

ORDINANCE 2003-22

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 of the City of Springville, Alabama.

BE IT ORDAINED by the City Council of the City of Springville, Alabama as follows:

Section 1. Definitions. Unless the context clearly indicates a different meaning, the following words and phrases, wherever used in this article, shall have the meanings respectively ascribed to them in this section:

Generally. Any words or phrases used in this article and not herein defined which are defined in Code of, Ala. 1975, § 40-25-2, shall have the meanings ascribed to them by such section of the Code of Alabama.

Tobacco Products means cigars, cheroots, stogies, cigarettes, smoking tobacco, chewing tobacco, snuff, or any substitute therefor.

Dealer means any wholesale or retail dealer as defined in this section.

Package means individual containers from which or in which retail sales of tobacco are normally made or intended to be made.

Retail dealer means any person, other than a wholesale dealer, who sells or delivers tobacco products within the city and any person operating under a retail dealer's license

Retail price means the retail selling price of the tobacco products before adding the amount of the tax assessed herein or any tobacco tax assessed by the state. -

Sold and sale means 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 therefor, including rewards, prizes or premiums of tobacco products given as a result of operations on punch boards, shooting galleries or other activities.

Stamps means the stamp or stamps by the use of which the taxes levied under this article are paid.

Store and stored mean 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 or reshipment outside the city or its police jurisdiction.

Wholesale dealer means a person, who sells or delivers within the city or its police jurisdiction, at wholesale only, tobacco products to retail dealers' for the purpose of resale only.

Section 2. Construction.

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

(b) This article shall not be construed to apply to tobacco products stored for the purpose of resale or reshipment outside the city and its police jurisdiction and which are actually so resold or reshipped.

c) This article shall not be construed to repeal any of the provisions of the general license provisions of the city, but shall be held to be cumulative.

(d) Whenever the requisite amount of stamps has been affixed to the tobacco products or the package containing the same as required in this article, this article shall not be construed to require additional stamps to be affixed thereto in case of subsequent sales, 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 there must be properly affixed to such tobacco products and properly canceled an equal amount of stamps to those already affixed.

Section 3. Tax Levied — In City.

In addition to all other taxes now imposed by law, every person who sells, stores or delivers tobacco products shall pay a license tax to the city, and a license tax is hereby fixed and levied, for the sale, storage or delivery of tobacco products in the corporate limits of the city, which license tax shall be in an amount equal to 8 cents for each package of tobacco products so sold, stored or delivered.

Section 4. Same — In Police Jurisdiction.

In addition to all other taxes now imposed by law, every person who sells, stores or delivers tobacco products in the police jurisdiction of the city shall pay a license tax to the city, and a license tax is hereby fixed and levied, for the sale, storage or delivery of tobacco products in the police jurisdiction of the city, which license tax shall be in an amount equal to four cents for each package of tobacco products so sold, stored or delivered.

Section 5. Stamps — Sold by City Clerk: Inscription: Sale to Wholesalers and Others.

The city clerk shall keep on hand for sale an adequate quantity of stamps to be affixed to each package of tobacco products in denominations as required under this article. Each such stamp shall have inscribed thereon the words "City of Springville Tobacco Tax" but such words need not be arranged in the foregoing order and may be abbreviated. Such stamps may be sold to wholesale dealers only by the city clerk at a price equal to ninety (90) percent of the full amount thereof, the remaining ten (10) percent of such full amount representing compensation to the wholesale dealer for the labor of affixing such stamps to the packages in which the tobacco products are contained. All other persons, except such wholesale dealers, must pay the full face 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. Same—Affixing; Canceling.

Before any tobacco products shall be sold, stored or delivered within the corporate limits of the city or its police jurisdiction by any dealer, such dealer shall affix to each package of tobacco products a stamp or stamps obtained from the city clerk in the amounts set out in this article in payment of the license taxes imposed by this article. Every dealer shall, within one hour after receipt of any tobacco product within the city or its police jurisdiction, unless sooner offered for sale, cause stamps to 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 city clerk. After such stamping has been begun it shall be continued with reasonable diligence by such dealer until all unstamped tobacco products shall have been stamped and the stamps canceled as herein provided, but not stamp required to be affixed to any package of tobacco products shall, after the same has been affixed as herein provided, be again used in payment of any part of the tax levied under this article.

Such stamps shall be affixed in such manner that their removal will require continued application of water or steam. In the case of tobacco products sold by retail in packages, the stamps shall be affixed to each individual package in such a way that such stamps continued next page shall be torn in two (2) or mutilated when such package is opened.

Section 7. Records; Report of Sale of Unstamped Tobacco Products.

Every wholesale dealer shall, at the time of selling or delivering 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 records and all 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 city clerk or his duly authorized deputy, 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, canceled checks and other memoranda. Any person who purchases or receives in any manner whatsoever tobacco products which do not have stamps affixed in the manner required by this article shall, within three (3) days after receipt of such tobacco products, report the receipt and purchase thereof to the city 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 8. Illegal Acts.

Among others, the following acts and omissions shall be unlawful:

(1) It shall be unlawful for any person who is required by this article to affix stamps to tobacco products to fail to affix such stamps or to cancel such stamps in the manner or within the time required by this article.

(2) 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 article.

(3) It shall be unlawful for any person to have in his possession or under his control any tobacco products where stamps have not been affixed in the manner required by this article for more than six (6) hours after receipt of such tobacco products on the premises of such person. The possession of each package of tobacco products not having proper stamps affixed as required by this article shall be deemed a separate offense.

(4) It shall be unlawful for any person to manufacture, buy, sell, offer for sale or possess, or attempt so to do, any reproduction or counterfeit of the stamps provided for in this article 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 to be altered any stamps herein provided for.

(5) It shall be unlawful for any person to remove from a package or otherwise prepare any stamp 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 or removed or restored or altered stamp, or, for the purpose of indicating payment of any tax under this article, to reuse any stamp which has theretofore been used for the payment of any tax provided in this article or to sell any stamp provided for herein except as to sales made by the city clerk.

(6) It shall be unlawful for any person to reuse or refill with tobacco products any package from which tobacco products have been removed and with respect to which the tax has theretofore been paid.

(7) It shall be unlawful for any person, who is in this article required to keep records, to fail or omit to keep the same in the manner herein provided, or to refuse to permit the city clerk or his duly authorized deputy to inspect the same at any reasonable hour, or to interfere with or obstruct the city clerk or his duly authorized deputy in the making of any such inspection.

(8) It shall be unlawful for any person who is in this article required to file statements with the city 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 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.

Section 9. 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 City Clerk and affixed as provided therein.

Section 10. Penalty. Any person violating any of the provisions of this ordinance shall, upon, conviction, be punished by a fine of not more than \$100.00, but no less than \$25.00.

Section 11. Effective Date. This ordinance hereby repeals Ordinance No. 64, but shall not be construed to repeal any other provisions of the general license code of the City, but shall be held to be cumulative.

This Ordinance shall become effective immediately upon adoption and publication as required by law.

ADOPTED AND APPROVED this 26th day of August, 2003.

ATTEST:

Brenda C Roberts, City Clerk

Mayor Charles Griffin

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State of Alabama
St. Clair County
City of Springville

I, Brenda C Roberts, City Clerk of the City of Springville, Alabama, do hereby certify that the above and foregoing is a true and exact copy of that Ordinance adopted by the City Council of the City of Springville, Alabama, at a (regular) or (**special called**) meeting held on the 26th day of August, 2003. And the same now appears in the Ordinance book of the City of Springville, in witness thereof. I hereunto set my official signature.

Brenda C. Roberts, City Clerk

This Ordinance was posted at the following locations:
Springville City Hall
Springville Public Library
Springville Post Office
