

ORDINANCE NO. 10-94-1

ORDINANCE ESTABLISHING A GROSS PROCEEDS TAX ON
RENTERS OR LESSORS OF TANGIBLE PERSONAL PROPERTY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABBEVILLE,
ALABAMA AS FOLLOWS:

SECTION ONE

DEFINITIONS

The following words, terms and phrases when used in this ordinance shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

BUSINESS, shall mean all activities engaged in, or caused to be engaged in, by any person with the object of gain, profit, benefit or advantage, either direct or indirect, to such person.

GROSS PROCEEDS, shall mean the value proceeding or accruing from the leasing or rental of tangible personal property, without any deduction on account of the cost of the property so leased or rented, the cost of materials used, labor or service costs interest paid or any other expenses whatsoever, and without any deductions on account of loss, but shall not include the gross proceeds accruing from the leasing or renting to another of the same property which is to be leased or rented in a transaction subject to the provisions of this article as long as the Lessee in such excluded transaction (who has leased to re-lease) shall not use the same property to its own use; nor shall it include a transaction whereunder the Lessor leases a truck or tractor trailer or semi-trailer with driver furnished for operation over the public roads and highways, such transaction being deemed to constitute the rendition of services and not a "leasing or rental"; nor shall it include the gross proceeds accruing from charges made by operators of hotels, motels, tourists courts, tourists cabins, lodging houses, and rooming houses renting furnished rooms to transients, nor to furniture and furnishings

included with a house, apartment or other residential unit being rented or leased to other persons as a "furnished" residential unit.

LEASING OR RENTAL, shall mean a transaction whereunder the person who owns or controls the possession of tangible personal property permits another person in the city to have the possession or use thereof for a consideration and for the duration of a definite or indefinite period of time, without transfer of the title of such property. The detention by the user thereof of freight cars, oxygen and acetylene tanks, and similar property, in respect of which detention demurrage or per diem charge is made against the use of such property, shall not be deemed to constitute a transaction whereunder property is leased or rented to another within the meaning of this ordinance.

TANGIBLE PERSONAL PROPERTY, shall mean personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or contracts or securities.

SECTION TWO

LEVIED: RATE

There is hereby levied in addition to all privilege license taxes of every kind now imposed by law, and shall be collected as herein provided, a privilege or license tax against persons on account of the business activities and in the amounts to be determined by the application of rates against gross proceeds as follows:

(A) Upon each person whose place of business is within the city engaging or continuing to engage in the business of leasing or renting tangible personal property within the city or outside the city, at the rate of 2% of the gross proceeds derived by a measurement of the amounts due by such person and the nature thereof, together with such other information as the city may require, and at the time of making such monthly report, such person shall compute the privilege license taxes due and shall

pay to the city the amount shown to be due.

(B) Such report and such payment shall be delinquent if not rendered and paid on or before the last day of the month in which they are due and payable.

(C) If any person subject to this ordinance should fail to render any report required hereby or should willfully make a false statement of facts in the statement or returns required hereunder he shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section Seven of this ordinance.

SECTION THREE

REPORTS OF CASH AND CREDIT RENTALS

Any person taxable under this ordinance, making cash and credit leases or rentals, may, if he desires, report such cash leases or rentals only, and he shall thereafter include in each monthly report all cash and credit collections made during the month preceding, and shall pay the privilege license tax due thereon at the time of filing such report.

SECTION FOUR

RECORDS

(A) It shall be the duty of every person engaging in or continuing in any business for which a privilege tax is imposed by this ordinance to keep and preserve suitable records of the gross proceeds of any such business and such other books or accounts as may be necessary to determine the amount of tax for which he is liable under the provisions of this ordinance. It shall be the duty of every person to keep and preserve for a period of three years all invoices of gross proceeds; provided that the privilege license tax levied in this ordinance shall not apply to any leasing or rental, as Lessor, by the United States of America, the State or any municipality or county in the State.

(B) Upon each person whose place of business is not within the corporate limits of the city but who engages in or continues in the business of leasing or renting tangible personal property used or to be used within the city at the rate of 2% of the gross

proceeds derived by the Lessor therefrom from the tangible personal property used or to be used within the city; provided that the privilege license tax levied in this ordinance shall not apply to any leasing or rental, as Lessor, by the United States of America, State or any municipality or county in the State.

SECTION FIVE

EXEMPTIONS

There are exempted from the computation of the amount of the privilege license tax levied, assessed or payable under this ordinance the gross proceeds accruing from the leasing or rental of tangible personal property which the city is prohibited from taxing under the constitution or laws of the United States, or under the constitution and laws of the state.

SECTION SIX

WHEN PAYMENT DUE

(A) The privilege tax levied under the provisions of this ordinance, except as otherwise provided, shall be due and payable in monthly installments on the first day of the month next succeeding the month in which the privilege license tax accrues. On the first day of each month, every person on whom the amounts levied by this ordinance are imposed shall render to the city on a form prescribed by the city, a true and correct statement showing the gross proceeds of his business, for the next proceeding month, the amount of gross proceeds which are not subject to the privilege license tax or are not to be used as or accruing from the leasing or rental herein taxed; and all such books, invoices and other records shall be open for examination at any time by the city clerk or such other person as the city council may authorize. Any person leasing who in addition leases for re-leasing shall keep his books so as to show separately the gross proceeds of leasing and the gross proceeds of leasing for re-leasing.

(B) The books, records and accounts mentioned above shall at all times be open to examination by the city clerk or such other authorized representative as the city council may designate, upon

request by the city clerk or such other designated person. Upon demand by the city clerk or other authorized person, it shall be the duty of any person subject to this license tax to submit to the city clerk or such authorized person, for inspection and examination, during reasonable hours, in the city, all books of accounts. Each occurrence of a failure to keep records, or allow examination thereof shall constitute a separate offense.

SECTION SEVEN

PENALTY

Any person who shall fail to keep records as required by this ordinance or who shall refuse to permit their examination or who violates any other provisions of this ordinance shall be guilty of an offense against the city and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00) and a sentence of up to one hundred eighty (180) days in jail, one or both.

SECTION EIGHT

SEVERABILITY

The provisions of this ordinance are severable. If any part of the ordinance is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

SECTION NINE

CONFLICTING ORDINANCES

All ordinances or parts thereof which conflict with this ordinance are hereby repealed.

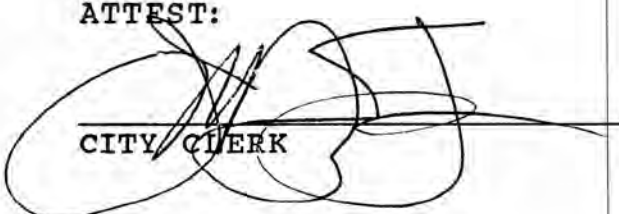
SECTION TEN

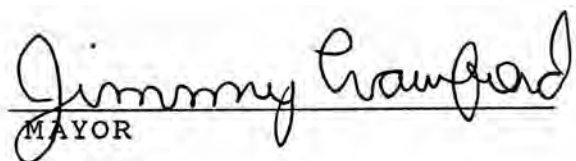
EFFECTIVE DATE

This ordinance shall become effective upon its passage and publication as provided by law.

ADOPTED AND APPROVED this the 3rd day of October, 1994.

ATTEST:


CITY CLERK


MAYOR