

g. The term "gross receipts" means the value proceeding or accruing from the sale of tangible personal property, including merchandise and commodities of any kind and character, all receipts actual and accrued, by reason of any business engaged in (not including, however, interest, discounts, rentals of real estate or royalties) and without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever and without any deductions on account of losses. Said term "gross receipts" shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock and used or consumed in connection with said business, and shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn from the business or stock and used or consumed by any person so withdrawing the same, except property which has been previously withdrawn from such business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming the same.

h. The term "wholesale sale" or "sale at wholesale" means a sale of tangible personal property by wholesalers to licensed retail merchants jobbers, dealers or other wholesalers for resale and does not include a sale by wholesalers to users or consumers, not for resale. The term "wholesale sale" shall include a sale of tangible personal property or products to a manufacturer or compounder which enters into and becomes an ingredient or component part of the tangible personal property or products which he manufactures or compounds for sale and the furnished container and label thereof.

i. The term "sale at retail" or "retail sale" shall mean all sales of tangible personal property except those above defined as wholesale sales. The quantities of goods sold or prices at which sold, are immaterial in determining whether or not a sale is at retail. Sales of building materials to contractors, builders, or landowners for resale or use in the form of real estate are retail sales in whatever quantity sold. Sales of tangible personal property or products to manufacturers, quarry operators, mine operators or compounders, which are used or consumed by them in manufacturing, mining, quarrying or compounding and do not become an ingredient or component part of the tangible personal property manufactured or compounded, are retail sales. The term "sale" at retail or "retail sale" shall also mean and include the withdrawal, use or consumption of any tangible personal property by anyone who purchases same at wholesale, except property which has been previously withdrawn from the business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming the same; and such wholesale purchaser shall report and pay the taxes thereon.

**AN ORDINANCE TO LEVY AN ADDITIONAL
LICENSE WITHIN THE CITY OF PRICHARD
AND ITS POLICE JURISDICTION.**

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

SECTION ONE

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

a. The term "person" or the term "company" herein used interchangeably, includes any individual, firm, co-partnership, association, corporation, receiver, trustee or any other group or combination acting as a unit and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

b. The term "City Clerk" shall mean the City Clerk of the City of Prichard.

c. The term "tax year" or "taxable year" means the calendar year.

d. The term "sale" or "sales" includes installment and credit sales and the exchange of properties as well as the sale thereof for money, every closed transaction constituting a sale.

3. The term "gross proceeds of sales" means the value proceeding or accruing from the sale of tangible personal property (and including the proceeds from the sale of any property handled on consignment by the taxpayer), including merchandise of any kind and character without any deduction on account of the cost of the property sold, the cost of the materials used, labor or service cost, interest paid, or any other expenses whatsoever, and without any deductions on account of losses; provided that cash discounts allowed and taken on sales shall not be included, and "gross proceeds of sales" shall not include the sale price of property returned by customers when the full sales price thereof is refunded either in cash or by credit. Said term "gross proceeds of sale" shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn or used from the business or stock and used or consumed in connection with said business, and shall also mean and include the reasonable and fair market value of any tangible personal property previously purchased at wholesale which is withdrawn from the business or stock and used or consumed by any person so withdrawing the same, except property which has been previously withdrawn from such business or stock and so used or consumed and with respect to which property the tax has been paid because of such previous withdrawal, use or consumption, and except property which enters into and becomes an ingredient or component part of tangible personal property or products manufactured or compounded for sale and not for the personal and private use or consumption of any person so withdrawing, using or consuming the same.

f. The word "taxpayer" means any person liable for taxes hereunder.

c. Upon every person, firm or corporation engaged or continuing within the City of Prichard in the business of selling any automotive vehicle or truck trailer and semi-trailer, an amount equal to one-fourth of one percent of the gross proceeds of the sale of said automotive vehicle or truck trailer and semi-trailer.

d. Upon every person, firm or corporation engaged or continuing within the City of Prichard in the business of selling any used automotive vehicle or truck trailer and semi-trailer, where such vehicles are bought for the purpose of resale, an amount equal to one-fourth of one percent of the gross proceeds of the sale of said automotive vehicle or truck trailer and semi-trailer; provided, however, this sub-section shall not apply to the sale of any used automotive vehicle or truck trailer or semi-trailer where it was acquired as part of the consideration for sale, trade or exchange in the City of Prichard of any new or used motor vehicle, truck trailer or semi-trailer.

SECTION THREE

There are, however, exempted from the provisions of this ordinance and from the computation of the amount of the tax levied, assessed or payable under this ordinance the following:

a. The gross proceeds of sales of tangible personal property or the gross receipts of any business which the City of Prichard is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution or laws of the State of Alabama.

b. The gross proceeds of sales of tangible personal property to the State of Alabama, to the counties within the state and to incorporated municipalities of the State of Alabama; and the gross proceeds of sales of athletic equipment for the sole use and benefit of, and under the control of, public, state, county, or city schools, within the State of Alabama, notwithstanding that the purchase of such athletic equipment is paid for from funds which are not public funds.

c. The gross proceeds of the sales of text books used in elementary schools, high schools and institutions of higher learning.

d. The gross proceeds of sales of all livestock by whomsoever sold; and also the gross proceeds of poultry and other products of the farm, dairy, grove or garden, when in the original state of production or condition of preparation for sale, when such sale or sales are made by the producer or members of his immediate family or for him by those employed by him to assist in the production thereof. Nothin herein shall be construed to exempt or exclude from the measure of computation of the tax levied, assessed or payable hereunder, the gross proceeds of sales of poultry or poultry products when not products of the farm.

e. The gross proceeds of the sale, or sales, of fertilizer. The word "fertilizer", as used in this ordinance, shall not be construed to include cotton seed meal, when not in combination with other materials.

f. The gross proceeds of the sale, or sales, of seeds for planting purposes and baby chicks andpoults. Nothin herein shall be construed to exempt or exclude from the computation of the tax levied, assessed or payable, the gross proceeds of the sale or sales of plants, seedlings, nursery stock or floral products.

j. The word "business", as used in this ordinance, shall include all activities engaged in, or caused to be engaged in, with the object of gain, profit or advantage, either direct or indirect, and not excepting sub-activities producing marketable commodities used or consumed in the main business activity, each of which sub-activity shall be considered business engaged in, taxable in the class in which it falls.

k. The use, within the corporate limits of the City of Prichard, or the police jurisdiction thereof, of tangible personal property by the manufacturer thereof, as building materials in the performance of a construction contract, shall, for the purpose of this ordinance, be considered as a retail sale thereof by such manufacturer, who shall also be construed as the ultimate consumer of such materials or property and who shall be required to report such transaction and pay the tax thereon based upon the reasonable and fair market price thereof at the time and place where same are used or consumed by him or it. The provisions of this sub-section shall not apply to any tangible personal property which is specifically exempted from the tax levied in this ordinance.

SECTION TWO

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 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 engaged, or continuing within the City of Prichard, 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) an amount equal to one 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. Upon every person, firm or corporation engaged, or continuing within the City of Prichard, 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 pictures shows, vaudevilles, amusement parks, athletic contest, 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 such institution or association be a denominational, a state, a county or a municipal institution or 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 places, public dance halls of every kind and description with the City of Prichard, an amount equal to the one percent of the gross receipts of such business.

o. The gross proceeds of the sale or sales of wrapping paper, wrapping twine and paper bags. -

p. The gross proceeds of the sale of gasoline and lubricating oils.

q. The gross proceeds of the sale or sales of the subscriptions to magazines; provided, however, sale or sales on news stands are not so exempted.

r. The gross proceeds of sales from small stores or vending stands operated by blind persons, as defined in sub-section (j) of Section 1 of Title 51 of the Code of Alabama of 1940, provided that such business establishment shall be the property of the blind operator or of the business enterprise program for the blind, sponsored jointly by the State Department of Education and the Alabama Institute for the Deaf and Blind.

s. The gross proceeds of sales of insecticides and fungicides for agricultural uses by whomsoever sold shall be exempted from the computation of the amount of the tax levied, assessed or payable under the provisions of this ordinance.

t. Cotton seed meal exchanged for cotton seed at or by cotton gins is hereby exempt from the computation of the tax levied, assessed or payable under the provisions of section (e) of this ordinance.

u. There is hereby exempted the gross proceeds received from the sale or furnishing of caskets, burial robes, burial suits, burial dresses or other articles of burial clothing and burial vaults from the computation of the taxes levied in this ordinance.

v. The gross proceeds of sales of tangible personal property which meet all of the following requirements and conditions, to-wit:

(a) (1) Sales which arise from orders initiated outside of the City of Prichard and its police jurisdiction by a person who is a non-resident of the City of Prichard and its police jurisdiction at the time of such orders;

(2) Sales to a person who is a non-resident of the City of Prichard or its police jurisdiction.

(3) The tangible personal property so sold shall be used or consumed by such person entirely outside of the City of Prichard or its police jurisdiction;

(B) In addition, there shall be exempt gross proceeds of sale of tangible personal property which consists of withdrawal or use of such property from the stock of a person, who is a resident of the City of Prichard or its police jurisdiction, and the use or consumption by such person, in the business of such person, is entirely outside the City of Prichard or its police jurisdiction.

Any person who claims the exemptions provided in this sub-section, shall substantiate this claim by records which readily distinguish the gross proceeds of sales which may qualify under this sub-section from other sales made by such person.

SECTION FOUR

The tax levied under the provisions of this ordinance, except as otherwise provided, shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues. On or before the twentieth day of each month after the ordinance shall have taken

g. The gross proceeds of the sale, or sales, of boxes, crates, bags, bagging, ties, barrels, or other containers and the labels thereof, used in preparing agricultural products, dairy products, grove or garden products, for market, including barrels and other containers and the labels thereof used in preparing turpentine gum, gum spirits of turpentine and gum resin for market, when such boxes, crates, bags, bagging, ties, barrels and other containers, and the labels thereof, are to be sold or furnished by the seller of the products contained therein to the purchaser of such products.

h. The gross proceeds of the sale or sales of newsprint paper, newspapers and religious publications.

i. The gross proceeds of the sale or sales of coal or coke to manufacturers, electric power companies and transportation companies for use or consumption in the production of by-products or the generation of heat or power used in manufacturing tangible personal property for sale for the generation of electric power or energy for use in manufacturing tangible personal property for sale or resale, or for the generation of motive power for transportation.

j. The gross receipts from the business on which, or for engaging in which a license or privilege tax is levied by or under the provisions of sections 177-180, 182-184, and 186 of Title 51, as amended, of the Code of Alabama of 1940. Provided, however, that nothing contained in this sub-section shall be construed to exempt or relieve the person or persons operating the business enumerated in said sections from the payments of the tax levied by this ordinance upon or measured by the gross proceeds of sales of any tangible personal property (except gas and water, the gross receipts from the sale of which are the measure of the tax levied by said section 177), merchandise or other tangible commodities sold at retail by said persons, unless the gross proceeds of sale thereof are otherwise specifically exempted by the provisions of this ordinance.

k. The gross proceeds of the sale or sales of lunches to school children when such sales are made within school buildings and are not for profit.

l. The gross proceeds of sales or gross receipts of or by any person, firm or corporation, from the sale of transportation, gas, water or electricity, of the kinds and natures, the rates and charges for which, when sold by public utilities, are customarily fixed and determined by the Public Service Commission of Alabama or like regulatory bodies.

m. The gross proceeds of the sale of machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, 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.

n. The gross proceeds of sale or sales of fluid milk as is now or may hereafter be defined by law, which such sale or sales are made by a distributor who has purchased such fluid milk or the milk processed into such fluid milk direct from the producer thereof. Provided, however, that the term "distributor", as used herein, shall not be construed to include hotels, restaurants, cafes, cafeterias, drug stores, grocery stores and other retail establishments where milk is served or sold for consumption on the premises or as an incident to the principal business.

\$25.00 nor more than \$100.00, for each offense. Each month of such failure shall constitute a separate offense. Any person failing to render any report required by Section Four of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$25.00 nor more than \$100.00 and each failure shall constitute a separate offense.

SECTION NINE

Any person within the class of persons required by this ordinance to pay license for doing business within the corporate limits of the City of Prichard, Alabama, shall pay to the City of Prichard, Alabama for the privilege of doing business outside of the corporate limits of the City of Prichard, Alabama, but within the police jurisdiction of the City of Prichard, Alabama, one-half of the amounts respectively hereinabove assessed and levied for doing business within the corporate limits of the City of Prichard, Alabama, the licenses levied by this Section are not levied for the purpose of raising revenues, but are levied for police and fire protection only.

SECTION TEN

Every itinerant vendor engaged in the business of selling tangible personal property at retail within the corporate limits of the City of Prichard or beyond the corporate limits and within the police jurisdiction thereof shall be subject to the terms of this ordinance and before making any sales therein is required to give bond to the City in the sum of \$50.00 to be approved by the City Clerk or deposit the sum of \$50.00 in cash with the City Clerk before making any such sales, to secure the payment of any tax which may become due hereunder and separate security shall be given for every five days in which such person may be so engaged. A failure to give such security shall be a misdemeanor and punished as such.

SECTION ELEVEN

A discount equal to three percent of the total amount of any monthly installment of the tax provided for herein shall be allowed to each tax payer upon the filing of the monthly report with respect to such installment in the form and at the time herein provided for and upon payment of the amount of such monthly installment (minus said three percent reduction) at the time when such installment is required hereunder to be paid. No such discount shall be allowed with respect to any monthly installment of the tax levied unless the same is paid and the report applicable thereto is filed in the form and at the time required hereunder.

SECTION TWELVE

Each and every provision of this ordinance, including any part of any definition contained herein, is hereby declared to be an independent provision and the holding of any provision hereof to be void and invalid 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 THIRTEEN

This ordinance shall not be construed to repeal any of the provisions of the general license Code of the City of Prichard or of any other ordinance of the City imposing a license tax, and this ordinance shall be held to be cumulative to all other license tax ordinances.

effect, every person on whom the taxes levied by this ordinance are imposed, shall render to the City of Prichard, Alabama, on a form prescribed by the City, a true and correct statement showing the gross sale, the gross proceeds of sales, or gross receipts of his business, as the case may be, for the next preceding month, the amount of gross proceeds or gross receipts which are not subject to the tax, or are not to be used as a measurement of the taxes due by such person and the nature thereof, together with such other information as the City may require, and at the time of making such monthly report such person shall compute the taxes due and shall pay to the City of Prichard, the amount of taxes shown to be due. Unless other forms be prescribed by the City such person may use the forms prescribed and used by the State of Alabama under the State Sales Tax Law of Alabama. In making the statements and reports herein provided the same information shall be given to the City as is furnished to the State under the State Sales Tax Law. If any person subject to this ordinance should wilfully make a false return or false statement of facts in the statements or returns required hereunder he shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 8 of this ordinance.

SECTION FIVE

All persons subject to the provisions of this ordinance may add the tax herein levied to the sales price of the goods sold and collect the same from the purchasers, but this section is not mandatory.

SECTION SIX

Any person taxable under this ordinance, having cash and credit sales, may, if he desires, report such cash sales only, and he shall thereafter include in each monthly report all credit collections made during the month preceding, and shall pay the tax due thereon at the time of filing such report.

SECTION SEVEN

It shall be the duty of every person engaging, or continuing in this City in any business for which a privilege tax is imposed by this ordinance to keep and preserve suitable records of the gross sales, gross proceeds of sales and gross receipts or gross receipts of sales of such business and such other books or accounts as may be necessary to determine the amount of tax for which he is liable, under the provisions of this ordinance. And it shall be the duty of every person to keep and preserve for a period of two years, all invoices of goods, wares and merchandise purchased for resale or otherwise, and all such books, invoices and other records shall be open for examination, at anytime by the City or its agent. Any person selling both at wholesale and retail shall keep his books so as to show separately the gross proceeds of wholesale sales and the gross proceeds of retail sales.

SECTION EIGHT

The books, records and accounts mentioned in the next preceding section shall at all times be open to examination by the City Clerk or any person designated by him. Any person who shall fail to keep such records or who shall refuse to permit such examination thereof or who violates any other provision hereof shall be guilty of a misdemeanor and upon conviction shall be fined not less than

SECTION FOURTEEN

This ordinance shall be in full force and effect on and after July 10, 1958.

Adopted this _____ day of _____, 1958.

APPROVED:

Mayor

ATTEST:

City Clerk