

**BALDWIN COUNTY COMMISSION
ORDINANCE NUMBER 2010-01-01**

**AUTHORIZING AMENDMENTS TO BALDWIN COUNTY COMMISSION
ORDINANCE NUMBER 2010-01-00 (ORIGINALLY ADOPTED AT APRIL 6, 2010,
REGULAR MEETING) TO CORRECT SCRIVENER'S ERRORS IN THE ORIGINAL
TEXT AND ADD A NEW ARTICLE VIII.**

BE IT ORDAINED BY THE BALDWIN COUNTY COMMISSION, IN REGULAR
SESSION ASSEMBLED, that we hereby amend Ordinance Number 2010-01-00 thereby
repealing with deletions delineated by being ~~STRUCK THROUGH~~ and inclusions delineated by
being DOUBLE UNDERLINED only as follows:

BALDWIN COUNTY COMMISSION

ORDINANCE NUMBER 2010-01-00

PURSUANT TO THE PROVISION OF SECTION 40-12-4, CODE OF ALABAMA 1975, AS AMENDED, AND WITHOUT LIMITATION, AUTHORIZING AND ENACTING AN ORDINANCE WHICH LEVIES A 1% SALES TAX AND EXCISE TAX AGAINST PERSONS, FIRMS OR CORPORATIONS STORING, USING, OTHERWISE CONSUMING OR ENGAGED IN THE BUSINESS OF SELLING AT RETAIL TANGIBLE PERSONAL PROPERTY OR CONDUCTING PLACES OF AMUSEMENT IN BALDWIN COUNTY, ALABAMA; PROVIDING FOR THE COLLECTION OF THE SAID TAXES; PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE AND EXPIRATION DATE FOR SAID ORDINANCE.

Adopted 4/6/2010
Amended: 4/20/2010

**BALDWIN COUNTY COMMISSION
ORDINANCE NUMBER 2010-01-00**

PURSUANT TO THE PROVISION OF SECTION 40-12-4, CODE OF ALABAMA 1975, AS AMENDED, AND WITHOUT LIMITATION, AUTHORIZING AND ENACTING AN ORDINANCE WHICH LEVIES A 1% SALES TAX AND EXCISE TAX AGAINST PERSONS, FIRMS OR CORPORATIONS STORING, USING, OTHERWISE CONSUMING OR ENGAGED IN THE BUSINESS OF SELLING AT RETAIL TANGIBLE PERSONAL PROPERTY OR CONDUCTING PLACES OF AMUSEMENT IN BALDWIN COUNTY, ALABAMA; PROVIDING FOR THE COLLECTION OF THE SAID TAXES; PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE AND EXPIRATION DATE FOR SAID ORDINANCE.

Pursuant to the provisions of Sections 40-12-4, Code of Alabama 1975, as amended, and without limitation, and as approved by a majority of qualified electors of Baldwin County, Alabama, voting at a special election in Baldwin County on March 23, 2010, be it ordained by the Baldwin County Commission in the State of Alabama as follows:

Article I. There is hereby levied, in addition to all other taxes of every kind now imposed by law, and shall be collected as herein provided, ~~an excise tax~~ a sales tax against the person on account of the business activities, 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 Baldwin County 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, or as listed in Section 40-23-4 (a) (10) of the Code of Alabama 1975), an amount equal to one percent (1%) 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 Baldwin County, 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 Baldwin County, 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 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 Baldwin County, including any other events identified by the Alabama Department of Revenue, an amount equal to one percent (1%) of the gross receipts of any such business. Provided, however, notwithstanding any language to the contrary in the prior portion 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 used by said school for school purposes.

(c) Upon every person, firm or corporation engaged or continuing within Baldwin County 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 percent (1%) 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 Baldwin County in the business of selling at retail any automotive vehicle or truck trailer, semi-trailer or house trailer, an amount equal to one percent (1%) of the gross proceeds of sale of said automotive vehicle or truck trailer, semi-trailer or home trailer.

Where any used automobile 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 Baldwin County 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.

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 Baldwin County 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 one percent (1%) 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.

Article II. Provisions of State Sales Tax Statutes Applicable to this Ordinance and Taxes Levied Herein. The taxes levied in Article I 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 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.

Article III. (a) An excise tax is hereby imposed on the storage, use or other consumption in Baldwin County of tangible personal property (including materials as listed in Section 40-23-4 (a) (10) of the Code of Alabama 1975) purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in Baldwin County, except as provided in subsections (b), (c), and (d), at the rate of one percent (1%) of the sales price of such property.

(b) An excise tax is hereby imposed on the storage, use or other consumption in Baldwin County 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 percent (1%) 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 Baldwin County of any automotive vehicle or truck trailer, semitrailer or house trailer purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in Baldwin County at the rate of one percent (1%) of the sales price of such automotive vehicle, truck trailer, semi-trailer or house trailer. Where any used automotive vehicle, 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 Baldwin County 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, 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 ordinance, for the storage, use or other consumption in Baldwin County at the rate of one percent (1%) of the sales price of such property; regardless of whether the retailers is or is not engaged in the business in this County. 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. 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.

Article IV. Provisions of State Use Tax Statutes Applicable to this Ordinance and Taxes Herein Levied. The taxes levied by Article III 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 enforcements and collection of taxes.

Article V. Administration and Collection of Taxes by Baldwin County Commission and Disposition of Revenue. The taxes levied in Articles I and III of this ordinance shall be administered and collected by the Baldwin County Commission as provided and authorized by applicable Alabama law including, but not limited to, Section 45-2-243 of the Code of Alabama 1975 and as otherwise further amended. The amount certified as has having been collected for the use of the county, less collection charges deducted, shall be paid to the Custodian of Public School Funds of Baldwin County.

Article VI. 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.

Article VII. Effective and Expiration Dates. This ordinance shall become effective on the first day of June, 2010, and expire and terminate on the thirty-first day of May, 2013. Respecting the determination made by a majority of qualified electors in Baldwin County, Alabama, who voted at the March 23, 2010, special election to approve the Baldwin County Commission enacting this Ordinance, in no case shall the assessment and collection of the taxes authorized by this instrument exceed three (3) years commencing upon the date of its first assessment (June 1, 2010) and expiring thirty-six (36) months thereafter (May 31, 2013).

Article VIII. Original Adoption and Amendments. This ordinance has an original date of adoption and may be amended from time to time by the Baldwin County Commission and such shall be shown in the below schedule of information.

<u>Date</u>	<u>Page</u>	<u>Article/Section</u>	<u>Brief Description of Amendment</u>
<u>Original Adoption: April 6, 2010</u> <u>(Ordinance No. 2010-01-00)</u>			
<u>Amended: April 20, 2010</u> <u>(Ordinance No. 2010-01-01)</u>	<u>1, 2 &</u> <u>6</u>	<u>Article I (2nd</u> <u>sentence)</u>	<u>Correction of scrivener's errors</u> <u>at page's 1, 2 and Article I (at 2nd</u> <u>sentence). Inclusion of a new</u> <u>Article VIII at page 6.</u>

Adopted this the 6th day of April, 2010.


 Commissioner Charles F. Gruber, Chairman
 Baldwin County Commission

ATTEST:


 Michael L. Thompson, County Administrator

STATE OF ALABAMA

COUNTY OF BALDWIN

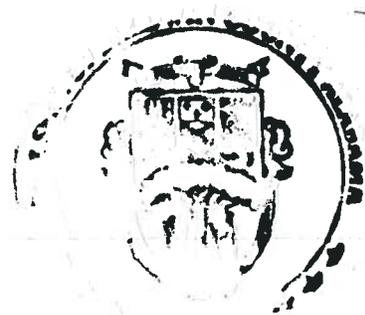


CERTIFICATION of AUTHENTICITY

Baldwin County Commission Ordinance No. 2010-01-00, as amended by Baldwin County Commission Ordinance No. 2010-01-01

I, MICHAEL L. THOMPSON, County Administrator for the Baldwin County Commission, hereby certify that the foregoing Ordinance No. 2010-01-00, as amended by Baldwin County Commission Ordinance No. 2010-01-01, is a true and correct copy of an Ordinance originally adopted by the Baldwin County Commission pursuant to Section 40-12-4 of the Code of Alabama, 1975, as amended, and without limitation, during its April 6, 2010, regular meeting at the County Seat in the City of Bay Minette, Alabama, and amended by the Baldwin County Commission pursuant to Section 40-12-4 of the Code of Alabama, 1975, as amended, and without limitation, during its April 20, 2010, regular meeting at the County Seat in the City of Bay Minette, Alabama.

WITNESS, my hand and seal on this the 20th day of April, 2010.




 Michael L. Thompson, County Administrator
 Baldwin County Commission