

ORDINANCE NO. 2003-24

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PHENIX CITY, ALABAMA, CHAPTER 13, ARTICLE IV. CIGARETTES AND ARTICLE IV A. CIGARS.

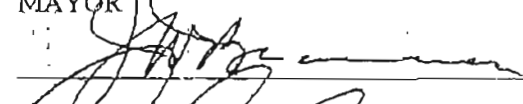
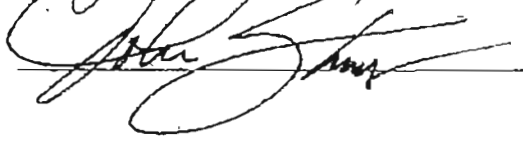
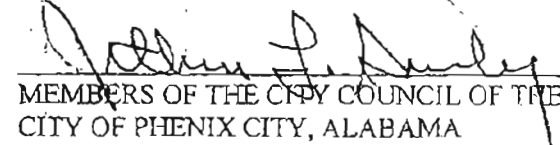
NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PHENIX CITY, ALABAMA, that Chapter 13 Article IV. Cigarettes be amended in its entirety to read as per attached exhibit A;

BE IT FURTHER ORDAINED that chapter 13 Article IV A. Cigars be deleted in its entirety from the Code of Ordinances of the City of Phenix City, Alabama.

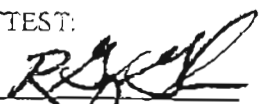
BE IT FURTHER ORDAINED that each and every provision of this ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void or invalid shall not affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provision which might be held invalid.

BE IT FURTHER ORDAINED that this ordinance shall become effective immediately upon its adoption and publication as required by law.

PASSED, APPROVED, AND ADOPTED this 2nd day of September, 2003.


MAYOR


MEMBERS OF THE CITY COUNCIL OF THE
CITY OF PHENIX CITY, ALABAMA

ATTEST:


CITY CLERK - ACTING

ARTICLE IV. TOBACCO TAX LEVIED

Sec. 13-45. Definitions.

Unless the context clearly indicates a different meaning, the following words and phrases whenever used in this article shall have the meaning respectively ascribed to them in this section:

- (a) *Person* means a natural person, firm, corporation, association, club, receiver and trustee or other person acting in a fiduciary capacity.
- (b) *Tobacco Products* means cigarettes, cigars, chewing tobacco, smoking tobacco and other products containing tobacco.
- (c) *Package* means an individual container for which or in which retail sales of tobacco products are normally or intended to be made.
- (d) *Retail price* means the retail selling of the cigarettes before adding the amount of tax assessed herein or any tobacco tax assessed by the State of Alabama.
- (e) *Wholesale dealer* and *Jobbers* means a person who sells or delivers within the city or its police jurisdiction at wholesale only, tobacco products to retail dealers for the purpose of resale only.
- (f) *Retail dealer* means any person, other than a wholesale dealer, who sells or delivers tobacco products within the city or its police jurisdiction, and any person operating under a retail dealer's license.
- (g) *Dealer* means any wholesale or retail dealer as herein defined.
- (h) *Monthly Statement* means the report made to the city by means of which taxes levied under this Article on all tobacco products are paid.
- (i) *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 thereof, including rewards, prizes or premiums of tobacco products given as a result of operation on punch boards, shooting galleries, or other activities.
- (j) *Store and stored* means the storage or warehousing of cigarettes in any manner, or the withdrawal or use of the same for any purpose, other than for resale or reshipment outside the city or its police jurisdiction.
- (k) The masculine gender shall include the female and neuter gender.

Any words or phrases used in this article and not herein defined, which are defined in Section 40-25-2, Code of Alabama 1975, shall have the meanings ascribed to them in such sections.

Sec. 13-46. Construction of article.

- (a) This article shall not be construed to tax interstate commerce or any business of the United States government or any branch or agency thereof.
- (b) This article shall not be construed to apply to tobacco products stored for the purpose of resale or reshipment outside the city and its police jurisdiction and which are actually so resold or reshipped.
- (c) This article shall not be construed to repeal any of the provisions of Article I of this chapter, but shall be held to be cumulative.

Sec. 13-47. Tax levy.

In addition to all other taxes now imposed by law, each person who sells, stores, or delivers tobacco products within the city limits, or police jurisdiction of the city, shall pay a license tax to the city, and a license tax is hereby fixed and levied for the sale, storage, and delivery of cigarettes in the corporate limits or police jurisdiction of the city, which license taxes are hereby fixed and levied in the following amounts:

- (1) *Cigarettes*. Upon all cigarettes containing any quantity of tobacco or any substitute, a tax of three cents (\$0.03) for each twenty (20) cigarettes or fraction thereof.
- (2) *Cigars*. Upon cigars of all description containing any quantity of tobacco or any substitute, a tax of three percent (3%) of the selling price.
- (3) *All other forms of tobacco*. Upon all smokeless tobacco described as snuff or by any other description, upon all smoking tobacco including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette, and upon all chewing tobacco and other tobacco products not specifically mentioned above, a tax of three percent (3%) of the selling price.

Sec. 13-48. Same-In police jurisdiction.

The tax on tobacco products for which a wholesale sale is made to a location outside the corporate limits but inside the police jurisdiction of the City of Phenix City, shall be levied at one-half the amount provided for in section 13-47.

Sec. 13-49. Records; report of sale of tobacco products.

Every wholesale dealer shall at the time of selling or delivering tobacco products into the city or its police jurisdiction, make a true duplicate invoice of the same, which shall show full and complete details of the sale or delivery of such tobacco products and the prices thereof. Every wholesale dealer and every retail dealer shall keep a record of the purchase sale, exchange, or receipt of tobacco products. All such invoices and cancelled checks and other memoranda shall be retained for a period of three (3) years and shall be subject to inspection by the Finance Director or his/her duly authorized agent. The wholesale dealer shall pay the tax imposed by this Article, to the Finance Director on or before the tenth day of the month next succeeding the date of purchase by the retailer.

Sec. 13-50. Violations, Penalties.

- (a) Any person, firm or corporation who violates any provision of this ordinance shall, upon conviction, be found guilty of a Class C misdemeanor. Each day any violation continues shall constitute a separate offense.

(b) Any person, firm or corporation who fails to pay the tax herein levied within the time prescribed by section 13-49, shall pay in addition to the tax, a penalty of ten percent (10%) of the amount of the total tax due for said month.