

Sulphur, Louisiana  
March 12, 2001

The City Council of the City of Sulphur, Louisiana, met in regular public session at City Hall Sulphur, Louisiana, at 5:00 o'clock p.m. on March 12, 2001, pursuant to the provisions of written notice given to each and every member thereof and duly posted in the manner required by law, and after full compliance with all legal requirements as to notice and otherwise in respect to the convening of said meeting.

The Chairman called the meeting to order and on roll call, the following members were present:

ABSENT:

The meeting was called to order and the roll called with the above results.

The Chairman of the City Council stated that one of the purposes of the meeting was to adopt the Master Sales and Use Tax Ordinance of 2001, which provides not only for the levy and collection of the renewed one-half of one (½%) sales and use tax approved by the electorate of the City of Sulphur, Louisiana (the "City") on Saturday, January 20, 2001, but also for the levy and collection of all sales and use taxes presently levied and collected within the City, and thereupon the following Ordinance was presented, having first been introduced on February 12, 2001, which was adopted by the following vote:

YEAS:

NAYS:

**ORDINANCE NO. \_\_\_\_\_, M-C SERIES**

**CITY OF SULPHUR, LOUISIANA  
MASTER SALES AND USE TAX ORDINANCE OF 2001**

TO PROVIDE ADDITIONAL REVENUE FOR THE CITY OF SULPHUR, LOUISIANA, FOR THE PURPOSE OF MAKING CERTAIN DEDICATED CAPITAL IMPROVEMENTS WITHIN AND FOR SAID CITY, BY LEVYING A TAX UPON THE SALE AT RETAIL, THE USE, THE LEASE OR RENTAL, THE CONSUMPTION AND THE STORAGE FOR USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY AND UPON THE SALE OF SERVICES AS PRESENTLY DEFINED IN L.R.S. 47:301 TO L.R.S. 47:317, INCLUSIVE: DEFINING CERTAIN TERMS; LEVYING AND PROVIDING FOR THE ASSESSMENT, COLLECTION, PAYMENT AND DISPOSAL OF SUCH TAX; PROVIDING FOR AN ADEQUATE REMEDY AT LAW; DEFINING VIOLATIONS OF THE PROVISIONS OF THIS ORDINANCE AND PRESCRIBING PENALTIES THEREFOR; PROVIDING FOR RULES AND REGULATIONS AND THE ENFORCEMENT OF THE PROVISIONS OF THIS ORDINANCE AND THE COLLECTION OF THE TAX LEVIED THEREBY; PROVIDING THAT ANY PART OF THIS ORDINANCE WHICH MAY BE HELD INVALID OR UNCONSTITUTIONAL SHALL NOT AFFECT OR IMPAIR ANY OTHER PART HEREOF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, under the provisions of Sub-Part D of Part I of Chapter 6 of Title 33 of the Louisiana Revised Statutes of 1950, as amended, the City is

authorized to levy and collect within the City of Sulphur, Louisiana (the "City") a tax of one-half of one (½%) percent upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption of tangible personal property and upon the sale of services as defined in Sections 301-317, inclusive of Title 47 of the Louisiana Revised Statutes of 1950 (R.S. 47:301-317);

WHEREAS, pursuant to the provisions of Sub-Part D of Part I of Chapter 6 of Title 33 of the Louisiana Revised Statutes of 1950, as amended, and other constitutional and statutory authorities supplemental thereto, a special election was held in the City as a whole on Saturday, January 20, 2001, to authorize the levy and collection of said tax ("Tax"), and the proposition which was submitted at said election and duly approved by a majority of the qualified electors voting in said election, was as follows:

### **SALES TAX RENEWAL PROPOSITION**

#### **10-YEAR ½% SALES AND USE TAX RENEWAL ("TAX") FOR IMPROVING STREETS, SEWERAGE DISPOSAL, WATER AND WASTE WATER SYSTEMS WITHIN THE CITY OF SULPHUR, LOUISIANA, AND AUTHORITY TO ISSUE BONDS TO BE RETIRED WITH, PAID FROM AND SECURED BY A PLEDGE AND DEDICATION OF THE TAX.**

Shall the City of Sulphur, Louisiana, pursuant to Article 6, Section 29 of the Louisiana Constitution of 1974, and other Constitutional and statutory authority, levy and collect for 10 years beginning April 1, 2001, a tax of one-half percent (½%) upon the sale at retail, use, lease or rental, consumption and storage for use or consumption of tangible personal property and on sales of services as defined in La. R.S. 47:301-317, and the avails of the Tax, after payment of all costs of levy and collection, dedicated and used for improving streets, sewerage disposal, water and waste water systems within the City of Sulphur, Louisiana, title to which shall be in the public; and, to issue bonds not to exceed 10 years from the initial levy of the Tax, with interest at a rate not exceeding ten percent (10%) per annum, which bonds

shall be retired with, paid from and secured by an irrevocable pledge and dedication of the Tax?

WHEREAS, the City, in order to fund various capital improvements and operations of City government, from time to time proposes various propositions to the electorate of the City which if approved authorize the levy and collection of sales and use taxes as authorized by the Constitution and Revised Statutes of the State of Louisiana;

WHEREAS, the City contracts with the Treasurer of the Calcasieu Parish School Board and his agents, including the Tax Director of the School Board of the Parish of Calcasieu, State of Louisiana (the "Tax Director"), for collection of all City sales and use taxes;

WHEREAS, the Tax Director has proposed adoption by sales and use tax supported governmental entities situated within Calcasieu Parish, Louisiana, a Master Sales and Use Tax Ordinance, having terms and conditions common to all such entities situated within Calcasieu Parish, Louisiana, in order to increase the efficiency of governmental collection of sales and use taxes;

WHEREAS, the Tax Director annually monitors legislation adopted by the Louisiana State Legislature relative to sales and use tax related issues, and as a result thereof periodically amends the Master Sales and Use Tax Ordinance in order to bring such Ordinance into compliance with all current sales and use tax related laws adopted by the Louisiana Legislature;

WHEREAS, the Council of the City deems it to be in the best interests of the City as well as the residents and sales and use tax payers thereof, that the following Master Sales and Use Tax Ordinance be adopted by the City, subject to such amendments and modifications as may be required by legislation adopted annually by the Louisiana Legislature,

NOW, THEREFORE, BE IT ORDAINED by the City Council, the governing authority of the City of Sulphur, Louisiana, as follows:

## **DEFINITIONS**

As used in this Ordinance the following terms, words and phrases shall have the meaning ascribed to them in Sections 1.01 to 1.26 of this Ordinance, except when the context clearly indicates a different meaning:

**Section 1.01.** *Business* includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect. The term *business* shall not be construed in this Ordinance to include occasional and isolated sales or transactions by a person who does not hold himself out as engaged in business.

**Section 1.02.** *Collector* shall mean the Treasurer of the Calcasieu Parish School Board and his agents, including the Tax Director of the School Board of the Parish of Calcasieu, State of Louisiana, or the duly authorized agents and assistants thereof designated by the School Board of the Parish of Calcasieu, State of Louisiana, for the purpose of collecting said Tax.

**Section 1.03.** (A) *Cost Price* means the actual cost of the articles of tangible personal property without any deductions therefrom on account of the cost of material used, labor or service cost, excepting those costs for installing the articles of tangible personal property if such cost is separately billed to the customer or accounted for at the time of installation, transportation charges or any other expenses whatsoever, or the reasonable market value of the tangible personal property at the time it becomes susceptible to the use tax, whichever is less.

(B) In the case of tangible personal property which has acquired a Louisiana tax situs and is thereafter transported outside of the State of Louisiana for repairs performed outside the State of Louisiana and is thereafter returned to the State of Louisiana, the cost price shall be deemed to be the actual price of any parts and/or materials used in performing such repairs, if applicable labor charges are separately stated on the invoice.

(C) "*Cost price*" shall not include the supplying and installation of board roads to oil field operators if the installation charges are separately billed to the customer at the time of installation.

(D) Pursuant to the methodology of imposing the use tax on certain interchangeable components used in measurement-while-drilling instruments or systems refer to LSA-R.S. 47:301 (3)(d).

(E) "*Cost price*" shall not include any amount designated as a cash discount or a rebate by a vendor or manufacturer of any new vehicle subject to the motor vehicle license tax. For the purposes of this paragraph "*rebate*" means any amount offered by the vendor or manufacturer as a deduction from the listed retail price of the vehicle. (Act 350, effective 9-6-91).

(F) "**Cost price**" shall exclude any amount that a manufacturer pays directly to a dealer of the manufacturer's product for the purpose of reducing and that actually results in an equivalent reduction in the retail "**cost price**" of that product. This exclusion shall not apply to the value of the coupons that dealers accept from purchasers part payment of the "sales price" and that are redeemable by the dealers through manufacturers or their agents. The value of such coupons is deemed to be part of the "**cost price**" of the product purchased through the use of the coupons (Act 33 1996; effective 7-2-96)

(G) The "**cost price**" of refinery gas shall be fifty-two cents per thousand cubic feet multiplied by a fraction, the numerator of which shall be posted price for a barrel of West Texas Intermediate Crude oil on December first of the preceding calendar year and the denominator of which shall be twenty-nine dollars, and provided further that such "**cost price**" shall be the maximum value placed upon refinery gas by the state and by any political subdivision under any authority or grant of power to levy and collect use taxes.

**Section 1.04** "**Dealer**" shall include every person who manufactures or produces tangible personal property from any state, or other political subdivision or foreign country, for sale at retail, for use, or for consumption, or distribution, or for storage to be used or consumed in the City, "**Dealer**" is further defined to mean:

(a) Every person, as used in this Ordinance, who imports, or causes to be imported, tangible personal property from any state or other political subdivision of this state, or foreign country, for sale at retail, for use or consumption, or distribution, or storage to be used or consumed in the City;

(b) Every person, as used in this Ordinance, who sells at retail or who offers for sale at retail, or who has in his possession for sale at retail, or for use or to be consumed in the City, tangible personal property as defined herein;

(c) Any person, as used in this Ordinance, who has sold at retail, or use, or consumed, or distributed, or stored for use or consumption in the City, tangible personal property and who cannot prove that the tax levied by this Ordinance has been paid on the sale at retail, the use, the consumption, the distribution, or the storage of said tangible personal property;

(d) (i) Any person, as used in this Ordinance, who leases or rents tangible personal property, as defined in this Ordinance, for a consideration, permitting the use or possession of said property without transferring title thereto;

(ii) However, a person who leases or rents tangible personal property to customers who provide information to such person that they will

use the property only offshore beyond the territorial limits of the state shall not be included in the term **"dealer"** for purposes of the collection of the rental or lease tax of the state, statewide political subdivisions, and other political subdivisions on such lease or rental contracts. For purposes of this Subparagraph, **"use"** means the operational or functional use of the property and not other uses related to its possession such as transportation, maintenance, and repair. It is the intention of this Subparagraph that the customers of such persons shall remit any tax due on the lease or rental of such property directly to the state and local taxing bodies to whom they are due. (Act 8 1994; Effective 6-7-94)

- (e) Any person, as used in this Ordinance, who is the lessee or rentee of tangible personal property, as defined in this Ordinance, and who pays to the owner of such property as consideration for the use or possession of such property without acquiring title thereto;
- (f) Any person, as used in this Ordinance, who sells or furnishes any of the services subject to tax under this Ordinance;
- (g) Any person, as used in this Ordinance, who purchases or receives any of the services subject to tax under this Ordinance;
- (h) Any person, as used in this Ordinance, engaging in business in the City. **"Engaging in business in the City"** shall mean and include directly, indirectly, or through a subsidiary, an office, distribution house, sales house, warehouse, or other place of business or by having an agent, salesman, solicitor or employee operating within the City under the authority of the seller or its subsidiary, irrespective of whether such place a seller or subsidiary is qualified to do business in the City or any person who makes deliveries of tangible personal property into the City other than by common or contract carrier.
- (i) Any person, as used in this Ordinance, who sells through coin-operated vending machines by said person.
- (j) Any person, as used in this Ordinance, who makes deliveries of tangible personal property into the City in a vehicle owned or operated by said person.
- (k) The term **"dealer"** shall not include lessors of railroad rolling stock used either for freight or passenger purposes. However, the term **dealer** shall include lessees, other than a railway company or railroad corporation, of such property and such lessees shall be responsible for the collection and payment of all state and local sales and use taxes.

(l) The term "**dealer**" shall include every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodicals, advertising fliers, or other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone, computer data base, cable optic, microwave, or other communication system.

**Section 1.05. *Distraint or Distrain*** shall mean the right to levy upon and seize and sell, or the levying upon or seizing and selling, any property or rights to property of a delinquent dealer, not exempt from seizure under the laws of this State, by the officer charged with the collection of the tax for the purpose of satisfying any tax, interest or penalties due under the provisions of this Ordinance.

**Section 1.06. *"City"*** shall mean the City of Sulphur, Louisiana, without any limitations whatsoever.

**Section 1.07. *"Governing Authority"*** shall mean and include the City Council of the City of Sulphur, Louisiana.

**Section 1.08. *"Gross Sales"*** means the sum total of all sales of tangible personal property, as hereinafter provided and defined, and sales of services without any deductions whatsoever of any kind or character, except as provided in this Ordinance.

**Section 1.09. (A) *"Hotel"*** means and includes any establishment engaged in the business or furnishing sleeping rooms, cottages or cabins to transient guests, where such establishment consists of six (6) or more sleeping rooms, cottages or cabins at a single business location.

(B) For purposes of the sales and use taxes of all tax authorities in this state, the term "**hotel**" as defined herein shall not include camp and retreat facilities owned and operated for religious purposes by non-profit religious organizations, which includes recognized domestic non-profit corporations organized for religious purposes. For purposes of this Paragraph, the term "**hotel**" shall include camp and retreat facilities which sell rooms or other accommodations to transient guests. However, "*transient guest*" for purposes of this Paragraph shall not include guest who participate in organized religious activities which take place at such camp or retreat facilities. It is the intention of the legislature to tax the furnishing of rooms to those who merely purchase lodging at such facilities. (Act 40 1998;

effective 7-1-98)

**Section 1.10. (A) "Lease or rental"** means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or rentee for a consideration, without transfer of the title of such property. For this purpose of the leasing or renting of automobiles, *lease* means the leasing of automobiles and the possession or use thereof by the lessee, for a consideration, without the transfer of the title of such property for a one hundred eighty-day period or more. *Rental* means the renting of automobiles and the possession or use thereof by the renter, for a consideration, without the transfer of the title of such property for a period less than one hundred eighty days.

(B) The term *"lease or rental,"* however, as herein defined shall not mean or include the lease or rental made for the purpose of re-lease or re-rental of casing tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or related equipment used in connection with the operating, drilling, completion or reworking of oil, gas, sulphur or other mineral wells.

(C) The term *"lease or rental"*, as herein defined shall not mean or include a lease or rental of property to be used in performance of a contract with the United States Department of the Navy for construction or overhaul of U.S. Navy vessels.

(D) The term *"lease or rental"* as herein defined, shall not mean the lease or rental of airplanes or airplane equipment by a commuter airline domiciled in Louisiana. (Act 772, 1991; Effective 7-1-91)

(E) For the purposes of state and political subdivision sales and use tax, the term *"lease or rental"*, as herein defined, shall not mean the lease or rental of items, including, but not limited to, supplies and equipment, which are reasonably necessary for the operation of free hospitals. (Act 6 1994; Effective 7-1-94)

(F) For the purposes of state and political subdivision sales and use tax *"lease or rental"* shall not mean the lease or rental of educational materials or equipment used for classroom instruction by approved parochial and private elementary and secondary schools which comply with the court order from the Dodd Brumfield decision and section 501 (c)(3) of the Internal Revenue Code, limited to books, workbooks, computers, computer software, films, videos, and audio tapes (Act 15 1996; effective July 1, 1997; expires June 30, 1998, extended thru 7-1-2000; Act 47, 1998; Suspended 7-1-2000 thru 6-30-2001 and reinstated

7-1-2001 thru 6-30-2003, Act 33, 2000)

(G) The term **"lease or rental"** shall not mean the lease or rental of tangible personal property to Boys State of Louisiana, Inc. and Girls State of Louisiana, Inc. which is used by such organizations for their educational and public service programs for youth. (Act 20, 1996, effective 7-1-97)

(H) For purposes of state and political subdivision sales and use tax, the term **"lease or rental"** shall not mean or include the lease or rental of motor vehicles by licensed motor vehicle dealers, as defined in R.S. 32:1252(14), or vehicle manufacturers, as defined in R.S. 32:1252(11), for their use in furnishing such leased or rented motor vehicles to their customers in performance of their obligations under warranty agreements associated with the purchase of a motor vehicle or when the applicable warranty has lapsed and the leased or rented motor vehicle is provided to the customer at no charge.(Act 49 1998; effective 8-1-98)

**Section 1.11. "New Article"** shall mean the original stock in trade of the dealer and shall not be limited to newly manufactured articles. The original stock or article, whether it be a used article or not, shall be subject to the Tax.

**Section 1.12. (A) "Person"**, except as provided below, shall include any individual, firm, co-partnership, joint venture, association, corporation, co-operative, estate, trust, business trust, receiver, syndicate, any parish, city, municipality, state or public board, public commission or public or semi-public corporation, district or other political subdivision or any board, agency, university, school, college, instrumentality or other group or combination acting as a unit, and the plural as well as the singular number.

(B) For the purposes of the payment of the state sales and use tax and the parish sales and use tax levied by any political subdivision, **"person"** shall not include this state, any parish, city and parish, municipality, district, or other political subdivision thereof, or any agency, board, commission, or instrumentality of this state or its political subdivisions. (Act 1029, effective. 9-1-91.)

(C)(i) For the purpose of the payment of the state sales and use tax and the sales and use tax levied by any political subdivision, the term **"person"** shall not include a church or synagogue that is recognized by the United States Internal Revenue Service as entitled to exemption under Section 501(C)(3) of the United States Internal Revenue Code.

(ii) The Secretary of the Department of Revenue shall promulgate rules and regulations defining the terms "*church*" and "*synagogue*" for the purpose of this exclusion. The definitions shall be consistent with the criteria established by the U.S. Internal Revenue Service in identifying organizations that qualify for church status for federal income tax purposes.

(iii) No church or synagogue shall claim exemption or exclusion before having obtained a certificate of authorization from the Secretary of the Department of Revenue. The Secretary shall develop applications for such certificates and they shall be issued without charge to the institutions that qualify.

(iv) The exclusion provided for herein shall apply only to purchases of bibles, song books, or literature used for religious instruction classes. (Act 28, 1996) (Effective 7-1-96)

(D)(i) For purposes of the payment of the state sales and use tax and the sales and use tax levied by any political subdivision, the term "*person*" shall not include the Society of the Little Sisters of the Poor.

(ii) The Secretary of the Department of Revenue shall promulgate rules and regulations for purposes of this exclusion. The definitions shall be consistent with the criteria established by the U.S. Internal Revenue Service in identifying tax-exempt status for federal income tax purposes.

(iii) No member of the Society of the Little Sisters of the Poor shall claim exemption or exclusion from the state sales and use tax or the sales and use tax levied by any political subdivision before having obtained a certificate of authorization from the Secretary of the Department of Revenue. The secretary shall develop applications for such certificates. The certificates shall be issued without charge to the entities which qualify. (Act 40 1998; effective 7-1-98)

**Section 1.13. "*Purchaser*"** shall mean any person who acquires or receives any tangible personal property or the privilege of using any tangible personal property or receives any services pursuant to a transaction subject to taxes under this Ordinance.

**Section 1.14. (A)(i) "Retail Sale or Sale at Retail"** shall mean a sale to a consumer or to any other person for any purpose other than for resale as tangible personal property, or for lease of motor vehicles in an arm's length transaction, and shall mean and include all such transaction as the collector, upon investigation finds to be in lieu of sales; provided that sales for resale or for lease of motor vehicles in an arm's length transaction must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale or for lease of motor vehicles, which is not in strict compliance with the rules and regulations shall himself be liable for and pay the tax. *(Act 12, 1996; effective 7-1-96)(Extended Act 10 1998 & Act 28, 2000, expires 6-30-2002)*

(ii) **"Retail sale or sale at retail"**, for the purposes of sales and use taxes imposed by political subdivisions shall not include transactions involving the sale for rental of automobiles which take place on or after July 1, 1996. *(Act 7, 1996, effective 7-1-96)*

(iii) For the purposes of the imposition of the tax imposed by this ordinance, for the period beginning on July 1, 1999, and ending on June 30, 2000, the term "sale at retail" or "retail sale" shall not include one-fourth of the sales price of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property. For the purposes of the imposition of the tax imposed by this ordinance, for the period beginning on July 1, 2000, and ending on June 30, 2001, the term "sale at retail" or "retail sale" shall not include one-half of the sales price of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property. For the purposes of the imposition of the tax imposed by this ordinance, for the period beginning on July 1, 2001, and ending on June 30, 2002, the term "sale at retail" or "retail sale" shall not include three-fourths of the sales price of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property.

Beginning July 1, 2002, for the purposes of the imposition of the tax levied by this ordinance, the term "sale at retail" or "retail sale" shall not include the sale of any tangible personal property which is sold in order to be leased or rented in an arm's length transaction in the form of tangible personal property. *( Act 1266; effective 7-1-99 )*

(B) The term **"sale at retail"** shall not include sales of materials for further processing into articles of tangible personal property for sale at retail or sales of electricity for chlor-alkali manufacturing processes, nor shall the term **"sale at retail"** include an isolated or occasional sale of tangible personal property by a person not engaged in such business.

(C) The exclusion of isolated or occasional sales shall not apply to the sale of vehicles, and the term **"sale at retail"** shall include isolated or occasional sales of vehicles and the tax shall be collected thereon as provided in Section 3.01.B. hereof.

(D) The term **"sale at retail"** does not include the sale of any human tissue transplants, which shall be defined to include all human organs, bone, skin, cornea, blood or blood products transplanted from one individual into another recipient individual. (LSA-RS 33:2717)

(E) The term **"sale at retail"** does not include the sale of raw agricultural commodities, including but not limited to, feed, seed, fertilizer, to be utilized in preparing, manufacturing, or producing crops or animals for market. The Department of Agriculture and Forestry shall develop and promulgate guidelines to determine who meets this definition. Any person meeting such guidelines shall receive a certificate from the Department of Agriculture and Forestry indicating that such person is eligible to purchase such items without paying tax thereon. The guidelines promulgated pursuant to this Paragraph shall not become effective prior to January 1, 1995. (Act 29 1994; Effective 6-7-94)

(F) The sale of tangible personal property to a dealer who purchases said property for resale through coin-operated vending machines shall not be considered a **"sale at retail"** for tax purposes under this Ordinance. The subsequent resale of the property by the dealer through coin operated vending machines shall be considered a **"sale at retail"**. (LSA-R.S. 33:2716.1)

(G) The term **"retail sales"** does not include a sale of corporeal moveable property which is intended for future sale to the United States Government or its agencies, when title to such property is transferred to the United States Government or its agencies prior to the incorporation of that property into a final product.

(H) The term "**sale at retail**" does not include the sale of food items by youth servicing organizations chartered by congress.

(I) The term "**sale at retail**" does not include the purchase of a new school bus or a used school bus which is less than five years old, by an independent operator, when such bus is to be used exclusively in a public school system.

(J) Notwithstanding any other law to the contrary, for purposes of the imposition of the sales and use tax of any political subdivision, the sale of a vehicle subject to the Vehicle Registration License Tax Law (LSA-R.S. 47:451 et. seq.) shall be deemed to be a "**retail sale**" or a "**sale at retail**" (i) in the political subdivision of the principal residence of the purchaser if the vehicle is purchased for private use or

(ii) in the political subdivision of the principal location of the business if the vehicle is purchased for commercial use, unless the vehicle purchased for commercial use is assigned, garaged, and used outside of such political subdivision, in which case the sale shall be deemed a "**retail sale**" or a "**sale at retail**" in the political subdivision where the vehicle is assigned, garaged, and used.

(K) The term "**sale at retail**" shall not include the sale of airplanes or airplane equipment or parts to a commuter airline domiciled in Louisiana. See also Section 5.18. (Act 772, effective 7-1-91.)

(L) The term "**sale at retail**" does not include the sale of tangible personal property to food banks, as defined in R. S. 9:2799. (Act 515, effective 6-25-92) Senate Bill 8 provides that this Act shall apply to all donations made on, before or after such effective date.

(M) The term "**sale at retail**" does not include the sales of Louisiana manufactured or assembled passenger aircraft with a capacity in excess of fifty persons, if after all transportation by the purchaser has been completed, the aircraft is ultimately received by the purchaser outside of Louisiana. (Act 226, effective 6-10-92)

(N) The term "**sale at retail**" shall not include the sales of pelletized paper waste when purchased for use as combustible fuel by an electric utility or in an

industrial manufacturing, processing, compounding, reuse, or production process, including the generation of electricity or process steam, at a fixed location in this state. However, such sale shall not be excluded unless the purchaser has signed a certificate stating that the fuel purchased is for the exclusive use designated herein. For purposes of this Subparagraph, "**pelletized paper waste**" means pellets produced from discarded waste paper that has been diverted or removed from solid waste which is not marketable for recycling and which is wetted, extruded, shredded, or formulated into compact pellets of various sizes for use as a supplemental fuel in a permitted boiler. (Act 926, effective 7-1-93)

(O) For the purpose of sales and use taxes imposed or levied by the state or any local governmental subdivision or school board, the term "**sale at retail**" shall not include the sale or purchase of equipment used in fire fighting by bona fide volunteer fire departments. (Act 926, effective 7-1-92; Act 37, 1998)

(P) For purposes of state and political subdivision sales and use tax, the term "**sale at retail**" shall not include the sale of items, including, but not limited to, supplies and equipment, which are reasonably necessary for the operation of free hospitals. (Act 6 1994; Effective 6-7-94)

(Q) The term "**sale at retail**" shall not include (i) the sale of tangible personal property by approved parochial and secondary schools which comply with the court order from the Dodd Brumfield decision and section 501 (c)(3) of the Internal Revenue Code, or students, administrators, or teachers, or other employees of the school, if the money from such sales, less reasonable and necessary expenses associated with the sale, is used solely and exclusively to support the school or its program or curriculum. This exclusion shall not be construed to allow tax-free sales to students, school faculty, or school facilities.

(ii) The sale to approved parochial and private elementary and secondary schools which comply with the Dodd Brumfield decision and Section 501 (c)(3) of the Internal Revenue Code of educational materials or equipment used for classroom instruction limited to books, workbooks, computers, computer software, films, videos, and audio tapes (*Act 15 1996; effective 7-1-97; extend through 7-1-2000 Act 47 1998; Suspended 7-1-2000 thru 6-30-2001 and reinstated 7-1-2001 thru 7-30-2003, Act 33, 2000*)

(R) The term "**sale at retail**" shall not include the sale of tangible personal property to Boys State of Louisiana, and Girls State of Louisiana, Inc.,

which is used by such organizations for their educational and public service programs for youth. (Act 20 1996, effective 7-1-96)

(S) The term ***"sale at retail" or "retail sale"***, for purposes of sales and use taxes imposed by the state or any political subdivision or other taxing entity, shall not include any charge, fee, money, or other consideration received, given, or paid for the performance of funeral directing services. For purposes of this Subparagraph, ***"funeral directing services"*** means the operation of a funeral home, or by way of illustration and not limitation, any service whatsoever connected with the management of funerals, or the supervision of hearses or funeral cars, the cleaning and dressing of dead human bodies for burial, and the performance or supervision of any service or act connected with the management of funerals from time of death until the body or bodies are delivered to the cemetery, crematorium, or other agent for the purpose of disposition. However, such services shall not mean or include the sale, lease, rental, or use of any tangible personal property as those terms are defined in this Section. (Act 47 2000, effective 7-1-00)

**Section 1.15. "Retailer"** means and includes every person engaged in the business of making sales at retail, rendering service taxable hereunder, or for distribution for use or consumption or storage to be used or consumed in the City.

**Section 1.16. "Sale"** means any transfer of title or possession or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever of tangible personal property, for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, preparing or serving, such tangible personal property. A transaction whereby the possession of property is transferred, but the seller retains title as security for the payment of the price, shall be deemed a sale.

**Section 1.17. (A) "Sales price"** means the total amount for which tangible personal property is sold, less the market value of any article traded in, including any services, except services for financing, that are a part of the sale valued in money, whether paid in money or otherwise, and includes the cost of materials used, labor or service costs, except costs for financing, which shall not exceed the legal interest rate and a service charge not to exceed six percent (6%) of the amount financed, and losses; provided that cash discounts allowed and taken on sales shall not be included, nor shall the sale price include the amount charged for

labor or services rendered in installing, applying, remodeling, or repairing property sold.

(B) The term *"sales price"* shall not include any amount designated as a cash discount or a rebate by the vendor or manufacturer of any new vehicle subject to the motor vehicle license tax. For the purpose of this paragraph, *"rebate"* means any amount offered by a vendor or manufacturer as a deduction from the listed retail price of the vehicle. (Act 350), effective 9-6-91)

(C) *"Sales price"* shall not include the first fifty thousand dollars of the sales price of new farm equipment used in poultry production. (Act 388, effective 7-8-91)

(D) Notwithstanding any other provision of law to the contrary, the *"sales price"* of refinery gas and other petroleum by-products, except for feedstock, not ultimately consumed as an energy source by the person who owns the facility in which the refinery gas or other petroleum by-product is created as provided by Section 1.23 (G), but sold to another person, whether at retail, wholesales, or for further processing, shall be the average of the monthly spot market price per thousand cubic feet of natural gas delivered into pipelines in Louisiana as reported by the Department of Revenue for natural gas severance tax purposes at the time of such sale, or the price for which such property is actually sold, whichever is greater, and such sale shall be taxable. (Act 29, 1996 effective 7-2-96)

(E) The term *"sales price"* shall exclude any amount that a manufacture pays directly to a dealer of the manufacturer's product for the purpose of reducing and that actually results in an equivalent reduction in the retail "sales price" of that product. This exclusion shall not apply to the value of the coupons that dealers accept from purchasers as part payment of the *"sales price"* and that are redeemable by the dealers through manufacturers or their agents. The value of such coupons is deemed to be part of the "cost price" of the product purchased through the use of the coupons. (Act 33, 1996; Effective July 2, 1996)

(F) The term *"sales price"* shall exclude any charge, fee, money, or other consideration received, given or paid for the performance of funeral directing services as defined in Section 1.14 (S).

**Section 1.18.** *"Sales of Services"* means and includes the following:

- (a) The furnishing of sleeping rooms, cottages or cabins by hotels;
- (b) (i) The sale of admissions to places of amusement, to athletic entertainment other than that of schools, colleges and universities, and recreational events, and the furnishing, for dues, fees, or other consideration, of the privilege of access to clubs or the privilege of having access to or use of amusement, entertainment, athletic, or recreational facilities; but the term "sales of services" shall not include membership fees or dues of non-profit civic organizations, including, by way of illustration and not of limitation, the Young Men's Christian Association, the Catholic Youth Organization and the Young Women's Christian Association.
  - (ii) **"Places of amusement"** shall not include museums, which are hereby defined as public or private non-profit institutions which are organized on a permanent basis for essentially educational or aesthetic purposes and which use professional staff to do all of the following:
    - (aa) Own or use tangible objects, whether animate or inanimate.
    - (bb) Cares for those objects.
    - (cc) Exhibit them to the public on a regular basis.
  - (iii) Museums include but are not limited to the following:
    - (aa) Museums relating to art, history, including historic buildings, natural history, science, and technology.
    - (bb) Aquariums and zoological parks.
    - (cc) Botanical gardens and arboretums.
    - (dd) Nature centers.
    - (ee) Planetariums.
  - (iv) For purposes of the sales and use taxes of all tax authorities in the state, the term **"places of amusement"** as used herein shall not include camp and retreat facilities owned and operated for religious purposes by non-profit religious organizations, which includes recognized domestic non-profit corporations organized for religious purposes, provided that the net revenue derived from the organization's property is devoted wholly to religious purposes. (*Act 40 1998; effective 7-1-98*)

(c) the furnishing of storage or parking privileges by auto hotels and parking lots and trailer parks;

(d) The furnishing of printing or overprinting, lithographic, multilith, blueprinting, photostating or other similar services of reproducing written or graphic matter;

(e) the furnishing of laundry, cleaning, pressing, and dyeing services, including by way of extension and not of limitation, the cleaning and renovating of clothing, furs, furniture, carpets and rugs, and the furnishing of storage space for clothing, furs and rugs;

(f) the furnishing of cold storage space and the furnishing of the service preparing tangible personal property for cold storage where such service is incidental to the operation of storage facilities;

(g) (i) the furnishing of repairs to tangible personal property, including, but not restricted to, the repair and servicing of automobiles and other vehicles, electrical and mechanical appliances and equipment, watches, jewelry, refrigerators, radios, shoes, and office appliances and equipment.

(ii) for the purposes of this subparagraph, *"tangible personal property"* shall include machinery, appliances and equipment which have been declared immovable by declaration under provisions of Article 467 of the Louisiana Civil Code, and things which have been separated from land, buildings, or other constructions permanently attached to the ground or their component parts as defined in Article 466 of the Civil Code.

(h) The term *"sales of services"* shall not include an action performed pursuant to a contract with the United States Department of the Navy for construction or overhaul of U.S. Naval vessels.

(i) Notwithstanding any provisions of law to the contrary, for purposes of sales or use taxation by the state or any local political subdivision, the term *"sales of services"* shall not mean or include any funeral directing services as defined in Section 1.14 (S). Subject to approval by the House Committee on

Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, the state Department of Revenue shall devise a formula for the calculation of the tax.

**Section 1.19.** *"Storage"* means and includes any keeping or retention in the City of tangible personal property for use or consumption in the City or for any other purpose other than for sale at retail in the regular course of business.

**Section 1.20. (A)** *"Tangible Personal Property"* means and includes personal property which may be seen, weighed, measured, felt or touched or is in any other manner perceptible to the senses.

(B) The term *"tangible personal property"* shall not include:

- (i) stocks, bonds, notes, or other obligations or securities,
- (ii) gold, silver, or numismatic coins, or platinum, gold, or silver bullion having a total value of one thousand dollars or more;
- (iii) proprietary geophysical survey information or geophysical data analysis furnished under a restricted use agreement even though transferred in the form of tangible personal property.

(C) The term *"tangible personal property"* shall also not include the repair of a vehicle by a licensed motor vehicle dealer which is performed subsequent to the lapse of the applicable warranty on that vehicle and at no charge to the owner of the vehicle. For the purpose of assessing a sales and use tax on this transaction, no valuation shall be assigned to the services performed or the parts used in the repair. (Act 885, effective 7-8-92)

(D) The term *"tangible personal property"* shall not include work products which are written on paper, stored on magnetic or optical media, or transmitted by electronic device, when such work products are created in the normal course of business by any person licensed or regulated by the provisions of Title 37 of the Louisiana Revised Statutes of 1950, unless such work products are duplicated without modification for sale to multiple purchasers. This exclusion shall not apply to work products which consist of the creation, modification, updating, or licensing of computer software. (Act 46; effective 7-1-

98)

- (E) The term ***"tangible personal property"*** shall not include pharmaceuticals administered to livestock used for agricultural purposes. All such pharmaceuticals shall be registered with the Louisiana Department of Agriculture and Forestry. ( Act 33 2000; effective 7-1-2000 )

**Section 1.21. "Off-Road Vehicle"** is any vehicle manufactured for off-road use which is issued a manufacturer's statement of origin that cannot be issued a registration certificate and license to operate on the public roads of this state because the vehicle does not meet the safety requirements prescribed by LSA-R.S. 32:1301 through LSA-R.S. 32:1310. This includes vehicles that are issued a title only by the Vehicle Registration Bureau, Department of Public Safety, such as recreational and sports vehicles, but it does not include farm equipment or heavy construction equipment.

**Section 1.22. Blank**

**Section 1.23. "Use"** (A) For the purposes of the imposition of the sales and use tax levied by a political subdivision or school board, ***"use"*** shall mean and include the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the sale at retail of that property in the regular course of business or the donation to a school in the state which meets the definition provided in R.S. 17:236 or to a public or recognized independent institution of higher education in the state of property previously purchased for resale in the regular course of business. The term ***"use"*** shall not include the purchase, the importation, the consumption, the distribution, or the storage of motor vehicles to be leased in an arm's length transaction, nor shall the term ***"use"*** include the donation of food items to a food bank as defined in R.S.9:2799(B). (Act 22 1998, effective 7-1-98)

(B) The term ***"use"*** for the purposes of sales and use taxes imposed by political subdivisions on the use for rental automobiles which take place on or after July 1, 1996, shall include the purchase, the importation, the consumption, the distribution, or the storage of tangible personal property to be leased or rented in an arm's length transaction as tangible personal property. (Act 7, effective 7-1-96)

(C) Notwithstanding any other law to the contrary, for purposes of the imposition of the sales and use tax of any political subdivision, the use of a vehicle

subject to the Vehicle Registration License Tax law (LSA-R.S. 47:451 et seq.) shall be deemed to be a **"use"**

(i) in the political subdivision of the principal residence of the purchaser if the vehicle is purchased for private use, or

(ii) in the political subdivision of the principal location of the business if the vehicle is purchased for commercial use, unless the vehicle purchased for commercial use is assigned, garaged, and used outside of such political subdivision, in which case the use shall be deemed a use in the political subdivision where vehicle is assigned, garaged, and used.

(D) For purposes of state and political subdivision sales and use tax, **"use"** shall not include the exercise of any right or power by a free hospital over items, including, but not limited to, supplies and equipment, which are reasonably necessary for the operation of the free hospital. (Act 6 1994; Effective 6-7-94)

(E) For purposes of state and political subdivisions sales and use tax, **"use"** shall not include the purchase of or the exercise of any right or power over:

(i) tangible personal property sold by approved parochial and private elementary secondary schools which comply with the court order from the Dodd Brumfield decision and section 501(c)(3) of the Internal Revenue Code, or students, administrators, teachers, or other employees of the school, if the money from such sales, less reasonable and necessary expenses associated with the sale, is used solely and exclusively to support the school or its program or curricula.

(ii) Educational materials or equipment used for classroom instruction by approved parochial and private elementary and secondary schools which comply with the court order from the Dodd Brumfield decision and section 501 (c)(3) of the Internal Revenue Code, limited to books, workbooks, computers, computer software, films, videos, and audio tapes. (*Act 15 1996; effective 7-1-96; void 7-1-98; Extend thru 7-1-2000, Act 47 1998; Suspended 7-1-2000 thru 6-30-2001 and reinstated 7-1-2001 thru 6-30-2003, Act 33, 2000*)

(F) The term **"use"** shall not include the purchase of or exercise of any right or power over tangible personal property used by Boys State of Louisiana,

Inc. and Girls State of Louisiana, Inc. for their educational and public service programs for youth. (Act 20 1996; effective 7-1-96)

(G) (i.) Notwithstanding any other provision of law to the contrary, and except as provided in item (G) (iii) of this subparagraph, *"use"* means and includes the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the further processing of tangible personal property into articles of tangible personal property for sale.

(ii.) Except as provided in Item (G)(iii) for refinery gas, *"use"* shall not include the storage, consumption, or exercise of any right of ownership over tangible personal property which is created or derived as a residue or by-product of such processing. Such residue or by-product shall include but shall not be limited to catalyst cracker coke derived from crude oil, wood chips, bark, and liquor derived from the processing of sawlogs or pulpwood timber, or bagasse derived from sugarcane. If petroleum by-products other than feedstock is sold to another person, whether at retail, wholesale, or for further processing, such sale shall be taxable and the value shall be as provided for in 1.17(E).

(iv)Notwithstanding any other provision of law to the contrary, and notwithstanding the provisions of this Paragraph, *"use"* shall include the exercise of any right of ownership over the consumption, the distribution, and the storage for use or consumption in this state of refinery gas, except the sale to another person, whether at retail or wholesale, only if the refinery gas is ultimately consumed as an energy source by the person who owns the facility in which it is created and is not sold. Notwithstanding any other law to the contrary, the use of refinery gas shall be taxed at the cost price value provided in 1.03 (G). If refinery gas, except for feedstock, is sold to another person, whether at retail, wholesale, or for further processing, such sale shall be taxable and the value shall be as provided for in 1.17(D). The provisions of this subparagraph, (G)(iii), shall not apply to feedstock. (Act 29, effective 7-2-96)

H. Notwithstanding any provision of law to the contrary, for purposes of sales or use taxation by the state or any local political subdivision, the term "use" shall not mean or include any funeral directing services as defined in Section 1.14 (S). (Act 47 effective 7-1-2000)

**Section 1.24. "Use tax"** includes the use, the consumption, the distribution and the storage as herein defined. No use tax shall be due to or collected by the City on tangible personal property used, consumed, distributed, or stored for use or consumption in the City if the sale of such property would have been exempted or excluded from sales tax at the time such property became subject to the taxing jurisdiction of the City. The provisions of this section shall be remedial and shall be retroactively applied.

**Section 1.25. "Drugs"** includes all pharmaceutical and medical devices which are prescribed for use in the treatment of any medical disease.

**Section 1.26. "Free Hospital"** means a hospital that does not charge any patients for health care provided by the hospital. (Act 6 1994; Effective 7-1-94)

## **IMPOSITION OF TAX LSA-R.S. 47:302**

**Section 2.01. (A)** That there is hereby levied, from and after April 1, 2001, for the purposes set out in the proposition approved in the election of January 20, 2001, above referred to, a tax upon the sale at retail, the use, the consumption, the distribution and the storage for use or consumption in the City of each item or article of tangible personal property, as defined herein, the levy of said tax to be as follows:

(1) At the rate of one-half of one ( $\frac{1}{2}$  %) percent of the sales price of each item or article of tangible personal property when sold at retail in the City, the tax to be computed on gross sales for the purpose of remitting the amount of tax due the City and to include each and every retail sale.

(2) At the rate of one-half of one ( $\frac{1}{2}$  %) percent of the cost price of each item or article of tangible personal property when the same is not sold, but is used, consumed, distributed or stored for use or consumption in the City, provided there shall be no duplication of the tax.

**(B)** There is hereby levied a tax upon the lease or rental within the City of each item or article of tangible personal property, as defined herein; the levy of said tax to be as follows:

(1) At the rate of one-half of one ( $\frac{1}{2}$  %) percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein, where the lease or rental of such property is an established business, or a part of an established business, or the same is incidental or germane to the said business.

(2) At the rate of one-half of one ( $\frac{1}{2}$  %) percent of the monthly lease or rental price paid by the lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the owner of the tangible personal property.

(C) There is hereby levied a tax upon all sales of services, as herein defined, in this City, at the rate of one-half of one ( $\frac{1}{2}$  %) percent of the amounts paid or charged for such services.

**Section 2.02.** The tax levied by this Ordinance shall be collected from the dealer, as defined herein, and shall be paid at the time and in the manner hereinafter provided.

**Section 2.03.** The tax so levied shall be, in addition to all other taxes, whether levied in the form of excise, license, privilege, or property taxes levied by any other Ordinance of the City.

**Section 2.04.** Notwithstanding any other provision of law to the contrary, no sales or use tax levied by a political subdivision as defined in the Louisiana Constitution, Article VI, Section 44 (2) shall be levied on any advertising service rendered by an advertising business, including but not limited to advertising agencies, design firms, and print and broadcast media, or any member, agent or employee thereof, to any client whether or not such services also involves a transfer to the client of tangible personal property. However, a transfer of mass-produced advertising items by an advertising business which manufactures the items itself to a client for the client's use, which transfer involves the furnishing of minimal services other than manufacturing services by the advertising business shall be a taxable sale or use of tangible personal property; provided that in no event shall tax be levied on charges for creative services.

**Section 2.05.** No exemption from the sales and use tax granted subsequent to the effective date of Act 205 (June 29, 1978) and granted pursuant to the provisions of Chapters 2 or 2-A of Title 47 of the Louisiana Revised Statutes of 1950, as amended, shall be applicable to any sales and use tax levied by any local

governmental subdivision or school board unless the state exemption specifically provides that it applies to such sales and use tax levies. In the absence of any such specific application of the state exemption to sales and use tax levies of any local governmental subdivision or school board, any state exemption granted after the effective date of this Act and granted pursuant to the provisions of Chapters 2 or 2-A of Title 47 of the Louisiana Revised Statutes of 1950, as amended, shall be applicable only to the levy and collection of the state sales and use tax.

**Section 2.06.** (A) Whenever a helicopter used in the exploration for or the extraction or production of oil, gas, and other minerals or for providing services to those engaged in such extraction, production or exploration is acquired through a transaction entitled lease, rental, lease-purchase or any similar name which for purposes other than sales taxation might be considered a conditional sale contract or a transaction in lieu of sale, such acquisition or use shall be deemed to be a sale for state and local sales tax purposes.

(B) The tax due on such transactions shall be payable in equal monthly installments over the term of the lease-rental or lease-purchase contract. (Act 204, effective 1-1-92)

### **COLLECTION OF TAX FROM DEALER (LSA-R.S. 47:303)**

**Section 3.01.** The collection of the tax herein levied shall be made in the name of the City by the Collector. The dealer shall collect the tax levied by this Ordinance together with any other applicable sales and use taxes in accordance with the integrated bracket schedules prescribed by the Secretary of the Department of Revenue, State of Louisiana, pursuant to Louisiana Revised Statutes, Title 47, Section 303. The dealer will remit that portion representing the tax levied by this Ordinance to the Collector. Copies of said integrated bracket schedules are available to dealers on request from the Collector.

A. **COLLECTION FROM THE DEALER.** The tax imposed under this Ordinance shall be collectible from all persons, as defined herein, engaged as dealers, as defined herein.

(1) On all tangible personal property imported, or caused to be imported, from other states or other political subdivisions of this state, or any foreign country, and used by them, the "dealer" as defined herein, shall pay the tax

imposed by this Ordinance on all articles of tangible personal property so imported and used, the same as if the said articles had been sold at retail for use or consumption in this City. For the purpose of this Ordinance the use, or consumption, or distribution, or storage to be used or consumed in this City of tangible personal property, shall each be equivalent to a sale at retail and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

(2) It is not the intention of this Ordinance to levy a tax upon articles of tangible personal property imported into the taxing jurisdiction, or produced or manufactured in the City for export, nor is it the intention of this Ordinance to levy a tax on bona fide interstate commerce. It is, however, the intention of this Ordinance to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage, to be used or consumed in the City of tangible personal property after it has come to rest in the taxing jurisdiction and has become a part of the mass of property in the City. The provisions of this Ordinance shall not apply in respect to the use or consumption or distribution, or storage of tangible personal property for use or consumption in the City, upon which a like tax equal to or greater than the total amount imposed by this Ordinance and any other sales tax ordinance has been paid in another city or parish in Louisiana, or in a city or county in a state other than Louisiana, subject to the credit provisions cited in Section 3.05 and LS-R.S. 47:303A. (3). (Act 191, effective 7-2-91)

(3) When taxes have been erroneously paid to another taxing jurisdiction, the provisions of Act 739 of 1990 [R.S. 33:2718.2(D) & (E)] shall be used to determine the applicability of the credit.

**B. COLLECTION OF TAX ON VEHICLES.** The tax herein levied on the sale or use of any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi-trailer, motor bus, house trailer, or any other vehicle subject to the Louisiana Vehicle Registration License Tax for the State of Louisiana, shall be collected as provided in this Section.

The tax levied by this Ordinance on the sale of any such vehicle shall be due at the time of first registration in this City or any transfer of registration is required by the Vehicle Registration License Tax law (LSA-R.S. 47:451, et. seq.) However, the vehicle commissioner shall waive penalties or interest on sales tax on timely filed applications for registration rejected due to office of motor vehicle error. (Act

796-1992, effective 7-7-92)

The Collector shall be the only proper party to defend or to institute any legal action involving the tax imposed by this Ordinance on the sale or use of any vehicle subject to the vehicle registration license tax.

- (1) The Collector is hereby authorized and directed to enter into an agreement by which the tax herein levied on any such vehicle shall be paid to the vehicle commissioner as the agent of the Collector at the time of application for a certificate of title. No certificate of title or vehicle registration license shall be issued until the tax has been paid.
- (2) Every vendor of such a vehicle covered by the provisions herein shall furnish to the purchaser at the time of sale a sworn statement showing the serial number, motor number, type, year and model of the vehicle sold; the total sales price, any allowance for and a description of any vehicle taken in trade, and the total cash difference paid, or to be paid by the purchaser between the vehicles purchased and traded in and the sales or use tax to be paid, along with such other information as the vehicle commissioner, may, by regulation, require. All labor, parts, accessories and other equipment which are attached to the vehicle at the time of sale, and which are included in the sales price, are to be considered a part of the vehicle.
- (3) It is not the intention of this Section to grant an exemption from the sales and use tax levied by this Ordinance to any sale, use, item or transaction which has heretofore been taxable, and this Section is not to be construed as so doing. It is the intent of this Subsection to transfer the collection of the sales and use tax on vehicles from the vendor to the vehicle commissioner as agent for the Collector and to provide a method of collection of the tax directly from the vendee or user by the vehicle commissioner as agent of the Collector. The Collector is further authorized to promulgate such rules and regulations as may be necessary in order to carry out the terms and conditions of any agreement entered into with the vehicle commissioner for the purposes herein, and shall disburse all funds received from the vehicle commissioner by virtue of collections made hereunder to the City.
- (4) The provisions contained in Section 1.14(B) which excludes isolated or occasional sales from the definition of a sale at retail is not to apply to the sale of vehicles which are the subject of this Subsection. Isolated or

occasional sales of vehicles are hereby defined to be sales at retail and as such are subject to the tax.

- (5) Notwithstanding the provisions of this Section, a certificate of title or vehicle registration license may be issued to a purchaser by the secretary of the Department of Public Safety if he is so authorized in writing by the secretary of the Department of Revenue. The secretary of the Department of Revenue shall grant such authorization upon written application by the purchaser to said secretary showing that:
- (c) all state and local taxes and fees due by the purchaser were paid in good faith at the time of purchase to a motor vehicle dealer.
  - (d) the motor vehicle dealer has not remitted the taxes and fees to the secretary of the Department of Public Safety.
  - (e) the motor vehicle dealer has refused or is unable to answer a written demand by the purchaser that the taxes and fees be paid to the secretary of the Department of Public Safety, and
  - (f) the certificate of title or vehicle registration license has not been issued within six months after the date of sale. A refusal by the secretary of the Department of Revenue to authorize the issuance of a certificate of title or a vehicle registration license may be appealed to the Board of Tax Appeals within sixty days from the date the application for a certificate of title is denied by the secretary of the Department of Revenue.
- (6) Those lessors or renters subject to the tax levied by R.S. 47:551 may directly transfer the cost of any local sales and use taxes paid on any automobile purchased for lease or rental by allocating such taxes to each automobile rental contract. Such allocation shall be determined by a schedule promulgated by the secretary of the Department of Revenue and shall be collected by such lessors or renters. The schedule shall be based on automobile purchases in the year prior to the particular allocation assessed. The secretary shall promulgate such other rules as he deems necessary to ensure that the allocation provided in this Paragraph is equitable and is not in excess of the actual local sales taxes paid by such lessors and renters. (Added by Acts 1993, No. 569, effective. July 1, 1993)

(7) When the agent of a motor vehicle lessor collects a payment from a lessee pursuant to the terms of a motor vehicle lease, the agent shall remit the state and local sales and use tax collected on such payment to the lessor. The lessor shall have the responsibility to remit the tax to the appropriate taxing authorities. The provisions of this Paragraph shall not apply to an automobile rental contract, as defined in R.S. 47:551(C) (Act 553; Effective 8-15-99)

C. **AUCTIONEERS.** All auctioneers shall register as dealers and shall display their registration to the public as a condition of doing business in the City. Such auctioneers or the company for which they represent shall be responsible for the collection of all local taxes on articles sold by them and shall report and remit to the Collector as provided in this Ordinance.

D. **COLLECTION OF TAX ON MOTORBOATS AND VESSELS.** The Secretary of the Louisiana Department of Wildlife and Fisheries shall not register or issue a Certificate of Registration on any new boat or vessel purchased in this City until satisfactory proof has been presented to him that all use taxes required by this Ordinance have been paid.

E. **COLLECTION OF TAX ON OFF-ROAD VEHICLES.** The vehicle commissioner shall not issue a title or a Certificate of Registration on any off-road vehicle purchased in this City brought into this City from another state or other political subdivision until satisfactory proof has been presented to him that all sales taxes required by law have been paid. The purchaser of an off-road vehicle from a seller who is not registered with the Department of Public Safety and Corrections shall pay sales tax at the time the vehicle is titled the same as is required for the registration and licensing of other vehicles under the provisions of L.R.S. 47:303 (B). (Act 668, 1993; effective 8-15-93)

F. **COLLECTION OF TAX ON MEMBERSHIPS IN HEALTH AND PHYSICAL FITNESS CLUBS.** The sales tax due under the provisions of this Ordinance on contracts for membership in a health and physical fitness club shall be assessed and shall be due and payable on a monthly basis computed on the amount paid each month less any actual or imputed interest or collection fees or unpaid reserve amounts not received by the health and fitness club.

**Section 3.02. Blank**

**Section 3.03. PROHIBITION ON LEVY OR COLLECTION OF SALES TAX ON GOODS, PROPERTY OR SERVICES DELIVERED OR PERFORMED OUTSIDE CITY BOUNDARIES; DIRECT PAY NUMBER**

No tax shall be due under this Ordinance on the sales of any goods or tangible personal property delivered or services performed outside of the territorial limits of the City. (LSA-R.S. 33.2716)

(A) No parish or municipality shall levy or collect any sales tax on the sale of any goods or tangible personal property delivered or services performed outside the territorial limits of the taxing parish or municipality.

(B)(1) Notwithstanding any other provision of law to the contrary, any contractor who is a general construction contractor licensed under R.S. 37:2150, et seq., who has a construction project in a City may obtain a direct pay number to be issued by the collector of sales, use and lease taxes for such parish on behalf of all governmental agencies within that parish which levy a sales, use or lease tax (the "tax collector"). Such direct pay number shall be conclusive evidence that all sales or use taxes which would be owed on any tangible personal property purchased or otherwise acquired for use by such contractor in the project for which such direct pay number was issued, are due to the collector who issued such direct pay number.

(2) A contractor, upon receipt of the direct pay number certificate, shall submit such certificate to any dealer from whom the contractor has purchased or otherwise acquired property to be used on such construction project but only if such dealer is located outside the parish which issued such direct pay number and such dealer shall not be liable for collecting, reporting, or remitting any sales or use tax that might otherwise be owed on such transaction.

(3) If, after purchasing or otherwise acquiring such property, the contractor repairs, modifies, further fabricates, or stores such property outside of the parish which issued the direct pay number, no sales or use tax shall be owed on such activities.

(4) Any tax owed on the tangible personal property which was purchased or otherwise acquired using the direct pay number certificate shall be due to the parish which issued such direct pay number certificate when said property is imported into such parish by the contractor.

(5) If property upon which a tax has been paid in accordance with the

provisions of this Subsection is subsequently used in a parish which did not issue a direct pay number, then the contractor shall be entitled to a credit for the monies paid to the parish which issued the direct pay number against any taxes assessed on such property by the parish in which the property was subsequently used.

(6) A construction subcontractor may apply for its own direct pay number. Only one direct pay number shall be issued per project. If a direct pay number has been issued to one contractor, all other such contractors shall be entitled to the benefit and use of the direct pay certificate issued to the general construction contractor for that project and there shall be no requirement that the construction subcontractor apply for or receive a separate direct pay number from the parish tax collector.

(7) A contractor shall apply for a direct pay number by submitting a written request to the collector of taxes for the parish within which the construction project occurs, together with any other documentation which the tax collector, by written regulation, may require. The tax collector shall, within thirty days from the receipt of a written request, issue its written decision as to whether the contractor will be issued a direct pay number provided that such thirty day period may be extended by agreement.

(8) A direct pay number shall be issued only for those construction projects where the total bid submitted by the general construction contractor exceeds fifty thousand dollars.

(9) This Subsection shall only apply to the purchase or acquisition of that property which is specified under the contract for which the building permit has been issued and which becomes the property of the owner of the project at the completion of the contract.

(10) For purposes of this Subparagraph, the following terms shall have the following definitions:

(a) **"Construction"** or **"Construction project"** means, but is not limited to, the construction, alteration, repair, improvement, movement, and demolition of; the putting up or tearing down of; or the installation of material and equipment on; or electrical, mechanical, or plumbing work performed on, any building, highway, street, road, bridge, railroad, sewer, grading, excavation, pipeline, public utility structure, project development, improvement, or any other construction

undertaking. Such terms also mean the location at which such construction occurs.

- (b) **"General construction contractor"** means any person or entity who contracts directly with an owner to undertake the construction and/or in any manner to assume charge of the construction of a construction project.
- (c) **"Construction subcontractor"** means any person or entity who contracts directly with the general construction contractor for the performance of a part of the principal contract with the owner or who contracts with another construction subcontractor for the performance of a part of the principal contract.
- (d) **"Political subdivision"** means any authority levying a sales/use tax, or a tax upon lease or rentals in Louisiana, other than the state.

(11) Any contractor who abuses the privileges conveyed through the issuance of a direct pay number shall be reviewed by the State Licensing Board for Contractors and subject to penalties authorized under R.S. 37:2150 et. seq., including without limitation the penalties authorized under R.S. 37:2160.

(12) The provisions of this Subsection shall be effective from July 1, 1998 until July 1, 2000.

(C) This provision shall apply to every parish and municipality in the state of Louisiana, whether levying and collecting such tax under authority of general or special laws of the state or under powers granted in their charters or under any other authority or grant of the power to levy and collect sales or other taxes. No provision in this Section shall be construed as infringing upon or limiting in any manner the right of parishes and municipalities to levy and collect in conformity with this Section any use tax heretofore or hereafter authorized. (Act 23 1998; effective 7-1-98)

**Section 3.04. PROHIBITION ON LEVY OR COLLECTION OF TAX ON PROPERTY STORED FOR USE OUTSIDE THE CITY.** The City shall be prohibited from levying or collecting any use tax on the storage of property which has been documented for use outside the City although the property may be stored within the City if the owners of such property which is to be stored for exclusive

use outside the City have acquired a Tax Exemption Certificate from the Collector. When a vendor is presented with a copy of a Tax Exemption Certificate from a vendee, the vendor shall be relieved from liability for the collection of use tax on such property. If the property is removed from storage and is used within the City, the property shall be subject to taxation. (LSA-R.S. 33:2716.2).

**Section 3.05. CREDIT FOR MONIES PAID.** A. A credit against the sales and use tax imposed by any political subdivision of the state shall be granted to a taxpayer who paid monies, whether or not paid in error, absent bad faith, based upon a similar tax, levy, or assessment upon the same tangible personal property in a political subdivision of another state, or a political subdivision of this state. The credit granted herein shall only be applicable when a similar taxing authority is seeking to impose and collect a similar tax, levy, or assessment from a taxpayer upon the same tangible personal property for which the taxpayer has paid a similar tax, levy, or assessment to a similar taxing authority. (Act 621, effective 9-6-91)

B. The credit provided herein for monies paid to a political subdivision of another state shall be granted only in the case where the political subdivision of another state to which monies have been paid grants a similar credit. The credits granted by this provision shall not exceed the amount of money paid to political subdivisions of this state.

C. The proof of payment to a political subdivision of another state, or a political subdivision of this state shall be made in accordance with the rules adopted by the secretary of the Department of Revenue under LSA-R.S. 47:303(A).

(1) Except as provided in paragraph (2) of this subsection, in no event shall the credit be greater than the tax imposed by the political subdivision upon the particular tangible personal property that is the subject of the sales and use tax.

(2) The credit granted for taxes in any political subdivision in a parish in which no local sales and use tax is levied and imposed shall be the amount of taxes that would have been collected by the political subdivision at the tax rate imputed to that political subdivision. The imputed tax rate shall be the lowest tax levied and imposed by a similar taxing authority in this state as determined by the Department of Revenue. (Act 31 1996, effective 7-1-96) (Amends RS 33:2718.2)

D. For purposes of this Section, "*taxpayer*" shall mean the final consumer who has paid the applicable local tax directly to the taxing authority of a political subdivision, vendor, or seller who has collected the tax from the final consumer and remitted the tax to the taxing authority of a political subdivision. In no instance shall a vendor or seller be denied a credit for taxes paid in error to a political subdivision. (Act 31 1996; effective 7-1-96)

E. Notwithstanding any other law to the contrary, no person shall be taxed with respect to a particular event more than once, provided that the person collecting and remitting taxes can produce to the Collector documentary evidence to show a good faith effort to recover taxes paid to the incorrect taxing jurisdiction. Such documentary evidence shall consist of the following:

- (i) A formal request for refund by certified mail which includes all evidence supporting such claim to the taxing jurisdiction paid in error.
- (ii) A second request for refund by certified mail if no response was received within sixty days of the first refund request.
- (iii) Either the response approving or denying the first or second refund request, whichever may be applicable, or an affidavit from the person stating that no response was received within sixty days of the second refund request.

The taxing jurisdiction shall not impose penalties or interest on taxes erroneously paid to another jurisdiction unless the erroneous payment was the result of intentional conduct of gross negligence on the part of the persons collecting and remitting taxes. In instances where a legitimate disagreement exists as to which taxing authority is owed, the involved taxing authorities shall resolve the dispute among themselves through any legal means. (LSA-R.S. 33:2718.2)

F. For the purposes of this section, a similar taxing authority is a political subdivision having and performing the same governmental functions as the political subdivision seeking to impose the sales or use tax. (Act 621, effective 9-6-91)

## **TREATMENT OF TAX BY DEALER**

**(LSA-R.S. 47:304)**

**Section 4.01.** A. The tax levied in this Ordinance shall be collected by the dealer from the purchaser or consumer, except as provided for the collection of the tax on motor vehicles in Section 3.01.B and the collection of tax on property leased or rented for use offshore in Section 1.04 (d)(ii) of this Ordinance. The dealer shall collect the sales tax on off-road vehicles and remit them directly to the Department of Public Safety and Correction upon application for certificate of title and registration as required for registration and licensing of other vehicles under the provisions of LRS 47:303.B. The dealer shall collect the sales tax on off-road vehicles from out-of-state residents who purchase off-road vehicles in this state and remit the sales taxes due directly to the Department of Revenue and the local collection agency. (Act 688; Effective 8-15-93)

B. The dealer shall have the same right in respect to collecting the tax from the purchaser, or in respect to nonpayment of the tax by the purchaser, as if the tax were a part of the purchase price of the property, or charges for services, and payable at the time of sale; provided however, that the City shall be joined as a party in any action or proceeding brought by the dealer to collect the tax.

**Section 4.02.** Every dealer located outside the City making sales of tangible personal property for distribution, storage, use, or other consumption in the City or performs any of the services subject to the tax in the City, shall at the time of making such sales or performing taxable services collect the tax imposed by this Ordinance from the purchaser.

**Section 4.03.** Dealers shall, as far as practicable, add the exact amount of the tax imposed under this Ordinance, in conformity with the schedules to be issued by the Collector, to the sale price or charge, and when added, such tax shall constitute a part of such price or charge, and shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts.

**Section 4.04.** Where the tax collected for any period is in excess of the tax rate provided by this Ordinance, the total tax collected must be paid over to the Collector, less the compensation to be allowed the dealer as hereinafter set forth. This provision shall be construed with other provisions of this Ordinance and given effect so as to result in the payment to the Collector of the total tax collected if in excess of the tax rate provided.

**Section 4.05.** Any dealer who fails, neglects, or refuses to collect the tax herein provided, either by himself or through his agents or employees, shall in addition to the penalty of being liable for and paying the tax himself, be fined not more than one hundred dollars (\$100.00) or imprisoned not more than three (3) months, or both, at the discretion of the court.

**Section 4.06.** No dealer shall advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or part of the tax or that he will relieve the purchaser from the payment of all or any part of the tax. Whoever violates this provision with respect to advertising shall be fined not less than twenty-five dollars (\$25.00) or more than two hundred fifty dollars (\$250.00), or imprisoned for not more than three (3) months, or both. For a second or subsequent offense, the penalty shall double.

**Section 4.07.** The dealer or seller is permitted and required to state and collect the tax separately from the price paid by the purchaser.

**Section 4.08.** A. Where the purchaser has failed to pay and a dealer has failed to collect a tax upon a sale as imposed by this Ordinance, then, in addition to all other rights, obligations and remedies provided, such tax shall be payable by the purchaser directly to the Collector, and it shall be the duty of this purchaser to file a return thereof with the Collector and to pay the tax imposed thereon to the Collector within fifteen (15) days after such sale was made or rendered.

B. Any person who as a purchaser is obligated to report and pay the tax imposed upon any purchase made by him under the foregoing circumstances, and who fails, neglects, and refuses to file a return thereof with the Collector, and pay the tax imposed thereon, within the time stated after such sale is made, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than One Hundred Dollars (\$100.00), or imprisoned for not more than sixty (60) days, or both, at the discretion of the Court.

**Section 4.09.** The use of tokens is forbidden. The Collector shall by regulations prescribe the method and the schedule of the amounts to be collected from the purchasers, lessees, or consumers in respect to any receipt upon which a tax imposed by this Ordinance is realized. The amount of tax collected by the dealer and paid by the purchaser shall in each transaction comply with the schedule so provided. (LSA-R.S. 47:304)

**Section 4.10. CERTIFICATE OF AUTHORITY.** In order to aid in the administration and enforcement of the provisions of this Ordinance, and to collect all of the taxes imposed by this Ordinance, on or before April 1, 2001 or in the case of dealers commencing business after April 1, 2001 or opening new places of business after such date, within three (3) days after such commencement or opening, every dealer purchasing or importing tangible personal property for resale shall file with the Collector a certificate of registration in a form prescribed by him. The Collector shall, within five (5) days after such registration, issue, without charge to each dealer who purchases or imports for resale, a certificate of authority empowering such dealer to collect the tax from the purchaser, and the duplicates thereof, for each additional place of business of such dealer. Each certificate or duplicate shall state the place of business of which it is applicable. Such certificate of authority shall be prominently displayed in all places of business of the dealer. A dealer who has no regular place of doing business shall attach such certificate to his cart, stand, truck, or other merchandising device. Such certificate shall be non-assignable and non-transferable and shall be surrendered immediately to the Collector upon the dealer's ceasing to do business at the place therein named.

**Section 4.11.** A manufacturer, wholesaler, dealer, jobber, or supplier shall refuse to accept a certificate that any property upon which a tax is imposed by this Ordinance is purchased for resale, and shall collect the tax imposed by this Ordinance, unless the purchaser shall have filed a certificate of Registration and received a certificate of authority to collect the tax imposed by this ordinance; provided, however that the payment of the tax by such purchaser shall not relieve the purchaser of the duty herein imposed upon such purchaser to collect the tax upon any resale made by him; but such purchaser who shall thereafter file a certificate of registration and receive a certificate of authority to collect the tax may, upon application therefore, receive a refund of the taxes paid by him upon property thereafter resold by him, and upon the receipts from which he shall have collected and paid over to the School Board the tax herein imposed.

**Section 4.12.** The sums of money collected by the dealer for payment of sales and use taxes imposed by the State of Louisiana, or any such taxes imposed by any parish, municipality, or political subdivision within the state shall be and remain the property of the taxing authority and deemed held in trust for the taxing authority. (Act 894, 1993; effective 6-23-93)

**EXEMPTIONS AND EXCLUSIONS FROM TAX  
(LSA-R.S. 47:305)**

**Section 5.01.** The taxes imposed by this Ordinance shall not apply to transactions involving the following:

- A. (1) The gross proceeds derived from the sales in this City of livestock, poultry, and other farm products direct from the farm are exempted from the tax levied by this Ordinance, provided that such sales are made directly by the producers. When sales of livestock, poultry, and other farm products direct from the farm are exempted from the tax levied by this Ordinance, provided that such sales are made directly by the producers. When sales of livestock, poultry, and other farm products are made to consumers by any person other than the producer, they are not exempted from the tax imposed by this Ordinance.
- (2) The gross proceeds derived from the sale in this City of livestock at public sales sponsored by breeders or registry associations or livestock auction markets are exempted from the tax levied by this Ordinance. When public sales of livestock are made to consumers by any person other than through a public sale sponsored by a breeders' or registry association, or a livestock auction market, they are not exempted from the tax imposed by this Ordinance. This section shall be construed as exempting race horses entered in races and claimed at any racing meet held in Louisiana, whether the horse claimed was owned by the original breeder or not.
- (3) Every agricultural commodity sold by any person, other than a producer, to any other person who purchases not for direct consumption, but for the purpose of acquiring raw product for use or for sale in the process of preparing, finishing, or manufacturing such agricultural commodity for the ultimate retail consumer trade, shall be exempted from any and all provisions of this Ordinance, including payment of the tax applicable to the sale, storage, use, transfer or any other utilization of or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer, and in no case shall more than one tax be exacted. For the purpose of this Section, "Agricultural Commodity" means horticultural, viticultural, poultry, farm and range products, and livestock, and livestock products.

(4) (a) The purchase of feed and feed additives for the purpose of sustaining animals which are held primarily for commercial business, or agricultural use shall be exempted from the taxes levied by this Ordinance.

(b) For purposes of this subsection:

(i) "Commercial Use" means the purchasing, producing, or maintaining of animals, including breeding stock, for resale;

(ii) "Business Use" means the keeping and maintaining of animals which are used in performing services in conjunction with a business enterprise, such as sentry dogs and rental horses;

(iii) "Agricultural Use" means the maintaining of work animals and beasts of burden which are utilized in the activity of producing crops or animals for market, in the production of food for human consumption, in the production of animal hides or other animal products for market, or the maintaining of breeding stock for the propagation of such agricultural use of animals.

(c) This exemption shall not apply to the purchase of feed or feed additives for animals kept primarily for personal, sporting, or other purposes, including but not limited to purchases for pets of any kind or hunting dogs.

B. The *"use tax"* as defined herein, shall not apply to livestock and livestock products, poultry and poultry products, to farm, range and agricultural products when produced by the farmer and used by him and members of his family.

C. (1) Where a part of the purchase price is represented by an article traded in, the sales tax is payable on the total purchase price less the market value of the article traded in. (Repealed Act 4 1998) Note: See definition 1.17(A) Sales Price

(2) Where a part of the cost price of a motor vehicle is represented by a motor vehicle returned to the dealer's inventory, the use tax is payable on the total cost price less the wholesale value of the article returned.

- D. (1) The sale at retail, the use, the consumption, the distribution, and the storage, to be used or consumed in the City, or the following tangible personal property is hereby specifically exempted from the tax imposed by this Ordinance:
- (a) gasoline;
  - (b) steam;
  - (c) water (not including mineral water or carbonated water or any water put in bottles, jugs, or containers, all of which are not exempted);
  - (d) electric power or energy, and any materials or energy sources used to fuel the generation of electric power for resale or used by an industrial manufacturing plant for self-consumption or co-generation;
  - (e) newspapers;
  - (f) fertilizer and containers used for farm products when sold directly to the farmer;
  - (g) natural gas;
  - (h) All energy sources when used for boiler fuel except refinery gas.
  - (i) new trucks, new automobiles, and new aircraft withdrawn from stock by factory authorized new truck, new automobile, and new aircraft dealers, used trucks, and used automobiles withdrawn from stock by new or used motor vehicle dealers, with the approval of the Secretary of the Department of Revenue titled in the dealer's name for use as demonstrators.

**"Demonstrators"**, for the purposes of this paragraph, shall mean new and used trucks, new and used automobiles, and new aircraft titled in the dealer's name for use as demonstrators which are kept primarily on the dealer premises during normal business hours and which are available for demonstration purposes; provided however, that the occasional use of such demonstrator by authorized personnel of the dealer shall not disqualify such demonstrator from the exemption herein designated.

- (j) orthotic devices, prosthetic devices, prostheses and restorative materials utilized by or prescribed by dentists in connection with health care treatment or for personal consumption or use.  
(Act 1065, effective 8-1-91)

(2) Sales of meals furnished to: the staff and students of educational institutions including kindergartens; the staff and patients of hospitals; the staff, inmates, and patients of mental institutions; and boarders of rooming houses, and occasional meals furnished in connection with or by educational, religious, or medical organizations, are exempt from the taxes imposed by this Ordinance if the meals are consumed on the premises where purchased. However, sales by any of the above in facilities open to outsiders or to the general public are not exempt from the taxes imposed by this Ordinance.

(3) Food sales by restaurants, drive-ins, snack bars, candy and nut counters, private clubs, and sales made by an establishment not specifically exempt elsewhere who furnish facilities for the consumption of the food on the premises are not exempt from the taxes imposed by this Ordinance.

(4) The tax imposed herein shall not apply to the sale of prescription drugs under the pharmaceutical vendor program of Title XIX of the Social Security Act as administered by the Department of Health and Human Resources of the State of Louisiana.

E. It is not the intention of this Ordinance to levy a tax upon articles of tangible personal property imported into the City, or produced or manufactured in the City for export; nor is it the intention of this Ordinance to levy a tax on bona fide interstate commerce; however, nothing herein shall prevent the collection of the taxes due on sales of tangible personal property into this City which are

promoted through the use of catalogs and other means of sales promotion and for which federal legislation or federal jurisprudence enables the enforcement of this Ordinance upon the conduct of such business. It is, however, the intention of this Ordinance to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage, to be used or consumed in the City, of tangible personal property after it has come to rest in the City and has become a part of the mass of property in the City. At such time as federal legislation or federal jurisprudence as to sales in interstate commerce promoted through the use of catalogs and other means of sales promotions enables the enforcement of this Ordinance against vendors that have no other nexus with this City, the tax shall apply to such sales on which sales and use tax would not otherwise be collected. (Act 18, 1994)

F. The sales, use, and lease taxes imposed by this Ordinance shall not apply to the amounts paid by radio and television broadcasters for the right to exhibit or broadcast copyrighted material and the use of film, video, or audio tapes, records or any other means of supplies by licensor thereof in connection with such exhibition or broadcast and the sales and use tax shall not apply to licensor or distributors thereof.

G. The sales, use and lease taxes imposed by this Ordinance shall not apply to the purchase or rental by private individuals of machines, parts therefore, and materials and supplies which a physician has prescribed for home renal dialysis.

#### **Section 5.02. SHIPS AND SHIP'S SUPPLIES.**

A. There is also hereby specifically exempted from the tax imposed by this Ordinance the sales of materials, equipment and machinery which enter into and become component parts of ships, vessels, or barges, including commercial fishing vessels, drilling ships or drilling barges of fifty (50) tons load displacement and over, built in Louisiana nor the gross proceeds from the sale of such ships, vessels or barges, when sold by the builder thereof.

B. The taxes imposed by this Ordinance shall not apply to materials and supplies purchased by the owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof; nor to repair services performed upon ships or

vessels operating exclusively in foreign or interstate coastwise commerce; nor to the materials and supplies used in such repairs, where such materials and supplies enter into and become a component part of such ships or vessels; nor to laundry services performed for the owners or operators of such ships or vessels operating exclusively in foreign or interstate coastwise commerce, where the laundered articles are to be used in the course of the operation of such ships or vessels. (LSA-RS. 47:305.1)

**Section 5.03. SEEDS USED IN PLANTING OF CROPS.** The sale at retail of seeds for use in the planting of any kind of crop. (LSA-RS 47:305.3)

**Section 5.04. MATERIALS AND SUPPLIES USED IN THE CONSTRUCTION OF THE TOLEDO BEND DAM PROJECT.** The sales or use of any materials, supplies or products for use in connection with any phase of the construction of the Toledo Bend Dam Project on the Sabine River. (LSA-RS 47:305.5)

**Section 5.05. LITTLE THEATER TICKETS.** The sales tax imposed by this ordinance shall not apply to the sale of admission tickets by Little Theater organizations. (LSA-RS 47:305.6)

**Section 5.06. TICKETS TO MUSICAL PERFORMANCES OF NONPROFIT MUSICAL ORGANIZATIONS.** The sales tax imposed by this ordinance shall not apply to the sale of admission tickets by domestic nonprofit corporations or by any other domestic nonprofit organization known as a symphony organization or a society or organization engaged in the presentation of musical performances; provided that this exemption shall not apply to performances given by out-of-state or nonresident symphony companies, nor to any performance intended to yield a profit to the promoters thereof. (LSA-RS 47:305.7)

**Section 5.07. PESTICIDES USED FOR AGRICULTURAL PURPOSES.** The tax imposed by this ordinance shall not apply to the sale at retail of pesticides used for agricultural purposes, including particularly but not by the way of limitation, insecticides, herbicides, and fungicides. (LSA-RS 47:305.8)

**Section 5.08. MOTION PICTURE FILM RENTAL.** The sales and use tax imposed by this ordinance shall not apply to the amount paid by the operator of a motion picture theater to a distributing agency for use of films of photoplay. (LSA-RS 47:305.9)

**Section 5.09. PROPERTY PURCHASED FOR FIRST USE OUTSIDE OF STATE.**

A. There shall be no sales or use tax due upon the sale at retail or use of tangible personal property purchased within or imported into the City for a first use exclusively beyond the territorial limits of the state as specifically provided hereinafter in this section.

B. If the first use of tangible personal property purchased in the City for use beyond the territorial limits of the State occurs in a state other than Louisiana which imposes a sale or use tax, the exemption provided herein shall apply only if:

- (1) The purchaser is properly registered for sales and use tax purposes in a city or county in a state other than Louisiana, wherein such tangible personal property is used, and regularly reports and pays sales and use tax in such other city or county in a state other than Louisiana; and
- (2) The city or county in a state other than Louisiana in which the first use occurs grants on a reciprocal basis a similar exemption on purchases within that city or county for use in the City; and
- (3) (a.) The purchaser obtains from the Collector a certificate authorizing him to make the nontaxable purchases authorized under this Section; or  
  
(b.) The property is subject to registration as a motor boat subject to registration by the State of Louisiana and such property is not registered for use in this City. (LSA-RS 47:304.10)

**Section 5.10. CONTRACTS PRIOR TO AND WITHIN NINETY DAYS OF TAX LEVY.** No new or additional sales or use tax shall be applicable to sales of materials or services involved in lump sum or unit price construction contracts entered into and reduced to writing prior to the effective date of this Ordinance levying same or to sales or services involved in such contracts entered into and reduced to writing within ninety (90) days thereafter, if such contracts involve contractual obligations undertaken prior to such effective date and were computed and bid on the basis of sales taxes at the rates effective and existing prior to such effective date. (LSA-RS 47:305.11)

**Section 5.11. FIREFIGHTING EQUIPMENT PURCHASED BY BONA FIDE ORGANIZED PUBLIC VOLUNTEER FIRE DEPARTMENTS.** (LSA-RS. 47:305.12)(**Repealed Act 4 1998**; See definition "sale at retail" 1.14 (O))

**Section 5.12. ADMISSIONS TO ENTERTAINMENTS FURNISHED BY CERTAIN DOMESTIC NONPROFIT CORPORATIONS.** The sales of admissions to entertainment events furnished by recognized domestic nonprofit charitable, educational and religious organizations when the entire proceeds from such sales, except for necessary expenses in connection with entertainment events, are used for the purposes for which the organizations furnishing the events were organized. (LSA-RS 47:305.13)

**Section 5.13. NONPROFIT ORGANIZATIONS: NATURE OF EXEMPTIONS, LIMITATIONS, QUALIFICATIONS.** A. There is also hereby specifically exempted from the tax imposed by this Ordinance the sales of tangible personal property at, or admission charges for outside gate admissions to, or parking fees associated with events sponsored by domestic, civic educational, historical, charitable, fraternal or religious organization, which are nonprofit, when the entire proceeds, except for the necessary expenses connected therewith, are used for educational, charitable, religious or historical restoration purposes, including the furtherance of the civic, educational, historical, charitable, fraternal, or religious purpose of the organization. (Act 930, effective 7-1-91) (Act 533, effective 7-15-91.) The exemption provided herein shall not apply to any event intended to yield a profit to the promoter or to any individual contracted to provide services or equipment, or both, for the event.

This Section shall not be construed to exempt any organization or activity from the payment of sales or use taxes otherwise required by law to be made on purchases made by those organizations.

This Section shall not be construed to exempt regular commercial ventures of any type such as bookstores, restaurants, gift shops, commercial flea markets and similar activities that are sponsored by organizations qualifying hereunder which are in competition with retail merchants. However, the exemption provided in this Section shall apply to thrift stores located on military installations, the operations of which is deemed to be an "event" for the purposes of this exemption. (Act 22 1994; Effective 7-1-94)

*NOTE: Act 39 1994 provided for adding religious newspapers to RS 47:305.14(A)(1); however, this provision applies to state taxes only and therefore is not included in this update.*

B. This sponsorship of any event by any organization applying for an exemption hereunder must be genuine. Sponsors will not be genuine in any case in which exemption from taxation is a major consideration leading to such sponsorship.

C. An exemption certificate must be obtained from the Collector under such regulations as he shall prescribe in order for nonprofit organizations to qualify for the exemption provided in this Section. However, in no case shall any organization which endorses any candidate for political office or otherwise is involved in political activities be eligible for the exemption herein provided. (LSA-RS 47:305.14)

**Section 5.14. SALES OR PURCHASES BY BLIND PERSONS.** A. Sales or purchases made by blind persons in the conduct of a business which is exempt from license taxes by LSA-RS. 46:371 through 46:373. (LSA-RS 47:305.15)

B. In addition, the sales and use taxes imposed by the state or by any political subdivision thereof shall not apply to any nonprofit organization which utilizes public funds for not less than seventy-five percent of its operational funding and which primarily operates to provide funding for and training to blind persons. (Amended by Acts 1994, No. 26, effective 8-15-94.)

**Section 5.15. CABLE TELEVISION INSTALLATION AND REPAIR.** Necessary fees incurred in connection with the installation and service of cable television. Such exemption shall not apply to the purchases made by any cable television system, but shall only apply to funds collected from the subscriber for regular service, installation, and repairs. (LSA-RS 47:305.15)

**Section 5.16. COIN-OPERATED WASHING AND DRYING MACHINES IN COMMERCIAL LAUNDROMAT.** The income on receipts from any coin-operated washing or drying machine in a commercial laundromat. A "commercial laundromat" for purposes of this paragraph is defined to be any establishment engaged solely in the business of furnishing, washing or drying laundry services by means of coin operated machines. (LSA-RS. 47:305.17)

**Section 5.17. LEASED VESSELS USED IN THE PRODUCTION OF MINERALS.** The taxes imposed herein shall not apply to those vessels which are leased for use offshore beyond the territorial limits of this state for the production of oil, gas, sulfur, and other mineral or for the providing of services to those engaged in such production. (LSA-RS. 47:305.19)

**Section 5.18. EQUIPMENT PARTS, AND AIRPLANES PURCHASED BY COMMUTER AIRLINES.** (LSA-RS 47:305.21)(**Repealed Act 4 1998**; See definitions "Lease or rental" 1.10 (D), "sale at retail" 1.14 (K))

**Section 5.19. CERTAIN SELF-PROPELLED VEHICLES REMOVED FROM INVENTORY.** A Louisiana retail dealer, who ordinarily purchases for resale equipment of a type not subject to titling under Louisiana Revised Statutes, Title 32, such equipment having a dealer's cost of not less than \$3000.00 per unit, and such equipment being:

- (1) Mobile, motorized, self propelled farm equipment and attachments
- (2) mobile motorized, self propelled earth moving equipment and attachments thereto; and/or
- (3) mobile, motorized, self propelled construction equipment and attachments thereto; and

who withdraws an item of such equipment from inventory, for a rental, as a method for promoting sales, shall be exempt from the payment of a sales and use tax on the purchase price of the property when withdrawn from inventory for such rental. Such retail dealer shall be liable for the tax levied on the rental income, and a sales tax on any ultimate sales of said item. (LSA RS 47:305.22)

**Section 5.20. MONETIZED BULLION.** (LSA-RS 47:305.24) (**Repealed Act 4 1998**; See definition 1.20)

**Section 5.21. CAPITAL MASS TRANSIT EQUIPMENT.** (LSA-RS.47:305.27) (**Repealed Act 4 1998**)

**Section 5.22. GASOHOL.** The sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in the City of any motor fuel

known as gasohol, containing a blend of at least 10% alcohol, if the alcohol therein has been distilled in Louisiana from agricultural commodities. Alcohol to be used in gasohol must have been rendered unsuitable for human consumption at the time of its manufacture or immediately thereafter. Gasohol, in order to qualify for the exemption must have been dyed a color which will be different and distinct from other gasolines, as provided by rules and regulations promulgated by the Secretary of the Department of Revenue and Taxation. (LSA-RS 47:305.28)

**Section 5.23. SHELTERED WORKSHOP FOR MENTALLY RETARDED.**

The sale at retail, the use, the consumption, the distribution and the storage for use and consumption in the City of each item or article of tangible personal property by a sheltered workshop for the mentally retarded, licensed by the Department of Health and Human Resources, as a day development training center for the mentally retarded shall not be subject to the taxes imposed by this Ordinance. (LSA-RS 47:305.41)

**Section 5.24. DUCKS UNLIMITED; BASS LIFE.** The sales and use taxes imposed by this Ordinance shall not apply to either the sales of Ducks Unlimited or Bass Life or any of its chapters or any rental or purchase of property or services by Ducks Unlimited or Bass Life or any of its chapters. (LSA-RS 47:305.41)(Act 28 1998; effective 7-1-98)

**Section 5.25. RAW MATERIALS USED IN PRINTING PROCESS.** The sales and use taxes imposed by this Ordinance shall not apply to purchases and sales of the following, including all chemical supplies necessary to produce such items whether manufactured by a printer or purchased from a subcontractor; artwork, blankets and bars, chemicals, color separations, dyes, film (including negatives), offset plates, press proofs, and photo-mechanical proofs, layouts, typesetting, rubber plates, paper and ink. (LSA-RS 47:305.44)

**Section 5.26. PER DIEM OR CAR HIRE ON FREIGHT CARS, PIGGY BACK CARS, AND ROLLING STOCK.** The sales, use, and lease tax imposed by this Ordinance shall not apply to:

- (i) Hourly, daily, or periodic mileage or other charges referred to as "per diem or car hire" on freight cars and other rolling stock when such charges are paid by reason of the presence of freight cars and other rolling stock owned by another on the tracks of the taxpayer.

- (ii) Piggyback trailers or containers when brought into or operated as piggyback trailers or containers in this City; and
- (iii) Rolling stock, such as engines, switch engines, freight cars, and machinery owned, operated, or leased by a railroad or any other person, firm, or corporation.

**Section 5.27. PURCHASES WITH UNITED STATES DEPARTMENT OF AGRICULTURE FOOD STAMP COUPONS AND PURCHASES MADE UNDER THE WOMEN, INFANTS, AND CHILDREN'S PROGRAM.** The sales and use taxes imposed by this Ordinance shall not apply to the purchase of the following items when purchase with United States Department of Agricultural Food Stamp Coupon:

- (a) Plants, when purchased for production of food, where the food is to be consumed by the purchaser
- (b) Seeds, when purchased for production of food, where the food is to be consumed by the purchaser;
- (c) Ice purchased for personal consumption by the purchaser, not including ice used as a refrigerant;
- (d) Water purchased for personal consumption by the purchaser.

Additionally, the sales and use taxes imposed by this Ordinance shall not apply to eligible food items authorized for purchase under the Women, Infants, and Children's (WIC) Program as administered by the Louisiana Department of Health and Human Resources, when such items are purchased with (WIC) program vouchers. (LSA-RS 47:305.46.)

**Section 5.28. PHARMACEUTICAL SAMPLES DISTRIBUTED WITHOUT CHARGE.** The sales and use tax imposed by this Ordinance shall not apply to pharmaceutical samples approved by the United States Food and Drug Administration which are manufactured in the state or imported into the state for distribution without charge to physicians, dentists, clinics, or hospitals. (LSA-RS 47:305.49)

**Section 5.29. CATALOG DISTRIBUTION: EXEMPTION.** Notwithstanding any provision of law to the contrary, no sales or use tax shall be imposed by the state or any political subdivision on the value of catalogs distributed, or intended for distribution in the state, without charge to the recipient. (LSA-R.S. 47:305.49)

**Section 5.30. EXEMPTION; CERTAIN TRUCKS AND TRAILERS USED IN INTERSTATE COMMERCE; RAIL ROLLING STOCK MANUFACTURED IN THIS STATE FOR USE IN INTERSTATE COMMERCE.** A. (1) The sales and use tax imposed by local political subdivisions shall not apply to trucks with a gross weight of twenty-six thousand pounds or more and to trailers if such truck and trailer is used at least eighty percent of the time in interstate commerce. For the purposes of this Section, the terms "trucks" and "trailers" shall have the meanings ascribed to the terms truck, trailer, road tractor, semi-trailer, tandem truck, tractor, and truck-tractor in R.S. 47:451.

(2). The Deputy Secretary of Public Safety Services of the Department of Public Safety and Corrections is hereby authorized to promulgate such forms and rules as may be necessary to implement the provisions of this Section.

B. The sales and use tax imposed by the state of Louisiana or any of its local political subdivisions or statewide taxing authorities shall not apply to rail rolling stock manufactured in this state for use in interstate commerce. (Added by Acts 1996, No.8, effective 7-1-96 thru 6-30-98, and Acts 1996, No. 36, effective 7-1-96 thru 6-30-98; Extended through 6-30-2000, Act 41; Extended through 6-30-2002, Act 27, 2000 HB 22; see RS 47:305.50)

**Section 5.31. CITY OF SULPHUR, LOUISIANA: EXEMPTION.** The City of Sulphur, Louisiana, is hereby exempted from the provisions of this Ordinance and from payment of the taxes imposed hereunder.

**Section 5.32. EXEMPTIONS - Specific Application Required**

A. After any sales tax revenue bonds of any local governmental subdivision, as defined in Article VI, Section 44 (1) of the Louisiana Constitution, or any school board have been authorized, no sales tax exemptions created after the authorization of those bonds, shall apply to the sales and use tax dedicated as security for said bonds. (LSA-R.S. 33:2716.1)

B. No exemption from the state sales and use tax granted subsequent to the effect date of this Act and granted pursuant to the provisions of Chapters 2 or 2-A of Title 47 of the Louisiana Revised Statutes of 1950 shall be applicable to any sales and use tax levied by any local governmental subdivision or school board unless the state exemption specifically provides that it applies to such sales and use tax levies. In the absence of any such governmental subdivision or school board, any state exemption granted after the effective date of this Act and granted pursuant to the provisions of Chapters 2 or 2-A of Title 47 of the Louisiana Revised Statutes of 1950 shall be applicable only to the levy and collection of the state sales and use tax.

**Section 5.33. MISCELLANEOUS EXEMPTIONS.** Miscellaneous exemptions exist in statutes other than Title 47 or 33. The following listing includes those exemptions that have been determined to be applicable to local tax levies.

- (a) Pari-mutual racetracks - See LSA-RS 4:168.
- (b) Nonprofit electric co-ops - See LSA-RS 12:425.
- (c) American Red Cross - U. S. Government instrumentality.
- (d) State and federal credit unions - See LSA-RS 6:662-667.1 and USC 12:1768.
- (e) Antique airplanes - See LSA-RS 47:6001.
- (f) Public housing Authorities - See LSA-RS 40:505.
- (g) Rental-purchase agreements - See LRS 9:3351-3362.
- (h) Purchases by the Louisiana Life and Health Insurance Association - See LRS 22:1395.15.
- (i) Vehicles provided by motor vehicle dealers bearing dealer license plates to employees of educational institutions - See LRS 47:473(B)

**Section 5.34. Exemptions; Utilities used by steelworks and blast furnaces.** The sales and use tax imposed by the State of Louisiana or any of its political subdivisions shall not apply to sales or purchases of utilities used by steelworks and blast furnaces, including coke ovens and rolling mills, which are classified as SIC 3312 by the Standard Industrial Classification Code. However, this exemption shall not apply to utilities used in and around the production of coke in oil refineries and the use of coke in oil refineries and other chemical processes. (Act 28, 1998; effective 7-1-98)

**RETURNS AND PAYMENT OF TAX INCLUDING  
INTEREST, PENALTIES, AND ATTORNEY FEES  
(LSA-RS 47:306)**

**Section 6.01. GENERAL PROVISIONS.** The taxes levied under this Ordinance shall be due and payable by all dealers monthly on the first day of the month.

**Section 6.02.** For the purpose of ascertaining the amount of tax payable under this Ordinance, it shall be the duty of all dealers on or before the twentieth (20th) day of the month following the month in which this tax shall become effective to transmit to the Collector upon forms prescribed, prepared and furnished by him, returns showing the gross sales, purchases, gross proceeds from lease or rental, gross payments for lease or rental, gross proceeds derived from sales of services or gross payment for services, as the case may be, arising from all taxable transactions during the preceding calendar month, running from the effective date of this Ordinance to the end of such month. Thereafter, like returns shall be prepared and transmitted to said Collector by all dealers, on or before the twentieth (20th) day of each month, for the preceding calendar month. Said returns shall show such further information as the Collector may require to enable him to correctly compute and collect the tax herein levied. Such returns shall be signed by the dealer filing the same, and his signature thereon shall constitute a warranty on the part of the dealer, that he had read and examined the said returns and that, to the best of his knowledge and belief, the same are true, correct and complete. Every dealer at the time of making the return required hereunder shall compute and remit to the Collector the required tax due for the preceding calendar month.

**Section 6.03. A.** At the time of transmitting the return required hereunder to the Collector, the dealer shall remit to the Collector therewith the amount of the tax due under the applicable provisions of this Ordinance, and failure to so remit such

tax shall cause said tax to become delinquent.

B. Any person or dealer who shall fail to pay any tax levied by this Ordinance on or before the day when such tax shall be required by this Ordinance to be paid, shall pay in addition to the tax, the interest on the tax at the rate specified in Section 6.09 of this Ordinance, for each month or fraction thereof that the tax remains unpaid, to be calculated from the date the tax was originally due to the date of actual payment.

C. In addition, such person, or dealer, shall pay any special penalty or penalties provided by this Ordinance.

**Section 6.04.** A. Gross proceeds from rentals or leases of tangible personal property where the lease or rental is part of a regularly established business, or the same is incidental or germane thereto shall be reported and the tax shall be paid with respect thereto in the month in which the payment for the lease or rental is actually collected by the lessor.

B. Notwithstanding any other provisions of law to the contrary, lessors of property to be used offshore as provided for in Section 1.04 (d)(ii) shall not be required to collect or otherwise pay rental taxes on gross proceeds from such lease and rentals.

This provision shall apply to any sales tax collection requirement which was applicable on or after August 20, 1993 and is specifically intended to overrule any tax collections requirement provided for in the rule promulgated on August 20, 1993 by the Department of Revenue and Taxation which amended regulation LAC#61:I.4303(B). (Act 8 1994; Effective 6-7-94)

*NOTE: Act 18 1994 enacted RS 47:302(K) relative to sales and use taxes on certain mail order sales; it provides for an additional sales and use tax that will be levied and collected on such mail order sales, including sales by television shopping channels; it provides that such tax shall be paid in lieu of any sales and use taxes otherwise levied by local political jurisdictions. This new tax will be administered by the Department of Revenue and Taxation, advised by a commission, and the distribution of such revenues will be made by the department based upon population. Each central collection agency will distribute these taxes to all jurisdictions within the parish who levy a local sales and use tax, on a prorata share and are prohibited from charging a fee for such distribution. The*

*additional 4% state tax will go into effect August 15, 1994.*

**Section 6.05.** For the purpose of compensating the dealer in accounting for and remitting the tax levied by this Ordinance, each dealer shall be allowed one percent (1%) of the amount of tax due and accounted for and remitted to the Collector in the form of a deduction in submitting his report and paying the amount due by him, provided the amount due was not delinquent at the time of payment.

**Section 6.06.** For the purposes of collecting and remitting to the City the tax imposed by this Ordinance, the dealer is hereby declared to be the agent of the City.

**Section 6.07.** The Collector, for good cause, may extend for not to exceed thirty (30) days the time for making any returns required under the provisions of this Ordinance.

**Section 6.08.** A. The Collector or his authorized representative is hereby authorized to enter into an agreement with the dealer to allow for quarterly reporting and remitting of the taxes under this Ordinance when such taxes amount to \$100 or less per month.

B. The Collector may agree with a dealer to allow for the collection of sales taxes by the dealer from his particular independent agents, such tax to be remitted to the Collector.

C. The Collector may agree with certain dealers or purchasers to accept their sales and use tax returns and remittances on an irregular basis, when past returns and knowledge of common business practice indicate to the Collector that the only tax liability is as a result of infrequent transactions upon which sales or use tax is due.

D. Letter Return Filing. When any person or other entity with annual taxable gross receipts from sales of property or services of one hundred fifty thousand dollars or less makes no taxable sales of tangible personal property or services for three calendar months in a parish in which he does not have a business location, such taxpayer shall not be required to file thereafter either monthly or quarterly returns with any political subdivision in the parish until he has more than one such sale in the parish during a three-month period. In lieu of such returns, the taxpayer may send a letter to the single collector for the parish on or before the twentieth of the month following the sale, describing the sale, the buyer, and the

price, and remitting the tax due. (Acts 1995, No. 284; effective July 1, 1995)

**Section 6.09. DELINQUENT INTEREST AND PENALTIES.** If the amount of tax due by the dealer is not paid on or before the twentieth (20th) day of the month next following the month for which the tax is due, there shall be collected with said tax, interest upon said unpaid amount at the rate of one and one-quarter (1-1/4%) percent per month, or fractional part thereof. In addition, there shall be collected a penalty equivalent to five (5%) percent per month, or fraction thereof, not to exceed twenty-five (25%) in aggregate, of the tax due, when such tax is not paid on or before the twentieth (20th) day of the month next following the month for which the tax is due. Both interest and penalty will be computed from the first day of the month next following the month for which the tax is due. In the event of suit, attorney's fees will be charged the dealer at the rate of ten (10%) percent of the aggregate of the tax, interest and penalty. All interest and penalties due for subsequent months will be assessed and due as of the first day of each succeeding month. The Collector is authorized to employ private counsel to assist in the collection of any sales and use taxes, penalties or interest due under this Ordinance, or to represent him in any proceeding under this Ordinance.

**Section 6.10. NEGLIGENCE PENALTY FOR FAILURE TO FILE ANY RETURN.** If any dealer fails to make any return required by this Ordinance or makes an incorrect return, and the circumstances indicate willful negligence or intentional disregard of rules and regulations, but no intent to defraud, there shall be imposed, in addition to any other penalties provided herein, a specific penalty of five percent (5%) of the tax or deficiency found to be due, or ten dollars (\$10.00) whichever is greater. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the tax due and can be enforced either in a separate action or in the same action for the collection of the tax.

**Section 6.11. NONSUFFICIENT FUND PENALTY.** If any dealer makes payment of a tax due under this Ordinance by means of a bank check and the check is returned unpaid by on which drawn because of insufficient funds in the bank account on which drawn, there shall be imposed, in addition to any other penalties provided by law, a specific penalty to compensate for the Collector's costs of handling the check in an amount equal to one percent (1%) of the amount of the check or twenty dollars (\$20.00), whichever is greater.

**Section 6.12. CIVIL PENALTIES.** For any one of the following

violations, in addition to being liable for the other penalties provided herein, the party named shall be guilty of a misdemeanor and upon conviction be punished by a fine of not more than one hundred dollars (\$100.00) or imprisonment in jail for not more than sixty (60) days, or both, in the discretion of the court.

- (1) any person who as a purchaser is obligated to report and pay the tax imposed upon any purchase made by him under Section 4.08 of this Ordinance and who fails, neglects, and refuses to file a return thereof with the Collector and pay the tax imposed thereon, within the time stated after such sale is made;
- (2) any dealer who shall fail, neglect, or refuse to collect the tax as provided in Section 4.01 through 4.11 of this Ordinance, whether by himself or through his agents or employees;
- (3) any dealer who violates Section 4.06 of the Ordinance with respect to advertising;
- (4) any dealer violating the provisions of Sections 9.04 and 9.05 of this Ordinance;
- (5) any dealer who fails to permit an inspection of records by the Collector as provided in Section 7.02 of this Ordinance;
- (6) any wholesale dealer or jobber in the City who fails to keep records, or fails to permit an inspection thereof by the Collector as provided in Section 7.01.B. of this Ordinance;
- (7) any dealer, wholesale dealer or jobber who violates the provisions of Sections 4.10 and 4.11 of this Ordinance;
- (8) any dealer who violates the provisions of Section 7.01 of this Ordinance;
- (9) any dealer failing or refusing to furnish any return herein required to be made, or failing or refusing to furnish a supplemental return, or other data required by the Collector;
- (10) any dealer required to make, render, sign, or verify any return as provided in Sections 6.01 through 6.04 of this Ordinance who makes a

false or fraudulent return, with intent to evade a tax hereby levied;

- (11) the president, executive officers, managers and director of any corporation, who shall violate the provisions of Section 9.12 and 9.13 of this Ordinance; provided that such fine and imprisonment shall not prevent other action against the corporation as otherwise provided in this Ordinance for the recovery of the tax, interest and penalties that may be due.

**Section 6.13. CRIMINAL PENALTIES.** A. *Tax Evasion.* Any person who willfully fails to file any sales tax return, report, or statement required to be filed by the provisions of this Ordinance or who willfully files or causes to be filed any false or fraudulent sales tax return, report, or statement, or willfully aids or abets another in the filing of such a false or fraudulent sales tax return, report, or statement, relating to any sales tax or penalty or interest on sales tax due, or any portion thereof due pursuant to the provisions of this Ordinance, shall be fined not more than one thousand dollars (\$1000.00) or imprisoned for not more than one (1) year, or both. (LSA-RS 33:2845)

B. *Failure to account for tax monies.* Any person required to collect, account for, or pay over any tax, penalty or interest imposed under the provisions of this Ordinance who willfully fails to collect or truthfully account for or pay over such tax, penalty, or interest to the collector as required under this Ordinance, shall in addition to other penalties provided by law, be fined not more than ten thousand dollars (\$10,000.00) or imprisoned, with or without hard labor, for not more than five years (5 years), or both. (LSA-RS 33:2846)

**Section 6.14. Examination and hearing costs Penalty.** A. If any taxpayer fails to make any return required by this Ordinance, or makes a grossly incorrect report, or a false or fraudulent report, and the collector, in performance of his duty to ascertain the amount of tax due, makes an examination of books, records, or documents, or an audit thereof, or conducts a hearing, or subpoenas witnesses, then there may be added to the amount of tax found to be due, a specific penalty, in addition to any other penalty provided, in an amount as itemized by the collector to compensate for all costs incurred in making such examination or audit, or in holding such hearing, or in subpoenaing and compensating witnesses. This specific penalty shall be an obligation to be collected and accounted for in the same manner as if it were part of the tax due, and can be enforced either in a separate action or in the same action for the collection of the tax.

B. For the purposes of this Section, the following terms shall have the following meanings:

- 1) "Grossly incorrect report" means any report filed where there is a substantial understatement of tax for any taxable period. The understatement is substantial if it exceeds the greater of:
  - a) Ten percent of the tax required to be shown on the return for the taxable period, or
  - b) Ten thousand dollars
- 2) "False or fraudulent report" means any report filed with the intent to evade taxes, or a willful attempt to defraud or evade taxes that are due. (*Act 687, effective 8-15-97*)

**Section 6.15.** All penalties and interest imposed by this Ordinance shall be payable to and recoverable by the City in the same manner as if they were part of the tax imposed. If the failure to pay any such tax when due is explained to the satisfaction of the Collector he may remit and waive the whole or any part of any penalty, and may remit or waive payment of any interest charged in excess of the rate of one and one quarter of one percent ( 1- 1/4%) per month.

**Section 6.16.** All taxes, interest and penalties imposed under this Ordinance shall be paid to the City or its agent(s) in the form of remittance required by the Collector.

**Section 6.17. REGISTRATION BY NONRESIDENT CONTRACTOR; BOND REQUIREMENTS.** (A) Prior to commencing work on any construction contract within the City, which in the aggregate exceeds three thousand dollars, any non-resident prime contractor, as defined in LRS 47:9(A)(2), shall register the contract(s) with the Department of Revenue and the Calcasieu Parish Sales/Use Tax Department in accordance with the provisions of LRS 47:9(A)(1) and Act 893 of 1993.

(B) A certificate in a form to be determined by the Secretary of the Department of Revenue shall identify the construction project registered and recite the total amount of the contract. A surety bond or a blanket surety bond for all contracts shall be filed with the department all in accordance with the provisions of LRS 47:9(b)(1) and any rules and/or regulations as may be promulgated by the

Secretary of the Department of Revenue pursuant to this matter.

(C) Upon presentation of evidence that all requirements have been satisfied, the Director of Sales Tax or his designee will certify, on a form determined by the Secretary, that all requirements for surety bonds as specified herein and applicable to the location of the project have been met. (Act 893, effective 7-1-93)

## **RECORDS AND INSPECTION THEREOF**

**Section 7.01. DEALERS REQUIRED TO KEEP RECORDS.** A. It shall be the duty of every dealer required to make a report and pay any tax under this Ordinance, to keep and preserve suitable records of the sale or purchases or sales of services, as the case may be, taxable under this Ordinance, and such other books of account as may be necessary to determine the amount of tax due hereunder, and other information as may be required by the Collector. Each dealer shall secure, maintain and keep, until the taxes to which they relate have prescribed, a complete record of sales of services and tangible personal property received, used, sold at retail, distributed, or stored, leased or rented within this City by said dealer together with invoices, bills of lading, and other pertinent records and papers as may be required by the Collector for the reasonable administration of this Ordinance.

B. In order to aid in the administration and enforcement of the provisions of this Ordinance, and collect all of the tax imposed thereby, all wholesale dealers and jobbers in the City are hereby required to keep a record of all sales of tangible personal property made in the City, whether such sales be for cash or on terms of credit. The record required to be kept by all dealers, as herein defined, shall contain and include the name and address of the purchaser, the date of the purchase, the article or articles purchased and the price at which the article is sold to the purchaser. These records shall be open to inspection by the Collector or his duly authorized assistants or deputies at all reasonable hours.

C. Any dealer subject to the provisions of this section who violates the provisions of this section shall be fined not more than five hundred dollars

(\$500.00) or imprisoned for not more than sixty days, or both, for any such offense. (LSA-RS 47:309)

**Section 7.02. COLLECTORS AUTHORITY TO EXAMINE AND AUDIT.**

A. For the purpose of administering the Ordinance, the Collector, whenever he deems it expedient, may make or cause to be made by an employee of the department engaged in the administration of this Ordinance, an examination or investigation of the place of business, if any, the tangible personal property and the books, records, papers, vouchers, accounts, and documents of any dealer. It shall be the duty of every dealer and every director, official, agent, or employee of every dealer, to exhibit to the Collector or to any such employee of his department charged with the collection of the tax imposed by this Ordinance, hereafter referred to as a "deputy", the tangible personal property and all of the books, records, papers, vouchers, accounts, and documents of the dealer and to facilitate any such examination or investigation as far as it may be in his or their power to do so.

B. When the dealer maintains his books and records outside of the City, the Collector is authorized to encumber necessary expenses in order to provide for the examination and inspection of said dealer's books and records at their location. The cost of such examination and inspection of said dealer's books and records, including transportation, lodging, and per diem, is to be borne by the dealer and may be included in any assessment made for deficiencies discovered during the examination and inspection of said records or applied against any refund wherefore an examination is necessary to verify such claim. (Resolution adopted 9-21-96)

**Section 7.03. COLLECTOR'S AUTHORITY TO EXAMINE RECORDS OF TRANSPORTATION COMPANIES.** For the purpose of enforcing the collection of the tax levied by this Ordinance, the Collector is hereby specifically authorized and empowered to examine, at all reasonable hours, the books, records and other documents of all transportation companies, agencies, or firms operating in the City, whether said companies, agencies or firms conduct their business by truck, rail, water, airplane, or otherwise, in order to determine what dealers, as provided in this Ordinance, are importing or are otherwise shipping articles of tangible personal property which are liable for said tax. (LSA-RS 47:311)

**Section 7.04. COLLECTOR'S RECORDS.** The Collector shall keep a record of all of his official acts and shall preserve copies of all rules, decisions or orders and of any paper or papers filed in any office maintained by him in the

administration of this Ordinance may be authenticated under his official signature, and when so authenticated, shall be evidence in all courts of the state of the same weight and force as the original thereof. (LSA-RS 47:1506) For authenticating any such copy, he shall be paid a fee of one dollar (\$1.00) which shall be paid to the City.

**Section 7.05. CONFIDENTIAL CHARACTER OF COLLECTOR'S RECORDS.**

A. The records and files of the Collector respecting the administration of this Ordinance shall be considered confidential and privileged, and neither the Collector nor any employee engaged in the administration thereof or charged with the custody of any such records or files shall divulge or disclose any information obtained from any such records or files or from any examination or inspection of the premises or property of any dealer. Neither the Collector nor any employee engaged in such administration or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any person or for use in any action or proceedings except: (a) in an action or proceedings under the provisions of this Ordinance; and, (b) when the records, files or the facts shown thereby are directly involved in such action or proceedings.

B. Nothing contained in this Section shall be construed to prevent:

- (1) the delivery to a dealer or his duly authorized representatives a copy of any return, report or other paper filed by him pursuant to the provisions of this Ordinance;
- (2) the publication of statistics so classified as to prevent the identification of any return or report and the items thereof;
- (3) the inspection by the Collector or other legal representative of the City of the returns, reports, or files relating to the claim of any dealer who shall have brought an action to review or set aside any tax imposed under this Ordinance or against whom an action or proceedings has been instituted in accordance with the provisions hereof;
- (4) the examination of the records and files by the Collector or by his duly authorized agents;
- (5) the furnishing, in the discretion of the Collector of any information

disclosed by the records or files to any official person or body of any other political subdivision, state or of the United States who shall be concerned with the administration of any similar tax by that political subdivision, state or the United States;

(6) any political subdivision from disclosing to the Louisiana Lottery Corporation information regarding whether or not a lottery vendor or retailer applicant, as defined in RS 47:9002, is current in the filing of all applicable tax returns and reports, and in payment of all taxes, interest and penalties owed to the State of Louisiana or to any taxing political subdivision. Any information so furnished shall be considered and held confidential and privileged by the Louisiana Lottery Corporation to the same extent as heretofore provided. (Act 1, effective 5-30-91)

## **IMPORTED GOODS; PERMITS**

**Section 8.01. SYSTEM OF IMPORT PERMITS; SEIZURE AND FORFEITURE OF VEHICLES USED IN IMPORTING WITHOUT PERMIT.** A. In order to prevent the illegal importation into the City of tangible personal property which is subject to the tax and to strengthen and make more effective the manner and method of enforcing payment of the tax imposed by this Ordinance, the Collector is hereby authorized and empowered to put into operation a system of permits whereby any person, or dealer, may import tangible personal property by truck, automobile, or other means of transportation other than a common carrier, without having said truck, automobile or other means of transportation seized and subjected to legal proceedings for its forfeiture. Such system of permits shall require the person or dealer who desires to import tangible personal property into the City, which property is subject to tax imposed by this Ordinance, to apply to the Collector or his assistant for a permit stating the kind of vehicle to be used, the name of the driver, the license number of the vehicle, the kind or character of tangible personal property to be imported, the date, the name and address of the consignee, and such other information as the Collector may deem proper or necessary. Such permits shall be free of cost to the applicant and may be obtained at the office of the Collector.

B. The importation into the City of tangible personal property which is subject to tax, by truck, automobile, or other means of transportation other than a common carrier, without having first obtained a permit as described in this section

(if the tax imposed by this Ordinance on said tangible personal property has not been paid), shall be construed as an attempt to evade payment of the said tax and the same is hereby prohibited. The said truck, automobile, or means of transportation other than a common carrier, and said taxable property may be seized by the City in order to secure the same as evidence in a trial and the same shall be subject to forfeiture and sale in the manner provided for in this Ordinance.

C. The failure of any dealer who imports tangible personal property from outside the City into the City for use or consumption or distribution or storage to be used or consumed in the City or who imports for lease or rental any tangible personal property subject to the provisions of this Ordinance, to pay any tax, interest, penalties and costs under this Ordinance, shall ipso facto make the tax, interest, penalties and costs delinquent and shall be construed as an attempt to avoid the payment of same which shall be sufficient grounds for attachment of such tangible personal property wherever the same may be located or found, whether said delinquent dealer or in the possession of other persons, firms, corporations or association of persons; provided that it is the intention of this Ordinance to prevent the disposition of the said tangible personal property in order to insure payment of the tax imposed by this Ordinance, together with interest, penalties, and costs, and authority to attach is hereby specifically authorized and granted to the City.

D. In addition to the penalties prescribed in this section, any person, or dealer who shall violate the provisions thereof, upon conviction, shall be fined in a sum of not more than one hundred dollars (\$100.00) or imprisonment in jail for a period of not more than sixty (60) days or by both such fine and imprisonment, in the discretion of the Court, and each importation or shipment by truck, automobile, or other means of transportation, other than a common carrier, found to be in violation of the provisions of these sections shall constitute a separate offense.

## **REMEDIES FOR COLLECTION**

### **Section 9.01. COLLECTOR'S AUTHORITY TO DETERMINE THE TAX.**

A. In the event any dealer fails to make a report and pay the tax as provided by this Ordinance, or in case the dealer makes a grossly incorrect report, or a report that is false or fraudulent, it shall be the duty of the Collector to make an estimate for the taxable period of the retail sales, or sales of services, of such dealer, or of the gross proceeds from rentals or leases of tangible personal property by the

dealer, and an estimate of the cost price of all articles of tangible personal property imported by the dealer for use or consumption or distribution or storage to be used or consumed in the City and assess and collect the tax and interest, plus penalty, if such have accrued, on the basis of such assessment, which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the dealer.

B. In the event the dealer has imported tangible personal property and he fails to produce an invoice showing the cost price of the articles which are subject to tax, or the invoice does not reflect the true or actual cost price, then the Collector shall ascertain, in any manner feasible, the true cost price and assess and collect the tax with interest, plus penalties, if such have accrued, on the true cost price as assessed by him. The assessment so made shall be considered prima facie correct, and the burden shall be on the dealer to show the contrary.

C. In the case of the lease or rental of tangible personal property, if the consideration given or reported by the dealer does not, in the judgment of the Collector, represent the true or actual consideration, then the Collector is authorized to fix the same and collect the tax thereon for the City in the same manner as above provided, with interest plus penalties, if such have accrued.

D. In the event such estimate and assessment requires an examination of books, records, or documents, or an audit thereof, then the Collector shall add to the assessment the cost of such examination, together with any penalties accruing thereon. Such costs and penalties, when collected, shall be placed to the account of the City in the manner as are the taxes collected under this Ordinance.

E. If any person or dealer shall fail to make a return or report as required by this Ordinance, then the Collector, within three (3) years after the last day on which the omitted report could have been filed without penalty, may make an estimate of the amount of taxes such person, or dealer, is liable to pay under the terms of this Ordinance, from any information he is able to conveniently obtain; and according to such estimates so made by him, assess the taxes, fees, penalties, and interest due the City from such person, or dealer; give notice of such assessment to such person, or dealer and must make demand upon him for payment. Otherwise the said claim shall prescribe.

F. After a return or report is filed under the provisions of this Ordinance, the Collector shall cause to be examined and make such further audit or investigation as he may deem necessary; and if therefrom, he shall determine that

there is a deficiency with respect to the payment of any tax due under this Ordinance, he shall assess the additional amount of tax, and any penalties and interest, or either of them due the City from such person, or dealer; and make demand upon him for payment.

**Section 9.02. JEOPARDY ASSESSMENT.** A. If the Collector finds that a taxpayer designs quickly to depart from the City, or to remove therefrom any property subject to any tax or to any lien for a tax, or to discontinue business, or to do any other act tending to prejudice or render wholly or partly ineffectual any proceedings that might be instituted to collect such tax, whereby it shall have become important that such proceedings be instituted without delay, he may immediately make a determination, from any available information or by estimate or otherwise, of the amount of tax, penalty and interest such taxpayer is liable to pay under this Ordinance. Having made such determination, the Collector shall immediately assess said amount, and by a writing to be retained as part of his official records, indicate such assessment has been made, and without any notice, proceed to distrain as is hereinafter provided any property belonging to the taxpayer. This type of assessment may be made whenever a tax becomes due under the provisions of this Ordinance, regardless of whether it is then payable or not.

B. As soon as is feasible after such assessment, and not later than two calendar days thereafter, the collector shall send by registered or certified mail a notice to the taxpayer against whom the assessment lies, at the address given in the last report filed by said taxpayer, or if no such report has been filed, to any such address as may be obtainable. Such notice shall inform the taxpayer of the assessment, its basis, and jeopardous nature; make demand for immediate payment thereof; and give notice that any property, distrained or to be distrained, will be subject to sale as herein provided to satisfy the assessment.

C. The taxpayer, against whom the assessment lies, can stay distraint of his property, or sale of his property already distrained, as the case may be, only by the immediate payment of the assessment or by posting with the Collector a surety bond for twice the amount of such assessment, or of a lower amount acceptable to the Collector, with such sureties as the Collector deems necessary. The taxpayer shall have sixty (60) calendar days from the date of payment, or the date of posting bond, to appeal to the courts as provided hereof for a redetermination of the assessment. During this period, the Collector shall hold any payment made in an escrow account. If the taxpayer does not appeal, the Collector shall immediately

credit such payment to tax collections or proceed to collect from sureties, if any were given. In the event of an appeal, such payment or demand for payment from sureties given shall be held in abeyance pending the redetermination or affirmation of the assessment by the court which reviews the matter. Final payment, or collection from sureties, will be for the amount of the affirmed or redetermined assessment.

All taxes, penalties, and interest assessed pursuant to the provisions of this section, shall be paid within thirty (30) days after notice and demand shall have been mailed to the dealer liable therefore by the Collector. If such taxes, penalties, and interest so assessed shall not be paid within such thirty (30) days, there shall be added to the amount assessed, in addition to interest as hereinabove provided, and any other penalties provided by this Ordinance, a sum equivalent to five percent (5%) of the tax.

**Section 9.03. PERSONAL LIABILITY OF DEALER.** A. The liability of any person or dealer arising from any tax, interest and penalty, or any of them, imposed by this Ordinance, from the time they are due, shall be a personal debt of such person or dealer to the City, recoverable in any court of competent jurisdiction in an action at law by the City. Such debts, whether sued upon or not, shall be a lien on all the property of such delinquent person, or dealer, except as against an innocent purchaser for value without notice in the actual course of business, and shall have preference in any distribution of the assets of the person, or dealer, whether in bankruptcy, insolvency, or otherwise. The proceeds of any judgment or order obtained hereunder shall be paid to the City.

**Section 9.04. SUCCESSOR LIABILITY.** (A) If any dealer liable for any tax, interest, or penalty hereunder shall sell out his business or stock of goods or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting business. His successor, successors, or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until such time as the former owner shall produce a receipt from the Collector showing that they have been paid, or a certificate stating that no taxes, interest, or penalties are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as provided, he shall be personally liable for the payment of the taxes, interest, and penalties accrued and unpaid on account of the operation of the business by any former owner, owners, or assignors.

(B) In the case of a dealer who has quit a business, and who subsequently opens another similar business under the same ownership, whether that ownership is individual, partnership, corporation, or other, that dealer shall be liable for any tax, interest, or penalty owed by the original business. (Act 691, effective 7-18-91, RS 47:308)

**Section 9.05. THIRD PARTY LIABILITY.** In the event that any dealer is delinquent in the payment of the tax herein provided for, the Collector may give notice of the amount of such delinquency by registered mail to all persons having in their possession, or under their control, any credits or other personal property belonging to such dealer, or owing any debts to such dealer at the time of receipt by them of such notice and thereafter any person so notified shall neither transfer nor make any other disposition of such credits, other personal property, or debts until the Collector shall have consented to a transfer or disposition, or until thirty (30) days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five (5) days after receipt of such notice, advise the Collector of any and all such credits, other personal property, or debts, in their possession, under their control or owing by them, as the case may be.

**Section 9.06. PROCEEDINGS TO COMPEL ACTION.** A. In the event any transportation company, agency, or firm shall refuse to permit examination of its books, records and other documents by the Collector, the Collector may proceed by rule, in term or in chambers, in any court of competent jurisdiction and require said transportation company, agency or firm to show cause why the Collector should not be permitted to examine its books, records or other documents, and in case said rule be made absolute, the same shall be considered a judgment of the court and every violation of said judgment as a contempt thereof and punished according to law.

B. If any dealer, subject to make and file a return required by any of the provisions of this Ordinance, fails to render such return within the time required, or renders a return which is false or fraudulent, in that it contains statements which differ from the true gross sales, purchases, leases, or rental, or other transactions, taxable under this Ordinance, or otherwise fails to comply with the provisions of this Ordinance, for the taxable period for which said return is made, the Collector shall give such dealer fifteen (15) days notice, in writing, requiring such dealer to appear before him or his assistant, with such books, records, and papers as he may require, relating to the business of such dealer, for such taxable period; and said Collector may require such dealer, or other agent or employees of such dealer, to

give testimony or to answer interrogatories, under oath administered by the Collector or his assistants, respecting the sale at retail, the use or consumption or distribution, or storage for use or consumption, in this City, or lease or rental of tangible personal property, or other transactions, subject to tax, or the failure to make report thereof, as provided in this Ordinance.

C. If any dealer fails to make a return, or refuses to permit an examination of his (the dealer's) books, records, or papers, or to appear and answer questions within the scope of such investigation relating to the sale, use, consumption, distribution, storage, lease or rental of tangible personal property, or sale of services, the Collector may apply to any court of competent jurisdiction, for an order requiring such dealer to make such return or requiring the dealer, or his agents or employees, to appear and answer any such questions or permit such examination, and the court or any judge thereof, shall thereupon issue an order, upon such reasonable notice as shall be prescribed therein to be served upon said dealer or the agents or employees of such dealer, directing him or them to so appear and testify, and to produce such books, records and papers as may be required. Any person, or any member of any firm, co-partnership, joint venture, association, or corporation, or any agent or employee thereof, failing to comply with any such order shall be guilty of contempt, and shall be punished as provided by law in cases of contempt.

**Section 9.07. SUMMARY PROCEEDINGS.** In addition to any other procedure provided in this Ordinance or elsewhere in the laws of this City and state and for the purpose of facilitating and expediting the determination and trial of all claims for taxes, penalties, interest attorney fees or other costs and charges arising under this Ordinance, there is hereby provided a summary proceeding for the jurisdiction, or by or on behalf of the Collector, for taxes, penalties, interest, attorney fees, costs of other charges due thereon, by preference in all courts, all as follows:

A. All such proceedings, whether original or by intervention or third opposition, or otherwise, brought by or on behalf of the taxing jurisdiction, or by or on behalf of the Collector, for the determination or collection of any tax, interest, penalty attorney fees, costs of other charges, claimed to be due under any provision of this Ordinance, shall be summary and shall always be tried or heard by preference, in all courts, original or appellate, whether in or out of term time, and either in open court or chambers, at such time as may be fixed by the court, which shall be not less than two (2) or more than ten (10) days after notice to the defendant or opposing party.

B. All defenses, whether by exception or to the merits, made or intended to be made to any such claim, must be presented at one time and filed in the court of original jurisdiction prior to the time fixed for the hearing, and no court shall consider any defense unless so presented and filed. This provision shall be construed to deny to any court the right to extend the time for pleading defenses and no continuance shall be granted by any court to any defendant except for legal grounds set forth in Article 1602 of the Louisiana Code of Civil Procedure.

C. All matters involving any such claim shall be decided within forty-eight (48) hours after submission, whether in term time or in vacation, and whether in the court of first instance or in an appellate court and all judgments sustaining any such claim shall be rendered and signed the same day, and shall become final and executory on the fifth (5th) calendar day after rendition. No new trial, rehearing or devolutive appeal shall be allowed. Suspensive appeals may be granted, but must be perfected within five (5) calendar days from the rendition of the judgment by giving of bond, with good and solvent security, in a sum double that of the total amount of the judgment, including costs. Such appeals, whether to a court of appeals or to the Supreme Court, shall be made returnable in not more than fifteen (15) calendar days from the rendition of the judgment.

D. Whenever the pleading filed on behalf of the taxing jurisdiction, or on behalf of the Collector, shall be accompanied by an affidavit of the Collector or of the counsel or attorney filing the same, that the facts as alleged are true to the best of the affiant's knowledge or belief, all of the facts alleged in said pleading shall be accepted as prima facie true and as constituting a prima facie case, and the burden of proof to establish anything to the contrary shall rest wholly on the defendant or opposing party.

E. The appropriate municipal police department and/or the Sheriff of the Parish of Calcasieu shall enforce all injunctions prohibiting the further pursuit of business when a valid injunction and judgment has been obtained from a court of competent jurisdiction involving delinquent sales and use tax under the provisions of this Ordinance until such time as the delinquent tax, interest, penalties and costs have been paid by the dealer.

**Section 9.08. FAILURE TO PAY TAX; RULE TO CEASE BUSINESS.** Failure to pay any tax due as provided in this Ordinance shall ipso facto, without demand or putting in default, cause said tax, interest, penalties, and costs to

become immediately delinquent, and the Collector is hereby vested with authority, on motion in a court of competent jurisdiction to take a rule on the said dealer, to show cause in not less than two (2) or more than ten (10) days, exclusive of holidays, after the service thereof, which may be tried out of term and in chambers, and shall always be tried by preference, why said dealer should not be ordered to cease from further pursuit of business as a dealer, and in case said rule is made absolute, the order thereon rendered shall be considered a judgment in favor of the City prohibiting such dealer from the further pursuit of said business until such time as he has paid the said delinquent tax, interest, penalties and costs, and every violation of the injunction shall be considered as a contempt of court, and punished according to law.

**Section 9.09. SECURITY TAX DEPOSIT.** A. The Collector may require a bond or other security for the payment of any taxes, fees, interest, or penalties where any of the following conditions apply:

- (1) The taxpayer is three (3) months or more delinquent in reporting or remitting due taxes, penalties, or interest;
- (2) A new owner has purchased a business which, at the time of the sale, is delinquent in remitting taxes, penalties or interest;
- (3) The dealer is an itinerant vendor, which includes sellers at flea markets, sellers by the roadside, or any other peddler not having a fixed place of business.

B. The requirement of a security tax deposit shall be satisfied by payment in the form of cash, certified check, or money order.

C. The security tax deposit shall be an estimate of three (3) months tax, penalty, and interest. The estimate shall be based on the average of the past twelve (12) months remittances of tax, penalty and interest or knowledge of finances of related businesses or other relevant information. Additional three (3) months deposits, up to a maximum of twelve (12) months, for accounts that have been delinquent at least three (3) months each year for the previous three (3) years, may be required.

D. All delinquent sales and use tax accounts shall be reviewed periodically and tax deposits shall be applied to delinquent tax accounts.

Taxpayers will be notified when tax deposits are so applied and shall then be required to provide additional security tax deposits to replace the amount applied to the delinquent tax account.

E. The Collector shall retain this security tax deposit until such time as the delinquent taxpayer has remained current in reporting and remitting sales and use taxes for a period of twelve (12) consecutive months or until such time as the business has ceased its operation in the taxing jurisdiction.

**Section 9.10.        DISTRRAINT PROCEDURE.** A. If any dealer against whom taxes have been assessed under the provisions of this Ordinance shall refuse or neglect to pay such taxes within the time prescribed in this Ordinance, it shall be lawful for the Collector to enforce collection of such taxes, together with such interest and other additional amounts as are added by law, by distraint, and sale of any property or rights to property belonging to the delinquent dealer.

B. Wherever the words "*distraint*" or "*distrain*" are used in this Ordinance, they shall be deemed to mean the right to levy upon and seize and sell, or the levying upon, or seizing or selling or any property or rights to property of the delinquent dealer by the officer charged with the enforcement of collection of the tax for the purposes of satisfying any tax, interest or penalties due under the provisions of this Ordinance.

C. Whenever the Collector or his authorized representative shall distraint any property of a taxpayer or dealer, he shall cause to be made a list of the property or effects distrained, a copy of which, signed by the Collector or his authorized representative, shall be sent by registered mail to the taxpayer, dealer or retailer at his last known address or served on him in person. This list shall be accompanied with a note of the sum demanded and a notice of the time and place where the property will be sold, if such a sale is necessary. Thereafter, the Collector or his authorized representative shall cause a note to be published in the official journal of the City, specifying the property distrained, and the time and place of sale. The sale shall be held not less than fifteen (15) calendar days from the date of the notice mailed or served on the taxpayer or the date of publication in the official journal, whichever is later. The Collector or his authorized representative may postpone such sale from time to time, if it deems advisable, but not for a time to exceed thirty (30) calendar days in all. If the sale is continued it shall be readvertised.

D. Any person, in possession of property or rights to property subject to distraint, upon which a levy has been made, shall upon demand by the Collector or his authorized representative, unless such property or rights to the Collector or his authorized representative, unless such property or right is, at the time of such demand, subject to an attachment or execution under any judicial process. Any person failing or refusing to surrender any such property or rights shall be liable to the Collector acting for the City in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes, penalties, and interest and other costs and charge which are due.

E. The Collector or his authorized representative, shall sell at public auction for cash to the highest bidder so much of the property distrained by him as may be sufficient to satisfy the tax, penalties, interest, and cost due. He shall give the purchaser a certificate of sale which will be prima facie evidence of the right regularity of his proceedings in making the sale, and which will transfer to the purchaser all rights, title and interest of the taxpayer, in the property sold.

F. Out of the proceeds of the sale, the Collector shall first pay all costs of the sale and then apply so much of the balance of the proceeds as may be necessary to pay the assessment. Any balance beyond this shall be paid to the taxpayer, dealer or retailer.

**Section 9.11. AUTHORITY FOR INSTALLMENT AGREEMENTS.** The Collector may enter into a formal installment payment agreement with a taxpayer for the collection of past due tax, penalty and interest, when, in his opinion, it is in the best interest of the City to do so.

**Section 9.12. CORPORATE ACTIONS PROHIBITED.** No corporation organized under the laws of the state shall hereafter be dissolved, or effect a merger, reorganization, or consolidation under any law of the State by the action of the stockholders or by the decree of any Court until all taxes, fees, penalties and interest imposed on the corporation in accordance with provisions of this Ordinance shall have been paid in full. No foreign corporation which has obtained authority from this State to transact business in the City may surrender such authority and withdraw from this State until all taxes, fees, penalties, interest and other changes imposed upon said corporation in accordance with the provisions of this Ordinance shall have been fully paid.

**Section 9.13. OFFICER AND DIRECTOR LIABILITY.**

A. Notwithstanding any other provision of law to the contrary, if any corporation, limited liability company, or limited partnership fails to file returns or to remit sales and use taxes collected from purchasers or consumers under this Ordinance, the Collector is authorized, as an alternative means of enforcing collection, to hold those officers or directors, or those managers or members as defined in R.S. 12:1301(12) and (13), having direct control or supervision of such taxes or charged with the responsibility of filing such returns and remitting such taxes and who willfully fail to remit or account for such taxes collected, personally liable for the total amount of such taxes collected and not accounted for or not remitted, together with any interest, penalties and fees accruing thereon. Collection of the total amount due may be made from anyone or any combination of such officers or directors or managers or members as defined in R.S. 12:1301 (12) and (13), who willfully fail to remit or account for such taxes collected by use of any of the methods authorized by this Ordinance.

B. A corporation, limited liability company, or limited partnership by resolution of the board of directors, or members may designate an officer or director, or manager, or member as defined in R.S. 12:1301 (12) and (13) having direct control or supervision of such taxes or charged with responsibility of filing such returns and remitting such taxes, and such resolution shall be filed with the Secretary of State. (Act 240, effective 9-6-91, LSA-RS 33:2845.1) (Act 31, 1998; effective 6-25-98)

**Section 9.14. PRESCRIPTION.** A. Sales and use taxes levied by any political subdivision shall prescribe as of three years from the thirty-first day of December of the year in which such taxes become due.

B. The prescriptive period running against any such sales and use tax shall be interrupted by any of the following:

- (1) The action of the political subdivision in assessing the amounts of such taxes in the manner prescribed
- (2) Filing of a summary proceeding in court
- (3) Filing of any pleading by the political subdivision or by the taxpayer with any state or federal court.
- (4) Filing of a false or fraudulent tax return

(5) Failure to file a tax return, with intent to defraud

C. The running of such prescriptive period may also be suspended by means of a written agreement between any taxpayer and the political subdivision made prior to the lapse of such period.

D. As used in this Section, "political subdivision" means any political subdivision of the state which lawfully levies and collects a sales and use tax, and "tax" means a sales and use tax and applicable interest, penalties, and other charges levied by a political subdivision. (LSA-RS 33:2718.4)

## **REFUNDS AND REIMBURSEMENTS**

**Section 10.01. CLAIMS FOR REFUND.** A. In the event purchases are returned to the dealer by the purchaser or consumer after the tax imposed by this Ordinance has been collected or charged to the account of the consumer or user, the dealer shall be entitled to reimbursement of the amount of tax so collected or charged by him, in the manner prescribed by the Collector and in case the tax has not been remitted by the dealer to the Collector, the dealer may deduct the same in submitting his return. Upon receipt of a sworn statement of the dealer as to the gross amount of such refunds during the period covered by such sworn statement, which period shall not be longer than ninety (90) days, the City, through the Collector, shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for such tax collected. Such memorandum shall be accepted by the City at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of this Ordinance.

B. If any dealer shall have given to the Collector notice within the time provided in Section 10.01.A. of this Ordinance, such dealer thereafter, at any time within three (3) years from December 31 of the year in which the sales and use tax becomes due or after one (1) year from the date the sales and use tax is paid, whichever is later, may file with the Collector a claim under oath for refund, in such form as the Collector may prescribe, stating the grounds thereof. However, no claim for refund shall be required or permitted to be filed with respect to a tax paid after protest has been filed with the Collector as hereinafter provided, or after proceedings on appeal has been finally determined.

C. If, upon examination of such claim for refund it shall be determined by the Collector that there has been an overpayment of tax, the amount of such overpayment shall be credited against any liability of any dealer under this Ordinance, and if there be no such liability, the said dealer shall be entitled to a refund of the tax so overpaid. If the Collector shall reject the claim for refund in whole or in part he shall make an order accordingly and serve notice upon such dealer. A dealer may appeal any such rejection as provided in Section 11.01.A. thereof, provided said appeal is taken within thirty (30) days from the date of such notice.

D. Where no question of fact or law is involved, and it appears from the records of the Collector that any monies have been erroneously or illegally collected from any dealer, or have been paid by any dealer under a mistake of fact or law, the Collector may, at any time within three (3) years from December 31 of the year in which the sales and use tax becomes due or after one (1) year from the date the sales and use tax is paid, whichever is later, upon making a record in writing his reasons therefore certify that any dealer is entitled to such refund and thereupon the Collector shall authorize the payment thereof from any appropriation available for such purposes. No claim for refund shall be allowed after a lapse of three (3) years from December 31 of the year in which the sales and use tax becomes due or after one (1) year from the date the sales and use tax is paid, whichever is later. Interest shall be computed on the basis established pursuant to LSA-RS. 33:2718.

E. When, to secure compliance with any of the provisions of this Ordinance, any monies shall have been deposited with the Collector by any dealer, and shall have been paid over to the City and the Collector shall be satisfied that such dealer has fully complied with all such provisions, the Collector shall so certify and authorize repayment from any appropriations available for such purpose to such dealer of such monies, or such part thereof as the Collector shall certify has not been applied by him to the satisfaction of any indebtedness arising under this Ordinance. Claims for credits and/or refunds as mentioned herein without the City's approval will be limited to \$4,000.00.

F. (1) Whenever the unpaid balance of an account due to the dealer for the purchase of tangible personal property or the sale of services subject to sales taxation has been found to be bad in accordance with Section 166 of the United States Internal Revenue Code and has actually been charged off for federal income tax purposes, the dealer shall be entitled to reimbursement of the amount of tax previously paid to the dealer on such accounts.

- (2) The prescription on such refund or credit shall begin to run from the date of signature on the federal income tax return charging off such debt.
- (3) Whenever the balance of an account that had been determined to be worthless and sales tax refunded, is recovered at a later date, the payment shall be reported as a new sale in the month recovered for sales tax purposes.
- (4) The provisions of Subsection F of this Section shall apply to debts that are incurred on or after September 3, 1989. (Act 379, 1989.)

**Section 10.02. SALES TAX REFUND; NEW HOUSING CONSTRUCTION.**

A. Any person who restores, renovates, or rehabilitates an existing structure or builds or causes the building of new house and associated improvements in an approved housing development area pursuant to the provisions of LSA-RS 40:582.1 through 582.7 shall be entitled to a refund of the amount of tax paid as a consequence of the purchase of materials used in the construction of such new houses upon showing that he has complied with the provisions of LSA-RS 40:582.7.

B. The governing authority is authorized to prescribe the forms and regulations for use in carrying out the provisions of this Section. (LSA-RS 33:2718.3)

**Section 10.03. Sales Tax Refund; Sales and rentals covered by Medicare. A.**

Any person who has paid sales and use taxes levied by the state and any other taxing authorities in the state, upon the sale, lease, or rental of tangible personal property when such sale, lease, or rental is paid by or under the provisions of Medicare, shall be entitled to reimbursement of the amount of tax paid on such property. Upon receipt of a sworn statement of such person as to the amount of taxes paid under the provisions of Medicare, the collector shall make a refund to such person in the amount to which he is entitled.

B. No refund shall be made under the provisions of this Section unless a claim for refund covering the amount to which a person is entitled is filed on or before the end of the third calendar year from the date of the sale, lease, or rental of the property.

C. The Collector is authorized to prescribe forms and regulations for use in carrying out the provisions of this Section. (*Added by Act 22, 2000, effective 7-5-00; amends R.S. 47:315.3*)

D. Nothing in this Act shall be construed to impair the bonded indebtedness of any taxing authority in the City.

**Section 10.04.** Interest shall be allowed on such refunds and credits as provided by LSA-RS. 33:2718.

## **REMEDIES OF THE DEALER**

### **Section 11.01. LEGAL REMEDIES FOR DISPUTE SETTLEMENT.**

A. A right of action is hereby created to afford a remedy at law for any dealer aggrieved by the provisions of this Ordinance; and in case of any such dealer resisting the payment of any amount found due, or the enforcement of any provisions of such laws in relation thereto, such dealer shall pay the amount found due by the Collector under protest and shall give the Collector notice, at the time, of his intention to file suit for the recovery of the same; and upon receipt of such notice the amount so paid shall be segregated and held by the Collector for a period of thirty (30) days; and if suit be filed within such time for recovery of such amount, such funds so segregated shall be further held, pending the outcome of such suit. If the dealer prevails, the Collector shall refund the amount to the claimant, with interest at the rate prescribed by LSA-RS 33:2718 covering the period from the date the said funds were received by the Collector to the date of refund.

B. (1) In the case of sales or use taxes that are required to be collected and remitted by a selling dealer as provided for in Section 4.01, the purchaser, in order to avail himself of the alternative remedy provided by this Section, shall remit protested sales or use tax to the selling dealer, and shall retain copies of documentation evidencing the amount of the sales or use tax paid to the dealer on the transactions. On or before the twentieth day of the month following the month of the transactions on which the selling dealer charged the tax, the purchaser shall inform the department by certified mail or other reasonable means of the dates and amounts of the protested taxes that were charged by the selling dealer, and shall give notice of the purchaser's intention to file suit for recovery of the tax.

(2) Upon receipt of this notice, the amount remitted to the Collector or the amount of protested taxes that have been paid to the selling dealer shall be

placed in an escrow account and held by the Collector or his duly authorized representative for a period of thirty days. If suit is filed for recovery of the tax within the thirty-day period, the funds in the escrow account shall be further held pending the outcome of the suit. (Act 200; effective 10-01-99) (RS 47:1576)

C. This Section shall afford a legal remedy and right of action in any state, city, or federal court, having jurisdiction over the parties and subject matter, for a full and complete adjudication of any and all questions arising in the enforcement of this Ordinance; as to the legality of any tax accrued or accruing or the method of enforcement thereof. In such actions service shall be upon the Collector.

D. This Section shall be construed to provide a legal remedy in the state, city, or federal courts, by action of law, in case such taxes are claimed to be an unlawful burden upon interstate commerce, or the collection thereof, in violation of any act of Congress or the United States Constitution, or the Constitution of the State of Louisiana, or in any case where jurisdiction is vested in any of the courts of the United States; provided that upon request of the dealer and upon proper showing by such dealer that the principal of law involved in an additional assessment is already pending before the courts for judicial determination, the said dealer, upon agreement to abide by the decisions of the courts may pay the additional assessment under protest, but need not file an additional suit. In such cases the tax so paid under protest shall be segregated and held by the Collector until the question of law involved has been determined by the courts and shall then be disposed of as therein provided.

**Section 11.02. DEALERS RIGHT TO A HEARING.** If any dealer shall be aggrieved by any finding or assessment of the Collector he may, within thirty (30) days of the receipt of notice of the assessment or finding, file a protest in writing signed by him or his duly authorized agent, which shall be under oath and shall set forth the reasons therefor, and he may request a hearing. Thereafter, the Collector shall grant a hearing to such dealer, if a hearing has been requested, and may make an order confirming, modifying, or vacating any such finding or assessment. The filing of any such protest shall not abate any penalty for nonpayment, nor shall it stay the right of the Collector to collect the tax in any manner herein provided unless the dealer shall furnish security of a kind and in an amount satisfactory to the Collector. Appeals from the decision of the Collector shall be directed to any state, city or federal court of competent jurisdiction as provided for in Section 11.01 C.

## **OTHER ADMINISTRATIVE PROVISIONS**

**Section 12.01.** That in any case where tangible personal property is sold at retail under a contract, made and entered into prior to the effective date of this Ordinance, and delivery is made after the effective date of this Ordinance, such sale is taxable unless specifically exempted by this Ordinance.

The provision of this section shall also apply where tangible personal property is not sold, but is used, consumed, distributed, stored, leased or rented after the effective date of this Ordinance regardless of the date such tangible personal property was contracted for. The provisions of this section also apply where services taxable hereunder are contracted for before the effective date of this Ordinance, but are actually furnished after the effective date hereof.

The provisions of this section shall not apply where such tangible personal property actually imported or caused to be imported into, or stored within, the territorial limits of the City prior to the effective date of this Ordinance, if the said tangible personal property is actually used or consumed by the person who imported and stored said tangible personal property.

**Section 12.02. NOTICE REQUIREMENTS.** Any notice required to be given by the Collector pursuant to this Ordinance may be given by personal service on the dealer for whom it is intended, or be mailed to the dealer for whom it is intended, addressed to such dealer at the address given in the last report filed by him pursuant to the provisions of this Ordinance, or if no report has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of its receipt by the dealer to whom it is addressed.

**Section 12.03. SAVINGS CLAUSE.** Nothing in this Ordinance shall be construed to deprive the dealer of any remedy in the review of any tax, or in any proceedings to collect the tax given such dealer by any other law, or to deprive the City of any remedy for the enforcement of this Ordinance through any procedure or remedies expressly provided in this Ordinance imposing the tax herein levied or in any other law, nor shall this Ordinance be construed as repealing or altering any such laws, ordinances, or resolutions.

**Section 12.04. SEVERABILITY.** If any section, subsection, sentence, clause, or phrase of this Ordinance be held invalid, such decisions shall not affect the

validity of the remaining portions of this Ordinance. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be so declared invalid.

**Section 12.05.** The tax levied herein is declared to be supplemental and in addition to all other taxes levied by and under the authority of the City.

**Section 12.06.** This Ordinance may be cited or otherwise referred to as the *"City of Sulphur, Louisiana Master Sales and Use Tax Ordinance of 2001"*.

**Section 12.07. COLLECTOR'S AUTHORITY TO ADOPT RULES AND REGULATIONS.** A. The Calcasieu Parish School Board, its agents, officers and employees are hereby designated as the agents, officers and representatives of the City and the Director of Finance for purposes of administration, enforcement and collection of the sales and use tax provided for herein (the "Tax"). The Collector is authorized and empowered to adopt rules, regulations and procedures for implementation, administration, enforcement and collection of the Tax, receive and receipt for payment, make refunds, deposit monies, conduct hearings and audits, make estimates of taxes due and assessments thereof, file suit to collect taxes, interest, penalties, fees and costs, issue notices, maintain records, purchase, prepare and distribute forms, supplies and paraphernalia for collection of the Tax, compromise and adjust claims, and in general perform all other acts which the City or the Treasurer could do in administering; enforcing and collecting the Tax provided for herein.

B. The Collector is duly authorized and empowered to carry into effect the provisions of this Ordinance and in pursuance thereof to make and enforce such rules as he may deem necessary. Such regulations when promulgated shall have the full force and effect of law. Promulgation shall be accomplished by publication at least one time in the official journal of the City.

**Section 12.08. AUTHORITY TO HIRE EXPERTS.** The Collector may, on behalf of the City, contract with and hire expert consultants for the purpose of evaluating and appraising equipment and machinery and related work necessary in connection with sales and use tax audits by the sales tax department. Any such contracts of employment shall be subject to the approval of the Calcasieu Parish School Board.

**Section 12.09. AUTHORITY TO DESIGN TAX FORMS.** The Collector shall design, prepare, print and furnish to all dealers or make available to said dealers, all necessary forms for filing returns, and instruction to insure a full collection from dealers and an accounting for the taxes due, but failure of any dealer to secure such forms shall not relieve such dealer from the payment of said tax at the time and manner herein provides. The cost of preparing and distributing the report forms and paraphernalia for the collection of said tax, and of the inspection and enforcement duties required herein, shall be borne as provided in Section 13.02. and 13.03.

**Section 12.10. AUTHORITY TO REQUIRE WHOLE DOLLAR REPORTING ON TAX RETURNS.** A. With respect to any tax or fee with which he is charged with administering, the collector is hereby authorized to revise, publish, and adopt tax reporting forms, systems, and procedures which require the reporting of summary tax amounts which have been rounded off to whole dollars.

B. The whole-dollar rounding off procedure required by this Section shall only be employed in reporting periodic summary tax amounts, as directed by the Collector, and shall not be applied to individual transactions or tax applications. (RS 47:1518)

**Section 12.11. PAYMENT OF TAXES BY ELECTRONIC FUND TRANSFERS; CREDIT OR DEBIT CARDS.** A. In payment of all taxes, penalties, interest, fees and payments due under this ordinance to the school board or other political subdivision within City, for which the authority to collect has been delegated to the Collector, the collector will accept cash, bank drafts, cashier's check, personal check, money order, electronic funds transfer, or credit or debit cards from a nationally recognized institution. At the time of payment, the service fee for the use of a credit or debit card shall be charged to the taxpayer and shall be collectible as part of his liability, but the charge shall not exceed the fee charged by the credit card issuer, including any discount rate.

B. Payment of local sales/use taxes through Electronic Funds Transfer is strictly voluntary and must be approved by the Collector prior to commencement. Consideration will be limited to taxpayers whose payments exceed twenty thousand dollars for a reporting period and minimum participation restriction may apply.

(1) Electronic funds transfer shall be received by the department on or before the date required by law. A separate transfer shall be made for each return.

(2) In lieu of electronic funds transfer, full payment may be made in investible funds delivered in person or by courier to the department on or before the close of business on the date by law to be paid.

(3) If any taxpayer fails to comply with the electronic funds transfer requirements, the tax payment will be considered delinquent and will be subject to penalties and interest as provided under Section 6.02.

C. The Collector shall develop policies and procedures necessary to implement this Section. These policies and procedures will address the responsibility of the department to notify taxpayers and other responsible for making payments under this Section, as well as making payments, payment alternatives, and proof of timely payment. (RS 47:1519)

## **DISPOSITION OF TAX PROCEEDS AND REVENUES**

**Section 13.01.** All taxes, revenues, funds, assessments, monies, penalties, fees or other income which may be collected or come into the possession of the Collector as an agent of the City under any provision or provisions of this Ordinance, shall be promptly deposited by the Collector for the account of the City, with the regularly designated fiscal agent or agents of the City provided however, any amount which is paid under protest of which is subject to litigation shall be transferred to a separate account established by the Collector with said fiscal agent pending final determination of the protest or litigation.

**Section 13.02.** Out of the funds on deposit, the Collector shall first pay all reasonable and necessary costs and expenses of collecting the tax levied hereby and administering the provisions of this Ordinance as well as the various administrative procedures established herein. Such costs and expenses shall be reported by the Collector monthly to the Director of Finance.

**Section 13.03.** In compliance with the said special election of January 20, 2001, authorizing said tax, after all commissions to dealers and the cost of

collection of the tax have been paid as provided for in Section 6.05, the remaining balance shall be available for appropriation and expenditure by the City solely for the purposes designated in the proposition authorizing the levy of the tax, said proposition being herein before set forth in the preamble to this Ordinance, and having been approved by a majority of the qualified electors of the City voting at a special election held therein on January 20, 2001.

## MISCELLANEOUS

**Section 14.01.** Any provision of this Ordinance to the contrary notwithstanding, the City may contract with anyone for the performance of any or all of the duties of the Collector provided for herein.

**Section 14.02.** This Ordinance shall be published within twenty (20) days after its adoption in the Official Journal, or as soon as possible thereafter, and shall be in full force and effect immediately upon its adoption as it affects the public health, welfare and safety of the City.

**Section 14.03.** A certified copy of this Ordinance shall be recorded as soon as possible with the Clerk of Court of the Parish of Calcasieu, State of Louisiana, as well as any and all amendments made thereto through appropriate action taken by the City.

ADOPTED AND APPROVED this 12<sup>TH</sup> day of March, 2001.

/s/ David A. Ritchie  
DAVID A. RITCHIE, Chairman

ATTEST:

/s/ Arlene Blanchard  
ARLENE BLANCHARD  
Clerk of the Council

(Other business not pertinent to the present excerpt may be found of record in the official minute book.)

Upon motion duly made and unanimously carried, the meeting was adjourned.

\_\_\_\_\_  
/s/ David A. Ritchie  
DAVID A. RITCHIE, Chairman

ATTEST:

/s/ Arlene Blanchard  
ARLENE BLANCHARD  
Clerk of the Council

STATE OF LOUISIANA

PARISH OF CALCASIEU

I, ARLENE BLANCHARD, do hereby certify that I am the duly qualified and acting Clerk of the City Council of the City of Sulphur, Louisiana.

I further certify that the above and foregoing is a true and correct copy of an excerpt from the minutes of a special meeting of the City Council of the City of Sulphur, Louisiana, held on March 12, 2001, insofar as said minutes pertain to the matters therein set out, and that the foregoing copy of a resolution adopted at said meeting is a true and correct copy of the original resolution, as it is officially of record in my possession.

IN WITNESS WHEREOF, witness my official signature and the impress of the official seal of the City Council of the City of Sulphur, Louisiana, on this 12<sup>th</sup> day of March, 2001.

ARLENE BLANCHARD  
Clerk of the Council

[S E A L]