

ORDINANCE NO. 2021-0003-A

LEVY A PRIVILEGE LICENSE TAX

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CHEROKEE RIDGE, ALABAMA, AS FOLLOWS:

SECTION 1. Levy of Privilege or License Tax.

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 (including the State of Alabama and its alcoholic control board in the sale of alcoholic beverages of all kinds, the University of Alabama, Auburn University, and all other institutions of higher learning in the State, whether such institutions of higher learning in the state, whether such institutions be denominational, state, county, or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged, or continuing within the Town of Cherokee Ridge 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 evidence of debts or stocks, nor sale or sales of materials and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships, and other watercraft of over five tons load displacement), an amount equal to five percent (5%) 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 Town of Cherokee Ridge, 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 the Town of Cherokee Ridge or any athletic association thereof, or other association whether such institution or association be a denominational, a state, or county, or a

municipal institution or association or a state, county, or Town school or other institution, (social 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 other places where an admission fee is charged, including public bathing places, public dance halls of every kind and description within the Town of Cherokee Ridge, an amount equal to five percent (5%) of the gross receipts of any such business.

- (c) Upon every person, firm, or corporation engaged or continuing within the Town of Cherokee Ridge 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 and one-half percent (1.5%) of the gross proceeds of the sale of such machines; provided, that the term "machines" as herein used shall include machinery which is used for mining, quarrying, compounding, processing, or manufacturing tangible personal property, and the parts of such machines, attachments and replacements therefor, which are made or manufactured for use on in or in the operation of such machines and which are necessary to the operation of such machines, and are customarily so used.
- (d) Upon every person, firm or corporation engaged or continuing within the 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-half of one percent (0.5%) of the gross proceeds of sale 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 such person's stock in trade any automotive vehicle or truck trailer, semitrailer or house trailer for use by such person or by such person's 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.
- (e) Upon every person, firm or corporation engaged or continuing within the Town of Cherokee Ridge in the business of selling through coin-operated dispensing machines, food and food products or human consumption, not including beverages other than coffee, milk, milk products and substitutes therefor, there is hereby levied a tax equal to five percent (5%) of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.

- (f) Upon every person, firm or corporation engaged or continuing within the Town of Cherokee Ridge in the business of selling any automotive vehicle, truck, a truck-trailer or semi-trailer, mobile home, boats, motors for boats and machines, 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, there is hereby levied a tax equal to one and one-half percent (1.5%) of the proceeds of such items.

SECTION 2. Provisions of State Sales Tax Statutes Applicable to this Ordinance and Taxes Herein Levied.

The Taxes levied by Section 1 of this Ordinance shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, discounts, penalties, fines, punishment, and deductions that are application to the taxes levied by the State sales tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the State sales tax statutes for enforcement and collection of taxes.

SECTION 3. Levy of Excise Tax.

- (a) An excise tax is hereby imposed on the storage, use or other consumption in the Town of Cherokee Ridge of tangible personal property (not including materials and supplies bought for use in fulfilling a contract for the painting, repairing, or reconditioning of vessels, barges, ships and other watercraft of more than five tons load displacement) purchased at retail on or after the effective date of this Ordinance for storage, use or other consumption in the Town of Cherokee Ridge, except as provided in subsection (b) at the rate of five percent (5%) of the sales price of such property within the corporate limits of said Town.
- (b) An excise tax is hereby imposed on the storage, use or other consumption in the Town of Cherokee Ridge of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property purchased at retail on or after the effective date of this Ordinance at the rate of one and one-half percent (1.5%) of the sales price of any such machine, within the corporate limits of the Town of Cherokee Ridge; 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 are customarily so used.
- (c) An excise tax is hereby levied and imposed on the storage, use or other consumption in 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 therefore which are made or manufactured for use on or in the operation of such machine, machinery or equipment, which was purchased at retail for the storage, use, or other consumption in the Town at the rate of one and one-half percent (1.5%) of the sales price of such property within the corporate limits of the Town regardless of whether the retailer is or is not engaged in the business in this Town; provided, however the one and one-half percent rate herein prescribed with respect to parts, attachments, and replacements shall not apply to any automotive vehicle or trailer designed primarily for public highway use, except farm trailers used primarily in the production and harvesting of agricultural commodities.

- (d) An excise tax is hereby levied and imposed on the storage, use or other consumption in the Town of any automotive vehicle or truck trailer, semi-trailer or house trailer, and mobile home set-up materials and supplies, including but not limited to straps, blocks, anchoring, cable pipes and any other materials pertaining thereto, purchased at retail on or after the effective date of this ordinance, for storage, use or other consumption in the Town at the rate of one-half of one percent (0.5%) of the sales price of such automotive vehicle, truck trailer, semi-trailer or house trailer, and mobile home set-up materials and supplies as specified above. Where any used automotive vehicle or truck trailer, semi-trailer or house trailer is taken in trade, or in a series of trades, as a credit or part payment on the sale of a new or used vehicle, the tax levied herein shall be paid on the net difference, that is, the price of the new or used vehicle sold, less the credit for the used vehicle taken in trade.

SECTION 4. Definitions.

The taxes levied by Section 3 of this Ordinance shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, discounts, penalties, fines, punishments and deductions that are applicable to the taxes levied by the State use tax statutes, except where inapplicable, or where herein otherwise provided, including all provisions of the State use tax statutes for enforcement and collection of taxes, as provided in Title 40, Section 23, Code of Alabama, 1975, as amended.

SECTION 5. This Ordinance Cumulative to General License Code or Ordinance.

This Ordinance shall not be construed to repeal any of the provisions of the general license code or Ordinance of the Town of Cherokee Ridge, but shall be held to be cumulative, and the amounts of the taxes herein levied shall be in addition to the amounts of all other license taxes which may be imposed by the Town of Cherokee Ridge by its general license code or Ordinance.

SECTION 6. 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 20th day of the

month next succeeding the month in which the tax accrued. On or before the 20th day of each month after this Ordinance shall have taken effect, every person on whom the taxes levied by this Ordinance are imposed shall render to the Town, on a form prescribed by the Town, a true and exact statement showing the gross sales, 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 Town may require, and at the time of making such monthly report, 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 Town as is furnished to the State under the State Sales Tax Law. If any person subject to this Ordinance should willfully make a false return or false statement of facts in the statements or returns required hereunder, that person shall be guilty of a misdemeanor, and upon conviction, shall be punished as provided in Section 8 of this Ordinance.

SECTION 7. It shall be the duty of every person engaging or continuing in the Town 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. It shall be the duty of every person to keep and preserve for a period of two (2) 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 any time by the Town or its agents. 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 8. The book, records and accounts mentioned in the next preceding Section shall at all reasonable times be open to examination by the Town Clerk or by any person designated by the Town Clerk. Any person who shall fail to keep such records or refuse to permit such examination thereof, or shall fail to render any report required by this Ordinance, or who shall fail to pay the privilege or license tax levied under the provisions of this Ordinance before the same shall become delinquent, or who shall violate any other term or provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction shall be fined not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500) for each such offense. Each failure shall constitute a separate offense and each day in which business is done without paying any delinquent license or privilege tax levied hereunder shall constitute a separate offense.

SECTION 9. Every itinerant vendor engaged in the business of selling tangible personal property at retail within the Town shall be subject to the terms of this Ordinance.

SECTION 10. Every person subject to this Ordinance may take a discount in an amount equal to five percent (5%) off the first One Hundred Dollars (\$100.00) of taxes paid to the Town and two

percent (2%) off any taxes over One Hundred Dollars up to a maximum discount of Four Hundred Dollars (\$400.00) of all taxes paid to the Town under the provisions of this Ordinance, provided the returns are made and the taxes paid before the same become delinquent hereunder. If the reports are not filed within the time herein provided for, no such person shall be entitled to such discount, but shall pay to the Town the full amount of the tax, together with interest at the rate of twelve percent (12%) per annum from the date the payment of said tax becomes delinquent.

SECTION 11. Purpose of the Tax.

This tax shall be levied for the purpose of funding the general operations of the Town.

SECTION 12. Severability.

Each and every provision of this Ordinance is hereby declared to be an independent provision, and the holding of any provision hereof to be void and invalid for any reason shall not affect any other provision hereof, and it is hereby declared that the other provisions of this Ordinance would have been enacted, regardless of any provision which might have been held invalid.

SECTION 13. Effective Date.

This Ordinance shall become effective on the 1st day of January, 2022, and the first payment of taxes hereunder shall be due and payable on the 20th day of February, 2022, and each month of each calendar year thereafter, from year to year.

ADOPTED this the 13th day of December, 2021.

/s/ Natalie Burke
Natalie Burke, Mayor

ATTEST:

/s/ Gail Busbey
Gail Busbey, Town Clerk