

**ORDINANCE NUMBER 2747**

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**AN ORDINANCE PROVIDING FOR THE LEVY AND COLLECTION OF CERTAIN PRIVILEGE, LICENSE AND EXCISE TAXES WITHIN THE CORPORATE LIMITS OF THE CITY OF VESTAVIA HILLS, ALABAMA**

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:**

**ARTICLE 1**

**Authority**

The City does hereby adopt this Ordinance, and provide for the levy and collection of the within-referenced Privilege, License and Excise Taxes, pursuant to the authority, and in conformity with the purposes, of the "Local Tax Simplification Act of 1998," as amended (codified as Article 3 of Chapter 51 of Title 11 of the Code of Alabama 1975.)

Authorization:

Code of Ala. 1975:

- (a) § 11-51-200
- (b) § 11-51-202(a)
- (c) § 11-51-202(b)
- (d) § 11-51-207

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Single Ordinance in Conformity with "Local Tax Simplification Act of 1998" (Act No. 98-192), which provides for "a simplified system of local sales, use, rental and lodgings taxes which may be levied by or for the benefit of municipalities.....in general conformance to the corresponding state levies...."

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**ARTICLE 2**

**Definitions**

**Section 2.01 Definitions of Certain Terms**

The following terms shall have the following meanings herein:

**City** shall mean the City of Vestavia Hills, Alabama.

**City Clerk** shall mean the City Clerk of the City, and any successor to the duties and functions thereof.

**City Council** shall mean the governing body of the City.

**Code of Ordinances** shall mean the Vestavia Hills Code of Ordinances, Republished 2013, as at any time amended, restated, or supplemented.

**Effective Date** shall mean June 1, 2018.

**Fiscal Year** shall mean the fiscal year of the City as established from time to time.

**Leasing Tax** shall mean the leasing and rental tax levied pursuant to Section 5.01.

**Lodging Tax** shall mean the transient occupancy tax levied pursuant to Section 6.01.

**Obligations** shall mean any direct, indirect, or contingent pecuniary obligation of the City as evidenced by any agreement, bond, contract, document, note, warrant or other instrument.

**Prior Taxes and Fees** shall mean collectively the following:

- (a) the privilege, license and excise taxes levied pursuant to Ordinance No. 2317, as codified in Article III of Chapter 16 of the Code of Ordinances;
- (b) the privilege license taxes levied pursuant to Ordinance No. 2316, as codified in Article IV of Chapter 16 of the Code of Ordinances;
- (c) the business license fee and privilege license tax levied pursuant to Section 8-38(7)(d) of Article II of Chapter 8 of the Code of Ordinances (as enacted by Section 23 of Ordinance No. 2315).

Definitions of Corresponding State Laws

**Privilege, License and Excise Taxes** shall mean, collectively, the following taxes levied by this Ordinance within the corporate limits of the City:

- (a) Sales Taxes;
- (b) Use Taxes;
- (c) Leasing Tax; and
- (d) Lodging Tax.

**Sales and Use Taxes** shall mean, collectively, the Sales Taxes and the Use Taxes.

**Sales Taxes** shall mean the sales taxes levied pursuant to Section 4.01.

**State Leasing Tax Laws** shall mean and include Section 40-2A-7, and Article 4 of Chapter 12 of Title 40, of the Code of Alabama 1975, as any time in force and effect, and all regulations of the Alabama Department of Revenue at any time promulgated and effective thereunder, and all laws of the State of Alabama directly relating thereto.

**State Lodging Tax Laws** shall mean and include Section 40-2A-7, and Chapter 26 of Title 40, of the Code of Alabama 1975, as any time in force and effect, and all regulations of the Alabama Department of Revenue at any time promulgated and effective thereunder, and all laws of the State of Alabama directly relating thereto.

**State Sales Tax Laws** shall mean and include Section 40-2A-7, and Article 1 of Chapter 23 of Title 40, of the Code of Alabama 1975, as any time in force and effect, and all regulations of the Alabama Department of Revenue at any time promulgated and effective thereunder, and all laws of the State of Alabama directly relating thereto.

**State Use Tax Laws** shall mean and include Section 40-2A-7, and Article 2 of Chapter 23 of Title 40, of the Code of Alabama 1975, as any time in force and effect, and all regulations of the Alabama Department of Revenue at any time promulgated and effective thereunder, and all laws of the State of Alabama directly relating thereto.

**Use Taxes** shall mean the use taxes levied pursuant to Section 4.02.

Provides for consistent use of terms in Corresponding State Tax Laws

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**Section 2.02 Incorporation of Phrases, Terms and Words**

All phrases, terms and words used in this Ordinance which are defined or used in any of the following statutes shall have the respective meanings, effect and scope in this Ordinance as in such statutes:

- (1) the State Sales Tax Laws; and
- (2) the State Use Tax Laws; and
- (3) the State Leasing Tax Laws; and
- (4) the State Lodging Tax Laws.

**ARTICLE 3**

**Effect of Ordinance**

Effective June 1, 2018

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**Section 3.01 Effective Date of Privilege, License and Excise Taxes**

The levy and collection of the Privilege, License and Excise Taxes shall become effective and commence on the Effective Date and shall continue thereafter as provided in this Ordinance.

**Section 3.02 Repeal of Prior Taxes and Fees; Continuation of Accrued Liability Therefor and Pledges Thereof**

(a) Repeal of Prior Taxes

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(a) The Prior Taxes and Fees, and the following ordinances and provisions of the Code of Ordinances, shall terminate and become void and of no further force and effect from and after midnight on May 31, 2018:

- (1) Ordinance No. 2317, as codified in Article III of Chapter 16 of the Code of Ordinances; and
- (2) Ordinance No. 2316, as codified in Article IV of Chapter 16 of the Code of Ordinances; and
- (3) Section 8-38(7)(d) of Article II of Chapter 8 of the Code of Ordinances.

(b) Continued Liability for Taxes Due under Repealed Ordinances

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(b) Anything in this Ordinance to the contrary notwithstanding, the liability or obligation of any person for the payment of any amount of any of the Prior Taxes and Fees, or for the payment of any amount of any forfeiture, interest, or penalty with respect thereto, which shall be outstanding and unpaid on the Effective Date (including without limitation taxes becoming due and payable on June 20, 2018) shall survive termination of the ordinances and provisions of the Code of Ordinances pursuant to Section 3.02(a) and shall remain in full force and effect under all provisions thereof and the City shall have and may exercise for the enforcement thereof all rights and remedies thereunder and available at law or in equity (including without limitation the applicable laws of the State of Alabama providing for the enforcement of the corresponding state taxes).

(c) Continued Effective Pledges of Taxes for Economic Incentives (less Reserves and New \$0.01 Proceeds)

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(c) Anything in this Ordinance to the contrary notwithstanding, all commitments and pledges of all or any portion of the Prior Taxes and Fees which shall be subject to an agreement made by the City prior to the Effective Date to or for the benefit of any governmental person or nongovernmental person shall be and remain in full force and effect from and after the Effective Date, in accordance with all terms and provisions thereof, solely with respect to the proceeds of the Privilege, License and Excise Taxes described in Section 4.03(b)(3), Section 5.02(b) and Section 6.02(b) of this Ordinance.

Amend Business License for  
Lodging Facilities from \$4.00/ Room  
to \$150

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**Section 3.03 Amendment of Code of Ordinances**

(a) Article III of Chapter 16 of the Code of Ordinances is hereby amended by deletion of said Article III in the entirety thereof and substitution therefor of Article 4, Section 7.02 and Section 7.03 of this Ordinance.

(b) Article IV of Chapter 16 of the Code of Ordinances is hereby amended by deletion of said Article IV in the entirety thereof and substitution therefor of Article 5 and Section 7.04 of this Ordinance.

(c) From and after May 31, 2018 the business license fee levied by Section 8-38(7)(d) of Article II of Chapter 8 of the Code of Ordinances shall be \$150.00 and in consequence thereof the provisions of said Section 8-38(7)(d) are hereby amended by deletion of said provisions in the entirety thereof and substitution therefor of the amount of "\$150.00."

**ARTICLE 4**

**Sales and Use Taxes**

**Section 4.01 Levy of Sales Taxes**

There is 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) (1) 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 the institution be denominational, state, county, or municipal institutions, any association or other agency or instrumentality of the 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 evidence of debt or stocks, nor sales of materials and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships, other watercraft, and commercial fishing vessels of over five tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources), 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 the business at the rates specified, when his or her books are kept so as to show separately the gross proceeds of sales of each business, and when his or her books are not kept he or she shall pay the tax as a retailer, on the gross sales of the business.

(2) Where any used part including tires of an automotive vehicle or a truck trailer, semitrailer, 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 rebuilt part or tire, the tax levied herein shall be paid on the net difference, that is, the price of the new or used part or tire sold less the credit for the used part or tire taken in trade, provided, however, this provision shall not be construed to include batteries.

(b) 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

Provisions:

Code of Ala. 1975

(a) § 40-23-2

(b) § 11-51-201(b)

(c) § 40-23-37

exhibitions, football and baseball games (excluding, however, athletic contests conducted by or under the auspices of the City Board of Education of the City of Vestavia Hills, but specifically including athletic contests conducted by or under the auspices of any educational institution within this state, or any athletic association thereof, or any other association whether the 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 the City, 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 portion of this subsection, the tax provisions so specified shall not apply to any athletic event conducted by a public or nonpublic primary or secondary school or any athletic event conducted by or under the auspices of the Alabama High School Athletic Association. The tax amount which would have been collected pursuant to this subsection shall continue to be collected by the public or nonpublic primary or secondary school, but shall be retained by the school which collected it and shall be used by the school for school purposes.

(c) 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 one percent (1%) of the gross proceeds of the sale of the machines. 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 the machines, attachments and replacements therefor, which are made or manufactured for use on or in the operation of the machines and which are necessary to the operation of such machines and are customarily so used.

(d) (1) 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, semitrailer or house trailer, or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes, and any other materials pertaining thereto an amount equal to one percent (1%) of the gross proceeds of the sale of the automotive vehicle or truck trailer, semitrailer or house trailer, or mobile home set-up materials and supplies; provided, however, where a person subject to the tax provided for in this subsection withdraws from his or her stock in trade any automotive vehicle or truck trailer, semitrailer, or house trailer for use by him or her or by his or her employee or agent in the operation of the 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 the automotive vehicle, truck trailer, semitrailer or house trailer shall remain the property of the person. Each 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 12 succeeding months or part thereof during which the automotive vehicle, truck trailer, semitrailer,



or house trailer shall remain the property of the person.

(2) Where any used automotive vehicle or truck trailer, semitrailer, 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.

(3) Sales of automobiles, motorcycles, trucks, truck trailers, or semitrailers, excluding travel trailers or housecars as defined in Section 40-12-240, that will be registered or titled outside Alabama, that are exported or removed from Alabama within 72 hours by the purchaser or his or her agent for first use outside of the State of Alabama are subject to City sales tax in an amount equal to only the City automotive sales tax rate, unless the sales tax laws of the state in which the purchaser will title or register the vehicle allows an Alabama resident to purchase a motor vehicle for first titling and registering in Alabama without the payment of tax to that state. However, in no case shall the amount of Alabama state sales tax due on a motor vehicle that will be registered or titled for use in another state exceed the amount of sales tax that would otherwise have been due in the state where the vehicle will be registered or titled for first use. The tax collected under this export provision shall be City sales tax. Sales of all other vehicles such as mobile homes, motor bikes, all terrain vehicles, and boats do not qualify for the export exemption provision and are taxable unless the dealer can provide factual evidence that the vehicle was delivered outside of Alabama or to a common carrier for transportation outside of Alabama. In order for the sale to be exempt from City tax, the information relative to the exempt sale shall be documented on forms approved by the Revenue Department of the State of Alabama.

(4) Anything in this section to the contrary notwithstanding, the tax provided in Section 4.01(d)(1) on any automotive vehicle, truck trailer, trailer, semitrailer or travel trailer required to be registered or licensed with the Judge of Probate of Jefferson County, Alabama, which is not sold through a licensed Alabama dealer, shall be collected and fees paid in accordance with the provisions of Sections 40-23-104 and 40-23-107, respectively (or any successor provisions of law).

(e) 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 levied a tax equal to one percent (1%) of the cost of the food, food products and beverages sold through the machines, which cost for the purposes of this subsection shall be the gross proceeds of sales of the business.

(f) (1) 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 one percent (1%) of the gross proceeds of the sale thereof; provided, the one 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.

(2) 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.

Provisions:

Code of Ala. 1975

(a) § 40-23-61

(b) § 11-51-203(b)

(c) § 40-23-63

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**Section 4.02 Levy of Use Taxes**

(a) An excise tax is hereby imposed on the storage, use or other consumption in the City 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, other watercraft and commercial fishing vessels of over five tons load displacement as registered with the U. S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources, 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 or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the Alabama Department of Revenue's suggested use tax brackets and his or her records prove that his or her following said brackets resulted in a net undercollection of tax for the month, he or she may report the tax due or tax collected, whichever is less, except as provided in this Section 4.02.

(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 property, purchased at retail on or after the effective date of this Ordinance at the rate equal to one percent (1%) of the sales price of any such machine or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the Alabama Department of Revenue's suggested use tax brackets and his or her records prove that his or her following said brackets resulted in a net undercollection of tax for the month, he or she may report the tax due or tax collected, whichever is less; except as provided in this Section 4.02; 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) (1) An excise tax is hereby imposed on the storage, use or other consumption in the City of any automotive vehicle or truck trailer, semitrailer or house trailer, and mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto, 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 one percent (1%) of the sales price of such automotive vehicle, truck trailer, semitrailer or house trailer, or mobile home set-up materials and supplies as specified above, or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the Alabama Department of Revenue's suggested use tax brackets and his or her records prove that his or her following said brackets resulted in a net undercollection of tax for the month, he or she may report the tax due or tax collected, whichever is less, except as provided in this Section 4.02. Where any used automotive vehicle, truck trailer, semitrailer 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.

(2) Anything in this section to the contrary notwithstanding, the tax provided in Section 4.02(c)(1) on any automotive vehicle, truck trailer, semi-trailer or travel trailer required to be registered or licensed with the Judge of Probate of Jefferson County, Alabama, which were sold by dealers that are not licensed in Alabama, or were sold by licensed Alabama dealers who failed to collect municipal sales taxes at the point of sale, shall be collected and fees paid in accordance with the provisions of Sections 40-23-104 and 40-23-107, respectively (or any successor provisions of law).

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

(e) 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 the 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 the City, whichever is less; provided, that the tax imposed by this subsection shall not apply where the taxes imposed by subsection (a), (b), or (c) of this Section apply.

(f) An excise tax is hereby 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, or 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 June 1, 2018, for storage, use or other consumption in the City, at the rate of one percent (1%) of the sales price of such property or the amount of tax collected by the seller, whichever is greater; provided, however, when the seller follows the Alabama Department of Revenue's suggested use tax brackets and his records prove that his following said brackets resulted in a net undercollection of tax for the month, he may report the tax due or tax collected whichever is less, regardless of whether the retailer is or is not engaged in business in the City; provided, that the one 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.

**Section 4.03 Use of Proceeds of Sales and Use Taxes**

(a) Definitions. For purposes of this Section the following terms shall have the following meanings:

**Available Sales and Use Tax Proceeds** means and includes, collectively, (i) the Capital Project and School Allocation and (ii) the General Purpose Allocation.

**Capital Project** means any property (real, personal or mixed) the cost of which is properly chargeable to capital account under federal income tax principles.

**Capital Project and School Allocation** shall have the meaning in Section 4.03(b)(2).

**General Purpose Allocation** shall have the meaning in Section 4.03(b)(3).

**Net Sales and Use Tax Proceeds** means the proceeds of the Sales and Use Taxes received by the City in each Fiscal Year after deduction or payment therefrom of all costs of collection thereof.

**Reserve Allocation** shall have the meaning in Section 4.03(b)(1).

**Surplus Available Sales and Use Tax Proceeds** means the aggregate amount of the Available Sales and Use Tax Proceeds remaining in each Fiscal Year after payment, or provision for payment, shall have been made from any funds or revenues of the City (including without limitation the Available Sales and Use Tax Proceeds) lawfully available therefor of all amounts of principal of, premium (if any) and interest on all of the following Obligations becoming due and payable in such Fiscal Year:

(1) all Obligations which are general obligations of the City payable from and secured by a pledge of the full faith, credit and taxing power of the City, without regard to whether any of such Obligations are, in whole or in part, also payable from, or secured by a pledge of, any other source of funds or revenues of the City; and

(2) all Obligations which are, in whole or in part, payable from and secured by a pledge of the Available Sales and Use Tax Proceeds, without regard to whether any of such Obligations are, in whole or in part, general obligations of the City or also payable from, or secured by a pledge of, any other source of funds or revenues of the City.

<p>Proceeds of Sales and Use Taxes:</p>	<p>(b) <u>Allocations and Uses.</u> The City shall apply the Net Sales and Use Tax Proceeds, when and as received, for the following purposes and in the following order:</p>
<p>(b)(1) Original Reserve</p> <hr/>	<p>(1) 6.250% of the Net Sales and Use Tax Proceeds (the "<u>Reserve Allocation</u>")<sup>[1]</sup> shall be allocated and applied by the City as follows:</p> <p>(i) 1.875% shall be held in reserve for the sole benefit of the City Board of Education of the City of Vestavia Hills, Alabama; and</p> <p>(ii) 4.375% shall be held in reserve by the City for Capital Projects.</p>
<p>(b)(2) New \$0.01 proceeds for Capital Projects, Schools, Lawful Purposes</p> <hr/>	<p>(2) 25.000% of the Net Sales and Use Tax Proceeds (the "<u>Capital Project and School Allocation</u>") shall be allocated and applied as follows:</p> <p>(i) first, for the payment, or the provision for payment, in each Fiscal Year of all amounts of principal of, premium (if any) and interest on Obligations incurred to finance or refinance Capital Projects becoming due and payable in such Fiscal Year;</p> <p>(ii) second, for the payment of the costs of Capital Projects in such Fiscal Year; and</p> <p>(iii) third, for public school purposes or such other lawful purposes as needed, as directed by the City Council, to the extent of the amount, if any, of the Capital Project and School Allocation remaining in such Fiscal Year after application for the foregoing purposes thereof.</p>
<p>(b)(3) General Fund</p> <hr/>	<p>(3) 68.750% of the Net Sales and Use Tax Proceeds (the "<u>General Purposes Allocation</u>") shall be allocated and applied for any lawful purpose as directed by the City Council, including without limitation the payment, or the provision for payment, in each Fiscal Year of the principal of, premium (if any) and interest on any Obligations becoming due and payable in such Fiscal Year.</p>
	<p><sup>[1]</sup> The Reserve Allocation of 6.250% of Net Sales and Use Tax Proceeds equals 1/12th of 3/4ths of the Net Sales and Use Tax Proceeds, being in effect 1/12th of three cents (\$0.03) (the previous sales and use tax rate in effect under Ordinance No. 2317), and is used in the following percentages:</p> <p>(i) 30% of the Reserve Allocation (being 1.875% of Net Sales and Use Tax Proceeds) for the City Board of Education of the City of Vestavia Hills, Alabama; and</p> <p>(ii) 70% of the Reserve Allocation (being 4.375% of Net Sales and Use Tax Proceeds) for Capital Projects of the City.</p>

(c) Authority to Pledge All Proceeds  
but Reserve; Retain Surplus  
Proceeds

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(d) Reserved Right to Amend

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(c) Pledge. The City may, pursuant to the applicable laws of the State of Alabama, pledge all, or any portion, of the Available Sales and Use Tax Proceeds for the benefit of any Obligations, subject to and in accordance with the following:

(1) the City shall not pledge any amount of the Available Sales and Use Tax Proceeds that is allocable to the levy and collection of the Sales and Use Taxes outside the corporate limits of the City; and

(2) the City reserves the right to apply, dedicate and use for any lawful purpose, as directed by the City Council, all Surplus Available Sales and Use Tax Proceeds in any Fiscal Year without regard to any pledge of the Available Sales and Use Tax Proceeds that shall then be in force and effect with respect to any Obligations.

(d) Amendment. The City reserves the right to make such amendments to this Section to provide for (1) a change in the then effective percentage allocation of the use of any of the Net Sales and Use Tax Proceeds or (2) the use of any portion of the Available Sales and Use Tax Proceeds for any particular purpose for which provision is not then made in this Section or in any amendment hereof, provided that prior thereto the City shall obtain an opinion of counsel with experience in the matters to be covered by such opinion that the use of Available Sales and Use Tax Proceeds for such purpose (i) is authorized by the applicable laws of the State of Alabama, (ii) is subject to, and will not adversely affect or impair, any pledge thereof for the benefit of any Obligations, and (iii) will not cause interest on any Obligations to be or become includable in (if then excludable from) the gross income of the owners of such Obligations for purposes of federal income taxation.



**ARTICLE 5**

**Leasing Taxes**

**Section 5.01 Levy of Leasing Taxes**

In addition to all other taxes now imposed by law, there is hereby levied and shall be collected as herein provided a privilege or license tax on each person engaging or continuing within the City in the business of leasing or renting tangible personal property at the rate of four percent (4%) of the gross proceeds derived by the lessor from the lease or rental of tangible personal property; provided, that the said privilege or license tax on each person engaging or continuing within the City in the business of leasing or renting any automotive vehicle or truck trailer, semitrailer or house trailer shall be at the rate of one percent (1%) of the gross proceeds derived by the lessor from the lease or rental of such automotive vehicle or truck trailer, semi-trailer or house trailer; provided, further, that the tax levied by this section shall not apply to any leasing or rental, as lessor, by the state, or any municipality or county in the state; or any public corporation organized under the laws of the state; provided further, that the privilege or license tax on each person or firm engaging or continuing within this state in the business of the leasing and rental of linens and garments shall be at the rate of two percent (2%) of the gross proceeds derived by the lessor from the lease or rental of such linens and garments.

Provisions:

Code of Ala. 1975:

§ 40-12-222

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<p>Same as Sales and Use Tax</p> <hr/>	<p><b>Section 5.02 Use of Proceeds of Leasing Tax</b></p> <p>(a) <u>Definitions.</u> For purposes of this Section the following terms shall have the following meanings:</p> <p><b>Net Leasing Tax Proceeds</b> means the proceeds of the Leasing Tax received by the City in each Fiscal Year after deduction or payment therefrom of all costs of collection thereof.</p> <p><b>Surplus Net Leasing Tax Proceeds</b> means the aggregate amount of the Net Leasing Tax Proceeds remaining in each Fiscal Year after payment, or provision for payment, shall have been made from any funds or revenues of the City (including without limitation the Net Leasing Tax Proceeds) lawfully available therefor of all amounts of principal of, premium (if any) and interest on all of the following Obligations becoming due and payable in such Fiscal Year:</p> <p>(1) all Obligations which are general obligations of the City payable from and secured by a pledge of the full faith, credit and taxing power of the City, without regard to whether any of such Obligations are, in whole or in part, also payable from, or secured by a pledge of, any other source of funds or revenues of the City; and</p> <p>(2) all Obligations which are, in whole or in part, payable from and secured by a pledge of the Net Leasing Tax Proceeds, without regard to whether any of such Obligations are, in whole or in part, general obligations of the City or also payable from, or secured by a pledge of, any other source of funds or revenues of the City.</p>
<p>(b) Any Lawful Purpose</p> <hr/>	<p>(b) <u>Uses.</u> The Net Leasing Tax Proceeds shall be allocated and applied for any lawful purpose as directed by the City Council, including without limitation the payment, or the provision for payment, in each Fiscal Year of the principal of, premium (if any) and interest on any Obligations becoming due and payable in such Fiscal Year.</p>
<p>(c) Same as Sales and use Taxes</p> <hr/>	<p>(c) <u>Pledge.</u> The City may, pursuant to the applicable laws of the State of Alabama, pledge all, or any portion, of the Net Leasing Tax Proceeds for the benefit of any Obligations, subject to and in accordance with the following:</p> <p>(1) the City shall not pledge any amount of the Net Leasing Tax Proceeds that is allocable to the levy and collection of the Leasing Tax outside the corporate limits of the City; and</p> <p>(2) the City reserves the right to apply, dedicate and use for any lawful purpose, as directed by the City Council, all Surplus Net Leasing Tax Proceeds in any Fiscal Year without regard to any pledge of the Net Leasing Tax Proceeds that shall then be in force and effect with respect to any Obligations.</p>

(d) Same as Sales and use Taxes

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(d) Amendment. The City reserves the right to make such amendments to this Section to provide for the use of any portion of the Net Leasing Tax Proceeds for any particular purpose for which provision is not then made in this Section or in any amendment hereof, provided that prior thereto the City shall obtain an opinion of counsel with experience in the matters to be covered by such opinion that the use of Net Leasing Tax Proceeds for such purpose (i) is authorized by the applicable laws of the State of Alabama, (ii) is subject to, and will not adversely affect or impair, any pledge thereof for the benefit of any Obligations, and (iii) will not cause interest on any Obligations to be or become includable in (if then excludable from) the gross income of the owners of such Obligations for purposes of federal income taxation.

**ARTICLE 6**

**Lodging Taxes**

**Section 6.01 Levy of Lodging Taxes**

Provisions:

Code of Ala. 1975:

§ 40-26-1

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(a) There is hereby levied and imposed, in addition to all other taxes of every kind now imposed by law, a privilege or license tax upon every person, firm, or corporation engaging within the City in the business of renting or furnishing any room or rooms, lodgings or accommodations to transients in any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration, in an amount to be determined by the application of the rate of six percent (6%) of the charge for such room, rooms, lodgings, or accommodations, including the charge for use or rental of personal property and services furnished in such room. There is exempted from the tax levied under this section any rentals or services taxed under Section 4.01 of this Ordinance.

(b) The tax levied in Section 6.01(a) shall not apply to rooms, lodgings, or accommodations supplied: (i) for a period of 180 continuous days or more in any place; (ii) by camps, conference centers, or similar facilities operated by nonprofit organizations primarily for the benefit of, and in connection with, recreational or educational programs for children, students, or members or guests of other nonprofit organizations during any calendar year; or (iii) by privately operated camps, conference centers, or similar facilities that provide lodging and recreational or educational programs exclusively for the benefit of children, students or members or guests of nonprofit organizations during any calendar year.

**Section 6.02 Use of Proceeds of Lodging Tax**

(a) Definitions. For purposes of this Section the following terms shall have the following meanings:

**Net Lodging Tax Proceeds** means the proceeds of the Lodging Tax received by the City in each Fiscal Year after deduction or payment therefrom of all costs of collection thereof.

**Surplus Net Lodging Tax Proceeds** means the aggregate amount of the Net Lodging Tax Proceeds remaining in each Fiscal Year after payment, or provision for payment, shall have been made from any funds or revenues of the City (including without limitation the Net Lodging Tax Proceeds) lawfully available therefor of all amounts of principal of, premium (if any) and interest on all of the following Obligations becoming due and payable in such Fiscal Year:

(1) all Obligations which are general obligations of the City payable from and secured by a pledge of the full faith, credit and taxing power of the City, without regard to whether any of such Obligations are, in whole or in part, also payable from, or secured by a pledge of, any other source of funds or revenues of the City; and

(2) all Obligations which are, in whole or in part, payable from and secured by a pledge of the Net Lodging Tax Proceeds, without regard to whether any of such Obligations are, in whole or in part, general obligations of the City or also payable from, or secured by a pledge of, any other source of funds or revenues of the City.

(b) Any Lawful Purpose

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(b) Uses. The Net Lodging Tax Proceeds shall be allocated and applied for any lawful purpose as directed by the City Council, including without limitation the payment, or the provision for payment, in each Fiscal Year of the principal of, premium (if any) and interest on any Obligations becoming due and payable in such Fiscal Year.

(c) Same as Sales and Use Taxes

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(c) Pledge. The City may, pursuant to the applicable laws of the State of Alabama, pledge all, or any portion, of the Net Lodging Tax Proceeds for the benefit of any Obligations, subject to and in accordance with the following:

(1) the City shall not pledge any amount of the Net Lodging Tax Proceeds that is allocable to the levy and collection of the Lodging Tax outside the corporate limits of the City; and

(2) the City reserves the right to apply, dedicate and use for any lawful purpose, as directed by the City Council, all Surplus Net Lodging Tax Proceeds in any Fiscal Year without regard to any pledge of the Net Lodging Tax Proceeds that shall then be in force and effect with respect to any Obligations.

(d) Same as Sales and Use Taxes

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(d) Amendment. The City reserves the right to make such amendments to this Section to provide for the use of any portion of the Net Lodging Tax Proceeds for any particular purpose for which provision is not then made in this Section or in any amendment hereof, provided that prior thereto the City shall obtain an opinion of counsel with experience in the matters to be covered by such opinion that the use of Net Lodging Tax Proceeds for such purpose (i) is authorized by the applicable laws of the State of Alabama, (ii) is subject to, and will not adversely affect or impair, any pledge thereof for the benefit of any Obligations, and (iii) will not cause interest on any Obligations to be or become includable in (if then excludable from) the gross income of the owners of such Obligations for purposes of federal income taxation.

Applicable State Laws Replace Original VH Admin. Provisions:
§ 2 of Act 98-192
§ 11-51-200
Collection Options
Incorporation of State Sales Tax Laws:
§ 11-51-201(a)
Incorporation of State Use Tax Laws:
§ 11-51-203(a)

**ARTICLE 7**

**Operation of Ordinance**

**Section 7.01 Collection of Privilege, License and Excise Taxes**

The City may provide, from time to time, by ordinance or resolution, for the collection of the Privilege, License and Excise Taxes, or any one or more thereof, by the City, or by the Alabama Department of Revenue, or by a private auditing and collecting firm (as defined in Section 40-23-3(17) of the Code of Alabama 1975 or any successor provision of law).

**Section 7.02 Applicability and Incorporation of State Sales Tax Laws**

(a) (1) The City shall administer and enforce the levy and collection of the Sales Taxes in accordance with the applicable provisions of the State Sales Tax Laws for the administration and enforcement of the corresponding state tax levied thereunder, including without limitation all such provisions providing for the assessment, administration, collection, payment, imposition of penalties, record-keeping, reporting and making returns, and enforcement of said corresponding state tax.

(2) Therefore, the Sales Taxes shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act, direct-pay permit and drive-out certificate procedures, statutes of limitation, penalties, fines, punishments, and deductions as are provided by the State Sales Tax Laws for the corresponding state tax levied thereunder.

(b) In furtherance thereof, the City does hereby incorporate herein and make a part hereof all provisions of the State Sales Tax Laws that are hereby made applicable to the Sales Taxes by this reference thereto as if set out in full herein.

**Section 7.03 Applicability and Incorporation of State Use Tax Laws**

(a) (1) The City shall administer and enforce the levy and collection of the Use Taxes in accordance with the applicable provisions of the State Use Tax Laws for the administration and enforcement of the corresponding state tax levied thereunder, including without limitation all such provisions providing for the assessment, administration, collection, payment, imposition of penalties, record-keeping, reporting and making returns, and enforcement of said corresponding state tax.

(2) Therefore, the Use Taxes shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act, direct-pay permit and drive-out certificate procedures, statutes of limitation, penalties, fines, punishments, and deductions as are provided by the State

<p>Incorporation of State Leasing Tax Laws:</p> <p>§ 11-51-207(b)</p> <hr/>	<p>Use Tax Laws for the corresponding state tax levied thereunder.</p> <p>(b) In furtherance thereof, the City does hereby incorporate herein and make a part hereof all provisions of the State Use Tax Laws that are hereby made applicable to the Use Taxes by this reference thereto as if set out in full herein.</p> <p><b>Section 7.04 Applicability and Incorporation of State Leasing Tax Laws</b></p> <p>(a) (1) The City shall administer and enforce the levy and collection of the Leasing Tax in accordance with the applicable provisions of the State Leasing Tax Laws for the administration and enforcement of the corresponding state tax levied thereunder, including without limitation all such provisions providing for the assessment, administration, collection, payment, imposition of penalties, record-keeping, reporting and making returns, and enforcement of said corresponding state tax.</p> <p>(2) Therefore, the Leasing Tax shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act, direct-pay permit and drive-out certificate procedures, statutes of limitation, penalties, fines, punishments, and deductions as are provided by the State Leasing Tax Laws for the corresponding state tax levied thereunder.</p> <p>(b) In furtherance thereof, the City does hereby incorporate herein and make a part hereof all provisions of the State Leasing Tax Laws that are hereby made applicable to the Leasing Tax by this reference thereto as if set out in full herein.</p>
<p>Incorporation of State Lodging Tax Laws:</p> <p>§ 11-51-203(a)</p> <hr/>	<p><b>Section 7.05 Applicability and Incorporation of State Lodging Tax Laws</b></p> <p>(a) (1) The City shall administer and enforce the levy and collection of the Lodging Tax in accordance with the applicable provisions of the State Lodging Tax Laws for the administration and enforcement of the corresponding state tax levied thereunder, including without limitation all such provisions providing for the assessment, administration, collection, payment, imposition of penalties, record-keeping, reporting and making returns, and enforcement of said corresponding state tax.</p> <p>(2) Therefore, the Lodging Tax shall be subject to all definitions, exceptions, exemptions, proceedings, requirements, provisions, rules and regulations promulgated under the Alabama Administrative Procedure Act, direct-pay permit and drive-out certificate procedures, statutes of limitation, penalties, fines, punishments, and deductions as are provided by the State Lodging Tax Laws for the corresponding state tax levied thereunder.</p> <p>(b) In furtherance thereof, the City does hereby incorporate herein and make a part hereof all provisions of the State Lodging Tax Laws that are hereby made applicable to the Lodging Tax by this reference thereto as if set out in full herein.</p>



Included for Self-Administered City under:

§ 11-51-208(f)

Original Vestavia Hills Provision

**Section 7.06 Interest on Tax Delinquency; Refund**

To the extent permitted by law (including without limitation Section 11-51-208(f) of the Code of Alabama 1975), the City shall:

(a) assess interest on any amount of the Privilege, License and Excise Taxes which shall not be paid when due at the applicable interest rate determined and adjusted from time to time by the Alabama Department of Revenue in accordance with Section 40-1-44 of the Code of Alabama 1975 (or any successor provision of law) from the date such amount became due until paid in full, which assessment of interest shall be made by the City in accordance with Section 40-23-2.1 of the Code of Alabama 1975 (or any successor provision of law) and shall be due and payable in arrears on such dates as shall be determined by the City; and

(b) pay interest, at the same rate charged by the City on tax delinquencies, on any refund of taxes erroneously paid (within the meaning of Section 11-51-208(f) of the Code of Alabama 1975.

**Section 7.07 Discount for Prompt Payment**

A discount equal to five percent (5%) of the first one hundred dollars (\$100) of each monthly installment of the taxes herein levied and two percent (2%) of that portion of each monthly installment of the said taxes in excess of one hundred dollars (\$100), but not to exceed a maximum discount of four hundred dollars (\$400.00) per month to each taxpayer, shall be allowed to each taxpayer on the filing of the monthly report with respect to such taxes, upon payment of the amount of such monthly installment (minus said discount) at or prior to the time when such installment is required herein to be paid. If the report is not filed and payment is not made within the time provided with respect to any monthly installment of the tax herein levied, the taxpayer shall not be entitled to the said discount with respect to that monthly installment but shall pay the full amount of the tax then due, together with the applicable interest provided in Section 7.06 hereof.

<p>Coordination with other Licenses and Taxes</p> <hr/>	<p style="text-align: center;"><b>ARTICLE 8</b></p> <p style="text-align: center;"><b>Privilege, License and Excise Taxes Cumulative</b></p> <p>The Privilege, License and Excise Taxes are cumulative with, and in addition to, any and all licenses and taxes now or hereafter authorized to be levied and collected, or levied and collected, by the City.</p>
<p>General Authorization to Officers</p> <hr/>	<p style="text-align: center;"><b>ARTICLE 9</b></p> <p style="text-align: center;"><b>Provisions of General Application</b></p> <p><b>Section 9.01 Authorization of Officers</b></p> <p>The Mayor, City Manager, Finance Director, and City Clerk of the City are hereby authorized and directed to take all such actions, and execute, deliver, file and record such documents, instruments, notices, and proceedings, as shall be necessary, desirable, or required by applicable law or governmental authority, to carry out and effect the provisions of this Ordinance and provide for the levy and collection of the Privilege, License and Excise Taxes as provided in this Ordinance.</p>
<p>Standard in Laws and Ordinances</p> <hr/>	<p><b>Section 9.02 Severability</b></p> <p>If any provision or term of this Ordinance shall be inoperative or unenforceable, in general or as applied in any particular case, such provision or term shall thereupon be ineffective therefor and all other provisions and terms of this Ordinance shall be and remain valid, enforceable, and in full force and effect without regard to such inoperative or unenforceable provision or term.</p>
<p>Avoid Conflict with other City Proceedings</p> <hr/>	<p><b>Section 9.03 Construction with Other Proceedings</b></p> <p>In addition to the provisions of Section 3.02(a) hereof, any order, ordinance, resolution, or other proceeding of the City in conflict or inconsistent with any provision of this Ordinance, is hereby, to the extent of such conflict or inconsistency, repealed.</p>
<p>Ordinance effective now; Taxes effective June 1, 2018</p> <hr/>	<p><b>Section 9.04 Effectiveness of Ordinance</b></p> <p>This Ordinance shall take effect upon adoption hereof and publication as required by law.</p>

\* \* \* \* \*

Duly Passed and Adopted this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Mayor

SEAL

\_\_\_\_\_  
City Clerk

**CERTIFICATE OF PUBLICATION**

The undersigned City Clerk of the City of Vestavia Hills, Alabama, hereby certifies that the above and foregoing Ordinance No. 2747 was published by me in *The Birmingham News*, a newspaper published in Jefferson County, Alabama, and of general circulation in the City of Vestavia Hills, Alabama, in the issue thereof published on \_\_\_\_\_, 2018.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Vestavia Hills, Alabama, on this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
City Clerk

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