ORDINANCE NO. 69 A

AN ORDINANCE TO REPEAL ORDINANCE NO 69 OF THE TOWN OF DAUPHIN ISLAND, ALABAMA, RELATING TO SALES AND USE TAX RATES IN ITS ENTIRETYAND ADOPTING ORDINANCE NO. 69 A RELATING TO SALES AND USE TAX RATES.

PURSUANT TO THE PROVISIONS OF CODE OF ALABAMA 1975 SECTIONS 11-51-200 THROUGH 11-51-207 THIS ORDINANCE LEVIES A PRIVILEGE, LICENSE OR USE TAX AGAINST PERSONS, FIRMS, OR CORPORATIONS STORING, USING, OTHERWISE CONSUMING OR ENGAGED IN THE BUSINESS OF SELLING AT RETAIL TANGIBLE PERSONAL PROPERTY OR CONDUCTING PLACES OF AMUSEMENT IN THE TOWN OF DAUPHIN ISLAND, ALABAMA, OR WITHIN ITS POLICE JURISDICTION; PROVIDES FOR THE COLLECTION OF THE SAID TAXES PROVIDES PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND REPEALS A PRIOR ORDINANCE LEVYING SIMILAR TAXES.

Pursuant to the provisions of Code of Alabama 1975 Sections 11-51-200 through 11-51-207 be it ordained by the Town Council of the Town of Dauphin Island, in the State of Alabama, as follows:

Section 1. 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 the 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, (including the State of Alabama, the University of Alabama, Auburn University and all other institutions of higher learning in the state, whether such institutions be denominational, state, county or municipal institutions, and any association or other agency or instrumentality of such institutions) engaged or continuing within the Town 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 debts or stocks, nor sale or 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 and commercial fishing vessels of over five (5) tons load displacement as registered with the U.S. Coast Guard and licensed by the Sate of Alabama Department of conservation and Natural Resources), an amount equal to four and one half percent (4½%) of the gross proceeds of sales of the business except where a different amount is expressly provided herein. Provided, however, that 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 his books are kept so as to show separately the gross proceeds of sales of each business, and when his books are not so kept he shall pay the tax as retailer on the gross sales of the business.

(b) Upon every person, firm or corporation engaged, or continuing within the Town, in the business of conducting, or operating, places of amusement or entertainment, 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 the Town, or any athletic association thereof, or other association whether such institution or association be a denominational, a state, or 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 Town, an amount equal to four and one half percent (4½%) of the gross receipts of any such business. Provided, however, not withstanding any language to the contrary in the prior portion of this subsection, the tax provisions so specified shall not apply to any athletic event conducted by a public primary or secondary school. The tax amount which would have been collected pursuant to this subsection shall continue to be collected by said public primary or secondary school but shall be retained by the school which collected it and shall be used by said school for school purposes.

(c) Upon every person, firm or corporation engaged or continuing within the Town in the business of selling at retail machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property, an amount equal to four and one half percent (4½%) of the gross proceeds of the sale of such machines; provided that the term "machines", as herein used, 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 Town in the business of selling at retail any automotive vehicle or truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto an amount equal to four and one half percent (4½%) of the gross proceeds of sale of said automotive vehicle, truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies provided, however, where a person subject to the tax provided for in this subsection withdraws from his stock in trade any automotive vehicle or truck trailer, semi-trailer or house trailer for use by him or by his employee or agent in the operation of such business, there shall be paid, in lieu of the tax levied herein, a fee of $1.00 per year or part thereof during which such automotive vehicle, truck trailer, semi-trailer or house trailer shall remain the property of such person. 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 succeeding months or part thereof during which such automotive vehicle, truck trailer, or house trailer shall remain the property of such person.

Where any used automotive vehicle or truck trailer, semi-trailer or house trailer is taken in trade or in the 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.

(e) Upon every person, firm or corporation engaged or continuing within the Town in the business of selling at retail 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 therefore 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, and amount equal to four and one half percent (4½%) of the gross proceeds of the sale thereof. Provided, however, the four and one half percent (4½%) rate herein prescribed 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.

(f) Upon every person, firm or corporation engaged or continuing within the Town 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 therefore, there is hereby levied a tax equal to four and one half percent (4½%) 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.

Section 2. Levy of the Tax in Police Jurisdiction. Upon every person, firm or corporation engaged in the doing of an act, or who shall do an act, or continuing in the doing of an 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 Town but beyond the corporate limits of said Town, for which or upon which a privilege or license tax is in this ordinance levied or required within the corporate limits of the Town, 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 Town, a privilege or license tax equal to one-half 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 Town. Provided further, that except for the amount of the privilege or license tax herein levied within the police jurisdiction of said Town

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

Section 3. Provisions of State Sales Tax Statutes Applicable to this Ordinance and Taxes herein Levied. The taxes levied by Section 1 and 2 of this Ordinance shall be subject to all definitions, 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 4

(a) A use tax is hereby imposed on the storage, use or other consumption in the Town 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 and commercial fishing vessels of over five (5) tons load displacement as registered with the U.S. Coast Guard and licensed by the State of Alabama Department of Conservation and Natural Resources) purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in the Town, except as provided in subsections (b), (c), and (d), at the rate of four and one half percent (4½%) of the sales price of such property within the corporate limits of said Town.

(b) A use tax is hereby imposed on the storage, use or other consumption in the Town of any machines used in mining, quarrying, compounding, processing, and manufacturing of tangible personal property purchased at retail on or after the effective date of this ordinance at the rate of four and one half percent (4½%) of the sales price of any such machine; provided, that the term "machine" as herein used, 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.

(c) A use tax is hereby imposed on the storage, use or other consumption in the Town on any automotive vehicle or truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies including but not limited to steps, blocks, anchoring, cable pipes and any other materials pertaining thereto purchased at retail on or after the effective date of this ordinance for storage, use or other consumption in the Town at the rate of four and one half (4½%) percent of the sales price of such automotive vehicle, truck trailer, semi-trailer, house trailer or mobile home set-up materials and supplies within the corporate limits of said Town. Where 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 taken in trade.

(d) A use tax is hereby levied and imposed on the storage, use or other consumption in the Town 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 therefore 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 after the effective date of this ordinance, for the storage, use or other consumption in the Town at the rate of four and one half percent (4½%) of the sales price of such property within the corporate limits of said Town, regardless of whether the retailer is or is not engaged in the business in this City. Provided, however, the four and one half percent (4½%) rate herein prescribed 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.

A use tax is hereby imposed on tangible personal property at one-half the rates specified in subsections (a), (b), (c), and (d) of this section on the storage, use or other consumption of such tangible personal property outside the corporate limits of the Town, but within the police jurisdiction.

Section 5. The taxes levied by Section 4 of this ordinance shall be subject to all definitions, 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 collection of taxes.

Section 6. This Ordinance Cumulative to General License Code or Ordinance. This ordinance shall not be construed to repeal any of the provisions of the general license code or ordinance of the Town, but shall be held to be cumulative, and the amounts of the taxes herein levied shall be in addition to the amounts of all other license taxes imposed by the Town by its general license code or ordinance.

Section 7. Severability. Each and every provision of this ordinance is hereby declared to be an independent provision and the holding of any provision hereof to be void and invalid for any reason shall not affect any other provision hereof, and it is hereby declared that the other provisions of this ordinance would have been enacted regardless of any provision which might have been held invalid.

Section 8. The tax levied and assessed by this ordinance is levied and assessed in lieu of the tax levied by Ordinance Nos. 2, 2A, 2B, & 2C, adopted by the Town of Dauphin Island. Said ordinances are hereby rescinded and repealed as of the effective date of this ordinance.

Section 9. Effective Date. This ordinance shall become effective on the 1st day of September, 2013, and the first payment of taxes hereunder shall be due and payable on the 1st day of October, 2013. This ordinance shall remain in full force and effect and shall apply to each month of 2013, beginning with the month of October and to each month of each calendar year thereafter from year to year.

Section 10. Adopted and approved this 20th day of August, 2013.

JEFF COLLIER
MAYOR

ATTEST:

NANNETTE DAVIDSON
TOWN CLERK

1st Reading August 6, 2013
2nd Reading August 20, 2013

TOWN OF DAUPHIN ISLAND, ALABAMA

Certificate of Publication

This is to certify that Ordinance Number 69 A, Town of Dauphin Island, Alabama was published by posting on at least three (3) Bulletin Boards in the Town from August 21 to August 26 , 2013.

NANNETTE DAVIDSON
TOWN CLERK