

The following ordinance, which was previously introduced and laid over for publication of Notice, was offered for final adoption as amended by WASHINGTON and was seconded by CHISHOLM:

ORDINANCE NO. 598
CITY OF WESTLAKE, STATE OF LOUISIANA
SALES TAX ORDINANCE
AMENDED AND RESTATED AS OF OCTOBER 1, 1997

TO PROVIDE ADDITIONAL REVENUE FOR THE CITY OF WESTLAKE, STATE OF LOUISIANA, FOR THE PURPOSES SET FORTH HEREIN, BY LEVYING THREE (3) SEPARATE TAXES UPON THE SALES AT RETAIL, THE USE, THE LEASE OR RENTAL, THE CONSUMPTION AND THE STORAGE FOR USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY AND UPON THE SALES 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 TAXES; PROVIDING FOR AN ADEQUATE REMEDY AT LAW; DEFINING VIOLATIONS OF THE PROVISIONS OF THIS ORDINANCE AND THE ENFORCEMENT OF THE PROVISIONS OF THIS ORDINANCE AND THE COLLECTION OF THE TAXES LEVIED THEREBY; PROVIDING THAT ANY PART OF THIS ORDINANCE WHICH MAY BE HELD INVALID OR UNCONSTITUTIONAL SHALL NOT AFFECT OR IMPAIR ANY OTHER PART THEREOF; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, under the provisions of Article VI, Section 29 of the Louisiana Constitution of 1974, and other constitutional and statutory authority (the "Act"), and an election held on May 5, 1990 (the "1990 Election"), the City of Westlake, State of Louisiana (the "City"), is authorized to levy and collect and has been levying and collecting within the City since July 1, 1990, a tax of one percent (1%) (the "1990 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 defined in Sections 301-317, inclusive, of Title 47 of the Louisiana Revised Statutes of 1950 (R.S. 47:301-47:317), all as set forth in the following proposition which was duly approved by a majority of the qualified electors voting in the 1990 Election:

TAX RENEWAL PROPOSITION
(Election of May 5, 1990)

"Shall the City of Westlake, Louisiana (the 'City'), under the provisions of Article VI, Section 29 of the Louisiana Constitution of 1974, Subpart D of Part I of Chapter 6 of Title 33 of the Louisiana Revised Statutes of 1950, as amended, and constitutional and statutory authority supplemental thereto, be authorized to continue to levy and collect within the limits of the city, and adopt an ordinance providing for such levy

and collection, a tax, in addition to any other taxes, of one percent (1%) (the "Tax") upon the sale at retail, the use, the lease or rental, the consumption, and storage for use or consumption, of tangible personal property, and on sales of services in the City, all as presently or hereafter defined in R.S. 47:301 through R.S. 47:317, inclusive, with the net proceeds of the Tax (after deducting the reasonable and necessary costs of collecting and administering the Tax) to be used to provide a portion of the cost of constructing improvements to the municipal waterworks system, constructing and improving streets and roads in the City, and for other lawful waterworks system and streets and roads improvement purposes, and shall the City be authorized to fund the Tax into bonds from time to time, to the extent and in the manner permitted by the laws of Louisiana, including, but not limited to, Subpart F of Part III of Chapter 4 of Subtitle II of Title 39 of the Louisiana Revised Statutes of 1950, as amended?";

and

WHEREAS, under the provisions of the Act and an election held on May 3, 1997 (the "1997 Election"), the City is authorized to levy and collect and has been levying and collecting within the City since July 1, 1997, for a period of ten (10) years, a tax of one percent (1%) (the "1997 1% 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 defined in Sections 301-317, inclusive, of Title 47 of the Louisiana Revised Statutes of 1950 (R.S. 47:301-47:317), all as set forth in the following proposition which was duly approved by a majority of the qualified electors voting in the 1997 Election:

PROPOSITION NO. 1
(Election of May 3, 1997)

SUMMARY: ONE PERCENT (1%) SALES AND USE TAX FOR 10 YEARS WITH THE PROCEEDS TO BE DEPOSITED IN A SPECIAL FUND AND DEDICATED AND USED FOR THE PURPOSES OF CONSTRUCTING, ACQUIRING, IMPROVING, OPERATING AND MAINTAINING FIRE DEPARTMENT STATIONS AND EQUIPMENT, SEWERAGE FACILITIES, AND PUBLIC PARKS AND RECREATIONAL FACILITIES AND SUPPLEMENTING THE COST OF SALARIES AND BENEFITS OF CITY EMPLOYEES; WITH THE PROCEEDS OF THE TAX TO BE SUBJECT TO BEING FUNDED INTO BONDS.

"Shall the City of Westlake, State of Louisiana (the 'City'), under the provisions of Article VI, Section 29 of the Constitution of the State of Louisiana of 1974, and other constitutional and statutory authority, be authorized to levy and collect, and adopt an ordinance providing for such levy and collection, a tax of one percent (1%) (the 'Tax') upon the sale at retail, the use, the lease or rental, the consumption, and storage for use or consumption, of tangible personal property and on sales of services in the City, all as defined in R.S. 47:301 through 47:317, inclusive, for a period of ten (10) years, beginning July 1, 1997, with the proceeds of the Tax (after paying the reasonable and necessary costs and expenses of collecting and administering the Tax) to be deposited in a special fund and dedicated and used for the purposes of constructing, acquiring,

improving, operating and maintaining fire department stations and equipment, sewerage facilities and public parks and recreational facilities in the City; and supplementing the cost of salaries and benefits of City employees; and shall the City be authorized to fund the proceeds of the Tax into Bonds to pay the cost of making capital improvements for any of the aforesaid purposes, to the extent and in the manner permitted by the Laws of Louisiana, including Sub-Part F, Part III, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950?";

and

WHEREAS, under the provisions of the Act and the 1997 Election, the City is authorized to levy and collect from and after October 1, 1997, for a period of ten (10) years, a tax of one-half of one percent (½%) (the "1997 ½% Tax") (said tax being a renewal of a similar tax which expires on September 30, 1997) 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. 47:301-47:317), all as set forth in the following proposition which was duly approved by a majority of the qualified electors voting in the 1997 Election:

PROPOSITION NO. 2 (RENEWAL)
(Election of May 3, 1997)

SUMMARY: ONE-HALF OF ONE PERCENT (½%) SALES AND USE TAX RENEWAL FOR 10 YEARS FOR THE PURPOSE OF IMPROVING, OPERATING AND MAINTAINING THE WESTLAKE POLICE DEPARTMENT; WITH THE PROCEEDS OF THE TAX TO BE SUBJECT TO BEING FUNDED INTO BONDS.

"Shall the City of Westlake, State of Louisiana (the 'City'), under the provisions of Article VI, Section 29 of the Constitution of the State of Louisiana of 1974, and other constitutional and statutory authority, be authorized to extend the levy and collection, and adopt an ordinance providing for such levy and collection, a tax of one-half of one percent (½%) (the 'Tax') upon the sale at retail, the use, the lease or rental, the consumption, and storage for use or consumption, of tangible personal property and on sales of services in the City, all as defined in R.S. 47:301 through 47:317, inclusive, for a period of ten (10) years, beginning October 1, 1997, with the proceeds of the Tax (after paying the reasonable and necessary costs and expenses of collecting and administering the Tax) to be dedicated and used for the purpose of improving, operating and maintaining the Westlake Police Department; and shall the City be authorized to fund the proceeds of the Tax into Bonds to pay the cost of making capital improvements for such purposes, to the extent and in the manner permitted by the Laws of Louisiana, including Sub-Part F, Part III, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended?";

and

WHEREAS, in order to provide uniformity in the collection and administration of the 1990 Tax, the 1997 1% Tax and the 1997 ½% Tax, this governing authority desires to amend and restate

the City's sales tax ordinances to provide a unified sales tax ordinance for the levy and collection of the 1990 Tax, the 1997 1% Tax and the 1997 ½% Tax; and

WHEREAS, in compliance with the Act, the 1990 Election and the 1997 Election, it is the desire of the Governing Authority to continue the levy of the 1990 Tax and the 1997 1% Tax and to provide for the levy the 1997 ½% Tax and provide for the collection and distribution of the proceeds thereof and other matters in connection therewith as hereinafter provided in this ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Board of Aldermen of the City of Westlake, State of Louisiana:

DEFINITIONS

As used in this Ordinance the following terms, words and phrases shall have the meaning ascribed to them in Sections 1.01 to 1.31 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 person who does not hold himself out as engaged in business.

Section 1.02. City shall mean all of the City of Westlake, State of Louisiana, without any limitations whatsoever.

Section 1.03. 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 Mayor and Board of Aldermen of the City of Westlake, State of Louisiana, for the purpose of collecting said Tax.

Section 1.04. Cost Price (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 (the "State" or "state") for repairs performed outside the State and is thereafter returned to the State, 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. (Act 29, effective 7-1-96)

Section 1.05. *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, state-wide 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 of 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 include every person who engages in regular or systematic solicitation of a consumer market in this state by the distribution of catalogs, periodical, 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.

(l) The term *dealer* shall not include a private car company, or any regularly incorporated railroad, whose railway rolling stock used either for freight or passenger purposes and whether owned or leased, is operated over any railroad within, through, to, or from this City.

Section 1.06. *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 1.07. *Drugs* includes all pharmaceutical and medical devices which are prescribed for use in the treatment of any medical disease.

Section 1.08. *Effective Date* means July 1, 1990 with respect to the 1990 Tax; July 1, 1997 with respect to the 1997 1% Tax; and October 1, 1997 with respect to the 1997 ½% Tax.

Section 1.09. *Expiration Date* means June 30, 2007 for the 1997 1% Tax and September 30, 2007 for the 1997 ½% Tax. The 1990 Tax has no expiration date.

Section 1.10. *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)

Section 1.11. *Governing Authority* shall mean and include the Mayor and Board of Aldermen of the City of Westlake, State of Louisiana, or its successors.

Section 1.12. *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 1.13. *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.

Section 1.14. *Lease or rental* (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)

(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)

Section 1.15. *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 1.16. *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 1.17. *1990 Tax* means the one percent (1%) sales and use tax authorized at an election held in the City on May 5, 1990, and being levied in the City since July 1, 1990.

Section 1.18. 1997 1% Tax means the one percent (1%) sales and use tax authorized at an election held in the City on May 3, 1997, and being levied and collected in the City since July 1, 1997.

Section 1.19. 1997 ½% Tax means the one-half of one percent (½%) sales and use tax authorized at an election held in the City on May 3, 1997, and being and collected levied in the City effective October 1, 1997.

Section 1.20. Person (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 the state, any parish, city and parish, municipality, district, or other political subdivision thereof, or any agency board, commission, or instrumentality of the 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 and Taxation 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 and Taxation. 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)

Section 1.21. 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 1.22. Retail Sale or Sale at Retail (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 find himself be liable for and pay the tax. (Act 12, 1996; effective 7-1-96)

(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 sales for rental of automobiles which take place on or after July 1, 1996. (Act 7, 1996, effective 7-1-96)

(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 chloralkali 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 sale of food items to food banks, as defined in LSA-R.S. 9:2799.

(J) 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.

(K) 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.

(L) 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.)

(M) The term "*sale at retail*" does not include the sale of tangible personal property to food banks, as defined in LSA-R. S. 9:2799.

(N) 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)

(O) 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)

(P) 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; also see Section 5.11)

(Q) 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)

(R) 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); and (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, void 7-1-98)

(S) 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)

Section 1.23. *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 1.24. *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 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 security for the payment of the price, shall be deemed a sale. The term "*sale*" shall also include the "*Sales of Services*", as defined herein.

Section 1.25. *Sales price* (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 service 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 motor vehicle license tax. For the purpose of this paragraph, "*rebate*" means any amount offered by a vendor or manufacturer of 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) 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)

(E) 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 1.29 (G)(iii), 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 & Taxation 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, effective 7-2-96)

Section 1.26. 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.
- (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.

Section 1.27. *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 1.28. *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. The term "*tangible personal property*" shall not include stocks, bonds, notes, or other obligations or securities, gold, silver, or numismatic coins, or platinum, gold, or silver bullion having a total value

of one thousand dollars or more; or proprietary geophysical survey information or geophysical data analysis furnished under a restricted use agreement even though transferred in the form of tangible personal property. 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)

Section 1.29. 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. (Act 12 1996, effective 7-1-96)

(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 (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.

- (F) (i) 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)
- (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)
- (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 1.25(E).
- (iii) 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 (E). 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 1.25(E). The provisions of this subparagraph, (G)(iii), shall not apply to feedstock. (Act 29, effective 7-2-96)

Section 1.30. 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 1.31. Tax means collectively the 1990 Tax, the 1997 1% Tax and the 1997 ½% Tax.

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

Section 2.01. LEVY OF TAX (A) That there is hereby levied, from and after the respective Effective Date and to the respective Expiration Date with regard to the 1997 1% Tax and the 1997 ½% Tax (the 1990 Tax having been voted without an expiration date), for the purposes set out in the propositions approved at the elections of May 5, 1990 and May 3, 1997, hereinabove set forth, the 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 Tax to be as follows:

1990 Tax:

- (1) At the rate of one percent (1%) 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 percent (1%) 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 percent (1%) 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 percent (1%) 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 percent (1%) of the amounts paid or charged for such services.

1997 1% Tax:

- (1) At the rate of one percent (1%) 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 percent (1%) 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 percent (1%) 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 percent (1%) 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 percent (1%) of the amounts paid or charged for such services.

1997 ½% Tax:

(1) At the rate of one-half of one percent (½%) 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 percent (½%) 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 percent (½%) 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 percent (½%) 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 percent (½%) of the amounts paid or charged for such services.

Section 2.02. COLLECTION OF TAX FROM DEALER. 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. TAX IN ADDITION TO OTHER TAXES. 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 Governing Authority.

Section 2.04. TAX NOT LEVIED ON ADVERTISING SERVICE. 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. APPLICATION OF STATE EXEMPTION. 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. USE OF HELICOPTER FOR OIL AND GAS PURPOSES. (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. COLLECTION MADE FOR CITY BY COLLECTOR. 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 Collector 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 purposes of this Ordinance the use, or consumption, or distribution, or storage to be use 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 to 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 first registration in this parish 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 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) Each vendor of a vehicle covered by the provisions hereof 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 allowances 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 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 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 Tax levied by this Ordinance to any sale, use, items or transactions which has heretofore been taxable, and this Section is not to be construed as so doing. It is the intention of this Section to transfer the collection of the sales and use tax on vehicles from the vendor to the Vehicle Commissioner or his agent and to provide a method of collection of the tax directly from the vendee or user by the Vehicle and between the Director of Public Safety, as the Vehicle Commissioner and agent of the Collector of Revenue, and the Collector, the execution of which agreement is hereby authorized. 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 hereof, and shall disburse all funds received from the Collector of Revenue by virtue of collections made hereunder to the City.

(4) The provisions contained in Section 1.22(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 to this Section. Isolated or occasional sales of vehicles are hereby defined to be sales at retail and as such are subject to the Tax.

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 the Tax required by this Ordinance has 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 District brought into this District 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 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 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. DIRECT PAYMENT NUMBERS. A. Notwithstanding any other law to the contrary except for the provisions of LSA-R.S. 47:303(B) and (E), the state and local sales and use tax due on the purchase, importation, or lease of tangible personal property or taxable services by taxpayers who have obtained a Direct Payment Number, shall be remitted directly to the state and appropriate political subdivisions by such taxpayer. The vendor or lessor of tangible personal property or taxable services shall not be responsible for collecting sales and use tax on such sales or leases, and shall not be liable for such tax as provided in LSA-R.S. 47:304 (C), upon presentation to him of valid DP Number by such purchaser and leaser. Additional statutory provisions applicable to Direct Payment Numbers are found under LSA-R.S. 47:303.1. A Louisiana taxpayer who obtains a DP Number as provided in LSA-R.S. 47:303.1 shall remit sales and use taxes due on purchases and rentals of tangible personal property and taxable services directly to the state and local taxing bodies to whom the sales and use taxes are due, and shall not be liable to remit the tax to the vendor or lessor of tangible personal property and taxable services, as provided in LSA-R.S. 47:303.1.

B. Notwithstanding the provisions above concerning direct payment numbers, the collector is hereby authorized to enter into direct payment agreements with manufacturing, chemical, refinery, and/or other industrial concerns located within the City. The purpose of these agreements is to ensure property tax treatment relative to the purchase, importation, or lease of tangible personal property, or taxable services by taxpayers who have obtained a Local Direct Payment Number. Local sales and use taxes shall be reported directly to the central collection agency by such taxpayer. Evidence of such agreement shall be issued solely by the central collection agency who is responsible for administering and collecting all local sales and use taxes within the taxing jurisdictions. Issuance of a Local Direct Payment Certificate will only preclude vendors from collection of local taxes related to taxable activities. Vendors who are presented with a valid Direct

Payment Exemption Certificate shall not be liable for collection of applicable local taxes covered by the certificate.

Section 3.03. PROHIBITION ON LEVY OR COLLECTION OF SALES TAX ON GOODS, PROPERTY OR SERVICES DELIVERED OR PERFORMED OUTSIDE CITY BOUNDARIES. 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)

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 the 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 & Taxation 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 & Taxation. (Act 31 1996, effective 7-1-96) (Amends LSA-R.S. 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, or 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. COLLECTION OF TAX BY DEALER. The Tax 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 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 LSA-R.S. 47:303.B. The dealer shall collect the Tax on off-road vehicles from out-of-state residents who purchase off-road vehicles in this state and remit the Tax due directly to the Department of Revenue and Taxation and the local collection agency. (Act 688; Effective 8-15-93)

Section 4.02. COLLECTION OF TAX BY DEALERS OUTSIDE THE CITY. 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. ADDITION OF TAX TO SALES PRICE. 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. TAXES COLLECTED IN EXCESS OF TAX RATE. 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. FAILURE OF DEALER TO COLLECT TAX. 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.

Section 4.06. DEALER NOT TO ABSORB TAX. 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 violated this provision with respect to advertising shall be fined not less than twenty-five dollars (\$25.00) nor 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. DEALER MAY COLLECT TAX SEPARATE FROM PURCHASE PRICE. 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. TAX MUST BE PAID TO COLLECTOR WITHIN 15 DAYS OF SALE. Where the purchaser has failed to pay and a dealer has failed to collect the Tax upon a sales 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.

Section 4.09. USE OF TOKENS PROHIBITED. 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 the Tax imposed by this Ordinance, and to collect the Tax imposed by the is Ordinance, on or before the Effective Date, or in the case of dealers commencing business after the Effective Date, 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. PURCHASE OF PROPERTY FOR RESALE. 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 Collector the Tax herein imposed.

Section 4.12. REFUSAL TO COLLECT TAX BY DEALER. Any dealer who shall neglect, fail or refuse to collect the Tax as provided in this Ordinance, upon any, every and all retail sales by him or his agent, or employee, which is subject to Tax, shall be liable for and pay the Tax himself.

Section 4.13. TAX IS PROPERTY OF TAXING AUTHORITY. 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. CERTAIN EXEMPTIONS. The Tax 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 enacted. 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 for agricultural use shall be exempted from the Tax 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.

(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 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;
- 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 and used automobiles withdrawn from stock by new or used motor vehicle dealers, with the approval of the Secretary of the Department of Revenue and

Taxation 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 auto mobiles, 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) orthodontic 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 Tax 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 Tax 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 Tax 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 Tax 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 enable 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 enable this enforcement of this Ordinance against vendors that have no other nexus with this City, the provision cited in LSA-RS 47:305(E)(1), and 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 Tax imposed by this Ordinance shall not apply to the amounts paid by radio and television broadcasters for the right to exhibit of 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 Tax 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 or 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 Tax 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 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 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, not 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 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 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. Purchases of equipment used in fire fighting by bona fide organized public volunteer fire departments. (LSA-RS. 47:305.12)

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)

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. 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)

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 Tax 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. The Tax imposed by this Ordinance shall not apply to purchases or leases of airplane equipment, airplane parts, and airplanes by any commuter airline domiciled in the State of Louisiana.

A "*commuter airline*" for the purpose of this Ordinance is defined as any airplane transporting passengers and/or freight on a regularly scheduled basis, with a minimum of twenty-five (25) flights per week, whose schedule is published in the Official Airline Guide but which has been exempted from the general rate and route regulations of the Civil Aeronautics Board under the provisions of Sections 298.11 of Subpart B of Part 298 of Chapter 11 of Title 14 of the Code for Federal Regulations promulgated under the authority of Sections 1324 and 1386 of Title 49 of the United States Code. A "*commuter airline*" is further defined as any airline having ticket counters that are staffed at airports it serves, a reservations office operating at least twelve (12) hours a day, seven (7) days a week, and interline ticket and baggage agreements through the Air Traffic Conference for America. (LSA-RS 47:305.21)

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 \$3,000 per unit, and such equipment being.

- (1) Mobile, motorized, self propelled farm equipment and attachments thereto;
- (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. The Tax imposed herein shall not apply to sale of monetized bullion having a total value of \$1,000 or more. For purposes of this paragraph, "*Monetized bullion*" means coins or other forms of money manufactured from gold, silver, or other metals and heretofore, now, hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation. (LSA-RS 47:305.24)

Section 5.21. CAPITAL MASS TRANSIT EQUIPMENT. Purchases of capital mass transit equipment by any political subdivision or any agency as defined in LSA-RS 42:1111. "*Capital mass transit equipment*" is defined for purpose of this paragraph as buses, other vehicles, facilities, and other equipment useful and necessary for the provision of public transportation service. (LSA-RS 47:305.27)

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 Tax imposed by this Ordinance. (LSA-RS 47:305.41)

Section 5.24. DUCKS UNLIMITED. The sales and use Tax imposed by this Ordinance shall not apply to either the sales of Ducks Unlimited or any of its chapters or any rental or purchase of property or services by Ducks Unlimited or any of its chapters. (LSA-RS 47:305.41)

Section 5.25. RAW MATERIALS USED IN PRINTING PROCESS. The Tax 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 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) Piggy-back trailers or containers when brought into or operated as piggy-back 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 Tax 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 Tax 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 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. CERTAIN TRUCKS AND TRAILERS USED IN INTERSTATE COMMERCE.

A. 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.

B. 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. (Act 8 1996; effective 7-1-96; void 7-1-98)

Section 5.31. CITY OF WESTLAKE: EXEMPTION. The City is hereby exempted from the provisions of this Ordinance and from payment of the Tax imposed hereunder.

Section 5.32. EXEMPTIONS AND EXCLUSIONS - Specific Application Required; Protection of Bonds. Any exclusion or exemption specifically mandated to include any local political subdivision by the provisions of Louisiana Revised Statutes, Title 47, Section 305, et seq.

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)

Section 5.33. EXEMPTION; RAIL ROLLING STOCK MANUFACTURED IN THIS STATE FOR USE IN INTERSTATE COMMERCE. The sales tax imposed by the state of Louisiana or any of its political subdivisions or statewide taxing authorities shall not apply to rail rolling stock manufactured in this state for use in interstate commerce. (Act 36 1996; effective 7-1-96; expires 6-30-98)

Section 5.34. 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)

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

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

Section 6.02. TRANSMISSION OF FORMS FROM DEALERS TO COLLECTORS. 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 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. DEALER TO REMIT TAX TO COLLECTOR. 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. TAX ON RENTALS OR LEASES. 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 1.05 (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#61:1.4303(B). (Act 8 1994; Effective 6-7-94)

Section 6.05. DEALER COMPENSATION. 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. DEALER AGENT OF CITY. 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. COLLECTOR MAY EXTEND TIME FOR MAKING RETURNS. 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. QUARTERLY REPORTING; IRREGULAR REMITTANCES. 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 Tax under this Ordinance when such Tax amounts 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.

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 District Attorney 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 fines and penalties and being subject to imprisonment as elsewhere 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. 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. Criminal penalty for failure to account for City 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. PAYMENT OF PENALTIES AND INTEREST. 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 payment of any interest charged in excess of the rate of one and one quarter of one percent (1- 1/4%) per month.

Section 6.15. PAYMENTS MUST BE IN FORM OF REMITTANCE REQUIRED BY THE COLLECTOR. All Tax, 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 6.16. 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-R.S. 47:9(A)(2), shall register the contract(s) with the Department of Revenue and Taxation and the Calcasieu Parish Sales/Use Tax Department in accordance with the provisions of LRS-R.S. 47:9(A)(1) and Act 893 of 1993.

(B) A certificate in a form to be determined by the Secretary of Revenue and Taxation 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-R.S. 47:9(b)(i) and any rules and/or regulations as may be promulgated by the Secretary of the Department of Revenue and Taxation 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, certifying 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. 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 records shall 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 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.

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 or files or the facts shown thereby are directly involved in such action or proceedings.

B. Nothing contained in this Ordinance 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; or

(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 or state or of the United States who shall be concerned with the administration of any similar tax by that political or 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 of 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 at 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, and 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 Tax collected under this Ordinance.

E. If any person or dealer shall fail to make a return or report as required by this Ordinance, 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, or other wise 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 distraint 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 who 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 deem 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 make 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 assessment.

All Tax, 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 Tax, 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 Tax, 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 Tax, 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 7018-91, 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 or 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 parish 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) nor 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. DISTRAINT 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 distrain 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 charges 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 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 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 any one or any combination of such officers or directors 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 by resolution of the board of directors may designate an officer or director 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)

- (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. Some memorandum shall be accepted by the City at full face value from the dealer to whom it is issued, in the remittance for subsequent Tax 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.

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. INTEREST ON REFUNDS AND CREDITS. 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 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. 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 Mayor of the City.

C. This Section shall be construed to provide a legal remedy in the state, city, or federal courts, by action of law, in case such Tax 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 assessment 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 non-payment, 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 this Section.

OTHER ADMINISTRATIVE PROVISIONS

Section 12.01. SALE OR USE OF TANGIBLE PROPERTY PRIOR TO EFFECTIVE DATE. 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, sub-section, 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, sub-section, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases may be so declared invalid.

Section 12.05. TAX SUPPLEMENTAL. The Tax levied herein is declared to be supplemental and in addition to all other taxes levied by and under the authority of the Governing Authority.

Section 12.06. TITLE OF ORDINANCE. This Ordinance may be cited or otherwise referred to as the "City of Westlake Amended and Restated Sales and Use Tax Ordinance".

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 and representatives of the City for purposes of administration, enforcement and collection of 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 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 Governing Authority.

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 Tax 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 the Tax, and of the inspection and enforcement duties required herein, shall be borne as provided in Section 13.02. and 13.03.

DISPOSITION OF TAX PROCEEDS AND REVENUES

Section 13.01. TAX REVENUES TO BE DEPOSITED TO ACCOUNT OF CITY. All Tax, 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 may 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. PAYMENT OF EXPENSES OF COLLECTING TAX. 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

ious administrative procedures established herein. Such costs and expenses shall be re ed by the Collector monthly to the Treasurer.

Section 13.03. USE OF NET PROCEEDS OF TAX. In compliance with the said special elections of May 5, 1990 and May 3, 1997, authorizing the 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 propositions authorizing the levy of the respective Tax, said propositions being hereinbefore 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 elections held therein on May 5, 1990 and May 3, 1997.

MISCELLANEOUS

Section 14.01. CONTROLLING AUTHORITY. The provisions of Chapter 2 of Title 47 of the Louisiana Revised Statutes of 1950, as amended, and any other applicable statutory authority are hereby made applicable to the levy and collection of the Tax levied by this Ordinance, and to the extent, if any, that the provisions set forth herein conflict with any applicable statutory authority, said statutory authority shall be controlling.

Section 14.02. CONTRACT DUTIES OF COLLECTOR. 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 14.03. PUBLICATION; EFFECTIVE DATE. 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 14.04. RECORDATION OF ORDINANCE. 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.

This Ordinance having been submitted to a vote, the vote thereon was as follows:

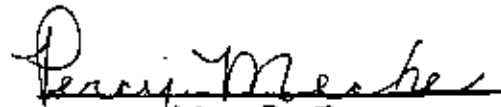
YEAS: Carl Chisholm, Hal McMillin, John Cradure and Gerald Washington.

NAYS: None.

ABSENT: None.

THUS ADOPTED BY THE GOVERNING AUTHORITY OF THE CITY OF WESTLAKE, STATE OF LOUISIANA, on this, the 11th day of September, 1997.


Clerk


Mayor Pro Tem

RESOLUTION NO. 2345

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF WESTLAKE RECOMMENDING THE MAYOR AND CITY COUNCIL, EMPOWERED IN THE YEAR 2014, CONSIDER HOLDING AN ELECTION PRIOR TO THE EXPIRATION OF THE 1% SALES TAX THAT WAS PASSED ON MAY 5, 1990.

WHEREAS, the Mayor and City Council, a body politic and governing authority for the City of Westlake, are aware that the proposal that passed and levied a 1% sales tax that was voted on May 5, 1990 is perpetual.

WHEREAS, it was the intention of the Mayor and City Council that the tax be for twenty-five years.

WHEREAS, the proposition that appeared on the ballot and voted on in May, 1990 reflected no expiration date.

WHEREAS, the Mayor and City Council recommend that the Mayor and City Council empowered in the year 2014 consider holding an election prior to the twenty-five (25) years from which the date the first sales tax collection was levied on October 1, 1990. The purpose of the election would be to extend the levy of the 1% tax for an additional period of time.

NOW THEREFORE, BE IT RESOLVED, by the Mayor and the City Council of the City of Westlake, Louisiana, in Regular session convened that it is the desire of the Mayor and City Council of the City of Westlake to recommend that the Mayor and City Council empowered in the year 2014 consider holding an election prior to the twenty-five (25) years from the date the first sales tax collection was levied on October 1, 1990. The purpose of the election would be to extend the levy of the 1% tax for an additional period of time.

THIS RESOLUTION having been submitted to a vote, the vote thereon was as follows:

YEAS: Messrs. Chisholm, Cradure, Meche, McMillin and Washington


NAYS: None.

ABSENT: None.

ADOPTED AND APPROVED by the City Council of the City of Westlake, Louisiana, on this 13th day of March, 1997.


DUDLEY R. DIXON, Mayor

ATTEST:


HOLLY FONTENOT, City Clerk

The following ordinance having been introduced at a meeting held on April 16, 2007, notice of its introduction having been published in the official journal and a public hearing having been held thereon on May 21, 2007, was offered for final adoption by Mr. Anderson and seconded by Mr. Cradure:

ORDINANCE NO. 764

An ordinance providing for the levy and collection within the City of Westlake, State of Louisiana, effective July 1, 2007, of a one percent (1%) sales and use tax (the "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 in said City, levying and providing for the assessment, collection, payment and dedication of the proceeds of such Tax and the purposes for which such proceeds may be expended, such Tax having been authorized at a special election held in the City on March 31, 2007.

WHEREAS, under the provisions of Article VI, Section 29 of the Constitution of the State of Louisiana of 1974, and other constitutional and statutory authority and an election held on March 31, 2007, the Mayor and City Council of the City of Westlake, State of Louisiana (the "Governing Authority"), is authorized to levy and collect within the City of Westlake, State of Louisiana, a one percent (1%) sales and use tax (the "Tax"), for a period of ten (10) years, from and after July 1, 2007, 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 applicable statutory authority, pursuant to the following proposition which was approved at said election held on March 31, 2007:

PROPOSITION NO. 1
(SALES TAX RENEWAL)

SUMMARY: ONE PERCENT (1%) SALES AND USE TAX FOR 10 YEARS WITH THE PROCEEDS TO BE DEPOSITED IN A SPECIAL FUND AND DEDICATED AND USED FOR THE PURPOSES OF CONSTRUCTING, ACQUIRING, IMPROVING, OPERATING AND MAINTAINING FIRE DEPARTMENT STATIONS AND EQUIPMENT, SEWERAGE FACILITIES, AND PUBLIC PARKS AND RECREATIONAL FACILITIES AND SUPPLEMENTING THE COST OF SALARIES AND BENEFITS OF CITY EMPLOYEES; WITH THE PROCEEDS OF THE TAX TO BE SUBJECT TO BEING FUNDED INTO BONDS.

Shall the City of Westlake, State of Louisiana (the "City"), under the provisions of Article VI, Section 29 of the Constitution of the State of Louisiana of 1974, and other constitutional and statutory authority, be authorized to levy and collect, a tax of one percent (1%) (the "Tax") upon the sale at retail, the use, the lease or rental, the consumption, and storage for use or consumption, of tangible personal property and on sales of services in the City, in the manner provided by state law, for a period of ten (10) years, beginning July 1, 2007, with the proceeds of the Tax (after paying the reasonable and necessary costs and expenses

of collecting and administering the Tax) to be deposited in a special fund and dedicated and used for the purposes of constructing, acquiring, improving, operating, and maintaining fire department stations and equipment, sewerage facilities and public parks and recreational facilities in the City; and supplementing the cost of salaries and benefits of City employees (the estimated amount reasonably expected to be collected from the levy of the Tax for one entire year being \$1,000,000); and shall the City be authorized to fund the proceeds of the Tax into Bonds to pay the cost of making capital improvements for any of the aforesaid purposes, to the extent and in the manner permitted by the Laws of Louisiana, including Sub-Part F, Part III, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended?

WHEREAS, in compliance with the aforesaid constitutional and statutory authority and said special election of March 31, 2007, it is the desire of this Governing Authority to provide for the levy and collection of the Tax for an additional ten (10) years, and to provide for distribution of the proceeds thereof and other matters in connection therewith as hereinafter provided in this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Westlake, State of Louisiana (the "Governing Authority"), acting as the governing authority of the City of Westlake, State of Louisiana (the "City"), that:

SECTION 1. Imposition. Pursuant to the authority of a special election held in the City on March 31, 2007, a tax is hereby levied 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 on sales of services in the City (the "Tax"), as defined by law. The Uniform Local Sales Tax Code, as enacted by Act 73 of the 2003 Regular Session of the Louisiana Legislature and as it may be amended, shall apply in the assessment, collection, administration and enforcement of the Tax to the extent required by the Constitution of the State of Louisiana and the Revised Statutes.

SECTION 2. Rate. The Tax is levied at the rate of one percent (1%) 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 to the Governing Authority, and to include each and every retail sale. The Tax is levied at the rate of one percent (1%) 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. The Tax is levied at the rate of one percent (1%) of the gross proceeds derived from the lease or rental of tangible personal property, as defined by law, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to the said business, or of the monthly lease or rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the owner of the tangible personal property. The Tax is levied at the rate of one percent (1%) of the amount paid or charged for taxable services, as defined by law, performed in the City.

SECTION 3. Effective Date. The Tax shall be effective on July 1, 2007.

SECTION 4. Term. The Tax has a term limit of ten (10) years ending on June 30, 2017.

SECTION 5. Purposes. The proceeds of the Tax shall be used for those corporate purposes set forth in the proposition approved by the voters in the special election held in the City on March 31, 2007, which proposition is set forth in the preamble hereto.

SECTION 6. Vendor's Compensation. 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 City's collector in the form of a deduction in submitting his report and paying the amount due by the dealer, provided the amount due was not delinquent at the time of payment, and provided the amount of any credit claimed for taxes already paid to a wholesaler shall not be deducted in computing the commission allowed the dealer hereunder.

SECTION 7. Exclusions and Exemptions. The Governing Authority adopts none of the optional exclusions or exemptions allowed by State sales and use tax law, nor does the Governing Authority adopt any exclusions or exemptions that are not allowed as an exclusion or exemption from State sales and use tax. Included within the tax base is every transaction, whether sales, use, lease or rental, or service, with no exclusions or exemptions except for those mandated upon political subdivisions by the Constitution or statutes of the State of Louisiana.

SECTION 8. Interest. The interest on unpaid taxes provided for by La. R.S. 47:337.69 shall be at the rate of one and one-fourth percent (1-1/4%) per month.

SECTION 9. Delinquency Penalty. Penalty as provided by La. R.S. 47:337.70 shall be five percent (5%) per thirty (30) days, not to exceed twenty-five percent (25%).

SECTION 10. Penalty for False or Fraudulent Return. Penalty as provided by La. R.S. 47:337.72 shall be fifty percent (50%) of the Tax found to be due.

SECTION 11. Negligence Penalty. The penalty provided by La. R.S. 47:337.73 shall be five percent (5%) of the Tax or deficiency found to be due, or ten dollars (\$10.00), whichever is greater.

SECTION 12. Penalty for Insufficient Funds Check. The penalty provided in La. R.S. 47:337.74 shall be an amount equal to the greater of one percent (1%) of the check or twenty dollars (\$20.00).

SECTION 13. Attorney Fees. The collector is authorized to employ private counsel to assist in the collection of any taxes, penalties or interest due under this ordinance, or to represent him in any proceeding under this ordinance. If any taxes, penalties or interest due under this ordinance are referred to an attorney at law for collection, an additional charge of attorney fees, in the amount of ten per centum (10%) of the taxes, penalties and interest due, shall be paid by the tax debtor.

SECTION 14. Limits on Interest, Penalty and Attorney Fees. Should the interest, penalties or attorney fees herein, or the combined interest, penalties and attorney fees be declared

to be in excess of limits provided by other law, including relevant jurisprudence, then the maximum interest, penalties and attorney fees allowed by such other law shall apply.

SECTION 15. Collector. The Tax levied by this ordinance is authorized to be collected by a "Collector" which term shall mean and include the entity presently collecting sales and use taxes on behalf of the City.

SECTION 16. Powers of Collector. The Collector is hereby authorized, empowered and directed to carry into effect the provisions of this ordinance, to appoint deputies, assistants or agents to assist it in the performance of its duties, and in pursuance thereof to make and enforce such rules as it may deem necessary.

SECTION 17. Agreement to Collect Tax on Vehicles. With regard to the collection of the Tax on any motor vehicle, automobile, truck, truck-trailer, trailer, semi-trailer, motor bus, home trailer, or any other vehicle subject to the vehicle registration license tax, this Governing Authority, acting through the Mayor and on behalf of the Governing Authority of the City, for the collection of the Tax on such vehicles, is authorized to enter into an agreement with the Vehicle Commissioner, Department of Public Safety and Corrections, as provided by R.S.47:303(B).

SECTION 18. Revenues of Tax. All taxes, revenues, funds, assessments, moneys, penalties, fees or other income which may be collected or come into the possession of the Collector under any provision or provisions of this ordinance relating to the Tax shall be promptly remitted by the Collector to the City and deposited in the Sales Tax Account established and maintained with the regularly designated fiscal agent of the Mayor and City Council. Any amount which is paid under protest or which is subject to litigation may be transferred to a separate account established by the Collector pending the final determination of the protest or litigation.

SECTION 19. Severability. If any or more of the provisions of this ordinance shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this ordinance, but this ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein. Any constitutional or statutory provision enacted after the date of this ordinance which validates or makes legal any provision of this ordinance which would not otherwise be valid or legal, shall be deemed to apply to this ordinance.

SECTION 20. Recordation. A certified copy of this ordinance shall be recorded in the Mortgage Records of the Parish of Calcasieu, State of Louisiana.

SECTION 21. Effective Date. Notice of the Introduction of this Ordinance, having been published in the official journal of the Issuer as required by law, and a copy hereof having remained on file in final form for public inspection with the Clerk of the Issuer since its date of introduction on April 16, 2007, and having been read in full, this Ordinance shall be in full force and effect upon publication in the official journal of the Issuer.

SECTION 22. Uniform Sales Tax Controlling. If any provision of this ordinance shall be in conflict with the provisions of the Uniform Local Sales Tax Code, the provisions of the Uniform Local Sales Tax Code shall be controlling.

The adoption of the foregoing ordinance having been duly moved and seconded, the roll was called and the following vote was taken and recorded:

<u>Council Members</u>	<u>Yeas</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstaining</u>
Wally Anderson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Curtis Alexander	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Bob Hardey	<u> </u>	<u> </u>	<u>X</u>	<u> </u>
Dan Racca	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
John Cradure	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

There being a favorable vote on the ordinance of at least a majority of the authorized members of the Governing Authority, the ordinance was declared adopted on this the 21st day of May, 2007.

Andrea Mahfouz
Clerk

Bob Hardey
Mayor

STATE OF LOUISIANA

PARISH OF CALCASIEU

I, the undersigned Clerk of the City of Westlake, State of Louisiana, do hereby certify that the foregoing pages constitute a true and correct copy of an ordinance adopted by the Mayor and City Council of the City of Westlake, State of Louisiana, on April 16, 2007, providing for the levy and collection within the City of Westlake, State of Louisiana, effective July 1, 2007, of a one percent (1%) sales and use tax (the "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 in said City, levying and providing for the assessment, collection, payment and dedication of the proceeds of such Tax and the purposes for which such proceeds may be expended, such Tax having been authorized at a special election held in the City on March 31, 2007.

IN FAITH WHEREOF, witness my official signature and the impress of the official seal of said City at Westlake, Louisiana, on this, the 21st day of May, 2007.


Clerk

(SEAL)

The following ordinance having been introduced at a meeting held on June 18, 2007, notice of its introduction having been published in the official journal and a public hearing having been held thereon on July 16, 2007, was offered for final adoption by Mr. Anderson and seconded by Mr. Cradure:

ORDINANCE NO. 768

An ordinance providing for the levy and collection within the City of Westlake, State of Louisiana, effective October 1, 2007, of a one-half of one percent (1/2%) sales and use tax (the "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 in said City, levying and providing for the assessment, collection, payment and dedication of the proceeds of such Tax and the purposes for which such proceeds may be expended, such Tax having been authorized at a special election held in the City on March 31, 2007.

WHEREAS, under the provisions of Article VI, Section 29 of the Constitution of the State of Louisiana of 1974, and other constitutional and statutory authority and an election held on March 31, 2007, the Mayor and City Council of the City of Westlake, State of Louisiana (the "Governing Authority"), is authorized to levy and collect within the City of Westlake, State of Louisiana, a one-half of one percent (1/2%) sales and use tax (the "Tax"), for a period of ten (10) years, from and after October 1, 2007, 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 applicable statutory authority, pursuant to the following proposition which was approved at said election held on March 31, 2007:

PROPOSITION NO. 2
(SALES TAX RENEWAL)

SUMMARY: ONE-HALF OF ONE PERCENT (1/2%) SALES AND USE TAX RENEWAL FOR 10 YEARS FOR THE PURPOSE OF IMPROVING, OPERATING AND MAINTAINING THE WESTLAKE POLICE DEPARTMENT; WITH THE PROCEEDS OF THE TAX TO BE SUBJECT TO BEING FUNDED INTO BONDS.

Shall the City of Westlake, State of Louisiana (the "City"), under the provisions of Article VI, Section 29 of the Constitution of the State of Louisiana of 1974, and other constitutional and statutory authority, be authorized to extend the levy and collection of a tax of one-half of one percent (1/2%) (the "Tax") upon the sale at retail, the use, the lease or rental, the consumption, and storage for use or consumption, of tangible personal property and on sales of services in the City, in the manner provided by state law, inclusive, for a period of ten (10) years, beginning October 1, 2007, with the proceeds of the Tax (after paying the reasonable and necessary costs and expenses of collecting and administering the Tax) to be dedicated and used for the purpose of improving, operating and maintaining the Westlake Police Department (the estimated amount reasonably expected to be collected from the

levy of the Tax for one entire year being \$500,000); and shall the City be authorized to fund the proceeds of the Tax into Bonds to pay the cost of making capital improvements for such purposes, to the extent and in the manner permitted by the Laws of Louisiana, including Sub-Part F, Part III, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950, as amended?

WHEREAS, in compliance with the aforesaid constitutional and statutory authority and said special election of March 31, 2007, it is the desire of this Governing Authority to provide for the levy and collection of the Tax for an additional ten (10) years, and to provide for distribution of the proceeds thereof and other matters in connection therewith as hereinafter provided in this ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Westlake, State of Louisiana (the "Governing Authority"), acting as the governing authority of the City of Westlake, State of Louisiana (the "City"), that:

SECTION 1. Imposition. Pursuant to the authority of a special election held in the City on March 31, 2007, a tax is hereby levied 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 on sales of services in the City (the "Tax"), as defined by law. The Uniform Local Sales Tax Code, as enacted by Act 73 of the 2003 Regular Session of the Louisiana Legislature and as it may be amended, shall apply in the assessment, collection, administration and enforcement of the Tax to the extent required by the Constitution of the State of Louisiana and the Revised Statutes.

SECTION 2. Rate. The Tax is levied at the rate of one-half of one percent (1/2%) 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 to the Governing Authority, and to include each and every retail sale. The Tax is levied at the rate of one-half of one percent (1/2%) 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. The Tax is levied at the rate of one-half of one percent (1/2%) of the gross proceeds derived from the lease or rental of tangible personal property, as defined by law, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to the said business, or of the monthly lease or rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the owner of the tangible personal property. The Tax is levied at the rate of one-half of one percent (1/2%) of the amount paid or charged for taxable services, as defined by law, performed in the City.

SECTION 3. Effective Date. The Tax shall be effective on October 1, 2007.

SECTION 4. Term. The Tax has a term limit of ten (10) years ending on September 30, 2017.

SECTION 5. Purposes. The proceeds of the Tax shall be used for those corporate purposes set forth in the proposition approved by the voters in the special election held in the City on March 31, 2007, which proposition is set forth in the preamble hereto.

SECTION 6. Vendor's Compensation. 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 City's collector in the form of a deduction in submitting his report and paying the amount due by the dealer, provided the amount due was not delinquent at the time of payment, and provided the amount of any credit claimed for taxes already paid to a wholesaler shall not be deducted in computing the commission allowed the dealer hereunder.

SECTION 7. Exclusions and Exemptions. The Governing Authority adopts none of the optional exclusions or exemptions allowed by State sales and use tax law, nor does the Governing Authority adopt any exclusions or exemptions that are not allowed as an exclusion or exemption from State sales and use tax. Included within the tax base is every transaction, whether sales, use, lease or rental, or service, with no exclusions or exemptions except for those mandated upon political subdivisions by the Constitution or statutes of the State of Louisiana.

SECTION 8. Interest. The interest on unpaid taxes provided for by La. R.S. 47:337.69 shall be at the rate of one and one-fourth percent (1-1/4%) per month.

SECTION 9. Delinquency Penalty. Penalty as provided by La. R.S. 47:337.70 shall be five percent (5%) per thirty (30) days, not to exceed twenty-five percent (25%).

SECTION 10. Penalty for False or Fraudulent Return. Penalty as provided by La. R.S. 47:337.72 shall be fifty percent (50%) of the Tax found to be due.

SECTION 11. Negligence Penalty. The penalty provided by La. R.S. 47:337.73 shall be five percent (5%) of the Tax or deficiency found to be due, or ten dollars (\$10.00), whichever is greater.

SECTION 12. Penalty for Insufficient Funds Check. The penalty provided in La. R.S. 47:337.74 shall be an amount equal to the greater of one percent (1%) of the check or twenty dollars (\$20.00).

SECTION 13. Attorney Fees. The collector is authorized to employ private counsel to assist in the collection of any taxes, penalties or interest due under this ordinance, or to represent him in any proceeding under this ordinance. If any taxes, penalties or interest due under this ordinance are referred to an attorney at law for collection, an additional charge of attorney fees, in the amount of ten per centum (10%) of the taxes, penalties and interest due, shall be paid by the tax debtor.

SECTION 14. Limits on Interest, Penalty and Attorney Fees. Should the interest, penalties or attorney fees herein, or the combined interest, penalties and attorney fees be declared to be in excess of limits provided by other law, including relevant jurisprudence, then the maximum interest, penalties and attorney fees allowed by such other law shall apply.

SECTION 15. Collector. The Tax levied by this ordinance is authorized to be collected by a "Collector" which term shall mean and include the entity presently collecting sales and use taxes on behalf of the City.

SECTION 16. Powers of Collector. The Collector is hereby authorized, empowered and directed to carry into effect the provisions of this ordinance, to appoint deputies, assistants or agents to assist it in the performance of its duties, and in pursuance thereof to make and enforce such rules as it may deem necessary.

SECTION 17. Agreement to Collect Tax on Vehicles. With regard to the collection of the Tax on any motor vehicle, automobile, truck, truck-trailer, trailer, semi-trailer, motor bus, home trailer, or any other vehicle subject to the vehicle registration license tax, this Governing Authority, acting through the Mayor and on behalf of the Governing Authority of the City, for the collection of the Tax on such vehicles, is authorized to enter into an agreement with the Vehicle Commissioner, Department of Public Safety and Corrections, as provided by R.S.47:303(B).

SECTION 18. Revenues of Tax. All taxes, revenues, funds, assessments, moneys, penalties, fees or other income which may be collected or come into the possession of the Collector under any provision or provisions of this ordinance relating to the Tax shall be promptly remitted by the Collector to the City and deposited in the Sales Tax Account established and maintained with the regularly designated fiscal agent of the Mayor and City Council. Any amount which is paid under protest or which is subject to litigation may be transferred to a separate account established by the Collector pending the final determination of the protest or litigation.

SECTION 19. Severability. If any or more of the provisions of this ordinance shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this ordinance, but this ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein. Any constitutional or statutory provision enacted after the date of this ordinance which validates or makes legal any provision of this ordinance which would not otherwise be valid or legal, shall be deemed to apply to this ordinance.

SECTION 20. Recordation. A certified copy of this ordinance shall be recorded in the Mortgage Records of the Parish of Calcasieu, State of Louisiana.

SECTION 21. Effective Date. Notice of the Introduction of this Ordinance, having been published in the official journal of the Issuer as required by law, and a copy hereof having remained on file in final form for public inspection with the Clerk of the Issuer since its date of introduction on June 18, 2007, and having been read in full, this Ordinance shall be in full force and effect upon publication in the official journal of the Issuer.

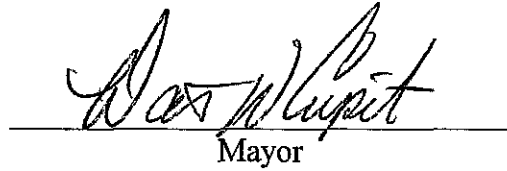
SECTION 22. Uniform Sales Tax Controlling. If any provision of this ordinance shall be in conflict with the provisions of the Uniform Local Sales Tax Code, the provisions of the Uniform Local Sales Tax Code shall be controlling.

The adoption of the foregoing ordinance having been duly moved and seconded, the roll was called and the following vote was taken and recorded:

<u>Council Members</u>	<u>Yeas</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstaining</u>
Wally Anderson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Lori Peterson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Bob Hardey	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Dan Racca	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
John Cradure	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

There being a favorable vote on the ordinance of at least a majority of the authorized members of the Governing Authority, the ordinance was declared adopted on this the 16th day of July, 2007.


Clerk


Mayor