ORDINANCE NO. 112-06

AN ORDINANCE TO EXEMPT CERTAIN COVERED
ITEMS FROM MUNICIPAL SALES AND USE TAX DURING
THE FIRST FULL WEEKEND IN AUGUST OF EACH YEAR

BE IT ORDAINED by the City Council of the City of Opelika as follows:

Section 1. That the Code of Ordinances of the City of Opelika is hereby amended, by adding a new Article to Chapter 14 to be entitled Article X as follows:

ARTICLE X

SALES AND USE TAX EXEMPTION

Sec. 14-200. *Definitions.*

Section 1. (a) As used in this article, the term "covered items" means the following:

(1) Articles of clothing with a sales price of one hundred dollars ($100), or less, per article of clothing.

a. "Clothing" means all human wearing apparel suitable for general use including sandals, shoes and sneakers. Clothing shall not include:

1. Belt buckles sold separately;

2. Costume masks sold separately;

3. Patches and emblems sold separately;

4. Sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles;

5. Sewing materials that become part of "clothing"including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers;

In addition, clothing shall not include clothing accessories or equipment, protective equipment, or sport or recreational equipment; as defined herein.

b. "Clothing accessories or equipment" means incidental items worn on the person or in conjunction with "clothing." The following list contains examples and is not intended to be an all-inclusive list. "Clothing accessories or equipment" shall include:

1. Briefcases;

2. Cosmetics;

3. Hair notions, including, but not limited to, barrettes, hair bows, and hair nets;

4. Handbags;

5. Handkerchiefs;

6. Jewelry;

7. Sun glasses, non--prescription;

8. Umbrellas;

9. Wallets;

10. Watches; and

11. Wigs and hair pieces.

c. "Protective equipment" means items for human wear and designed as protection of the wearer against injury or disease or as protections against damage or injury of other persons or property but not suitable for general use. The following list contains examples and is not intended to be an all-inclusive list. "Protective equipment shall include:

1. Breathing masks;

2. Clean room apparel and equipment;

3. Ear and hearing protectors;

4. Face shields;

5. Hard hats;

6. Helmets;

7. Paint or dust respirators;

8. Protective gloves;

9. Safety glasses and goggles;

10. Safety belts;

11. Tool belts; and

12. Welders gloves and masks.

d. "Sport or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. The following list contains examples and is not intended to be an all-inclusive list. "Sport or recreational equipment" shall include:

1. Ballet and tap shoes;

2. Cleated or spiked athletic shoes;

3. Gloves, including, but not limited to, baseball, bowling, boxing, hockey, and golf;

4. Goggles;

5. Hand and elbow guards;

6. Life preservers and vests;

7. Mouth guards;

8. Roller and ice skates;

9. Shin guards;

10. Shoulder pads;

11. Ski boots;

12. Waders; and

13. Wetsuits and fins.

(2) A single purchase, with a sales price of seven hundred fifty dollars ($750), or less, of computers, computer software, and school computer supplies.

a. A "computer" means an electronic device that accepts information in digital or similar form and manipulate it for a result based on a sequence of instructions.

b. "Computer software" means a set of coded instructions designed to cause a "computer" or automatic data processing equipment to perform a task.

c. A "school computer supply" means an item commonly used by a student in a course of study in which a computer is used. The following is an all-inclusive list of school computer supplies:

1. Computer storage media; diskettes, compact disks;

2. Handheld electronic schedulers, except devices that are cellular phones;

3. Personal digital assistants, except devices that are cellular phones;

4. Computer printers; and

5. Printer supplies for computers; printer paper, printer ink.

"Computer," "Computer software," and "School computer supplies" shall not include furniture and any systems, devices, software, peripherals designed or intended primarily for recreational use, or video games of a noneducational nature.

(3) Noncommercial purchases of school supplies, school art supplies, and school instructional material, up to a sales price of fifty dollars ($50) per item.

a. "School supply" is an item commonly used by a student in a course of study. The following is an all-inclusive list:

1. Binders;

2. Book bags;

3. Calculators;

4. Cellophane tape;

5. Blackboard chalk;

6. Compasses;

7. Composition books;

8. Crayons;

9. Erasers;

10. Folders; expandable, pocket, plastic, and manila;
11. Glue, paste, and paste sticks;

12. Highlighters;

13. Index cards;

14. Index card boxes;

15. Legal pads;

16. Lunch boxes;

17. Markers;

18. Notebooks;

19. Paper; loose leaf ruled notebook paper, copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and construction paper;

20. Pencil boxes and other school supply boxes;

21. Pencil sharpeners;

22. Pencils;

23. Pens;

24. Protractors;

25. Rulers;

26. Scissors; and

27. Writing tablets.

b. "School art supply" is an item commonly used by a student in a course of study for artwork. The following is an all-inclusive list:

1. Clay and glazes;

2. Paints; acrylic, tempora, and oil;

3. Paintbrushes for artwork;

4. Sketch and drawing pads; and

5. Watercolors.

c. "School instructional material" is written material commonly used by a student in a course of study as a reference and to learn the subject being taught. The following is an all inclusive list:

1. Reference maps and globes.

2. Required textbooks on an official school book list with a sales price of more than thirty dollars ($30) and less than fifty dollars ($50).

(4) Noncommercial purchases of books with a sales price of not more than thirty dollars ($30) per book. The term book shall mean a set of printed sheets bound together and published in a volume with an ISBN number, but does not include magazines, newspapers periodicals, or any other document printed or offered for sale in a non-bound form.

(b) As used in the Article, municipal sales and use tax means the tax, privilege tax or license tax imposed and levied under the provisions of Article III and Article IV of Chapter 14 of the Code of Ordinances of the City of Opelika.

Sec. 14-201. Tax Holiday.

Covered items, as defined in this Article, are exempted from paying municipal sales and use tax during the period from 12:01 a.m. on the first Friday in August of each year and ending at twelve midnight the following Sunday. Items normally sold in pairs shall not be separated to qualify for the exemption provided for in this Article.

Sec. 14-202. *Interpretation.*

This Article shall be construed in accordance with any rules adopted by the Commissioner of the Department of Revenue as provided for the state sales tax holiday.

Section 2. If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, division or portion of this Ordinance which is not in and of itself invalid or unconstitutional.

Section 3. This Ordinance shall become effective upon its adoption, approval and publication as required by law and shall be codified in the Code of Ordinances of the City of Opelika.

Section 4. The City Clerk of the City of Opelika, Alabama is hereby authorized and directed to cause a copy of this Ordinance to be published one (1) time in the Opelika-Auburn News, a newspaper published in and of general circulation in the City of Opelika, Alabama.

ADOPTED AND APPROVED this the 2nd day of May 2006.

PRESIDENT OF THE CITY COUNCIL OF THE CITY OF OPELIKA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR this the 3rd day of May 2006.

CITY CLERK

ACTION BY MAYOR

APPROVED this the 3rd day of May 2006.

MAYOR

ATTEST:

CITY CLERK