

**AN ORDINANCE TO LEVY A LICENSE TAX ON PERSONS,  
FIRMS, CORPORATIONS, AND OTHERS ENGAGED IN THE  
BUSINESS OF SELLING, STORING, OR DELIVERING CERTAIN  
TOBACCO PRODUCTS WITHIN THE CORPORATE LIMITS AND POLICE  
JURISDICTION OF THE TOWN OF BROOKWOOD, ALABAMA, AND TO  
PROVIDE FOR THE ENFORCEMENT OF SAID ORDINANCE AND TO  
PROVIDE PENALTIES FOR ITS VIOLATION THEREOF.**

\*\*\*\*\*

**ORDINANCE #93-134**

\*\*\*\*\*

**BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BROOKWOOD,  
ALABAMA, AS FOLLOWS:**

**SECTION ONE. DEFINITIONS.**

The following terms, as used in this ordinance, shall have the meanings respectively ascribed to them:

A. Tobacco Products: means cigarettes, cigars, smoking tobacco, smokeless tobacco, cigarette rolling papers, or any of them.

B. Container(s): means the original boxes from which cigars are customarily sold at retail and the individual packages or cans in which cigarettes, smoking tobacco, smokeless tobacco, or cigarette rolling papers are customarily sold at retail.

C. Dealer: the word "dealer" shall mean any wholesale dealer or retail dealer as herein defined.

D. Retail Dealer: the term "retail dealer" shall mean any person, other than a wholesale dealer, who sells or delivers tobacco products within the police jurisdiction or the town of Brookwood.

E. Retail Price: means the retail selling price of the tobacco products before adding the amount of tax assessed herein or any other tobacco tax imposed under the laws of the state of Alabama.

F. Sold and Sale: the words "sold" and "sale" shall mean any transfer of title or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a consideration or any agreement thereof, including rewards, prizes, or premiums of tobacco products given as a result of operation on punch boards, shooting galleries, or other activities.

G. Stamp: the word "stamp" shall mean the stamp by the

use of which the taxes levied under this article are paid.

H. Store and Stored: the words "store" and "stored" shall refer to the storage or warehousing of tobacco products in any manner, or the withdrawal of use of the same for any purpose other than for resale or reshipment outside the town of Brookwood.

I. Storer: means a person who stores tobacco products in the police jurisdiction or town of Brookwood.

J. Wholesale Dealer: means a person who sells or delivers within the police jurisdiction or town, at wholesale only, tobacco products to retail dealers for the purpose of resale only.

K. The masculine gender shall include the feminine and neuter genders. Wherever the context requires, the plural shall include the singular and the singular shall include the plural.

#### SECTION TWO. LEVY OF TAX IN THE TOWN.

In addition to all taxes now imposed by law, including any license taxes levied with respect to such business in any general license code of the town, every person who is engaged in the business of selling, storing, or delivering tobacco products within the corporate limits of the town shall pay a license tax to the town and a license tax is hereby fixed and levied for engaging in such business as set out in Section Two, paragraphs A-E.

A. An amount equal to five cents (\$.05) for each individual package of cigarettes or fraction of said number contained in said package sold within the town of Brookwood.

B. An amount equal to one cent (\$.01) for each cigar sold within the town of Brookwood.

C. An amount equal to five cents (\$.05) for each ounce, or fraction thereof, contained in each individual package or can of smoking tobacco which is sold in the town of Brookwood.

D. An amount equal to five cents (\$.05) for each individual package or can of smokeless tobacco which is sold within the town of Brookwood.

E. An amount equal to five cents (\$.05) for each individual package of cigarette rolling papers which is sold within the town of Brookwood.

#### SECTION THREE. LEVY TAX IN THE POLICE JURISDICTION.

In additional to all taxes now imposed by law, including any license taxes levied with respect to such business in any general license code of the town, every person who is engaged in the business of selling, storing, or delivering tobacco products within the police jurisdiction of the town shall pay a license tax to the town and a license tax is hereby fixed and levied for engaging in such business as set out in Section Three, paragraphs A-E.

A. An amount equal to two and one-half cents (\$.02½) for each individual package of cigarettes, or fraction of said number contained in said package, sold within the police jurisdiction of the town of Brookwood.

B. An amount equal to one-half cent (\$.0½) for each cigar sold within the police jurisdiction of the town of Brookwood.

C. An amount equal to two and one-half cents (\$.02½) for each ounce, or fraction thereof, contained in each individual package or can of smoking tobacco which is sold within the police jurisdiction of the town of Brookwood.

D. An amount equal to two and one-half cents (\$.02½) for each individual package or can of smokeless tobacco which is sold within the police jurisdiction of the town of Brookwood.

E. An amount equal to two and one-half cents (\$.02½) for each individual package of cigarette rolling papers which is sold within the police jurisdiction of the town of Brookwood.

#### SECTION FOUR. PAYMENT OF TAX.

The license tax imposed by this ordinance shall be paid by affixing stamps in the manner as herein set forth.

#### SECTION FIVE. STAMPS.

The town clerk shall keep on hand for sale an adequate quantity of stamps to be affixed to each container of tobacco products in denominations as required under this ordinance. Each stamp shall have inscribed thereon the words "Town of Brookwood-Tobacco Tax," but said words need not be arranged in the foregoing order and may be abbreviated. Said stamps may be sold to wholesale and retail dealers by the town clerk at the full amount of the stamp and 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 SIX. AFFIXING STAMPS.

Before any tobacco products shall be sold, stored, or delivered within the corporate limits or police jurisdiction of the town by any dealer, such dealer shall affix to each container of tobacco products a stamp or stamps obtained from the town clerk in the amount set out in this ordinance in payment of license taxes imposed by this ordinance. Every dealer shall, within one hour after receipt of any tobacco products within the city or police jurisdiction, unless sooner offered for sale, cause stamps in the requisite amount of the tax to be affixed as herein provided and shall cause the same to be canceled by writing or stamping with waterproof ink across the face of each stamp such registered number as shall be furnished to such dealer by the town clerk. After such stamping has 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, but no stamp 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 denominations equal to the amount of the tax shall be affixed to the container from or in which the tobacco products with respect to which the stamps are affixed are normally sold at retail; and shall be so affixed in such manner that their removal will require continued application of water or steam. In the case of cigars, sales of which are normally made from the original container, the stamps shall be affixed to the container in such a way that the stamps shall be torn in two or mutilated when the container is opened for sale of cigars. 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 the stamps shall be torn in two or mutilated when the package is opened. In the case of smokeless tobacco, which is normally sold in individual packages or containers, the stamps shall be affixed to the box or container holding the individual packages in such a way that the stamps shall be torn in two or mutilated when the container is opened for the sale of individual packages or containers. In the case of cigarette rolling papers, which are normally sold in individual packages or containers, the stamps shall be affixed to the box or container holding the individual packages in such a way that the stamps shall be torn in two or mutilated when the container is opened for the sale of individual packages or containers.

#### **SECTION SEVEN. RECEIPT OF UNSTAMPED TOBACCO PRODUCTS.**

Any person who purchases or receives in any manner whatsoever tobacco products which do not have stamps affixed in the manner required by this ordinance shall, within three (3) days after receipt of such tobacco products, report the

receipt and purchase thereof to the town clerk, giving the date of purchase or receipt, the name of the person from whom purchased or received and a list describing the tobacco products so purchased or received and the purchase price thereof. Such report must be made by registered mail or in person.

#### SECTION EIGHT. RECORDS.

Every wholesale dealer shall, at the time of selling or delivering tobacco products in to the town or 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 and 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 any such purchase, sale, exchange, or receipt shall be retained for a period of three (3) years and shall be subject to inspection of the town clerk or his duly authorized representative, who shall have the power and authority to enter upon the premises of any dealer at all reasonable times for purposes of examining such invoices, records, canceled checks, and other memoranda.

#### SECTION NINE. ILLEGAL ACTS.

Among others, 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 within the time required by this ordinance.

B. It shall be unlawful for any person to sell, offer for sale, store, or deliver within the town or 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 one (1) hour 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, possess or attempt to do so, any reproduction or counterfeit of the stamps provided for in this ordinance, or to possess tools, implements,

instruments, or material of any kind necessary or appropriate to reproduce or counterfeit such stamps, or to alter or cause to be altered any stamps herein provided for.

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, offer for sale, or give away any washed, removed, altered, or restored stamp to any person, or to have in possession any such washed, removed, altered, or restored stamps, or for the purpose of indicating payment of any tax hereunder, to reuse any stamp which has theretofore been used for the payment of any tax provided in this ordinance, or to sell any stamp provided for herein, excepting, however, sales made by the town clerk.

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 same in the manner herein provided, or to refuse to permit the town clerk or his duly authorized representative to inspect the same at any reasonable hour, or to interfere with or obstruct the town clerk or his duly authorized representative in the making of any such inspection.

H. It shall be unlawful for any person who is herein required to file statements with the town clerk to fail or omit to make or file any statement herein provided within the time herein specified, or to make any false statement therein, and such offense shall be a continuing offense against the town and each day during which said person shall sell, store, or deliver tobacco products in the town or 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 for to fail or omit to pay the same within the time herein specified, and such offense shall be a continuing offense against the town and each day during which said person shall sell, store, or deliver tobacco products in the town or police jurisdiction during such default shall constitute a separate offense.

#### SECTION TEN. CONSTRUCTION OF ORDINANCE.

A. This ordinance shall not be construed to tax interstate commerce or any business of the United State government or any branch or agency thereof.

B. This ordinance shall not be construed to repeal any

of the provisions of the general license code, but shall be held to be cumulative.

C. Whenever the requisite amount of stamps has been affixed to the containers of tobacco products, as required herein, this ordinance shall not be construed to require additional stamps to be affixed thereunto in case of subsequent sales, deliveries, or storage.

**SECTION ELEVEN. TIME OF PAYMENT OF TAX.**

The license tax imposed by this section shall be paid from time to time as stamps are purchased from the town clerk and affixed as provided herein.

**SECTION TWELVE. PENALTY.**

Any person violating any of the provisions of this ordinance shall, upon conviction, be punished by a fine of not more than Two hundred and no/100 (\$200.00) Dollars and may be sentenced to hard labor for the town for a period not exceed six (6) months; or may be both fined and sentenced.

**SECTION THIRTEEN. 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 shall not affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provision which might be held invalid.

**SECTION FOURTEEN. EFFECTIVE ENFORCEMENT.**

The provisions of this ordinance shall be in affect and be enforced at all times. This ordinance shall become effective when adopted and published as required by law.

ADOPTED AND APPROVED on this the 2ND day of February, 1993.

ATTEST:

TOWN OF BROOKWOOD

By: Linda Barzou  
Its Clerk

By: Alton C. Nyche  
Its Mayor