

Council Ordinance
1% Sales Tax

The following ordinance, which was previously introduced at a meeting of the Parish Council of the Parish of St. John the Baptist, State of Louisiana, on the 18th day of November, 1985, and a summary thereof having been published in the official journal, was brought up for final passage on motion of Mr. Terry and seconded by Mr. Clement :

ORDINANCE NO. 85-76

An ordinance levying within the St. John the Baptist Sales Tax District, a tax of one percent (1%) upon the sale at retail, the use, the lease or rental, the consumption and storage for use or consumption of tangible personal property and upon the sale of services, all as defined herein; defining the terms "tangible personal property", "dealers", "retail sales", "sales price", "cost price", "lease or rental", "storage", "use", "sales of services", and other terms used herein; levying and providing for the assessment, collection, payment and dedication of such tax and the purposes for which the proceeds of said tax may be expended; providing for an adequate remedy at law; defining violations of the provisions of the ordinance and prescribing penalties therefor; providing for rules and regulations for the enforcement of the provisions of this ordinance and the collection of the tax levied thereby; providing that any part of this ordinance which may be held invalid or unconstitutional shall not affect or impair any other provision thereof; and repealing all resolutions and ordinances or parts thereof as may conflict herewith.

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 supplemental thereto, the Parish Council of the Parish of St. John the Baptist, State of Louisiana is authorized to levy and collect within St. John the Baptist Sales Tax District, a tax of one percent (1%) 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) except to the sale of food and drugs as provided by L.R.S. 33:2721.4; and

WHEREAS, pursuant to the requirements of Article VI, Section 29 of the Constitution of the State of Louisiana of 1974, and other constitutional and statutory authority supplemental thereto, a special election was held in St. John the Baptist Sales Tax District, on Saturday, November 16, 1985, to authorize the levy and collection of sales and use tax as set

forth in the proposition attached hereto as Exhibit "A", and said proposition was duly approved by a majority of the qualified electors voting in said election; and

WHEREAS, in compliance with the aforesaid constitutional and statutory authority and the said special election, it is the desire of the Governing Body (hereinafter defined) to levy said 1% tax in the Parish 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 Governing Body of St. John the Baptist Sales Tax District, that:

DEFINITIONS

SECTION 1. As used in this ordinance the following terms, words, and phrases shall have the meaning ascribed to them in Sections 1.01 to 1.24, inclusive, of this ordinance, except when the context clearly indicates a different meaning.

SECTION 1.01. "Agricultural Commodity" shall mean horticultural, viticultural, poultry, farm and range products and livestock and livestock products.

SECTION 1.02. "Authority" shall mean St. John the Baptist Sales Tax District.

SECTION 1.03. "Business" shall include 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 the occasional and isolated sales or transactions by a person who does not hold himself out as engaged in business.

SECTION 1.04. "Collector" shall mean and include the Treasurer of the Governing Body or his duly authorized assistant or assistants or such other person or persons, agency or instrumentality designated by the Governing Body to handle and accomplish the collection, enforcement and administration of sales and use taxes on behalf of the Authority.

SECTION 1.05. (a) "Cost Price" shall mean the actual cost of the articles of tangible personal property without any deductions therefrom on account of the cost of materials used, labor or service cost, except those service costs for installing the articles of tangible personal property if such cost is separately billed to the customer 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 the state of Louisiana for repairs performed outside the state of Louisiana and is thereafter returned to the state of Louisiana, the cost price shall be deemed to be the actual cost of any parts and/or materials used in performing such repairs, if applicable labor charges are separately stated on the invoice. If the applicable labor charges are not separately stated on the invoice, it shall be presumed that the cost price is the total charge reflected 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.

SECTION 1.06. "Dealer" shall include every person who:

(1) manufactures or produces 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 Authority;

(2) 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 this Authority;

(3) sells at retail, or who offers to sell at retail, or who has in his possession for sale at retail, or for use, or consumption, or distribution, or storage to be used or consumed in this Authority, tangible personal property;

(4) has sold at retail, or used, or consumed, or distributed or stored for use or consumption in this Authority, 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;

(5) leases or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring title thereto;

(6) is the lessee or rentee of tangible personal property and who pays to the owner of such property a consideration

for the use or possession of such property without acquiring title thereto;

(7) sells or furnishes any of the services subject to the tax under this ordinance or purchases or receives any of the services subject to tax under this ordinance;

(8) is engaging in business, in the Authority; or

(9) sells at retail any tangible personal property to a vending machine operator for resale through coin-operated vending machines.

SECTION 1.07. "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 the delinquent dealer by the officer charged with the collection of the tax for the purpose of satisfying any tax, interest or penalties due under the provision of this ordinance.

SECTION 1.08. "Engaging in business in the Authority" shall mean and include any of the following methods of transacting business: maintaining directly, indirectly or through a subsidiary, an office, distribution house, sales house, warehouse, or other place of business or by having an agent, salesman, solicitor, or employee operating within the Authority under the authority of the seller or its subsidiary, irrespective of whether such place of business, agent, salesman, solicitor, or employee is located in the Authority permanently or temporarily, or whether such a seller or subsidiary is qualified to do business in the Authority, or by having within the Authority any choses in or causes of action, or any property, or any liens on property, or any indebtedness due it in the Authority, protected by the laws and courts of the Authority.

SECTION 1.09. "Governing Body" shall mean and include the Parish Council of the Parish of St. John the Baptist, State of Louisiana.

SECTION 1.10. "Gross Sales" shall mean 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 1.11. "Hotel" shall mean and include any establishment engaged in the business of 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.

for the use or possession of such property, without acquiring title thereto;

(7) sells or furnishes any of the services subject to the tax under this ordinance or purchases or receives any of the services subject to tax under this ordinance;

(8) is engaging in business in the Authority; or

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SECTION 1.12. "Lease or rental" shall mean 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.

SECTION 1.13. "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 1.14. "Parish" shall mean the Parish of St. John the Baptist, State of Louisiana.

SECTION 1.15. "Person" shall include any individual, firm, co-partnership, joint venture, association, corporation, co-operative, estate, trust, business trust, receiver, syndicate, the State of Louisiana, any parish, city, municipality, state or public board, public commission or public or semi-public corporation, political subdivision, district or instrumentality or other group or combination acting as a unit, and the plural as well as the singular number.

SECTION 1.16. "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 1.17. "Retail Sale" or "Sale at Retail" shall mean a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property, as hereinafter set forth, and shall mean and include all such transactions as the Collector, upon investigation, finds to be in lieu of sales; provided, that sales for resale must be made in strict compliance with the rules and regulations issued by the said Collector. Any dealer making a sale for resale, which is not in strict compliance with the rules and regulations, shall himself be liable for payment of the tax. (The sale of tangible personal property to a dealer who purchases said property for resale through coin-operated vending machines shall be considered a "Sale at Retail". The subsequent resale of the property by the dealer through coin-operated vending machines shall also be considered a "Sale at Retail". The term "Sale at Retail" does not include sales of materials for further processing into articles of tangible personal property for sale at retail, nor does it include an isolated or occasional sale of tangible personal property by a person not engaged in such business, except the isolated or occasional sale of vehicles, which are hereby defined to be sales at retail and as such are subject to the tax.)

SECTION 1.18. "Retailer" shall mean and include every person engaged in the business of making sales at retail or for distribution, or use or consumption, or storage to be used or consumed in the the Authority or any person rendering services taxable hereunder.

SECTION 1.19. "Sale" shall mean any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means, whatsoever, of tangible personal property, for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, preparing, or serving, for a consideration, of any tangible personal property, consumed on the premises of the person furnishing, preparing or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

The term "Sale" shall also include the "Sales of Services" which means and includes the following:

(1) the furnishing of sleeping rooms, cottages or cabins by hotels;

(2) 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 the use of amusement, entertainment, athletic or recreational facilities, but shall not include membership fees or dues of non-profit, civic organizations;

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

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

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

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

(7) the furnishing of repairs to tangible personal property, including by way of illustration and not of limitation, 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.

SECTION 1.20. "Sales Price" shall mean the total amount for which tangible personal property is sold, including any services, except services for financing, that are part of the sale valued in money, whether paid in money or otherwise, and includes the cost of material 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 per cent (6%) of the amount financed, and losses; provided that, cash discounts allowed and taken on sales shall not be included, nor shall the sales price include the amount charged for labor or services rendered in installing, applying, remodeling or repairing property sold.

SECTION 1.21. "Storage" shall mean and include any keeping or retention in the Authority of tangible personal property for use or consumption in the Authority or for any other purpose other than for sale at retail in the regular course of business.

SECTION 1.22. "Tangible Personal Property" shall mean and include 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.

SECTION 1.23. "Use" shall mean and include the exercise of any rights 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.

SECTION 1.24. "Use Tax" shall include the use, the consumption, the distribution and the storage for use or consumption, as herein defined.

IMPOSITION OF TAX

SECTION 2.01. There is hereby levied from and after February 1, 1986, for the purpose stated in the proposition attached hereto as Exhibit A, a tax upon the sale at retail, the use, the lease or rental, the consumption and the storage for use or consumption of tangible personal property and upon the sale of services within the Authority as defined herein which

tax levied by this ordinance shall be in addition to any other sales tax heretofore authorized to be levied in the Parish of St. John the Baptist; and the levy of such tax shall be as follows:

(1) At the rate of one per cent (1%) of the sales price of each item or article of tangible personal property when sold at retail in the Authority, the tax to be computed on gross sales for the purpose of remitting the amount of tax due the Governing Body and to include each and every retail sale.

(2) At the rate of one per cent (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 Authority provided there shall be no duplication of the tax.

(3) At the rate of one per cent (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 part of an established business or the same is incidental or germane to the said business.

(4) At the rate of one per cent (1%) of the monthly lease 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.

(5) At the rate of one per cent (1%) of the gross proceeds derived from the sale of services, as defined herein.

SECTION 2.02. Sales or use taxes paid to this Governing Body on the purchase of new motor trucks and new motor tractors licensed and registered for 12,000 pounds or more, under the provisions of Section 462 of Title 47 of the Louisiana Revised Statutes of 1950 (R.S. 47:462), new trailers and new semi-trailers licensed and registered for 16,000 pounds or more under the provisions of said Section for rental may be deducted as a credit against the tax due on the rental of that item of property so that no tax is payable on rental income until the tax paid on the purchase price has not been exceeded. The sales tax paid to another authority or taxing authority in the State of Louisiana, or in an authority in a state other than Louisiana on the purchase price of property is not deductible from the tax subsequently due on the rental of such property in the Authority. Property imported by the lessee for use in the Authority that has been previously used by him in another authority is not subject to any tax on the value when imported, but is only subject to the tax that applies on rental payments.

If the tax on rental income fails to exceed the credits for sales or use tax paid, no refund is due the purchaser.

A dealer in the Authority who ordinarily purchases personal property for sale and who withdraws a piece of property from stock for rental is not liable for a sales or use tax on the purchase price of the property when withdrawn from stock. Such person is liable only for the tax applicable on the rental income.

Any sales tax paid on any maintenance or operation expenses of a rental business is not deductible as a credit against the tax due on rental income; such expenses are part of the cost of doing business and do not constitute a part of the cost of the identical property being rented.

SECTION 2.03. The tax shall be collected from the dealer, as defined herein, and paid at the time and in the manner hereinafter provided.

SECTION 2.04. The tax so levied is, and shall be in addition to all other taxes, whether levied in form of sales, excise, or license, privilege or property taxes levied by any other ordinance or resolution of the Governing Body.

Section 2.05. The dealer shall collect the tax levied by this ordinance, together with all other applicable sales and use taxes, in accordance with the integrated bracket schedule or schedules prepared and furnished by the Collector of Revenue of the State of Louisiana under the authority of Section 304 of Title 47 of the Louisiana Revised Statutes of 1950 (R.S. 47:304). Such schedule or schedules shall include, in addition to the tax hereby levied pursuant to the election held on November 16, 1985, all sales taxes levied by the State of Louisiana, any sales tax levied by the Parish Council and any sales taxes levied by any other political subdivision applicable in the Parish. The dealer will remit that portion of such total taxes representing the tax levied by this ordinance to the Collector. Copies of said integrated bracket schedules are available to dealers on request to the Authority or the Collector.

SECTION 2.06. The collection of the tax herein levied shall be made in the name of the Authority by the Collector.

EXEMPTIONS AND EXCLUSIONS FROM TAX

SECTION 3.01. The taxes imposed by this ordinance shall not apply to transactions involving the following tangible personal property.

(1) The gross proceeds derived from the sale in the

Authority of livestock, poultry and other farm products direct from the farm, 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 a producer, they are not exempted from the tax imposed by this ordinance; provided, however, that 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 products for use or for sale in the process of preparing, finishing or manufacturing such agricultural commodity for the ultimate retail consumer trade, shall be exempted from any and all provisions of this ordinance, including payment of the tax applicable to the sale, storage, use, transfer or any other utilization of or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer, and in no case shall more than one tax be exacted.

(2) The "use tax" shall not apply to livestock and livestock products, to poultry and poultry products, to farm, range and agricultural products when produced by the farmer and used by him and members of his family.

(3) 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.

(4) The sale at retail, the use, the consumption, the distribution, and the storage to be used or consumed in the Authority of the following tangible personal property is hereby specifically exempted from the tax imposed by this ordinance: gasoline, steam, water (not including mineral water or carbonated water or any water put up in bottles, jugs, or containers, all of which are not exempted), electric power or energy, and any materials and energy sources used to fuel the generation of electric power, newspapers, fertilizer and containers used for farm products when sold directly to the farmer, natural gas, all energy sources, when used for boiler fuel except refinery gas when used for boiler fuel, new trucks, new automobiles and new aircraft withdrawn from stock by factory authorized new truck, new automobile and new aircraft dealers, with the approval of the Secretary of the Department of Revenue and Taxation, State of Louisiana, and titled in the dealer's name for use as demonstrators, and 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.

(5) The sales of materials, equipment and machinery which enter into and become component parts of ships, vessels, including commercial fishing vessels, or barges, of fifty tons

load displacement and over, built in Louisiana nor to the gross proceeds from the sale of such ships, vessels or barges when sold by the builder thereof.

(6) The sales of materials and supplies to 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 in 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 owner 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.

The provisions of this sub-section do not apply to drilling equipment used for oil exploitation or production unless such equipment is built for exclusive use outside the boundaries of the State and is removed forthwith from the State upon completion.

(7) The sale at retail of seeds for use in the planting of any kind of crops.

(8) The sale of casing, drill pipe and tubing in the Authority for use offshore beyond the territorial limits of the State of Louisiana for the production of oil, gas, sulphur and other minerals or vessels leased for such purposes or for the providing of services to those engaged in such production.

(9) The sale 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.

(10) The sale of admission tickets by Little Theatre organizations.

(11) The sale of admission tickets by domestic non-profit corporations or by any other domestic non-profit 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 non-resident symphony companies, nor to any performance intended to yield a profit to the promoters thereof.

(12) The amount paid by the operator of a motion pic-

ture theatre to a distributing agency for use of films of photoplay.

(13) The sale at retail of pesticides used for agricultural purposes, including particularly, but not by way of limitation, insecticides, herbicides, and fungicides.

(14) The sale at retail of tangible personal property purchased within the Authority for use exclusively beyond the territorial limits of the Authority. If tangible personal property purchased tax free under the provisions of this section is later brought into the area of the Authority for use herein, the property shall be subject to the use tax as of the time it is brought into the area of the Authority for use herein, subject to the credit provided in Section 5.03 of this ordinance.

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

(a) The purchaser is properly registered for sales and use tax purposes in a City or Parish in the State of Louisiana or 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 Parish in the State of Louisiana or in a City or County in a state other than Louisiana;

(b) The City or Parish in the State of Louisiana or 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 Parish in the State of Louisiana or City or County in a state other than Louisiana for use in the Authority; and

(c) The purchaser obtains from the Collector a certificate authorizing him to make the non-taxable purchases authorized under this Section.

(15) The amounts paid by radio and television broadcasters for the right to exhibit or broadcast copyrighted material and the use of film, video or audio tapes, records or any other means supplied by licensors thereof in connection with such exhibition or broadcast.

(16) The purchase or rental by private individuals of machines, parts therefor and materials and supplies which a physician has prescribed for home rental dialysis.

(17) 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 or to sales or services involved in such contracts entered into and reduced to writing within ninety 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.

(18) Purchases of equipment used in fire fighting by bona fide organized public volunteer fire departments.

(19) The sale 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 the entertainment events, are used for the purposes for which the organizations furnishing the events were organized.

(20) Sales of tangible personal property at, or admission charges for, events sponsored by domestic, civic, educational, historical, charitable, fraternal or religious organizations, which are nonprofit, when the entire proceeds, except for the necessary expense connected therewith, are used for educational, charitable, religious or historical restoration purposes.

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 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.

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 these organizations.

Such exemption shall be available pursuant to regulations prescribed by the Collector.

(21) Sales or purchases made by blind persons in the conduct of a business which is exempt from license taxes by R.S. 46:305.17.

(22) 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.

(23) Income on receipts from any coin-operated washing or drying machine in a commercial laundromat as defined in R.S. 46:371 through R.S. 46:373.

(24) Purchases of airline equipment, airplane parts, and airplanes of any commuter airline domiciled in the State of Louisiana as defined in R.S. 47:305.21.

(25) Sales of monetized bullion having a total value of one thousand dollars or more. For purposes of this section "monetized bullion" means coins or other forms of money manufactured from gold, silver, or other metals, and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation.

(26) A 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 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 rental, as a method for promoting sales, shall be exempt from the payment of sales or use tax on the purchase price of the property when withdrawn from inventory for such rental. The dealer shall be liable for the tax levied on the rental income, and a sales tax upon any ultimate sale of said item.

(27) The leasing of those vessels for use offshore beyond the territorial limits of the State of Louisiana for the production of oil, gas, sulphur, and other minerals or for the providing of services to those engaged in such production.

(28) The furnishing of vehicles by a dealer in new vehicles when such vehicles are withdrawn from inventory and furnished to a secondary school, college or public school board on a free loan basis for exclusive use in a driver education pro-

gram accredited by the Louisiana Department of Education.

(29) To purchase of airplane equipment, airplane parts, and airplanes of any commuter airline domiciled in the State of Louisiana. A commuter airline is defined as any airline transporting passengers and/or freight on a regularly scheduled basis, with a minimum of twenty 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 Section 298.11 of Subpart B of Part 298 of Chapter II of Title 14 of the Code of 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 hours a day, seven days a week and interline ticket and baggage agreements through the Air Traffic Conference of America.

(30) To the sales of food and drugs as provided for in L.R.S. 33:2721.4.

SECTION 3.02. It is not the intention of this ordinance to levy a tax upon articles of tangible personal property imported into the Authority or produced or manufactured in the Authority for export; nor is it the intention of this ordinance to levy a tax on a bona fide transaction in 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 Authority of tangible personal property after it has come to rest in the Authority and has become a part of the mass of property in the Authority.

SECTION 3.03. No tax shall be due under this ordinance on the sale of any goods or personal tangible property delivered or services performed outside the territorial limits of the Authority.

SECTION 3.04. No tax shall be levied or collected on the storage of property which has been documented for use outside the Authority although the property may be stored within the Authority if the owners of such property which is to be stored for exclusive use outside the Authority have acquired a tax exemption certificate from the local tax collector. When a vendor is presented with a copy of a tax exemption certificate from a vendor, 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 Authority, the property shall be subject to taxation.

COLLECTION OF TAX BY DEALER

SECTION 4.01. The tax levied by this ordinance shall

be collected by the dealer from the purchaser or consumer, except as provided for the collection of the tax on motor vehicles in Section 4.06 of this ordinance. The dealer shall have the same right in respect to collecting the tax from the purchaser, or in respect to non-payment of the tax by the purchaser, as if the tax were a part of the purchase price of the property, or charges for services and payable at the time of the sale; provided, however, that the Governing Body shall be joined as a party plaintiff in any action or proceeding brought by the dealer to collect the tax.

SECTION 4.02. Every dealer located outside the Authority making sales of tangible personal property for distribution, storage, use, or other consumption, in the Authority, shall, at the time of making sales, collect the tax imposed by this ordinance from the purchaser.

SECTION 4.03. The dealer shall, as far as practicable, add the exact amount of the tax imposed under this ordinance, or the average equivalent thereof, to the sale price or charge, which 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. Any dealer who neglects, fails or refuses to collect the tax herein provided, shall be liable for and pay the tax himself.

SECTION 4.04. In order to aid in the administration and enforcement of the provisions of this ordinance, and to collect all of the taxes imposed by this ordinance, on or before January 1, 1986, or in the case of dealers commencing business after January 1, 1986, 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 duplicates therefor, for each additional place of business of such dealer. Each certificate or duplicate shall state the place of business to 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 4.05. A manufacturer, wholesaler dealer, jobber or supplier shall refuse to accept a certificate that any

property upon which a tax is imposed by the 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 therefor, 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 Governing Body the tax herein imposed.

SECTION 4.06. The tax imposed by this ordinance upon 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 of the State of Louisiana shall be collected as provided in this Section.

(1) The tax levied by this ordinance on any such vehicle shall be paid to the Vehicle Commissioner as the agent of the Collector of Revenue of the State of Louisiana at the time of application for a certificate of title or vehicle registration license and no certificate of title or vehicle registration license shall be issued until the tax has been paid.

(a) The tax levied by this ordinance on the sale of any such vehicle shall be due at the time registration or any transfer of registration is required by the Vehicle Registration License Tax Law of the State of Louisiana (R.S. 47:451, et seq.).

(b) The tax levied by this ordinance on the use of any such vehicle in the unincorporated area of this Authority shall be due at the time first registration in this Authority is required by the Vehicle Registration License Tax Law (R.S. 47:451, et seq.).

(2) Every vendor of such a vehicle shall furnish to the purchaser at the time of sale a sworn statement showing the serial number, motor number, type, year and model of the vehicle sold, the total sales price, any allowance for and description of any vehicle taken in trade, and the total cash difference paid or to be paid by the purchaser between the vehicles purchased and traded in and the sales or use tax to be paid, along with such other information as may be required. All labor,

parts, accessories and other equipment which are attached to the vehicle at the time of the sale and which are included in the sale 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, item or transaction which has heretofore been taxable and this Section shall not be construed as so doing. It is the intention of this Section to transfer the collection of sales and use tax on vehicles from the vendor to the Vehicle Commissioner as agent for the Collector of Revenue of the State of Louisiana, and to provide a method of collection of the tax directly from the vendee or user by the Vehicle Commissioner as agent of the Collector of Revenue in accordance with an agreement by and between the Collector of Revenue or the Vehicle Commissioner as agent therefor and the Governing Body, the execution of which agreement is hereby authorized. Said tax so collected for said Collector of Revenue shall be paid to the Governing Body and sent to the Collector as soon as possible, and in any event at least once each quarter, all in accordance with the said agreement.

(4) The provisions contained in Section 1.17 which exclude isolated or occasional sales from the definition of a sale at retail are not to apply to the sale of vehicles which are the subject to this subsection. Isolated or occasional sales of vehicles are hereby defined to be sales at retail and as such are subject to the tax.

(5) The tax levied by this ordinance shall not be due on vehicles furnished by a dealer in new vehicles when withdrawn from inventory and furnished to a secondary school, college or public school board on a free loan basis for exclusive use in a driver education program accredited by the Louisiana Department of Education.

SECTION 4.07. A person engaged in any business taxable under this ordinance shall not advertise or hold out to the public, in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the purchaser from the payment of all or any part of the tax. The dealer shall state and collect the tax separately from the price paid by the purchaser, but his failure to do so shall not be available as a defense to the purchaser in any proceedings brought under this ordinance.

SECTION 4.08. Where the tax collected for any period is in excess of one per cent (1%), the total collected must be paid over to the Collector, less the commission to be allowed the dealer as hereinafter set forth.

SECTION 4.09. Where the purchaser has failed to pay and a dealer has failed to collect a tax upon a sale, as imposed by this ordinance, then in addition to all other rights, obligations and remedies provided, such tax shall be payable by the purchaser directly to the Governing Body, 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 Governing Body within fifteen (15) days after such sale was made or rendered.

SECTION 4.10. For the purpose of compensating the dealer in accounting for and remitting the tax levied by this ordinance, each dealer shall be allowed two per cent (2%) 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 if the amount due was not delinquent at the time of payment.

COLLECTION OF TAX FROM DEALER

SECTION 5.01. The tax imposed by this ordinance shall be collectible by the Collector on behalf of the Governing Body from all persons engaged as dealers.

(1) 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 Authority.

(2) The Collector may employ such personnel, including legal counsel on a fee or salary basis, as are necessary to assist in the collection of the taxes imposed hereunder.

(3) Any duly authorized representative or deputy of the Collector, when acting under his authority and direction, shall have the same power as is conferred upon the Collector by this ordinance.

(4) The Collector may conduct hearings and administer oaths, and examine under oath, any dealer and the directors, officers, agents and employees of any dealer, and any other witness, relative to the business of such dealer in respect to any matter incident to the administration of this ordinance.

SECTION 5.02. 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 him, the dealer 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 the Authority. For the purpose of this ordinance, use or consumption, or distribution, or storage to be used or consumed in the Authority of tangible personal property, shall each be equivalent to a sale at retail, and the tax shall thereupon immediately be levied and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

SECTION 5.03. A credit against the use tax imposed by this ordinance shall be granted to taxpayers who have paid a similar tax upon the sale or use of the same tangible personal property in another city or parish in the State of Louisiana, or city or county in a state other than Louisiana. The credit provided herein shall be granted only in the case where the city or parish in the State of Louisiana, or the city or county in a state other than Louisiana to which a similar tax has been paid grants a similar credit as provided herein. The proof of payment of the similar tax to another city or parish in the State of Louisiana, or to a city or county in a state other than Louisiana shall be made according to rules and regulations promulgated by the Collector. In no event shall the credit be greater than the tax imposed by this Governing Body upon the said tangible personal property which is the subject of the use tax imposed by this ordinance.

RETURNS AND PAYMENT OF TAX

SECTION 6.01. 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. For the purpose of ascertaining the amount of tax payable under this ordinance, it shall be the duty of all dealers on or before the twentieth (20th) day of the month following the month in which this tax shall become effective to transmit to the Collector, upon forms prescribed, prepared and furnished by him, returns showing the gross sales, purchases, gross proceeds from lease or rental, gross payments for lease or rental, gross proceeds derived from sales of services, or gross payment for services, as the case may be, arising from all taxable transactions during the preceding calendar month or during the part of the preceding calendar month, running from the effective date of this ordinance to the end of such month. Thereafter, like returns shall be prepared and transmitted to said Collector by all dealers, on or before the twentieth (20th) day of each month, for the preceding calendar month. Said returns shall show such further information as the Collector may require to enable him to correctly compute and collect the tax herein levied. Such returns shall be signed by the dealer filing the same, and his signature thereon shall con-

stitute a warranty on the part of the dealer that he has 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 Governing Body the required tax due for the preceding calendar month.

SECTION 6.03. At the time of transmitting the return required hereunder to the Collector, the dealer shall remit to the Governing Body 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.

All taxes, interest and penalties imposed under this ordinance shall be paid to the Governing Body in the form of remittance required by the Collector.

SECTION 6.04. 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 accordance with such rules and regulations as the Collector may prescribe.

SECTION 6.05. 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 6.06. For the purpose of collecting and remitting to this Governing Body the tax imposed by this ordinance, the dealer is hereby declared to be the agent of this Governing Body.

RECORDS AND INSPECTION THEREOF

SECTION 7.01. It shall be the duty of every dealer to make a report and pay any tax under this ordinance, to keep and preserve suitable records of the sales 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 and it shall be the duty of every such dealer moreover, to keep and preserve, for a period of three (3) years, all invoices and other records of goods, wares and merchandise or other subjects of taxation under this ordinance; and all such books, invoices, and other records shall be open to examination at all reasonable hours, by the Collector or any of his duly authorized agents.

SECTION 7.02. Each dealer shall secure, maintain and keep, for a period of three (3) years, a complete record of

sales of services and tangible personal property received, used, sold at retail, distributed, or stored, leased or rented within this Authority 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, and all such records shall be open for inspection to the Collector at all reasonable hours.

SECTION 7.03. In order to aid in the administration and enforcement of the provisions of this ordinance, and to collect all of the tax imposed by this ordinance, all wholesale dealers and jobbers in this Authority are hereby required to keep a record of all sales of tangible personal property made in this Authority, whether such sales be for cash or on terms of credit. The record required to be kept by all wholesale dealers and jobbers shall contain and include the name and address of the purchaser, the date of the purchase, the article or articles purchased and the price at which the article is sold to the purchaser. These records shall be open to inspection of the Collector or his duly authorized assistants or deputies at all reasonable hours.

SECTION 7.04. For the purpose of administering this ordinance, the Collector, whenever he deems it expedient, may make or cause to be made by an employee of the department engaged in the administration of this ordinance, an examination or investigation of the place of business, if any, the tangible personal property, and the books, records, papers, vouchers, accounts, and documents of any dealer. It shall be the duty of every dealer and every director, official, agent, or employee of every dealer to exhibit to the Collector or to any such employee of his department charged with the collection of the tax imposed by this ordinance, hereafter referred to as a "deputy", the tangible personal property and all of the books, records, papers, vouchers, accounts, and documents of the dealer and to facilitate any such examination or investigation as far as it may be in his or their power so to do.

SECTION 7.05. 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 this Authority 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.

SECTION 7.06. The Collector shall keep a record of all of his official acts and shall preserve copies of all rules;

decisions and orders made by him or by any deputy of his department in charge of the collection of the tax imposed by this ordinance. Copies of such 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.

SECTION 7.07. 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 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 proceeding except: (a) in an action or proceeding 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.

SECTION 7.08. Nothing contained in this ordinance shall be construed to prevent:

(1) the delivery to a dealer or his duly authorized representatives of 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 legal representative of the Governing Body 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 proceeding 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 state or of the United States who shall be concerned with the administration of any similar tax by that state or the United States.

IMPORTED GOODS - PERMITS

SECTION 8.01. In order to prevent the illegal importation into the Authority 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 Authority, which property is subject to tax imposed by this ordinance, to apply to the Collector or his assistant for a permit stating the kind of vehicle, to be used, the name of the driver, the license number of the vehicle, the kind or character of tangible personal property to be imported, the date, the name and address of the consignee, and such other information as the Collector may deem proper or necessary. Such permits shall be free of cost to the applicant and may be obtained at the office of the Collector.

REMEDIES FOR COLLECTION, INCLUDING INTEREST, PENALTIES, ETC.

SECTION 9.01. For the purpose of the enforcement of this ordinance, and the collection of the tax levied hereunder, it is presumed that all tangible personal property, subject to the provisions of this ordinance, imported into the Authority or held in the Authority by any dealer is to be sold at retail, used or consumed, or stored for use or consumption in the Authority, and is subject to the tax herein levied; provided that such presumption shall be prima facie only, and subject to proof furnished to the Collector.

SECTION 9.02. 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 Governing Body 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 Governing Body, 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 9.03. 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 a rate not exceeding fifteen per cent (15%) per annum, or fractional part thereof, to be computed from the first day of the month next following the month for which the tax is due until it is paid; and in addition to the interest that may be so due there shall also be collected a penalty equivalent to five per cent (5%) for each thirty (30) days, or fraction thereof, of delinquency, not to exceed twenty-five per cent (25%) in aggregate, of the tax due, when such tax is not paid within thirty (30) days of the date the tax first becomes due and payable, and in the event of suit, attorneys' fees at the rate of ten per cent (10%) of the aggregate of tax, interest and penalty.

SECTION 9.04. 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 Authority 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. 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 "Sales Tax Fund" in the same manner as are the taxes collected under this ordinance.

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 per cent (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 9.05. If any dealer liable for any tax, interest or penalty hereunder shall sell out his business or stock of goods or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting business. His successor, successors, or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest and penalties due and unpaid until such time as the former owner shall produce a receipt from the Collector showing that they have been paid, or a certificate stating that no taxes, interest, or penalties are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as provided, he shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by any former owner, owners, or assignors.

SECTION 9.06. In the event that any dealer is delinquent in the payment of the tax herein provided for, the Collector may give notice of the amount of such delinquency by registered mail to all persons having in their possession, or under their control, any credits or other personal property belonging to such dealer, or owing any debts to such dealer at the time of receipt by them of such notice and thereafter any person so notified shall neither transfer nor make any other disposition of such credits, other personal property, or debts until the Collector shall have consented to a transfer or disposition, or until thirty (30) days shall have elapsed from and after the receipt of such notice. All persons so notified must, within five (5) days after receipt of such notice, advise the Collector of any and all such credits, other personal property, or debts, in their possession, under their control or owing by them, as the case may be.

SECTION 9.07. 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.

SECTION 9.08. 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 Governing Body in the same manner as above provided (Sec. 9.07), with interest plus penalties, if such have accrued.

SECTION 9.09. 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 judgement of the Court and every violation of said judgement as a contempt thereof and punished according to law.

SECTION 9.10. 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 rentals, 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 agents 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 the Authority, 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.

SECTION 9.11. 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 9.12. The importation into the Authority 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 Section 8.01 (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 Governing Body 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.

SECTION 9.13. The failure of any dealer who imports tangible personal property from outside the Authority into the Authority for use or consumption or distribution or storage to be used or consumed in the Authority, or who imports for lease or rental any tangible personal property subject to the provisions of this ordinance, shall ipso facto make the said 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 be a resident or non-resident of the Authority, and whether said tangible personal property is in the possession of 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 Governing Body.

In addition to the penalties prescribed in this and the preceding section (Section 9.12), 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 ninety (90) 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.

SECTION 9.14. The liability of any person or dealer arising from any tax, interest and penalty, or any of them, im-

posed by this ordinance, from the time they are due, shall be a personal debt of such person, or dealer, to the Governing Body recoverable in any court of competent jurisdiction in an action at law by the Governing Body. 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 Governing Body.

SECTION 9.15. The Governing Body may require a bond or other security satisfactory to the Collector for the payment of any taxes, fees, interest and penalties, or any of them, imposed pursuant to this ordinance when he shall find that the collection thereof may be prejudiced without such security.

SECTION 9.16. 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 estimate so made by him, assess the taxes, fees, penalties and interest due the Governing Body from such person, or dealer, give notice of such assessment to such person, or dealer, and must make demand upon him for payment, or otherwise the said claim shall prescribe.

SECTION 9.17. 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 Governing Body from such person, or dealer, and make demand upon him for payment.

SECTION 9.18. If the Collector finds that any person, or dealer liable for the payment of any tax under this ordinance designs quickly to depart from the Authority or to remove therefrom his or its property, subject to any lien under the provisions of this ordinance, 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, the Collector may make an arbitrary assessment as herein provided, whether or not any re-

turn or report is then due by law, and may proceed under such arbitrary assessment to collect the tax, or demand security for it, and thereafter shall cause notice of such findings to be given to such a dealer, together with a demand for an immediate return or report, and immediate payment of such tax.

All taxes, penalties and interest assessed pursuant to the provisions of the last three preceding sections, shall be paid within fifteen (15) days after notice and demand shall have been mailed to the dealer liable therefor by the Governing Body. If such taxes, penalties and interest so assessed shall not be paid within such fifteen (15) 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 per cent (5%) of the tax.

SECTION 9.19. 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, or his duly authorized representative, who is charged with the enforcement of collection of such taxes, 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.

SECTION 9.20. Any dealer who shall neglect, fail or refuse to collect the tax as provided in Sections 4.01 through 4.10 of this ordinance, upon any, every and all retail sales made by him, or his agent, or employee, which is subject to tax, shall be liable for and pay the tax himself.

SECTION 9.21. For any one of the following violations, in addition to being liable for the other penalties provided herein, the party named shall be guilty of a misdemeanor and upon conviction be punished by a fine of not more than One Hundred Dollars (\$100.00), or imprisonment in jail for not more than three (3) months, 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 Sections 4.01 through 4.10 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 Sections 4.01 through 4.10 of this ordinance, whether by himself or through his agents or employees;

(3) any dealer violating the provisions of Sections 9.05 and 9.06 of this ordinance;

(4) any dealer who fails to permit an inspection of records by the Collector as provided in Section 7.01 of this ordinance;

(5) any wholesale dealer or jobber in the Authority who fails to keep records, or fails to permit an inspection thereof by the Collector as provided in Section 7.03 of this ordinance;

(6) any dealer, wholesale dealer or jobber who violates the provisions of Sections 4.04 and 4.05 of this ordinance;

(7) any dealer who violates the provisions of Section 7.02 of this ordinance;

(8) any dealer failing or refusing to furnish any return as provided in Sections 6.01 through 6.06 of this ordinance, or failing or refusing to furnish a supplemental return, or other data required by the Collector;

(9) any dealer required to make, render, sign or verify any return as provided in Sections 6.01 through 6.06 of this ordinance, who makes a false or fraudulent return, with intent to evade a tax hereby levied;

(10) the president, executive officers, managers and directors of any corporation, who shall violate the provisions of Section 9.22 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; and

(11) any person who shall violate any other provisions of this ordinance, punishment for which is not otherwise herein provided.

SECTION 9.22. No corporation organized under the laws of this state shall hereafter be dissolved, or effect a merger, reorganization, or consolidation under any law of this 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 Authority 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 9.23. 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, interest on the tax at the rate specified in Section 9.03 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.

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

SECTION 9.24. All penalties and interest imposed by this ordinance shall be payable to and recoverable by the Governing Body 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 or waive payment of the whole or any part of any penalty, and may remit or waive payment of any interest charged in excess of the rate of one-half of one per centum ($1/2$ of 1%) per month.

REFUNDS AND REIMBURSEMENTS

SECTION 10.01. 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 Governing Body, 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 Governing Body, through the Collector, shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for such tax collected. Such memorandum shall be accepted by the Governing Body at full face value from the dealer to whom it is issued, in the remittance for subsequent taxes accrued under the provisions of this ordinance.

SECTION 10.02. If any dealer shall have given to the Collector notice within the time provided in Section 10.01 of this ordinance, such dealer thereafter, at any time within two (2) years after the payment of any original or additional tax assessed against him, 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 proceeding on appeal has been finally determined.

SECTION 10.03. 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.

SECTION 10.04. Where no question of fact or law is involved, and it appears that the records of the Governing Body that any moneys 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 two (2) years of payment, upon making a record in writing of his reasons therefor, 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.

SECTION 10.05. When, to secure compliance with any of the provisions of this ordinance any moneys shall have been deposited with the Governing Body by any dealer, and shall have been paid over to the Governing Body 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 moneys, 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.

REMEDIES OF THE DEALER

SECTION 11.01. 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 of two per cent (2%) per an-

num covering the period from the date the said funds were received by the Governing Body to the date of refund.

SECTION 11.02. This section shall afford a legal remedy and right of action in any State, City or Federal Court, having jurisdiction of the parties and subject matter, for a full and complete adjudication of any and all questions arising in the enforcement of this ordinance, as to the legality of any tax accrued or accruing or the method of enforcement thereof. In such actions service shall be upon the Collector.

SECTION 11.03. This section shall be construed to provide a legal remedy in the State, City or Federal Courts, by action of law, in case such taxes are claimed to be an unlawful burden upon interstate commerce, or the collection thereof, in violation of any Act of Congress or the United States Constitution, or 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 principle of law involved in an additional assessment is already pending before the courts for judicial determination, the said dealer, upon agreement to abide by the decision 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 11.04. 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 direct to any State, City or Federal Court of competent jurisdiction as provided for in Section 11.02.

OTHER ADMINISTRATIVE PROVISIONS

SECTION 12.01. The Collector is hereby 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 in administering the provisions of this ordi-

nance and other policies or procedures established by this Governing Body.

SECTION 12.02. The Collector shall have the power to make and publish reasonable rules and regulations, not inconsistent with this ordinance or the laws and the Constitution of this State or of the United States, for the enforcement of the provisions of this ordinance and the collection of the revenues and penalties imposed by this ordinance.

SECTION 12.03. The Collector shall design, prepare, print and furnish to all dealers or make available to said dealers, all necessary forms for filing returns, and instructions to insure a full collection from dealers and an accounting for the taxes due, but failure of any dealer to secure such forms shall not relieve such dealer from the payment of said taxes at the time and in the manner herein provided.

SECTION 12.04. The cost of preparing and distributing the report forms and paraphernalia for the collection of said tax, and of the inspection and enforcement duties required herein, shall be borne by the Collector.

SECTION 12.05. In any case where tangible personal property is sold at retail under a contract providing for such retail sale, made and entered into prior to the effective date of this ordinance and containing the sale price, and delivery is made after the effective date of this ordinance, and such sale is taxable under this ordinance, the seller shall add the tax imposed by said ordinance to said sale price, and collect it from the buyer.

The provisions of this section shall also apply where such tangible personal property is not sold, but is used, consumed, distributed, stored, leased or rented, and where services taxable hereunder are contracted for before the effective date hereof, except as provided in Section 3.01 (17) of this ordinance.

The provisions of this section shall not apply to tangible personal property actually imported or caused to be imported into, or stored within, the territorial limits of the unincorporated area of the Authority 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 12.06. It shall be lawful for the Collector, or any deputy by him duly designated, to receive the written oath of any person signing any application, disposition, statement, or report required by the Collector in the administration of this ordinance.

SECTION 12.07. The Collector, or any deputy by him duly designated, may conduct hearings and have administered and examined under oath, any dealer and the directors, officers, agents and employees of any dealer, and any other witnesses relative to the business of such dealer in respect to any matter incident to the administration of this ordinance. Such examinations or hearings shall be at a time convenient to the dealer within fourteen (14) days after requested by the Collector in writing.

SECTION 12.08. 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 12.09. The Collector shall keep a record of all of the official acts, and shall preserve copies of all rules, decisions, and orders made by him and by any deputy of his department in charge of the collection of the tax imposed by this ordinance. Copies of such 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. For authenticating any such copy, he shall be paid a fee of One Dollar (\$1.00) which shall be deposited in the "Sales Tax Fund".

SECTION 12.10. 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 Governing Body of the Authority 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 12.11. If any section, subsection, sentence, clause, or phrase of this ordinance be held invalid, such decisions shall not affect the validity of the remaining portions of this ordinance. The Governing Body 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 section, sub-sections, sentences, clauses, or phrases may be so declared invalid.

SECTION 12.12. 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 Body of any kind or nature.

DISPOSITION OF TAX PROCEEDS AND REVENUES

SECTION 13.01. All taxes, revenues, funds, assessments, moneys, penalties, fees or other income which may be collected or come into possession of the Collector as an agent of the Governing Body under any provision or provisions of this ordinance shall be promptly deposited by the Collector for the account of the Governing Body in a special fund designated "Sales Tax Fund", which fund shall be established and maintained as sacred funds of the Governing Body, provided, however, any amount which is paid under protest or which is subject to litigation may be transferred to another account established by the Collector pending final determination of the protest or litigation.

SECTION 13.02. Out of the funds on deposit in said "Sales Tax Fund", the Collector shall first pay all reasonable and necessary expenses of collecting and administering the tax levied hereby and administering the provisions of this ordinance as well as the various administrative procedures established herein.

SECTION 13.03. In compliance with the said special election of November 16, 1985, authorizing said tax, after all reasonable and necessary costs and expenses of collecting and administering the tax have been paid as provided in Section 13.02, the remaining balance of the sales tax proceeds shall be available for appropriation and expenditure by the Governing Body, solely for the respective purposes designated in the proposition authorizing the levy of the tax (annexed hereto as Exhibit "A"), as approved by a majority of the qualified electors of the Authority voting in a special election held therein on November 16, 1985.

COLLECTOR AS AGENT AND TRUSTEE FOR GOVERNING BODY

SECTION 14.01. It is hereby recognized that the tax herein levied is being levied by and on behalf of the Governing Body as herein provided and that the Collector is acting as agent for the Governing Body for the purpose of administration and collection of the tax.

MISCELLANEOUS

SECTION 15.01 The creation of the St. John the Baptist Sales Tax District consisting of all of the territory

contained in the Parish of St. John the Baptist by official action of this Parish Council on September 19, 1985, is hereby ratified and confirmed.

SECTION 15.02. This ordinance shall be published in one issue of the official journal of the Governing Body as soon as possible and shall be in full force and effect immediately upon its adoption.

SECTION 15.03. A certified copy of this ordinance shall be recorded as soon as possible in the Mortgage Records of the Parish of East Feliciana, State of Louisiana.

This ordinance having been read and considered by sections at a public meeting of the Governing Body, was then submitted to an official vote as a whole, the vote thereon being as follows:

YEAS: Joel McTopy, Haston Lewis, Allen J. St. Pierre, Richard Dale Wolfe, William W. Terry, Ernest Clement, Ranney Wilson, Harold Haydel and J. Kenneth Barre.

NAYS: None.

ABSENT: None.

And the ordinance was declared adopted on this, the 12th day of December, 1985.

/s/ Audrey Millet
Secretary

/s/ Joel McTopy
President

APPROVED:

/s/ Arnold J. Labat
Parish President