute therefore, or on the business of selling, distributing, storing or withdrawing from storage for any purpose, gasoline or motor fuel as herein defined.



Section 4. Levy of Tax in the Corporate Jurisdiction of the City: An excise tax is hereby levied on persons selling, distributing, using, storing or withdrawing from storage for any purpose whatever, condensate or natural gas condensate, natural gas, butane, or propane within the corporate limits of the City at the rate of three (3) cents per gallon (or other equivalent measurement) and to require every distributor, retail dealer or storer of condensate or natural gas condensate, natural gas, butane, or propane fuel as herein defined to pay such excise tax upon the selling, distributing or withdrawing from storage for any use, condensate or natural gas condensate, butane, propane, or natural gas as herein defined; provided that the excise tax levied pursuant to the provisions of this ordinance shall not be levied upon the sale of condensate or natural gas condensate, butane, propane, or natural gas in interstate commerce, and provided further that if the excise tax levied pursuant to this ordinance upon the sale of condensate or natural gas condensate, butane, propane, or natural gas shall have been paid by a distributor or by retail dealer or storer, such shall be sufficient, the intention being that the tax shall not be paid but once. The excise tax levied pursuant to the provisions of this ordinance shall apply to persons, firms, corporations, dealers or distributors storing condensate or natural gas condensate, butane, propane, or natural gas and distributing the same or allowing the same to be withdrawn from storage, whether such withdrawal be for sale or other use, provided that sellers of condensate or natural gas condensate, propane, butane, or natural gas and its substitutes and derivatives paying the tax herein authorized may pay the same computed and paid on the basis of their sales as hereinafter required, and storers and distributors shall compute and pay such tax on the basis of their withdrawals or distributions. The tax herein authorized shall be in addition to any and all excise or other taxes imposed on condensate or natural gas condensate, propane, butane, or natural gas or any substitute therefor, or in the business of selling, distribution, storing or withdrawing from storage for any purpose, condensate or natural gas condensate, butane, propane, or natural gas as herein defined.

Section 5. Tax Levied in Police Jurisdiction: An excise tax is hereby levied on persons selling, distributing, using, storing or withdrawing from storage for any purpose whatever, condensate or natural gas condensate, natural gas, butane, or propane within the police jurisdiction of the City, but outside the corporate limits, at the rate of one and one-half (1.5) cents per gallon (or other equivalent measurement) and to require every distributor, retail dealer or storer of condensate or natural gas condensate, natural gas, butane, or propane as herein defined to pay such excise tax upon the selling, distributing or withdrawing from storage for any use, condensate or natural gas condensate, natural gas, butane, or propane as herein defined; provided that the excise tax levied pursuant to the provisions of this ordinance shall not be levied upon the sale of condensate or natural gas condensate, natural gas, butane, or propane in interstate commerce, and provided further that if the excise tax levied pursuant to this ordinance upon the sale of such condensate or natural gas condensate, natural gas, butane, or propane shall have been paid by a distributor or by retail dealer or storer, such shall be sufficient, the intention being that the tax shall not be paid but once. The excise tax levied pursuant to the provisions of this ordinance shall apply to persons, firms, corporations, dealers or distributors storing condensate or natural gas condensate, natural gas, butane, or propane and distributing the same or allowing the same to be withdrawn from storage, whether such withdrawal be for sale or other use, provided that sellers of condensate or natural gas condensate, natural gas, butane, or propane gasoline their substitutes paying the tax herein authorized may pay the same computed and paid on the basis of their sales as hereinafter required, and storers and distributors shall compute and pay such tax on the basis of



their withdrawals or distributions. The tax herein authorized shall be in addition to any and all excise or other taxes imposed on condensate or natural gas condensate, natural gas, butane, or propane gasoline or substitute therefor, or on the business of selling, distributing, storing or withdrawing from storage for any purpose, gasoline or motor fuel as herein defined.

Section 6. Exemption on Purchases from Other Distributors: Any seller or distributor selling or distributing any substance set forth in this ordinance purchased from other sellers or distributors who have paid the tax herein imposed, shall not be required to pay any tax with respect to the sale or delivery of such substance so purchased. In order for any seller or distributor to obtain such exemption such person must, on or before the tenth day of the month, file with the City Clerk or the City's authorized representative a sworn, written statement showing every purchase by such person of any such substance during the calendar month next preceding, the name of the person from whom purchased, and the amount and the date of the purchase.

Section 7. Exemption on Purchases from Bulk Sales: Wholesale bulk sales of any substance referred to or referenced in this Ordinance to be used for farming purposes outside the City limits or police jurisdiction of the City shall be exempt from the tax imposed by this ordinance. Bulk sales to the agencies of the federal, state, county or city government shall also be exempt from such tax.

Section 8. Permit and Tax for Seller or Distributors with no place of business within the City: It shall be unlawful for any distributor or seller having no place of business within either the corporate limits or police jurisdiction of the City to make any sales or deliveries of any substance or derivative thereof referenced in this Ordinance and within the scope thereof within the City limits or the police jurisdiction thereof without first obtaining a permit from the City Clerk to do so, and said sellers or distributors shall be liable to pay the same license taxes specified in the City's License Tax Ordinance No.138 and any subsequent amendments thereto.

#### Section 7. Collection of Tax:

(1) On or before the twentieth day of the month following the adoption of this Ordinance every person upon whom the excise tax is levied shall file to the City, or its designated collection agency, on forms prescribed, a full, true, accurate and complete statement of all gasoline, diesel fuel, kerosene and other motor fuels, and all condensate, natural gas condensate, butane, propane, or natural gas sold and delivered by such distributor or seller within the corporate limits or police jurisdiction of the City of Creola, and which shall contain a detailed and specified statement of all gasoline, diesel fuel, kerosene, motor fuels, condensate, natural gas condensate, butane, propane, and natural gas sold and delivered to any other distributor or seller engaged in either of said business within the corporate limits or police jurisdiction of the City, including therewith an accurate itemization of the amount sold in gallons or equivalent unit measurements.

(2) Any person who fails to pay the tax herein levied within the time required by this ordinance shall pay, in addition to the tax, a penalty of ten percent (10%) of the amount of the tax due, together with interest thereon at the rate of one-half of one percent per month, or fraction thereof, from the date which the tax herein levied became due and payable, such penalty and interest to be assessed and collected as part of the tax.



(3) Any person, seller or distributor who shall fail or omit to make or file any statement required by this section, or who shall make any false statement therein, shall be guilty of violation of this ordinance. Said violation shall be a misdemeanor and upon conviction shall be subject to a fine of not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00) for each offense, or by imprisonment for up to one hundred eighty (180) days or both by fine and imprisonment.

Section 8. Meters Required, Specification, Reading of Meters, Installation, Tampering Prohibited:

(1) Every person selling gasoline, diesel fuel, kerosene, condensate, butane, propane, or natural gas or other motor fuel at retail within the City shall have said gasoline, diesel fuel, kerosene or other motor fuel, and all propane, butane, condensate or natural gas condensate, or natural gas measured through meters, and every gasoline pump or other container through which gasoline, diesel fuel, kerosene, or other motor fuel is delivered shall be equipped with a meter.

(2) The meters required by this Section shall be of a standard type to meet the specification laid down by officials of the City, and shall be subject to inspection at all times by said officials or person designated by them, and said meters shall be read at prescribed intervals by the officials or such persons designated by them.

(3) The meters shall be attached properly to the pumps or containers so as to show a true reading and measurement of the gasoline, diesel fuel, kerosene or other motor fuels and the condensate, natural gas condensate, propane, butane, or natural gas discharged by said pumps or containers, and shall be so attached as to be conveniently read.

(4) It shall be unlawful for any person to tamper with the meters or turn back the reading of same, except by orders of the officials of the City, and a correct record shall be made and kept of the said meters and any turning back of the meters on the same.

(5) It shall be unlawful for any person to refuse any authorized representative of the City to read at any time, any meter on any pump or container within the City or in the police jurisdiction thereof, and in addition to such penalty provided in the ordinance, the City may revoke the business license of such persons refusing to permit inspection of said meters.

Section 9. Severability: Should any section or provision of this ordinance be declared void or invalid by a court of competent jurisdiction, it shall not affect the validity of any other section or provision of this ordinance.

Section 10. The proceeds derived from the taxes levied in this article shall be placed in the general fund of the Town. Afterwards, one cent of the three cents shall remain in the Town's

general fund and two cents of the three cents shall be placed in a "Capitol Projects" fund to be utilized for the enhancement of the community and/or provide improved services for the citizens of Creola, AL and Mobile County Alabama. All proceeds shall be subject to appropriation by the city council for any lawful purpose of the Town.

Section 11. Effective Date. This ordinance shall become effective upon the first day of August, 2017, and the first payment of taxes hereunder shall be due and payable on or before the twentieth day of Sept, 2017. This ordinance shall continue in full force and effect from month to month and year to year from its effective date until repealed.

ADOPTED AND APPROVED THIS 11TH day of May, 2017.

William R. Cuswell  
Mayor

Attested to on the 11th day of May, 2017.  
Carolyn Sue Cairn  
City Clerk