

CITY OF CENTER POINT, ALABAMA

ORDINANCE NO. 2016-4

AN ORDINANCE TO LEVY A TAX ON RENTAL OR
LEASING
OF TANGIBLE PERSONAL PROPERTY

BE IT ORDAINED by the City Council of the City of Center Point, Alabama as

follows: Section 1. Definitions.

For purposes of this ordinance, the following terms shall have the respective meaning ascribed by this section:

(1) Business. 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.

(2) City Clerk. The City Clerk of the City of Center Point, Alabama.

(3) Gross Proceeds. 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 cost, interest paid or any other expense whatsoever, and without any deductions on account of loss, and shall also include on the part of any person claiming exemption under subsection 3 of Section 4 of this ordinance an amount equal to the amount of rental paid on any tangible personal property acquired under such exemption and thereafter diverted to the use of such person.

(4) Leasing or Rental. A transaction where under the person who owns or controls the possession of tangible personal property permits another person 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 a demurrage or per diem charge is made against the user of such property, shall not be deemed to constitute a transaction where under property is leased or rented to another within the meaning of this article.

(5) Person. Any natural person, firm, partnership, association, corporation, receiver, trust, estate or other entity, or any other group or combination of any thereof acting as a unit.

(6) City. The City of Center Point, Alabama.

(7) Tangible Personal Property. 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 other contracts, or securities.

Section 2. License Required.

If any person shall engage in or continue in any business for which a privilege tax is imposed by Section 3 of this ordinance as a condition precedent to engaging or continuing in such business, he shall apply for and obtain from the City a license to engage in and to conduct such business for the current tax year upon the condition that he shall pay the taxes accruing to the City under the provisions of this ordinance; provided that no license shall be issued under the provisions of this ordinance to any person who has not complied with the provisions of this ordinance, and no provision of this ordinance shall be construed as relieving any person from the payment of any license or privilege tax now or hereafter imposed by law.

Section 3. Levy and amount of tax.

In addition to all other taxes now imposed by law, there is hereby levied and shall be collected as herein provided a privilege or license tax on each person engaging or continuing within the City of Center Point, Alabama, in the business of leasing or renting tangible personal property at the rate of four percent (4%) of the gross proceeds derived by the lessor from the lease or rental of tangible personal property; provided, that the said privilege or license tax on each person engaging or continuing within the state in the business of leasing or renting any automotive vehicle or truck trailer, semi-trailer or house trailer shall be at the rate of two (2%) of the gross proceeds derived by the lessor from the lease or rental of such automotive vehicle or truck trailer, semi-trailer or house trailer; provided further, that the tax levied in this ordinance shall not apply to any leasing or rental, as lessor, by the state, or any municipality or county in the state, or any public corporation organized under the laws of the state, including without limiting the generality of the foregoing, any corporation organized under the provisions of Sections 11-54-80 through 11-54-101; Code of Alabama, 1975; as amended; provided further, that the privilege or license tax on each person or firm engaging or continuing within this state in the business of the leasing and rental of linens and garments shall be at the rate of four percent (4%) of the gross proceeds derived by the lessor from the lease or rental of such linens and garments.

Section 4. Exemptions.

There are exempted from the computation of the amount of the tax levied, assessed or payable under this article the following:

- (1) The gross proceeds accruing from the leasing or rental of a film or films to a lessee who charges, or proposes to charge, admission for viewing the said film or films.
- (2) The gross proceeds accruing from any charge made by a landlord to a tenant in respect of the leasing or furnishing of tangible personal property to be used on the premise of real property leased by the same landlord to the same tenant for use as a residence or dwelling place, including mobile homes.

(3) The gross proceeds accruing from the leasing or rental of tangible personal property to a lessee who acquires possession of the said property for the purpose of leasing or renting to another the same property under a leasing or rental transaction subject to the provisions of this article.

(4) The gross proceeds accruing from any charge made by a landlord to a tenant in respect to the leasing or furnishing of tangible personal property to be used on the premises of any room or rooms, lodging or accommodations leased or rented to transients in any hotel, motel, inn, tourist camp, tourist cabin or any other place in which rooms, lodging or accommodations are regularly furnished to transients for a consideration.

(5) 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 or laws of the State of Alabama.

(6) A transaction where under the lessor leases a truck or tractor trailer or semi-trailer for operation over the public roads and highways and such lessor furnishes a driver or drivers for each such vehicle, and such transaction shall be deemed to constitute the rendition of service and not a "leasing or rental" within the meaning of this article.

(7) The gross proceeds accruing from the leasing or rental of vehicles in interchange between regulated motor carriers on a per diem basis.

(8) The gross proceeds accruing from the leasing or rental of all structures, devices, facilities and identifiable components thereof acquired primarily for the control, reduction or elimination of air or water pollution, and the gross proceeds accruing from the leasing or rental of all materials used or intended for use in structures built primarily for the control, reduction or elimination of air and water pollution.

(9) The gross proceeds derived by the lessor, which term includes a sublessor, from the leasing or rental of tangible personal property when the lessor and lessee, which term includes a sublessee, are wholly-owned subsidiary corporations of the same parent corporation or one is the wholly-owned subsidiary of the other; provided, that the appropriate sales or use tax, if any was due, has been paid on such item of personal property; and provided further, that in the event of any subsequent subleasing of such tangible personal property to any person other than any such sister, parent, or subsidiary corporation, the privilege or license tax due and payable with respect to such subsequent subleasing under the provisions of this article shall be paid.

(10) The gross proceeds accruing from a transaction which involves the leasing or rental of vessels or railroad equipment which are engaged in interstate or rental of vessels or railroad equipment which are engaged in interstate or foreign commerce, or both.

Section 5. Collection of tax.

(a) The privilege license tax levied under the provisions of this article, 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 are levied by this article 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 preceding month, the amount of gross proceeds which are not subject to

the privilege license tax or are not to be used as 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 amounts 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 article should fail to render a report required hereby or should willfully make a false statement of facts in the statements or returns required hereunder he shall be guilty of a misdemeanor and upon conviction shall be punished as provided in Section 8 of this ordinance.

Section 6. Reports of cash and credit rentals.

Any person taxable under this article, 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 7. 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 article 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 article. It shall be the duty of every person to keep and preserve for a period of three (3) years, all invoices of gross proceeds proceeding 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 his/her authorized representative. 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 his/her authorized representative, upon request by the City Clerk. Upon demand by the City Clerk or his/her authorized representative, for inspection and examination, during reasonable business hours, in the City, all books or account. Each occurrence of a failure to keep records, or allow examination thereof, shall constitute a separate offense.

Section 8. Penalty.

Any person who shall fail to keep records as required by this article or who shall refuse to permit their examination or who violates any other provisions of this article shall be guilty of an offense against the City and upon conviction shall be punishable by such fine as may be fixed by ordinance, not to exceed the sum of \$100.00 for each offense, and by imprisonment, not to exceed six months, or both, at the discretion of the court trying the same, and each day shall constitute a separate offense.

Section 9. Effect on Other Ordinances.

This ordinance shall not be construed to repeal any of the provisions of the general license code or ordinance of the City, but shall be held to be cumulative, and the amounts of the taxes herein shall be in addition to the amounts of all other license taxes imposed by the City by its general license code or ordinance.

Section 10. Severability.

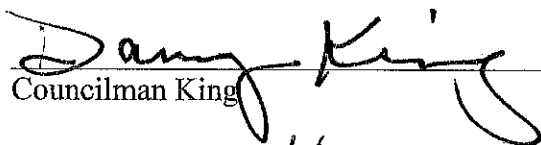
Each and every provision of this ordinance is hereby declared to be an independent provision such that the invalidation of any provisions hereof for any reason shall not be construed to affect any other provision hereof.

Section 11. Effective Date

This ordinance shall become effective on the first day of December, 2016 and the first payment of taxes hereunder shall be due and payable on the first day of January, 2016. This ordinance shall remain in full force and effect and shall apply to each month of the year 2016 beginning with the month of December, 2016, and to each month of each calendar year thereafter from year to year.

ADOPTED AND APPROVED this the 24th day of October, 2016.

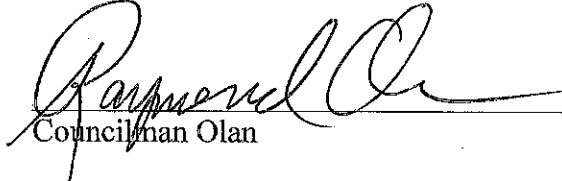
Council President Barlow



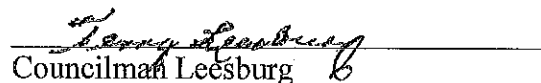
Councilman King



Councilwoman Kennemer

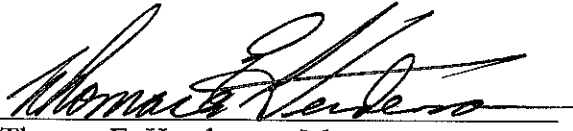


Councilman Olan



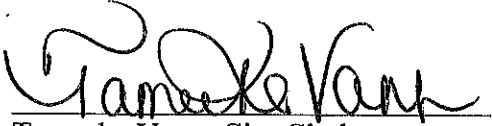
Councilman Leeburg

APPROVED this 27th day of October, 2016.



Thomas E. Henderson, Mayor

Attested:



Tameeka Vann, City Clerk