

RESOLUTION NO. 2010-57

**A RESOLUTION IN FURTHERANCE OF ORDINANCE NO. 2010-13  
RELATING TO A TEMPORARY INCREASE IN SALES AND USE  
TAXATION, INCLUDING THE DISPOSITION OF REVENUES**

WHEREAS, on October 4, 2010, the City Council adopted Ordinance No. 2010-13 (the "Ordinance"), a copy of which is attached hereto as "Exhibit A;" and,

WHEREAS, the Ordinance provides for a temporary increase in sales and use taxation for the period of January 1, 2011, through December 31, 2014, for purposes of funding certain items; and,

WHEREAS, the City Council has prioritized the funding of the initiatives specified in the Ordinance and now desires to further direct the disposition of additional tax revenues to be collected pursuant to the Ordinance for such purposes; and,

WHEREAS, this resolution is adjunct to the Ordinance, and to that end may be justifiably relied upon by the Mayor, City Clerk, and others responsible for the proper administration of the City's tax revenues, expenditures, and other funds.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Gardendale, Alabama, while in a regular session on the 20th day of December, 2010, at 6:00 p.m., that for purposes of effectuating the proper interpretation, administration, and implementation of the Ordinance the revenues to be derived from the tax imposed by the Ordinance shall be allocated as follows:

**1<sup>st</sup> TAX YEAR (January 2011 – September 2011):**

The first \$1,000,000 to the credit of the Library Project Fund; and the balance to the credit of the Debt Service Fund (Post Office Bond, Post Office Property, Odum Road Bond, Civic Center Bond).

**2<sup>nd</sup> TAX YEAR (October 2011 – September 2012):**

The first \$1,525,692 to the credit of the Debt Service Fund; and the balance to the Economic Development Capital Fund.

**3<sup>rd</sup> TAX YEAR (October 2012 – September 2013):**

The first \$426,977 to the credit of the Debt Service Fund; and the balance to the Economic Development Capital Fund.

**4<sup>th</sup> TAX YEAR (October 2013 – September 2014):**

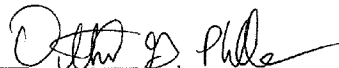
The first \$1,061,082 to the credit of the Debt Service Fund; and the balance to the Economic Development Capital Fund.

**5<sup>th</sup> TAX YEAR (October 2014 – December 2014):**

All to the credit of the Economic Development Capital Fund.

ADOPTED AND APPROVED on this the 20th day of December, 2010.

APPROVED:

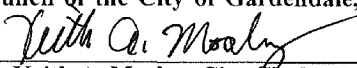
  
Othell G. Phillips, Mayor

ATTEST:

  
Keith A. Mosley, City Clerk

CERTIFICATION

I, Keith A. Mosley, City Clerk of the City of Gardendale, Alabama, hereby certify that the above is a true and correct copy of a Resolution that was duly and legally adopted on the 20th day of December, 2010, by the City Council of the City of Gardendale, Alabama, while in a regular session.

  
Keith A. Mosley, City Clerk

## RESOLUTION NO. 2010-57

## Exhibit A

ORDINANCE NO. 2010-13

AN ORDINANCE AMENDING ORDINANCE NO. 81-17 TO INCREASE THE RATE OF GENERAL SALES AND USE TAXATION FROM THREE (3) PERCENT TO FOUR (4) PERCENT EFFECTIVE JANUARY 1, 2011, THROUGH DECEMBER 31, 2014; AND TO THEREAFTER DECREASE THESE TAXES FROM FOUR (4) PERCENT TO THREE (3) PERCENT EFFECTIVE JANUARY 1, 2015

WHEREAS, the City Council of the City of Gardendale, Alabama, ("City Council") on September 21, 1981, adopted and approved Ordinance No. 81-17 which levied a city sales and excise tax; and

WHEREAS, the City Council on August 1, 1994, adopted and approved Ordinance No. 94-07 which amended Sections 1 and 3 of Ordinance No. 81-17; and

WHEREAS, the City Council on October 20, 1997, adopted and approved Ordinance No. 97-16 which amended Section 3 of Ordinance No. 81-17; and

WHEREAS, the City Council desires to amend Section 1 and Section 3 of Ordinance 81-17 as last amended by Ordinance No. 97-16.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Gardendale, Alabama, while in regular session on the 4th day of October, 2010, at 6:00 p.m., as follows:

SECTION 1. That Section 1 of Ordinance 81-17 as last amended by Ordinance No. 97-16 be and is hereby amended to read as follows in its entirety:

SECTION 1. 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, 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 of Gardendale in 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 tons burden), an amount equal to four percent (4%) 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 retailer on the gross sales of the business.

(b) Upon every person, firm or corporation engaged, or continuing within the City of Gardendale, 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

RESOLUTION NO. 2010-57  
Exhibit A

122

the auspices of any educational institution within the City of Gardendale, or any athletic association thereof, or other association be a denominational, a state, or county, or a municipal institution or association or a state, county, or city school, or other institution, 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 within the City of Gardendale, an amount equal to four percent (4%) of the gross receipts of any such business. Provided, however, notwithstanding any language to the contrary in the prior of this subsection, the tax provisions so specified shall not apply to any athletic event conducted by a public primary or secondary school. The tax amount which would have been collected pursuant to this subsection shall continue to be collected by said public primary or secondary school but shall be retained by the school which collected it and shall be sued by said school for school purposes.

(c) Upon every person, firm, or corporation engaged or continuing within the City of Gardendale in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, an amount equal to two percent (2%) 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 therefore, 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.

(d) Upon every person, firm, or corporation engaged or continuing within the City of Gardendale in the business of selling at retail any automotive vehicle or truck trailer, semi-trailer, or house trailer, an amount equal to three-fourths of one percent ( $3/4$  %) of the gross proceeds of sale of said automotive vehicle, truck trailer, semi-trailer, or house trailer, provided, however, 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 \$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 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.

(e) Upon every person, firm, or corporation engaged or continuing within the City of Gardendale 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 therefore 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 one percent (1%) of the gross proceeds of the sale thereof. Provided, however, the one percent (1%) 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.

RESOLUTION NO. 2010-57  
Exhibit A

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.

(f) Upon every person, firm, or corporation engaged or continuing within the City of Gardendale 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 therefore, there is hereby levied a tax equal to four percent (4%) 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.

SECTION 2. That Section 3 of Ordinance 81-17 as last amended by Ordinance No. 97-16 be and is hereby amended to read as follows in its entirety:

SECTION 3. (a) An excise tax is hereby imposed on the storage, use, or other consumption in the City of Gardendale of tangible personal property, not including, however, 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 tons burden, purchased at retail on or after the effective date of this Ordinance for storage, use, or other consumption in the City, at the rate of four percent (4%) of the sales price of such property, except as provided in Subsections (b) and (c) of this Section.

(b) An excise tax is hereby imposed on the storage, use, or other consumption in the City of Gardendale 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 two percent (2%) of the sales price of any such machine; 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 therefore, 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 Gardendale of any automotive vehicle or truck trailer, semi-trailer, or house trailer purchased at retail on or after the effective date of this Ordinance for storage, use, or other consumption in the City of Gardendale at the rate of three-fourths of one percent ( $3/4$  %) of the sales price of such automotive vehicle, truck trailer, semi-trailer, or house trailer. 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.

Every person storing, using, or otherwise consuming in the City of Gardendale tangible personal property purchased at retail shall be liable for the tax imposed by this article, and the liability shall not be extinguished until the tax has been paid to this City; provided, however, that a receipt from a retailer maintaining a place of business in this City or a retailer authorized by the City, under such rules and regulations as it may prescribe, to collect the tax imposed hereby and who shall for the purpose of this ordinance be regarded as the retailer maintaining a place of business in this City, given to the purchaser in accordance with the provisions of this ordinance, shall be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer.

RESOLUTION NO. 2010-57  
Exhibit A

124

(d) An excise tax is hereby imposed on the classes of tangible personal property, and at the rates imposed on such classes, specified in Subsections (a), (b), and (c) of this Section, on the storage, use, or other consumption in the performance of a contract in this City of any such tangible personal property, new or used, the tax to be measured by the sales price or the fair and reasonable market value of such tangible personal property when put into use in this City, whichever is less; provided, however, the tax imposed by this Subsection shall not apply where the taxed imposed by Subsections (a), (b), or (c) of this Section apply.

SECTION 3. That the collections of additional tax imposed by this ordinance shall be paid into the City Treasury to be credited, held, and disbursed as follows: (1) First, to the credit of a Capital Improvement Fund to be used exclusively for the purpose of the Martha Moore Library Expansion Program until the earlier of the Program's substantial completion or the establishment of adequate reserves for the same; (2) Second, to the credit of a Debt Retirement Fund to be used exclusively for the purpose of retiring the City's outstanding long-term indebtedness until the earlier of the full payment and satisfaction of the City's long-term obligations or the establishment of adequate reserves for the same; and (3) Third, the remaining proceeds of additional tax collected pursuant to this ordinance shall be credited to an Economic Development Fund to be used exclusively for the purpose of promoting economic development, including, but not limited to, the recruitment of new and expanding businesses, the construction of municipal infrastructure in support of trade, the granting of incentives as allowed by law, the acquisition of property, and such related uses as may be approved by the City Council from time to time.

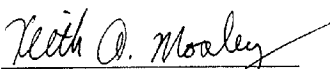
SECTION 4. The rates of taxation on the classes of tangible personal property set forth hereinabove shall become effective on January 1, 2011, and shall remain in effect until and including December 31, 2014.

SECTION 5. Effective January 1, 2015, the rates of taxation on the classes of tangible personal property set forth hereinabove shall revert to the rates as authorized by the adoption of Ordinance No. 94-07 and Ordinance No. 97-16.

SECTION 6. This Ordinance shall become effective on January 1, 2011.

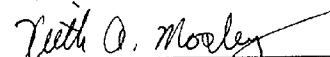
ADOPTED AND APPROVED on this the 4th day of October, 2010.

APPROVED:   
Othell G. Phillips, Mayor

ATTEST:   
Keith A. Mosley, City Clerk

CERTIFICATION

I, Keith A. Mosley, City Clerk of the City of Gardendale, Alabama, do hereby certify that the above is a true and correct copy of an Ordinance adopted by the City Council of the City of Gardendale, Alabama, while in regular session on the 4th day of October, 2010, and published in its entirety in the *North Jefferson News* on October 9, 2010.

  
Keith A. Mosley, City Clerk