

**TOWN OF HIGHLAND LAKE, ALABAMA
PROPOSED ORDINANCE FOR GASOLINE AND LIQUID MOTOR FUEL TAX**

PROPOSED ORDINANCE NO. 2022-04

Ordinance for Gasoline and Liquid Motor Fuel Tax as provided by the legislature of the State of Alabama; and, establishing rules and procedures for the sale and taxation of liquid motor fuel within the Police Jurisdiction of the Town of Highland Lake, Alabama.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Highland Lake, Alabama as follows:

SECTION 1. Definitions.

The following terms, as used in this article, shall have the respective meanings hereinafter set out:

Town means the municipality of Highland Lake, Alabama.

Distributor or *seller* shall include every person who shall engage in selling or delivering gasoline the corporate limits of the Town or its police jurisdiction.

Gasoline shall include gasoline, naphtha, and all other liquid motor fuels commonly used in combustion engines but shall not include those products known commercially as "off road diesel fuel", "kerosene oil," "fuel oil," or "crude oil," commonly used for lighting, heating or industrial purposes.

Person shall include every person, individual, partnership, company, agency, firm or association.

SECTION 2. Levy of Tax.

(a) *Levy of tax in the Police Jurisdiction of the Town.* In addition to all other taxes imposed by law, every distributor or seller who is engaged in the business of selling or delivering gasoline within the Police Jurisdiction limits of the Town shall pay a license tax to the Town, and a license tax is hereby fixed and levied upon each such distributor or seller, which license tax shall be in an amount equal to one half cent (\$0.005) for each gallon of gasoline sold or delivered within the corporate limits of the Town by such distributor or seller.

SECTION 3. Exemption on purchases from other distributors or sellers.

Any person engaged as such seller or distributor in selling or distributing gasoline purchased from other sellers or distributors who have paid the license tax herein imposed with respect to such gasoline shall not be required to pay any license tax with respect to the sale or delivery of such gasoline so purchased; however, in order for any seller or distributor to obtain the exemption in this section contained such seller or distributor must on or before June of 2022, and on or before the tenth day of each and every month thereafter, file with the Town clerk of the Town a sworn, written statement showing each and every purchase by such person of gasoline during the calendar month next preceding, as well as the name of the person from whom, the amount, and the date on which purchased.

SECTION 4. Written statement of sales.

Each distributor or seller shall, on or before July of 2022, and on or before the tenth day of each month thereafter, file with the Town clerk of the Town or by authorized auditor or representative, a sworn, written statement, which shall be full, true, accurate and correct statement of the following:

- (1) The amount and quantity of all gasoline sold or delivered by such distributor or seller within the Police Jurisdiction of the Town;
- (2) The amount and quantity of all gasoline sold and delivered to any other distributor within the Police Jurisdiction of the Town.

SECTION 5. Payments, when due; penalties for failure.

Upon making each monthly report provided for in section 4 above, each distributor or seller shall at the same time pay to the Town clerk or authorized auditor or representative the tax with respect to the business conducted by such distributor or seller during the next preceding calendar month; and any distributor or seller who fails or omits to pay the license tax when due shall be guilty of an offense against the Town, such offense shall be a continuing offense, and each day during which such distributor or seller shall engage in the business of selling gasoline while such default continues shall constitute a separate offense.

SECTION 6. Sales in interstate commerce excluded.

The provisions of this article shall not apply to any sales or deliveries which constitute interstate commerce.

SECTION 7. Permit and license tax where no place of business in the Town.

It shall be unlawful for any seller or distributor, having no place of business within the corporate limits of the Town, or within the police jurisdiction thereof, to make any sales or deliveries of gasoline therein, without first having obtained a permit from the Town clerk to do so; and such seller or distributor who shall violate any provisions of this article shall be punished as herein provided.

SECTION 8. Failure to file or false statement continuing offense.

It shall be unlawful for any seller or distributor to fail or omit to make or file any statement herein required within the time specified, or to make any false statement, and such an offense shall be a continuing offense against the Town, and each day during which the business or occupation is engaged in during such default shall constitute a separate offense.

SECTION 9. Unlawful for any person to serve delinquent sellers or distributor.

It shall be unlawful for any person, after the license tax becomes delinquent to act as agent, servant or employee of any person liable for such delinquent license tax under this article, in engaging in or assisting in carrying on the business for which his principal or employer is required to pay such license, and each day such agent, servant or employee shall engage in or assist in carrying on such business shall constitute a separate offense.

SECTION 10. Duty to furnish information.

Upon demand of the Town clerk, or by his authorized deputy or representative, all such information as may be required for determination of the correct amount of license tax, to which person is subject, shall be furnished to the Town, and to that end it shall be the duty of such person, upon such demand, to submit to the Town clerk, or his authorized deputy, auditor or representative, for inspection and examination all books of account, invoices, papers, reports and memoranda containing entries showing the amount of purchases, sales, receipts, inventory and other information from which the correct amount of license tax to which he is subject may be determined, including exhibition of bank deposit books and bank statements, and it shall be unlawful for any person to fail or refuse to submit such records for such examinations and inspection upon such demand.

SECTION 11. Pumps must be metered.

It shall be the duty of every person selling or distributing gasoline within the corporate limits of the Town or within the police jurisdiction thereof, to have a meter in good working order on each and every pump from which gasoline is dispensed and to keep an accurate record of the readings of the meter.

SECTION 12. Right to assess license tax where default; procedure; revocation of license.

If any person subject to the provisions of this article have not in his possession or under his control true and intelligible books or account, invoices, paper, reports, or memoranda correctly reflecting the date and information necessary for determination of the correct amount of license, or if, having in his possession or under his control such books, invoices, papers, reports or memoranda, he shall fail or refuse to submit and exhibit the same for inspection and examination as required hereby, then in either event it shall be the duty of the Town clerk or by authorized auditor or representative to ascertain from the best information and data obtainable the correct amount of license tax due from such person, and to assess the same against such person, to mail to such person notice of his assessment and to demand of such person immediate payment of the amount of license tax ascertained to be due from him, less any amount of license such person may have heretofore paid thereon. If the amount of tax demanded be not paid within ten (10) days after the mailing of such demand, the Town clerk shall notify such person by registered mail that at a time and place specified in the notice he will apply to the Town council for revocation of such person's license. At the time and place so specified such person may appear before the Town council in person or by counsel and show cause, if any there be, why the license should not be revoked. Upon any such hearing, and for all other purposes, the decision and determination of the Town clerk as to the amount of license tax shall be deemed correct and final, unless and until it shall be satisfactorily shown that such decision and determination is incorrect.

SECTION 13. Penalties for violation.

- (a) *Failure to keep records, permit examinations thereof or make reports.* Any person who shall fail to keep any records required by this article or who shall refuse to permit the examination thereof provided for herein, shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for each offense. Each month in which such failure, refusal or violation shall occur shall constitute a separate offense.

Any person failing to render any report required by this article shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), and each failure shall constitute a separate offense.

- (b) *Failure to pay taxes herein levied.* Any person who fails to pay, within the time provided in [subsection 13-61(f)] hereof, any tax levied in this article for which he is liable shall be deemed to be doing business without a license and shall pay, in addition to the tax, a penalty of ten (10) percent of the amount of the tax due, together with interest thereon at the rate of twelve (12) percent per annum from the date on which the tax became due until it is paid, the penalty and interest to be assessed and collected as a part of the tax, provided, that the council may for good and sufficient reason shown to it waive or remit the said ten (10) percent penalty or any portion thereof.

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ADOPTED AND APPROVED ON

Mayor

Chase Moore, Council

Greg Posey, Council

Carl Randall, Council

Sid Nelson, Council

Ramzi Malek, Council

ATTEST:

Joan Shirley, Town Clerk