

## ORDINANCE 2014-001 TOBACCO TAX

AN ORDINANCE TO LEVY A LICENSE TAX ON THE PERSONS, FIRMS CORPORATIONS AND OTHERS ENGAGED IN THE BUSINESS OF SELLING, STORING OR DELIVERING CERTAIN TOBACCO PRODUCTS WITHIN THE CORPORATE LIMITS OF THE CITY OF VINCENT, OR ITS POLICE JURISDICTION BY (1) AFFIXING TOBACCO TAX STAMPS OR (2) MONTHLY TAX REPORT TO PROVIDE FOR THE ENGAGEMENT OF SAID ORDINANCE; AND TO PROVIDE PENALTIES FOR ITS VIOLATION.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VINCENT, ALABAMA,  
As follows:

**SECTION 1. DEFINITIONS:** Unless the context clearly indicated a different meaning, the following words and phrases used in this ordinance shall have the meaning ascribed to them in this section:

“PERSON” means a natural person, firm, corporation, association, club receiver and trustee or other person acting in a fiduciary capacity.

“CITY” meaning the City of Vincent.

“CORPORATE LIMITS” meaning the corporate limits of the City.

“POLICE JURISDICTION” meaning the area outside the corporate limits of the City lying within one and one-half miles from said corporate limits, and not within the corporate limits of any other municipality.

“TOBACCO PRODUCTS” means cigarettes, cigars, smoking tobacco, chewing tobacco, snuff, or any of them.

“CONTAINER OR CONTAINERS” means a) the original boxes from which cigarettes, chewing tobacco are customarily sold, and b) the individual packages or cans in which cigarettes, smoking tobacco and snuff are customarily sold at retail prices.

“SOLD and SALE” means any transfer of title or possession, or both, exchanged or bartered, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement therefore, including rewards, process or premiums of tobacco products given as a result of operations of punch boards, shooting galleries or other activities.

“RETAIL PRICE” means the retail selling price of the tobacco products before adding the amount of the tax assessed herein or any other tobacco tax imposed under the law of the State of Alabama.

“WHOLESALE DEALER” means a person who sells or delivers within the City limits or its police jurisdiction, at wholesale only, tobacco products to retail dealers for the purpose of resale only.

“RETAIL DEALERS” means any person, other than a wholesale dealer, who sells or delivers tobacco products within the city limits or its police jurisdiction.

“STORE and or STORES” refers to the storage or warehousing of tobacco products in any manner, or the withdrawal or use of the same for any purpose, other than for resale to reshipment outside the city limits or its police jurisdiction.

“STORES” meaning a person who stores tobacco products in the city limits or its police jurisdiction.

“DEALER” meaning any wholesale dealer, retail dealer or store as herein defined.

"STAMPS" means the stamp or stamps which are used to levy and collect the tax for which this ordinance is enacted.

"MONTHLY TAX REPORT" means the report, with tax payment, submitted to the City Clerk of Vincent based on a sworn statement of the preceding calendar month's sales or delivery of tobacco products within the City of Vincent and its police jurisdiction.

The masculine gender shall include the feminine and neuter gender.

Wherever the context requires, the plural shall include the singular and the singular shall include the plural.

**SECTION 2. LEVY OF TAX IN THE CITY.** In addition to all taxes now imposed by law every person who is engaged in the business of selling, storing or delivering tobacco products within the corporate limits of the City of Vincent shall pay a license tax is hereby fixed and levied for engaging in such business within the corporate limits of the City of Vincent, which license tax shall be in the following amounts (which amounts shall be in addition to all amounts of any license taxes levied with respect to such business in any general license code of the city):

- (a) An amount equal to four cents (4c) for each twenty (20) cigarettes or fraction of said number; and an amount equal to eight cents (8c) for each twenty-five (25) cigarettes or fraction of said number contained in each package sold within the corporate limits of the City;
- (b) An amount equal to Two cents (2c) for each pack of one to five stick/pack cigars;  
Four cents (4c) for each pack of six to forty nine sticks/packs cigars.  
Twenty cents (20c) for a box of fifty sticks/box cigars.  
Thirty cents (30c) for a box of fifty-one or more sticks/box cigars.
- (c) An amount equal to two cent (2c) for each ounce, or fraction thereof, contained in each individual package or can of smoking tobacco which is sold with said corporate limits of the City.
- (d) An amount equal to Two cents (2c) for each individual package/can up to three ounces.  
Three cents (3c) for each individual package/can or more than three ounces and less than four ounces,  
Four cents (4c) for each individual package/can of four ounces or more of smokeless tobacco (snuff) within the said corporate limits of the City.
- (e) An amount equal to Two cents (2c) for each plug or package of chewing tobacco up to three ounces.  
Four cents (4c) for more than three ounces sold with the said corporate limits of the City.

**SECTION 3. LEVY OF TAX IN POLICE JURISDICTION.** In addition to any taxes now imposed by law, every person who is engaged in the business of selling, storing or delivering tobacco products within the police jurisdiction of the City shall pay a license tax to the City and a license tax is herein fixed and levied for engaged in such business within the police jurisdiction of the City, which license tax shall be in the following amounts (which amounts shall be in addition to all amounts of any license taxes levied with respect to such business in any general license Code of the City):

- (a) An amount equal to four cents (4c) for each twenty (20) cigarettes or fraction of said number; and an amount equal to eight cents (8c) for each twenty-five (25) cigarettes or fraction of said number contained in each package sold within the police jurisdiction of the City;

- (b) An amount equal to Two cents (2c) for each pack of one to five stick/pack cigars;  
Four cents (4c) for each pack of six to forty nine sticks/packs cigars.  
Twenty cents (20c) for a box of fifty sticks/box cigars.  
Thirty cents (30c) for a box of fifty-one or more sticks/box cigars sold within said police jurisdiction of the City; and
- (c) An amount equal to two cent (2c) for each ounce, or fraction thereof, contained in each individual package or can of smoking tobacco which is sold with said police jurisdiction of the City.
- (d) An amount equal to Two cents (2c) for each individual package/can up to three ounces.  
Three cents (3c) for each individual package/can or more than three ounces and less than four ounces,  
Four cents (4c) for each individual package/can of four ounces or more of smokeless tobacco (snuff) within the said police jurisdiction of the City and
- (e) An amount equal to Two cents (2c) for each plug or package of chewing tobacco up to three ounces.  
Four cents (4c) for more than three ounces sold with the said police jurisdiction of the City.

**SECTION 4. PAYMENT OF TAX BY AFFIXED STAMPS.** The license tax imposed by this ordinance shall be paid by the purchase of stamps from the City Hall and affixing them to said products before offering said products for sale.

**SECTION 5. STAMPS.** The City Clerk shall keep on hand for sale adequate quantity of stamps to be affixed to each container or tobacco products in denominations as required under this ordinance. Each stamp shall have inscribed thereon the word "Town or City of Vincent Tobacco Tax", but said words need not be arranged in the foregoing order and may be abbreviated. Said stamps may be sold to wholesale dealers only by the City Clerk at a price equal to ninety per cent of the full amount thereof, the remaining ten per cent of such full amount representing compensation to the wholesale dealer for the labor of affixing such stamps to the containers of the tobacco product. All other persons, except such wholesale dealers, must pay the full amount of the stamps but no person shall be entitled to purchase any such number of stamps as shall cause the purchase price to include a fraction of a cent.

**SECTION 6. AFFIXING STAMPS.** Before any tobacco products shall be sold, stored or delivered within the corporate limits or of the police jurisdiction of the City of Vincent by any dealer, such dealer shall affix to each container of tobacco products a stamp or stamps obtained from the City Clerk in the amount set out in this ordinance in payment for the license taxes imposed by this Ordinance. Every dealer shall, within one hour after receipt of any tobacco products within the City or its police jurisdiction, unless sooner offered for sale, cause stamps of the required amount of the tax to be affixed as herein provided and shall cause the same to be canceled by writing or stamping with water proofed ink across the face of each stamp such registered number as shall be furnished to such dealer by the City Clerk. After such stamps has been begun it shall be continued with reasonable diligence by such dealer until all unstamped containers shall have been stamped and the stamps canceled as herein provided. No stamps required to be affixed to any container shall after the same has been affixed as herein provided be again used in payment of any part of the tax levied under this Ordinance.

Stamps in the denomination equal to the amount of the tax shall be affixed to the container from or in which the tobacco product with respect to which the stamps are affixed are normally sold at retail; and shall be affixed in such a manner that their removal will require continued application of water or steam. In the case of cigars or chewing tobacco, sales of which are normally made from the original container, the stamp shall be torn in two or mutilated when the container is opened for the sale of the cigars and chewing tobacco. In the case of cigarettes and smoking tobacco, which are normally sold at retail in individual packages, the stamps shall be affixed to each

individual package in such a way that such stamps shall be torn in two or mutilated when such package is opened.

**SECTION 7: RECORDS.** Every wholesale dealer shall, at the time of sale or delivery of tobacco products into the City or its police jurisdiction, make a true duplicate invoice of the same, which shall show full and complete details of the sale or delivery of such tobacco products and the prices thereof. Every wholesale dealer and every retail dealer shall keep a record of the purchase, sale, exchange or receipt of tobacco products. All such invoices and canceled checks and other memoranda pertaining to such purchase, sale, exchange or receipt shall be retained for a period of three years and shall be subject to inspection by the City Clerk or his/her duly authorized representative who shall have the power and authority to enter upon the premises of any dealer at all reasonable times for the purpose of examining such invoices, records, cancelled checks and other memoranda. Any person who purchased or received in any manner whatsoever tobacco products which do not have stamps affixed in the manner required by this Ordinance shall, within three days after receiving of such tobacco products, report the receipt or purchase, as the case may be, of such tobacco products to the City Clerk, give the date of purchase or received, the name of the person or firm from whom purchase or receipt and the purchase price thereof. Such reports must be made by registered mail or in person.

**SECTION 8: ILLEGAL ACTS.** Among other, the following acts and omissions shall be unlawful:

- (a) It shall be unlawful for any person who is required by this ordinance to affix stamps to any container of tobacco products to fail to affix such stamps or to fail to cancel such stamps in the manner and with the time required by this Ordinance.
- (b) It shall be unlawful for any person to sell, offer for sale, store or deliver within the City or its police jurisdiction any tobacco products where stamps have not been affixed and canceled as provided in this Ordinance.
- (c) It shall be unlawful for any person to have in his possession or under his control any tobacco products with respect to which stamps have not been affixed in the manner required by this Ordinance for more than six hours after receipt of such tobacco products on the premises of such person. The possession of each container of tobacco products not having proper stamps affixed as required by this ordinance shall be deemed a separate offense.
- (d) It shall be unlawful to manufacture, buy, sell, offer for sale, or possess, or attempt to possess, any reproduction or counterfeit of the stamps provided for this ordinance, or to possess tools, implements, instruments or materials of any kind necessary or appropriate to reproduce or counterfeit such stamps, or to alter or cause any stamps herein provided to be altered.
- (e) It shall be unlawful to remove from a container or otherwise prepare any stamps with intent to use or cause the same to be used after it has already been used, or to buy, sell or offer for sale or give away any washed, removed, altered or restored stamps to any person, or to have in possession any such washed or removed or restored or altered stamps, or for the purpose of indication payment of any tax herein, to reuse any stamp which has heretofore been used for the payment of any tax provided in this Ordinance, or to sell any stamps provided for herein.
- (f) It shall be unlawful to reuse or refill with tobacco products any container from which tobacco products have been removed and with respect to which the tax has theretofore been paid.
- (g) It shall be unlawful for any person who is in this Ordinance required to keep records, to fail or omit to keep the records in the manner herein required, or to

refuse to permit the City Clerk or his/her authorized representative to inspect such documents.

- (h) It shall be unlawful for any person who is herein required to file statements with the City Clerk to fail or omit to make or file any statement herein specified within the time herein specified, or to make any false statement herein, and such offenses shall be a continuing offense against the City and each day during which such person shall sell, store or deliver tobacco products in the City or its police jurisdiction during such default shall constitute a separate offense.
- (i) It shall be unlawful for any person who is required to pay the license tax herein provided to fail or omit to pay the same within the time herein specified, and such offense shall be a continuing offense against the City and each day during which said person shall sell, store or deliver tobacco products in the City or its police jurisdiction during such default shall constitute a separate offense.

## **SECTION 9: CONSTRUCTION.**

- (a) This ordinance shall not be constructed to tax interstate commerce or any business of the United State Government or any branch or agency thereof.
- (b) This Ordinance shall not be constructed to apply to tobacco products stored for the purpose of resale or reshipment outside the City or its police jurisdiction and which are actually so resold or reshipped.
- (c) This Ordinance shall not be constructed to repeal any of the provisions of the General License Code of the City, but shall be held to be cumulative.
- (d) Whenever the requisite amount of stamps has been affixed to the containers of tobacco products, as required herein, this Ordinance shall not be constructed to require amount stamps to be affixed thereunto in case of subsequent sale, deliveries or storage; provided, that where such tobacco products have been properly stamped for sale delivery or storage within the police jurisdiction, then before the same can be sold, delivered or stored in the corporate limits of the City thereby must be properly affixed to such tobacco products and properly canceled an equal amount of stamps to those already affixed.

**SECTION 10. TIME OF TAX PAYMENT.** The license tax imposed by this section shall be paid from time to time as stamps are purchased from the City Clerk and affixed as provided herein.

**SECTION 11. MONTHLY STATEMENT AND PAYMENT.** Any distributing company electing to use the monthly tax return report in lieu of purchasing and affixing stamps will be required to submit a report on a monthly basis. The tax will be due and payable in monthly installments on or before the 20<sup>th</sup> day of the month next succeeding the month in which the tax accrued. If said tax is not paid by said due date, then an additional sum (a late charge) equal to 10% of said tax shall also be due. On or before the 20<sup>th</sup> day of each month, every wholesaler, jobber, dealer or distributor who sells, stores, or delivers any tobacco products for sale within the City of Vincent and every retailer who sells, stores, or delivers any tobacco products for sale within the City of Vincent that were not purchased through a wholesaler, jobber, dealer, or distributor who sells, stores, or delivers tobacco products for sale within the City of Vincent:

- (a) Shall file with the City Clerk a true and correct monthly statement in writing (on a form approved by the City Clerk) of all tobacco products sold or delivered during the preceding month, for which he is or shall be liable for the payment of the license tax as addressed in SECTION 2. LEVY OF TAX IN THE CITY; and
- (b) Shall in each and every instance, upon the filing of said statement, furnish the City Clerk such additional information, in writing, as the Clerk may



require as to the sale or delivery of any tobacco products covered by such statement ; and

(c) Shall at the time of making such statement, pay to the City Clerk the amount of the tobacco license tax for the preceding month; and

(d) With the Report, there is no labor for affixing stamps; therefore, there will be no discount.

**SECTION 12: REQUIRED RECORDS AND REPORTS.** Every wholesaler, jobber, dealer or distributor shall, at the time of selling or delivering any tobacco products within the City limits of the City of Vincent, and its police jurisdiction, have an invoice and duplicate thereof, which shall show full and complete details of the sale or delivery of such tobacco products and shall give said duplicate invoice to the retail dealer. Every such wholesaler, jobber, dealer, distributor and retail dealer shall retain these invoices and all other records of the purchase, sale, exchange, or receipt of tobacco products for the period of three years after each transaction. All such invoices, all canceled checks and other records pertaining to any such purchase, sale, exchange or receipt of tobacco products shall be subject to inspection by an agent of the City on request. Said agent shall have power and authority to enter upon the premises of any wholesaler, jobber, dealer, or distributor at all reasonable times for the purpose of examining such invoices, canceled checks or other records.

**SECTION 13: PENALTY.** Any person violating any of the provisions of this Ordinance shall upon conviction, be punished by a fine of no more than \$500.00 and may be sentenced to hard labor for a period not to exceed six months; provided that upon conviction for a second or subsequent offense. The minimum fine imposed shall be \$50.00:

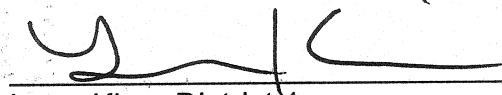
**SECTION 14: SEVERABILITY.** Each and every provision of this Ordinance is hereby declared to be an independent provision, and the holding of any provision hereof to be void or invalid and shall not affect any other provision hereof, and it is hereby declared that the other provisions of the Ordinance would have been enacted regardless of any provision which might be held invalid.

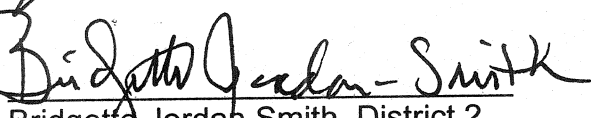
**SECTION 15: REPEAL OF PRIOR ORDINANCES.** Any and all Ordinances and/or Resolutions regarding tobacco tax adopted at any previous time is hereby repealed.

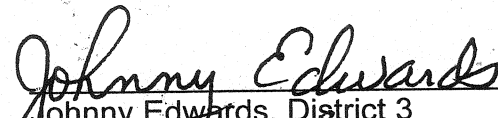
**SECTION 16:** This Ordinance shall become effective immediately upon its passage and approval by the Council and the Mayor of the City of Vincent.

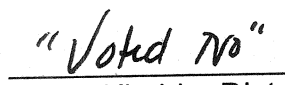
**ADOPTED AND APPROVED THIS THE 6<sup>TH</sup> DAY OF MAY, 2014.**

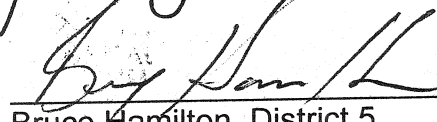
  
Ray McAllister, Mayor

  
Larry King, District 1

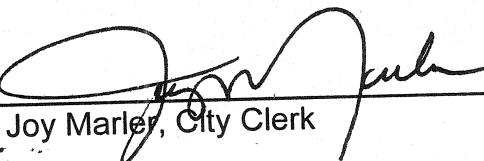
  
Bridgette Jordan Smith, District 2

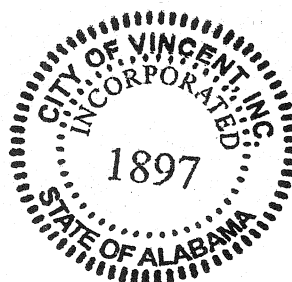
  
Johnny Edwards, District 3

  
"Voted No"  
Ralph Kimble, District 4

  
Bruce Hamilton, District 5

**ATTEST:**

  
Joy Marley, City Clerk



**CITY OF VINCENT  
CLERK'S CERTIFICATION OF ORDINANCE PUBLICATION**

I hereby certify that the above and foregoing Ordinance No. 2014-001 Tobacco Tax was published by me by posting copies thereof on the 7<sup>th</sup> day of May, 2014, in three public places within the limits of the City of Vincent, to-wit, the City Hall, Vincent Water Board and Vincent Library in the City, and that said copies remained so posted for a period of (30) thirty days.

In Witness Whereof, I have hereunto set my hand and affixed the official corporate seal of the City of Vincent, Alabama, this 7<sup>th</sup> day of May, 2014.

SEAL



Joy Marler, CMC  
Vincent City Clerk