

ORDINANCE NO. 2003-15

AN ORDINANCE REPEALING ORDINANCE NUMBER 96-1 OF THE TOWN OF TRINITY, ALABAMA; LEVYING A LICENSE TAX ON THE SALE AND DELIVERY OF TOBACCO PRODUCTS IN THE TOWN OF TRINITY, ALABAMA; REQUIRING THE KEEPING OF RECORDS AND MAKING REPORTS; PROSCRIBING CERTAIN ACTS AND OMISSIONS; AND PROVIDING PUNISHMENTS FOR VIOLATIONS

WHEREAS, the Town Council of the Town of Trinity, Alabama ("Council") is informed that after September 30, 2003 it will be unlawful to levy or increase taxes on the sale of tobacco products if the voters of the State approve a tax reform package proposed by the Governor and Legislature; and

WHEREAS, the Council has determined that the revenue needs of the Town require that new sources be developed.

WHEREAS, the Council has determined that it can reduce costs and thereby increase net revenues by abandoning the tobacco stamp method of collecting tobacco taxes and adoption a method for direct payment of such taxes.

NOW, THEREFORE, be it **ORDAINED** by the Town Council of the Town of Trinity Alabama, as follows, to-wit:

SECTION 1. Ordinance Number 96-1 of the Town of Trinity, Alabama is hereby repealed, except that the provisions of Section 1 thereof which repealed Ordinances Number 64-4, 71-1 and 88-2 of the Town of Trinity, Alabama shall be deemed to continue in effect and the repeal of said Ordinances is hereby ratified and unaffected by the repeal of Ordinance Number 96-1.

SECTION 2. **Definitions.**

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

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

Dealer means any wholesale or retail dealer.

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

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

Retail price means the retail selling price of the tobacco products before adding the amount of the tax assessed in this article or any tobacco tax assessed by the state.

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

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

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

Town shall mean the Town of Trinity, Alabama.

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

SECTION 3. Construction of provisions.

(a) This Ordinance shall not be construed to tax interstate commerce or any business of the United States government or any branch or agency of the government.

(b) This Ordinance shall not be construed to apply to tobacco products stored for the purpose of resale or reshipment outside the town and which are actually so resold or reshipped.

(c) This article shall not be construed to repeal any of the provisions of the general license provisions of the town but shall be held to be cumulative.

SECTION 4. Tax levied in town.

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

(a) *Cigarettes.* A license tax in the sum of \$0.08 for each package of cigarettes sold, stored or delivered.

(b) *Cigars, including cheroots, stogie.* A license tax in the sum of \$0.08 for each cigar, or substitute, sold, stored or delivered.

(c) *Chewing tobacco.* A license tax in the sum of \$0.08 for each package of chewing tobacco prepared in such a manner as to be suitable for chewing only and not suitable for smoking sold, stored or delivered.

(d) *Smoking tobacco.* A license tax in the sum of \$0.08 for each package of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such a manner as to be suitable for smoking in a pipe or cigarette sold, stored or delivered.

(e) *Snuff and other tobacco products used in a similar manner.* A license tax in the sum of \$0.08 for each package of all snuff and other tobacco products used in a similar manner, not smoked or chewed, sold, stored or delivered."

SECTION 5. Tax levied in police jurisdiction.

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

(a) *Cigarettes.* A license tax in the sum of \$0.04 for each package of cigarettes sold, stored or delivered.

(b) *Cigars, including cheroots, stogie.* A license tax in the sum of \$0.04 for each cigar, or substitute, sold, stored or delivered.

(c) *Chewing tobacco.* A license tax in the sum of \$0.04 for each package of chewing tobacco prepared in such a manner as to be suitable for chewing only and not suitable for smoking sold, stored or delivered.

(d) *Smoking tobacco.* A license tax in the sum of \$0.04 for each package of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such a manner as to be suitable for smoking in a pipe or cigarette sold, stored or delivered.

(e) *Snuff and other tobacco products used in a similar manner.* A license tax in the sum of \$0.04 for each package of all snuff and other tobacco products used in a similar manner, not smoked or chewed, sold, stored or delivered."

SECTION 6. Records and reports of dealers; reports of violations.

Every wholesale dealer shall, at the time of selling or delivering tobacco products into the town, make a true duplicate invoice of the products, which shall show full and complete details of the sale or delivery of such tobacco products. Every wholesale and every retail dealer shall keep a record of the purchase, sale, exchange or receipt of tobacco products. All such invoices and records and all canceled checks and memoranda pertaining to any such purchase, sale, exchange or receipt of tobacco products shall be retained for a period of 24 months and shall be subject to inspection by an agent of the town, who shall have the power and authority to enter upon the premises of any dealer at all reasonable times for the purpose of examining such invoices, records, canceled checks or other memoranda.

SECTION 7. When tax due; monthly statement filed by wholesaler.

The tax levied hereunder on all tobacco products 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, every wholesaler, jobber, dealer or distributor who sells, stores or delivers any tobacco products for sale within the city and every retailer who sells, stores or delivers any tobacco products for sale within the town that were not purchased through a wholesaler, jobber, dealer or distributor who sells, stores or delivers tobacco products for sale within the town:

- (a) Shall file with the Town Clerk a true and correct monthly statement in writing (on a form approved by the Town Clerk) of all tobacco products sold or delivered during the preceding month, for which he is or shall be liable for the payment of the license tax;
- (b) Shall, in each and every instance, upon the filing of said statement, furnish to the Town Clerk such additional information, either oral or in writing, as the Clerk may require as to the sale or delivery of any tobacco products covered by such statement; and
- (c) Shall, at the time of making such statement, pay to the Town Clerk the amount of the license tax for the preceding month covered by such statement.

SECTION 8. Acts prohibited; punishment.

(a) It shall be unlawful for any person who is in this ordinance required to keep records to fail or omit to keep the records in the manner provided in this ordinance, or to refuse to permit the agent of the town to inspect the records at any reasonable hour, or to interfere with or obstruct the agent of the town in the making of any such inspection.

(b) It shall be unlawful for any person who is required in this ordinance to file statements with the clerk to fail or omit to make or file any statement provided in this ordinance, within the time specified, or to make any false statement in such statement; and such offense shall be a continuing offense against the town; and each day during which such person shall sell or deliver tobacco products in the town during such default shall constitute a separate offense.

(c) It shall be unlawful for any person who is required to pay the license tax provided for in this ordinance to fail or omit to pay the tax within the time specified in this ordinance; and such offense shall be a continuing offense against the town; and each day during which such person shall sell, store or deliver tobacco products in the town during such default shall constitute a separate offense.

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

SECTION 9. Provisions Severable.

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

SECTION 10. Effective Date.

This Ordinance shall be effective the 15th day of September, 2003, following its adoption and publication according to law. However, wholesalers, jobbers, dealers or distributors may continue to use any tobacco stamps they have already purchased until their supply of same is depleted. There shall be no refunds for any stamps purchased prior to the effective date of this Ordinance. Once such stamp supplies are depleted, the monthly tobacco tax returns and payments provided herein shall be complied with by such wholesalers, jobbers, dealers and distributors.

ADOPTED and APPROVED this 26th day of August, 2003.

Vaughn Goodwin
Vaughn Goodwin, Mayor

ATTEST:

(SEAL)

Barbara L. Jones
Barbara L. Jones, Town Clerk