

## ORDINANCE NO. 2-17-11

### AN ORDINANCE TO LEVY AND DEFINE A MUNICIPAL SALES AND USE TAX UPON RETAIL SALES AND/OR USE OF CERTAIN ITEMS AND SERVICES SOLD OR USED WITHIN THE RAINSVILLE CORPORATE LIMITS AND POLICE JURISDICTION.

BE IT ORDAINED BY THE CITY COUNCIL OF RAINSVILLE, ALABAMA, as follows:

#### **SECTION 1. Definitions.**

The following terms wherever used in this ordinance shall have the respective meanings ascribed to them, except where the context clearly indicates a different meaning:

A. State sales tax statutes §§ 40-23-1 through 40-23-38, inclusive, of the Code of Alabama 1975, as amended; and

B. State use tax statutes §§ 40-23-60 through 40-23-88, inclusive, of the Code of Alabama 1975, as amended.

All words, terms and phrases which have been defined or to which meanings have been given in the state sales tax statutes and the state use tax statutes, then used in this article, shall have the same meanings as given them in said state sales tax statutes and state use tax statutes, except where the context clearly indicates a different meaning.

#### **SECTION 2. Levy of Sales Tax in City.**

Pursuant to the provisions of § 11-51-200, Code of Alabama 1975, as amended, there is hereby 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 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. Upon every person, firm, or corporation engaged or continuing within this 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 evidences of debt or stocks, nor sales of material and supplies to any person for use in fulfilling a contract for the painting, repair or reconditioning of vessels, barges, ships and other watercraft of over fifty (50) tons burden, 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. 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 such business at the rates specified, when such person's books are kept so as to show separately the gross proceeds of sales of each business, and when such person's books are not so kept, such person shall pay the tax as a retailer, on the gross sales of the business. Where any used part of an automotive vehicle or a truck trailer, semi-trailer 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, the tax levied herein shall be paid on the net difference, that is, the price of the new or use part sold, less the credit for the used part taken in trade; provided, however, that this provision shall not be construed to include tires or batteries.

B. Upon every person, firm, or corporation engaged or continuing within this city in the business of conducting or operating places of amusement or entertainment, including, but not limited to: 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 exhibitions;, football and baseball games, , including athletic contests conducted by or under the auspices of any educational institution within this City, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, 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, and amount equal to four percent (4%) of the gross receipts of any such business.

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 and amount equal to two percent (2%) of the gross proceeds of the sale of such machines; provided, that the term "machines", as used herein, 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 therefore, 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.

D. 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, semi-trailer or house trailer, an amount equal to one percent (1%) of the gross proceeds of the sale of said automotive vehicle or truck trailer, semi-trailer or house trailer; provided, that where a person subject to the tax provided for in this subsection withdraws from such person's stock in trade any automotive vehicle or truck trailer, semi-trailer or house trailer for use by such person or by such person's employee or agent in the operation of such 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 such automotive vehicle, truck trailer, semi-trailer or house trailer shall remain the property of such person; and provided further, when any used automotive vehicle or truck trailer, semi-trailer 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 take in trade. Each such 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 twelve (12) succeeding months or part thereof during which such automotive vehicle, truck trailer, semi-trailer or house trailer shall remain the property of such person.

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 hereby levied a tax equal to four percent (4%) of the cost of such food, food products and beverages sold through such machines, which cost for the purpose of this subsection shall be the gross proceeds of sales of such business.

F. Upon every person, firm or corporation engaged or continuing within the City in the business of selling at retail any machine, machinery or equipments 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 thereof which are made or manufactured for use on or in the operation of such machine, machinery or equipment, and amount equal to one percent (1%) of the gross proceeds of the sale thereof; provided, however, that the rate prescribed in this subsection 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. 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.

**SECTION 3. In Police Jurisdiction.**

Upon every person, firm or corporation engaged in the doing of any action, or who shall do any act, or continuing in the doing of any act, or engaged in the operation of any business, or who shall engage in the operation of any business, within the police jurisdiction of the City, but beyond the corporate limits of the City, for which, or upon which, a privilege or license tax is in this ordinance levied or required within the City limits, there is hereby levied, in addition to all other taxes of every kind now imposed by law or by municipal ordinance, to be collected as herein provided for the privilege or license taxes herein levied within the corporate limits of the City, a privilege or license or license tax equal to one-half (1/2) of that provided, levied or required in this ordinance for the doing of such act, or the engaging or continuing therein, or the engaging or continuing in the operation of such business within the corporate limits of the City. Further, except for the amount of the privilege or license tax herein levied within the

police jurisdiction of the City, but without the corporate limits of the City, all provisions of this ordinance extend and apply to all the area within the police jurisdiction of the City.

**SECTION 4. State Sales Tax Statutes Applicable.**

The taxes levied by sections 2 and 3 above shall be subject to all exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, discounts, penalties, fines, punishments, and deductions that are applicable to the taxes levied by the state sales tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state sales tax statutes for enforcement and collection of taxes.

**SECTION 5. Taxes and Reports Due Monthly.**

The tax under the provisions regarding sales tax immediately above, except as otherwise provided, shall be due and payable in monthly installments on or before the twentieth (20<sup>th</sup>) day of the month next succeeding the month in which the tax accrues. On or before the twentieth (20<sup>th</sup>) day of each month after this ordinance shall have taken effect, every person, firm or corporation on whom the sales taxes 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 the business for the next preceding month, together with such other information as the City may demand and require, and at the time of making such monthly report, such taxpayer shall compute the taxes due and shall pay to the City the amount of taxes shown to be due thereon; provided, however, that when the total tax for which any person is liable under this article does not exceed an amount deemed reasonable by the revenue officer or designated agent, for any month, a quarterly return and remittance in lieu of the monthly returns may be made on or before the twentieth (20<sup>th</sup>) day of the month next succeeding the end of the quarter for which the tax is due, when specially authorized by the City and under such rules and regulations as may be prescribed; provided also, however, that when the total tax for which any person, firm or corporation is liable under the sales tax provisions immediately above does not exceed an amount deemed reasonable by the revenue officer or designated agent, for any year, an annual return and remittance in lieu of the monthly returns may be made on or before the twentieth (20<sup>th</sup>) day of the month next succeeding the end of the year for which the tax is due, when specially authorized by the City and under such rules and regulations as may

be prescribed. The City, for good cause, may extend the time for making any return required under the provisions of the sales tax provisions above, but the time for filing any such return shall not be extended for a period greater than one hundred eighty (180) days from the date such return is due to be made.

**SECTION 6. Records to be Kept.**

It shall be the duty of every person, firm or corporation engaging or continuing in this City in business for which a privilege sales tax is imposed by this ordinance, to keep and preserve suitable records of the gross sales, gross proceeds of sales, and gross receipts or gross receipts of sales of such business and such other books or accounts as may be necessary to determine the amount of tax for which he/she/it is liable under the sales tax provisions of this ordinance. It shall be the duty of every person to keep and preserve, for a period of three (3) years, all invoices of goods, wares and merchandise purchased, for resale or otherwise, and all such books, invoices and other records shall be open for examination at any time by the City or its duly authorized agents. Any person, firm or corporation selling both at wholesale and retail shall keep books so as to show separately the gross proceeds of wholesale sales and the gross proceeds of retail sales.

**SECTION 7. Penalty For Failure to Make Reports or Keep Records.**

Any person subject to the above provisions related to sales tax of this ordinance who shall fail to make the reports, or any of them, as herein required, or who shall fail to keep the records as herein required, shall upon conviction be fined not less than twenty-five dollars (\$25.00) and not more than two hundred dollars (\$200.00) for each offense. Each prescribed period of such failure shall constitute a separate offense.

**SECTION 8. Sales Tax a Lien on Property.**

The tax, together with interest and penalties, imposed by the above sales tax provisions of this ordinance shall be a lien upon the property of any person, firm or corporation subject to such provisions, and the provisions of the revenue laws of the State of Alabama applying to liens for license taxes shall apply fully to the taxes herein levied.

**SECTION 9. Execution, Levy and Sale for Taxes.**

If any final assessment of taxes levied is not paid within thirty (30) days after such assessment becomes final and if no appeal has been taken, in cases where an appeal is authorized, the City shall issue an execution therefor directed to any sheriff of the State of Alabama commanding him to levy upon and sell the real and personal property of the

person, firm or corporation against whom such execution is directed, found in his county, together with all penalties assessed. The sheriff shall, within five (5) days after the receipt thereof, file with the clerk of the circuit court of his county a copy thereof, and thereupon the circuit clerk shall enter in the judgment roll, in the column of judgment debtors, the name of the taxpayer named in the execution, the amount of the tax and damages and penalties for which the execution is issued and the day when such copy is filed. The amount of such execution so docketed shall become a lien upon real and personal property of the person, firm or corporation against whom it is issued in the same manner as judgments duly enrolled from the circuit court or court of like jurisdiction.

The sheriff shall then levy upon any property of the taxpayer with like effect and in the manner prescribed by law in respect to execution issued upon judgments of the circuit court or court of like jurisdiction, and the remedies of attachment and garnishment shall apply fully to such execution, and the officer shall be entitled to the same fees for his services, and to be collected in the same manner, as now provided by law for like services. The sheriff shall make due return of such execution within sixty (60) days of the issuance thereof and upon such return, alias or pluries executions or writs may be issued by the City which shall be executed in the same manner. Such lien shall not be valid against any mortgagee, bona fide purchaser without knowledge of the lien, or judgment creditor until notice has been filed in the office of the judge of probate as provided in § 40-1-2 of the Code of Alabama 1975, as amended.

**SECTION 10. Direct Tax on Retail Purchases Added to Purchase Price.**

A. Every person, firm or corporation engaged in or continuing in any business or activity for which a license or privilege tax is required by the above provisions of this ordinance related to sales tax shall, except as otherwise provided herein, add to the sales price and collect from the purchaser on all sales upon the gross receipts or gross proceeds of which there is levied by this ordinance a sales tax at the applicable rate prescribed in sections 2 and 3 above.

B. It shall be unlawful for any person described in this section to fail or refuse to add to the sales price and collect from the purchaser the amount required by this section to be added to the sales price and collected from the purchaser. It shall, likewise, be unlawful to refund or offer to refund all or any part of the amount collected, or to absorb or advertise directly or indirectly the absorption or

refund of the amount required to be added to the sales price and collected from the purchaser, or any portion of such amount. Any person violating any of the provisions of this section shall, upon conviction, be fined in a sum not less than twenty-five dollars (\$25.00) and not more than two hundred dollars (\$200.00), or may be imprisoned in the city or county jail for not more than six (6) months, or may be punished by both such fine and imprisonment, and each act in violation of this section shall constitute a separate offense.

C. The provisions of this section requiring addition to the sales price and collection from the purchaser the amounts provided herein shall in no way relieve the person, firm or corporation described in this section of the obligation to pay to the City the sales tax amount levied by this ordinance, nor shall the inability, impracticability, refusal or failure to add to the sales price and collect from the purchaser the amounts required herein relieve such person, firm or corporation from the obligation to pay to the City the sales tax levied by this ordinance. All taxes paid pursuant to the above sales tax provisions of this ordinance shall conclusively be presumed to be a direct tax on the retail consumer, pre-collected for the purpose of convenience and facility only.

**SECTION 11. Sales Tax an Additional Tax.**

The tax imposed by the above provisions of this ordinance shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business taxable hereunder (especially including business privilege license fees and taxes), except as in this ordinance otherwise specifically provided.

**SECTION 12. Proceeds of Tax.**

The proceeds derived from the sales tax herein levied shall be placed in the general fund of the City or Rainsville, Alabama, subject to appropriation by its city council for any lawful purpose of the City.

**SECTION 13. Levy of Use Tax in City.**

A. An excise tax or use tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property, not including materials and supplies bought for use in fulfilling a contract for the painting, repairing, or reconditioning of vessels, barges, ships and other watercraft of more than fifty (5) tons burden, purchased at retail for storage, use or other consumption in the City



at the rate of four percent (4%) of the sales price of such property within the corporate limits of the City, except as provided in subsections B, C and D of this section.

**B.** An excise tax or use 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 personal property purchased at retail at the rate of four percent (4%) of the sales price of any such machine within the corporate limits of the City; provided, that the term "machine" as used herein, 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.** An excise tax or use tax is hereby imposed on the storage, use or other consumption in the City of any automobile vehicle or truck trailer, semi-trailer or house trailer purchases at retail 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, semi-trailer or house trailer within the corporate limits of the City. Where any used automotive vehicle, truck trailer, semi-trailer 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.

**D.** An excise tax or use tax is hereby levied and 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 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, which is purchased at retail, for storage, use or other consumption

in the City at the rate of four percent (4%) of the sales price of such property within the corporate limits of the City, regardless of whether the retailer is or is not engaged in the business in this City; provided, however, that the rate prescribed in this subsection 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. 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.

**SECTION 14. In Police Jurisdiction.**

An excise tax or use tax is hereby imposed on tangible personal property at one-half (1/2) the rate specified in section 13 above on the storage, use or other consumption of such tangible personal property outside the corporate limits, but within the police jurisdiction of the City.

**SECTION 15. State Use Tax Statutes Apply.**

The taxes levied by sections 13 and 14 above shall be subject to all exceptions, exemptions, proceedings, requirements, rules, regulations, provisions, discounts, penalties, fines, punishments and deductions that are applicable to the taxes levied by the state use tax statutes, except where inapplicable or where herein otherwise provided, including all provisions of the state use tax statutes for enforcement and collections taxes.

**SECTION 16. Retail Sellers to Register and Give Information.**

Every Seller engaged in making retail sales of tangible personal property for storage, use or other consumption in this City, who: (1) maintains a place of business; (2) qualifies to do business; (3) solicits and receives purchases or orders by agent or salesman; or (4) distributes catalogs or other advertising matter and by reason thereof receives and accepts orders from residents, in the City, shall within thirty (30) days after the effective date of this ordinance, register with the City and give the name and address

of each agent operating in this City, the location of any and all distribution or sales houses or offices or other places of business in this City, the number of persons in the City to whom catalogs are delivered by mail or otherwise, the number of persons in the city from whom orders are received by mail or otherwise, together with the amount of the purchase price charged and received, and such other information as the City may require with respect to matters pertinent to the enforcement of this ordinance; provided, this section shall not apply to a seller who pays the tax and holds a license pursuant to the sales tax provisions of this ordinance above.

**SECTION 17. Seller To Collect Tax.**

Every such seller making sales of tangible personal property for storage, use or other consumption in this City, not otherwise exempted under the provisions of this ordinance, shall at the time of making such sales or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time such storage, use or other consumption becomes taxable hereunder, collect the tax imposed by these use tax provisions of this ordinance from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the City. The tax required to be collected by the seller from the purchaser shall be displayed separately from the list, advertised in the premises, marked or other price on the sale check or other proof of sales. It shall be unlawful for any seller to whom the obligations of this section apply to advertise or hold out or state to the public or any customer, directly or indirectly, that the tax or any part thereof imposed by the use tax provisions of this ordinance will be assumed or absorbed by the seller or that it will not be added to the selling price of the property sold or, if added, then it or any part thereof will be refunded. Any person violating any of the provisions of this section shall, upon conviction, be fined in a sum not less than twenty-five dollars (\$25.00) and not more than two hundred dollars (\$200.00), or may be imprisoned in the city or county jail for not more than six (6) months, or may be punished by both such fine and imprisonment, and each act in violation of this section shall constitute a separate offense. The tax herein required to be collected by the seller shall constitute a debt owed by the seller to this City.

**SECTION 18. Taxes and Returns Due Quarterly.**

The tax imposed by the use tax provisions of this ordinance shall be due and payable, and the return for such tax prescribed below in this section shall be due, to the

City quarterly on or before the twentieth (20<sup>th</sup>) day of the month next succeeding each quarterly period during which the storage, use or other consumption of tangible property becomes taxable hereunder. The quarterly periods for payment and filing of returns under this section shall be the calendar quarters (i.e. January 1 to March 31; April 1 to June 30; July 1 to September 30; and October 1 to December 31). Every seller engaged in making retail sales of tangible personal property for storage, use or other consumption in this City, and who are further described in section 17 above, shall, on or before the twentieth (20<sup>th</sup>) day of the month following each subsequent quarterly period of three (3) months, file with the City a return for the preceding quarterly period in such form as may be prescribed by the City showing the total sales price of the tangible personal property sold by such seller, the storage, use or consumption of which became subject to the use tax imposed by this ordinance, during the preceding quarterly period and such other information as the City may deem necessary for the proper administration of this ordinance. The return shall be accompanied by a remittance of the amount of tax herein required to be collected by the seller during the period covered by the return. The City, if it deems it necessary in order to insure payment to the City of the amount of tax herein required to be collected by sellers, may require returns and payment of such amount of tax for other than quarterly periods—periods either greater or lesser than three (3) months. Returns shall be signed by the seller or his/her/its duly authorized agent.

Every person purchasing tangible personal property, the storage, use or other consumption of which is subject to the use tax imposed by this ordinance, and who has not paid the tax due with respect thereto to a seller required or authorized hereunder to collect that tax, shall on or before the twentieth (20<sup>th</sup>) day of the month following the close of the first quarterly period as above defined, and on or before the twentieth (20<sup>th</sup>) day of the month following each subsequent period of three (3) months, file with the City a return for the preceding quarterly period in such form as may be prescribed or required by the City showing the total sales price of the tangible personal property purchased by such person, the storage, use or other consumption of which became subject to the use tax imposed by this ordinance during the preceding quarterly period, and with respect to which the tax was not paid to a seller required or authorized hereunder to collect the use tax, and such other information as the City may deem necessary for the property administration of this ordinance. The return shall be accompanied by a remittance of the

amount of tax herein imposed and not paid to a seller required or authorized hereunder to collect the tax during the period covered by the return. The City, if it deems it necessary in order to insure payment to the City of the amount of such use tax, may require returns and payment for other than quarterly periods—periods either greater or lesser than three (3) months. Returns shall be signed by the person, firm or corporation liable for the tax or his/her/its duly authorized agent.

For the purpose of the proper administration of this ordinance, and to prevent evasion of the tax and duty to collect the same herein imposed, it shall be presumed that tangible personal property sold by any person for delivery in this City is sold for storage, use or other consumption in this City, unless the person selling such property shall have taken from the purchaser a certificate signed by and bearing the name and address of the purchaser to the effect that the property was purchased for resale and it shall be further presumed that tangible personal property shipped to this City by the purchaser thereof on or after the effective date of this ordinance was purchased from a retailer for storage, use or consumption in this City. Any seller making cash and credit sales for storage, use or other consumption in this City may report such cash sales and shall thereafter include in each quarterly report all credit collections made during the preceding quarter and shall pay the taxes due thereon at the time of filing such report, but in no event shall the gross proceeds of credit sales be included in the measure of the use tax to be paid until collections of such credit sales shall have been made.

The City, for good cause, may extend the time for making any return required under the provisions of the use tax provisions above, but the time for filing any such return shall not be extended for a period greater than one hundred eighty (180) days from the date such return is due to be made.

**SECTION 19. Deposit of Security.**

The City, whenever it deems it necessary to insure compliance with the used tax provisions of this ordinance, may require any person subject thereto to deposit with it such security as the City may determine. The same may be sold by the City at public auction if it becomes necessary to do so in order to recover any tax, or any amount herein required to be collected, interest or penalty due. Notice of such sale may be served upon the person, firm or corporation who deposited such security personally or by registered mail, return receipt requested, addressed to the last known address of such

person, firm or corporation as appear on the records of the City. Notice shall be deemed to be received by such person, firm or corporation at the time he/she/it receives actual personal notice or at such time as the mailed notice is delivered to such last known address. Upon any such sale, the surplus above the amount of taxes, interest, and penalties owed to the City and the costs of the sale, if any, shall be returned to the person, firm or corporation who deposited the security.

**SECTION 20. Use Tax a Lien on Property.**

The tax, or any amount required to be paid or collected hereunder, together with interest and penalties imposed by the above use tax provisions of this ordinance shall be a lien upon the property of the person, firm or corporation required to pay such tax or other amount to the City, and shall be levied, perfected and executed upon, and the property subject to such liens sold, in accordance with the provisions of, and in the same way described in, section 9 above.

**SECTION 21. Proceeds of Tax.**

The proceeds derived from the use tax herein levied shall be placed in the general fund of the City of Rainsville, Alabama, subject to appropriation by its city council for any lawful purpose of the City.

**SECTION 22. Use Tax an Additional Tax.**

The tax imposed by the use tax provisions of this ordinance shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business taxable hereunder (especially including business privilege license fees and taxes), except as in this ordinance otherwise specifically provided.

**SECTION 23. Severability.**

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

**SECTION 24. Existing Taxes.**

Nothing contained in this ordinance shall be construed to relieve any person from any tax liability, penalty, interest or forfeiture incurred under any laws or ordinances of the City prior to the effective date of this article.

**SECTION 25. Violator May Be Restrained from Continuing Business.**

Any person, firm or corporation who shall violate any of the above sales tax provisions of this ordinance may be restrained from continuing in business and the proper prosecution shall be instituted by and in the name of the City until such person, firm or corporation shall have complied with such provisions.

**SECTION 26. Repeal and Replacement of Ordinance No. 10-1-97B.**


This ordinance shall repeal and replace each and all of the provisions of Rainsville Ordinance No. 10-1-97B in full and shall provide and establish the sales tax and use tax to become due and be collected by the City in the place of all such taxes collected by the City in prior times pursuant to Ordinance No. 10-1-97B.

**SECTION 27. Effective Date.**

This ordinance shall become effective immediately upon publication after passage by the city council.

Adopted this 17<sup>th</sup> day of February, 2011.

  
DONNIE CHANDLER, Mayor

Attest:  
  
JUDY LEWIS, Clerk

CLERK'S CERTIFICATE

I hereby certify that Ordinance No. 2-17-11 was published on the 17<sup>th</sup> day of February, 2011, by publication of the same:

in *The DeKalb Advertiser*, a newspaper of general circulation in the City of Rainsville; and/or

by posting at Rainsville City Hall, the Rainsville Public Library, the Rainsville Post Office, and Rainsville Foodland.

  
JUDY LEWIS, Clerk