ORDINANCE NO. 18-2387

An ordinance of the City of Hoover to modify the Sales and Use Tax Levied

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Hoover, in a special meeting duly assembled, a quorum being present, as follows:

Section 1. Sales and Use Tax Levy Modified.

A. Chapter 14, Article II, Section 14-16 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 14-16 in its entirety and replacing it with the following:

Sec. 14-16. - Levied generally.

There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as provided in this article, 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:

(1) Sale of personal property. 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 be denominational, state, county or municipal institutions, and any association or other agency or instrumentality of such institutions), engaged, or continuing within the city 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 sale or sales of material 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 fifty (50) tons burden), and amount equal to three and one half percent (3.5%) 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.

(2) Places of amusement, entertainment. Upon every person, firm or corporation engaged, or continuing within the city 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, 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 within the city, an amount equal to three and one half percent (3.5%) of the gross receipts of any such business.

(3) Upon every person, firm or corporation engaged or continuing within the city in the business of selling at retail machines used in mining, quarrying, compounding, processing and manufacturing of tangible personal property, an amount equal to three and one half percent (3.5%) 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 or in the operation of such machines and which are necessary to the operation of such machines and are customarily so used.

(4) Upon every person, firm or corporation engaged or continuing within the city in the business of selling at retail any automotive vehicle or truck trailer, semi-trailer or house trailer, an amount equal to one (1) percent of the gross proceeds of sale of said automotive vehicle or truck trailer, semi-trailer or house trailer; provided, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle or truck trailer, semi-trailer 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 five dollars ($5.00) per year or part thereof during which such automotive vehicle, truck trailer, semi-trailer 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 twelve (12) succeeding months or part thereof during which such automotive vehicle, truck trailer, semi-trailer or house trailer shall remain the property of such person. 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.

(5) Upon every person, firm or corporation engaged or continuing within the city 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 three and one half percent (3.5%) of the gross proceeds of the sale thereof. Provided, however, the three and one half percent (3.5%) 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.

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 part 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) Coin-operated machines. Upon every person, firm or corporation engaged or continuing within the city 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 a tax equal to three and one half percent (3.5%) of the cost of such food, food products and beverage sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.

B. Chapter 14, Article IV, Section 14-19 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 14-19 in its entirety and replacing it with the following:

Sec. 14-19. - Use tax—Levied.

(a) An excise tax is hereby imposed on the storage, use or other consumption in the city 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 fifty (50) tons burden) purchased at retail on or after the effective date of this article for storage, use or other consumption in the city, except as provided in subsections (b), (c) and (d), at the rate of three and one half percent (3.5%) of the sales price of such property within the corporate limits of said city.

(b) An excise tax is hereby imposed on the storage, use or other consumption in the city 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 section at the rate of three and one half percent (3.5%) of the sales price of any such machine, within the corporate limits of the city; 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) An excise tax is hereby imposed on the storage, use or other consumption in the city of any automotive vehicle or truck trailer, semi-trailer or house trailer purchased at retail on or after the effective date of this section for storage, use or other consumption in the city at the rate of one (1) percent of the sales price of such automotive vehicle, truck trailer, semi-trailer or house trailer within the corporate limits of the city. 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.

(d) An excise tax is hereby levied and imposed on the storage, use or other consumption in the city 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 after the effective date of this section, for the storage, use or consumption in the city at the rate of three and one half percent (3.5%) of the sales price of such property within the corporate limits of said city regardless of whether the retailer is or is not engaged in the business in the city. Provided, however, the three and one half percent (3.5%) 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. 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 part 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.

(e) An excise tax is hereby imposed on tangible personal property at one-half the rates specified in subsections (a), (b), (c) and (d) of this section on the storage,

use or other consumption of such tangible personal property outside the corporate limits of the city, but within the police jurisdiction.

C. Chapter 14, Article IV, Section 14-23 of the *Municipal Code of the City of Hoover, Alabama* is hereby amended by deleting Section 14-23 in its entirety and replacing it with the following for the purposes of modifying the title of the person to which such information should be furnished:

Sec. 14-23. - Duty of persons to furnish information to chief financial officer.

(a) Upon demand by the chief financial officer or his/her authorized deputy, auditor or representative, it shall be the duty of any person subject to the payment to the city of sales or use taxes or any other taxes levied under this chapter to furnish the chief financial officer or his/her authorized deputy, auditor or representative without delay, all such information as may be required for determination of the proper amount of such taxes to which such person is subject, and to that end it shall be the duty of such person to submit to the chief financial officer or his/her authorized deputy, auditor or representative, for inspection and examination, during reasonable business hours, at such person's place of business in the city or its police jurisdiction, all books of account, invoices, returns, reports and memoranda containing inventories, and any other information from which the correct amount of such taxes to which each person is subject may be determined. It shall be unlawful for any person to fail or refuse to perform any duty herein imposed, or to obstruct or interfere with the chief financial officer or his/her authorized deputy, auditor or representative in the determination of the correct amount of such taxes due. Each day's failure or refusal to perform any duty herein imposed shall constitute a separate offense.

(b) In the event that any person subject to payment of sales, use taxes or any other taxes levied under the provisions of this chapter to the city does not have all books of account, invoices, papers, reports sales, receipts, inventories and any other information from which the correct taxes owed by such person may be ascertained as provided in (a) above, at a place of business in the corporate limits of the city or within its police jurisdiction, then it shall be the duty of such person to deliver all such records to the office of the chief financial officer for inspection and examination. If the taxpayer states that the books and records required herein cannot be delivered to and produced for inspection at the office of the chief financial officer within the city, then the taxpayer shall be required to pay and shall pay all costs attendant with sending the requisite number of city auditors to the place where tax payer's records are kept in order to complete the audit and inspection and make the determinations necessary to arrive at the correct amount of taxes as set out above.

Section 2. SEVERABILITY. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Hoover hereby declares that it

would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 3. LEGAL RIGHTS NOT IMPAIRED. That nothing in this ordinance or in the Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 4. PUBLICATION OF ORDINANCE. That the City Clerk of the City of Hoover is hereby ordered and directed to cause this ordinance to be published as provided by law and that a copy of this Ordinance be entered upon the minutes of the meeting of the City Council.

Section 5. EFFECTIVE DATE OF ORDINANCE. That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall be in full force and effect on the 1st day of October, 2018 and shall continue in full force and effect from month to month and year to year from its effective date until repealed.

THEREFORE, BE IT ORDAINED, that the City Council of the City of Hoover does hereby ordain, resolve, and enact the foregoing Ordinance for the City of Hoover.

Done this the 10th day of July, 2018.

Gene Smith, President of the City Council

APPROVED:

Frank V. Brocato, Mayor

ATTESTED:

Margie Handley, City Clerk

CERTIFICATION

I, Margie Handley, City Clerk for the City of Hoover, Alabama, hereby certify that **Ordinance No. 18-2387** was adopted by the City Council of the City of Hoover, Alabama on the 10th day of July, 2018, and advertised in accordance with state law.

This ordinance was posted on July 12, 2018 at Hoover City Hall, Hoover Public Library, Hoover Public Safety Center, Hoover Fire Station No. 7, Hoover Fire Station No. 8, and on the City of Hoover website **hooveralabama.gov**.

Margie Handley

Margie Handley
City Clerk