

**ORDINANCE 2021-1
SALES & USE TAX**

AN ORDINANCE TO PROVIDE ADDITIONAL REVENUE FOR WORKS OF PUBLIC IMPROVEMENT AND LAWFUL CORPORATE PURPOSES FOR THE CITY OF BAKER, LOUISIANA, FROM AND AFTER JANUARY 1, 2021, AND SUBSEQUENT YEARS, EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, UNLESS SOONER RESCINDED, ANNULLED OR AMENDED BY LEVYING A TAX ON THE SALE AT RETAIL, THE USE, THE CONSUMPTION, THE DISTRIBUTION AND STORAGE TO BE USED OR CONSUMED IN THE CITY OF ARTICLES OF TANGIBLE PERSONAL PROPERTIES AS DEFINED IN R.S. 47:301 ET SEQ. AND ACT 398 OF 1966, AS HERETOFORE OR HEREAFTER AMENDED AND UPON THE LEASING OR RENTING OF TANGIBLE PERSONAL PROPERTY AS HEREIN DEFINED; DEFINING THE TERMS ‘SALES’, ‘RETAIL SALES’, ‘SALES OF SERVICES’ AND OTHER TERMS USED HEREIN, LEVYING AND PROVIDING FOR THE ASSESSMENT, COLLECTION, PAYMENT, AND LEVYING AND DISPOSITION OF SUCH TAX; PROVIDING FOR ADEQUATE REMEDY AT LAW, DEFINING VIOLATIONS OR PROVISIONS OF THIS 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 HEREBY; PROVIDING THAT ANY PART OF THIS ORDINANCE WHICH MAY BE HELD INVALID OR UNCONSTITUTIONAL SHALL NOT AFFECT OR IMPAIR ANY OTHER PARTS OF THIS ORDINANCE; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, ALL IN ACCORDANCE WITH THE AUTHORITY OF R.S. 33:2711, ET SEQ.

The Mayor and Council of the City of Baker, Louisiana met in regular session via telephone conference call, Tuesday, the 26th day of January, 2021, and with a proper quorum being there and then in attendance, and declared that a public hearing was in session to consider the adoption of the following ordinance which was read in full and submitted to a vote for adoption.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BAKER, PARISH OF EAST BATON ROUGE, STATE OF LOUISIANA, AS FOLLOWS, TO WIT:

Section 1: DEFINITIONS

(1) As used in this ordinance the following words, terms and phrases shall have the meaning ascribed to each in this section unless the context clearly indicates a different meaning:

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

(b) "City" as used herein shall means the City of Baker, Louisiana, as its limits were defined on January 1, 1990, or as may be changed by future extension or contraction of boundaries under the provisions of the Louisiana Revised Statutes.

(c) (1) "Cost Price" means the actual cost of the articles of tangible personal property without any deductions there from 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. "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.

(2) In the case of interchangeable components located in the taxing jurisdiction a taxpayer may elect to determine the cost price of such components as follows:

(a) The taxpayer shall send to the Director written notice of the calendar month selected by the taxpayer as the first month for the determination of cost price under this paragraph c(2) (the "First Month"). The taxpayer may select any month. The taxpayer shall send to the Director notice of an election to designate a First Month on the first day of the designated First Month.

(b) For the First Month and each month thereafter, cost price shall be based and use tax shall be paid only on one-sixtieth of the aggregate cost price of the interchangeable components deployed and earning revenue within the taxing jurisdiction during the month, without regard to any credit or other consideration for Louisiana state, political subdivision, or school board use tax previously paid on such interchangeable components.

(c) Any election made under this Paragraph shall be irrevocable for a period of sixty consecutive months inclusive of the First Month. If at any time after the sixty-month period the taxpayer revokes its election, no credit or other consideration for use taxes paid pursuant thereto shall be applied to any use tax liability arising after such revocation.

(d) For purposes of this Paragraph, "interchangeable component" means a component that is used or stored for use in measurement-while-drilling instruments or systems manufactured or assembled by the taxpayer, which measurement-while- drilling instruments or systems collectively generate eighty percent or more of their annual revenue from their use outside of the taxing jurisdiction.

(e) "Measurement-while-drilling instruments or systems" means instruments or systems which measure information from a down hole location in a borehole, transmit the information to the surface drilling process of drilling the borehole using a wireless technique, and receive and decode the information on the surface.

(3) "Cost price" shall not include any amount designated as a cash discount or a rebate by a vendor or manufacturer of any new vehicle subject to the motor vehicle license tax. For purposes of this subparagraph "rebate" means any amount offered by the vendor or manufacturer as a deduction from the listed retail price of the vehicle,

d. "Dealer" means:

(1) Every person who imports, or causes to be imported, tangible personal property from any state or other political subdivision of this state, or foreign country, for sale at retail, for use or consumption, or distribution, or for storage, to be used or consumed in this taxing jurisdiction.

(2) Every person who manufactures or produces tangible personal property for sale at retail, for use, or consumption, or distribution, or for storage.

(3) Any person who sells at retail or who offers for sale at retail, or who has in his possession for sale at retail, or for use, or consumption, or distribution, or storage, to be used or consumed in the taxing jurisdiction, tangible personal property.

(4) Any person who has sold at retail, or used, or consumed, or distributed, or stored for use or consumption in the taxing jurisdiction, 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 such tangible personal property.

(5) Any person who leases or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring

title thereto. However, a person who leases or rents tangible personal property to customers who provide information to such person that they will use the, property only offshore beyond the territorial limits of the state shall not be included in the term "dealer" for purposes of the collection of the rental or lease tax imposed by this ordinance on such lease or rental contracts. For purposes of this subparagraph, "use" means the operational or functional use of the property and not other uses related to its possession such as transportation, maintenance, and repair. It is the intention of this subparagraph that the customers of such persons shall remit any tax due on the lease or rental of such property directly to the taxing jurisdiction.

(6) Any person who is the lessee, permittee, licensee 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) Any person who sells or furnishes any of the services subject to tax under this ordinance.

(8) Any person who purchases or receives any of the services subject to tax under this ordinance.

(9) Any person engaging in business in the taxing jurisdiction. Engaging in business in the taxing jurisdiction means 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 or solicitor operating within the taxing jurisdiction under the authority of the seller or its subsidiary irrespective of whether such place of business, agent, salesman or solicitor is located in the taxing jurisdiction . permanently or temporarily, or whether such seller or subsidiary is qualified to do business in the taxing jurisdiction, or any person who makes deliveries of tangible personal property into the taxing jurisdiction other than by a common or contract carrier, or any person who makes deliveries of tangible personal property into the taxing jurisdiction in a vehicle owned or operated by such person.

e. "Director" means the City Treasurer, or his duly authorized assistants, or the Director of Finance of the City of Baker and the Parish of East Baton Rouge or his duly authorized assistants or employees.

f. "Free Hospital" means a hospital that does not charge any patients for health care provided by the hospital.

g. "Gross Sales" means the sum total of all sales of tangible personal property, and sales of services without any deductions whatsoever of any kind or character, except as provided in this ordinance.

h. "Lease or Rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or rentee, for a consideration, without transfer of the title of such property. The term "lease or rental", however, as herein defined, shall not mean or include the lease or rental made for the purposes of re-lease or re-rental of casing tools and pipe, drill pipe, tubing, compressors, tanks, pumps, power units, other drilling or related equipment used in connection with the operating, drilling, completion or re-working of oil, gas, sulphur or other mineral wells. The term "lease or rental" shall not mean or include a lease or rental of property to be used in performance of a contract with the U. S. Department of the Navy for construction or overhaul of U. S. Naval vessels, nor the lease or rental of airplanes or airplane equipment by a commuter airline domiciled in Louisiana, nor the lease or rental of items, including, but not limited to, supplies and equipment, which are reasonably necessary for the operation of free hospitals.

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

j. Reserved.

k. (1) "Persons" means any individual, firm, copartnership, joint adventure, association, corporation, cooperative, estate, trust, business trust, receiver, syndicate, any parish, city, municipality or public board, public commission or public or semipublic corporation, district or other political subdivision or any board, agency, university, school, college, instrumentality or other group or combination acting as a unit, and the plural as well as the singular number.

(2) For purposes of the payment of the taxes levied herein, "person" shall not include the State of Louisiana, this parish, city and parish, or municipality, any other parish, city and parish, municipality, district, or other political subdivision thereof, or any agency, board, commission, or instrumentality of Louisiana or its political subdivisions.

l. "Purchaser" means 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 tax under this ordinance.

m. (1) "Retail Sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale in the form of tangible personal property and a sale of services, as hereinafter set forth, and shall mean and include all such transactions as the Director, upon investigation, finds to be in lieu of sales. Sales for resale must be made in strict compliance with the rules and regulations. Any dealer making a sale for resale which is not in strict compliance with the rules and regulations will, himself, be liable for, and pay the tax.

(2) "Sale at Retail" does not include sale of materials for further processing into articles of tangible personal property for sale at retail or sales of electricity for chlor-alkali manufacturing processes, nor does it include an isolated or occasional sale of tangible personal property by a person not engaged in such business. The exclusion of isolated or occasional sales shall not apply to the sale of vehicles, and the term "sale at retail" shall include isolated or occasional sales of vehicles and the tax shall be collected thereon as provided in Section 6(c) hereof. The term "sale at retail" does not include the sale of any human tissue transplants, which shall be deemed to include all human organs, bone, skin, cornea, blood, or blood products transplanted from one individual into another recipient individual, nor does it include the sale of food items by youth serving organizations chartered by Congress. The term "retail sale" does not include a sale of corporeal movable property which is intended for future sale to the United States Government or its agencies, when title to such property is transferred to the United States Government or its agencies prior to the incorporation of that property into a final product.

(3) "Sale at retail" does not include the sale of tangible personal property to food banks, as defined in R.S. 9:2799. (This subparagraph (3) shall be effective . August 21, 1992).

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

(5) "Sale at retail" does not include the sale of airplanes or airplane equipment or parts to a commuter airline domiciled in Louisiana.

(6) "Sale at retail" shall not include the sales of Louisiana manufactured or assembled passenger aircraft with a capacity in excess of fifty persons, if, after all transportation, including transportation by the purchaser, has been completed, the aircraft is ultimately received by the purchaser outside of Louisiana. (This subparagraph (6) shall be effective August 21, 1992.)

(7) "Sale at retail" does not include the sales of pelletized paper waste when purchased for use as combustible fuel by an electric utility or in an industrial manufacturing, processing, compounding, reuse, or production process, including the generation of electricity or process steam, at a fixed location in this state. However, such sale shall not be excluded unless the purchaser has signed a certificate stating that the fuel purchased is for the exclusive use designated herein. For purposes of this Subparagraph, "pelletized paper waste" means pellets produced from discarded waste paper that has been diverted or

removed from solid waste which is not marketable for recycling and which is wetted, extruded, shredded, or formulated into compact pellets of various sizes for use as a supplemental fuel in a permitted boiler. (This subparagraph (7) shall be effective July 1, 1993.)

(8) "Sale at retail" shall not include the sale or purchase of equipment used in fire fighting by bona fide volunteer fire departments. (This subparagraph (8) shall be effective July 1, 1992.)

(9) "Sale at retail" shall not include the sale of items, including, but not limited to, supplies and equipment, which are reasonably necessary for the operation of free hospitals.

n. "Retailer" means and includes every person engaged in the business of making sales at retail or rendering services taxable hereunder.

o. "Sale" means any transfer of title or possession or both, exchange, barter, conditional or otherwise, in any manner or by any means whatsoever of tangible personal property for a consideration and includes the fabrication of tangible personal property for consumers, who furnish, either directly or indirectly, the materials used in fabrication work, and the furnishing, preparing or serving, 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" also includes the sales of services.

p. "Sales of Services" means and includes the following:

(1) The furnishing of rooms by hotels and tourist camps;

(a) The term "Hotel" means any establishment engaged in the business of furnishing sleeping rooms, cottages or cabins to transient guests where such establishments consist of six (6) or more guest rooms, sleeping rooms, cottages or cabins at a single business location.

(b) The term "Tourist Camp" means any establishment engaged in the business of furnishing rooms, cottages or cabins to tourists or other transient guests, where the number of guest rooms, cottages or cabins at a single location is six (6) or more.

(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 the term "sales of services" shall not include membership fees or dues of nonprofit civic organizations, including by way of illustration and not of limitation the Young Men's Christian Association, the Catholic Youth Organization and the Young Women's Christian Association. "Places of Amusement" shall not include museums, which are hereby defined as public or private nonprofit institutions which are organized on a permanent basis for essentially educational or aesthetic purposes and which use professional staff to do all of the following:

(a) Own or use tangible objects, whether animate or inanimate.

(b) Care for those objects.

(c) Exhibit them to the public on a regular basis.

Museums include but are not limited to the following institutions:

(a) Museums relating to art, history, including historic buildings, natural history, science, and technology.

(b) Aquariums and zoological parks.

(c) Botanical gardens and arboretums.

(d) Nature centers.

(e) Planetariums.

(3) The furnishing of storage or parking privileges by auto hotels and parking lots;

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

(5) The furnishing of laundry, cleaning, pressing and dyeing services, including by way of illustration 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; and,

(7) (a) 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.

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

(8) The term "Sale of Service" shall not include an action performed pursuant to a contract with the U. S. Department of the Navy for construction or overhaul of U. S. Naval vessels.

q. (1) "Sales Price" means the total amount for which tangible personal property is sold, less the market value of any article traded in, including any services, except services for financing, that are a part of the sale valued in money, whether paid in money or otherwise, and includes the cost of materials used, labor or service costs, except costs for financing, which shall not exceed the legal interest rate and a service charge not to exceed six percent (6%) of the amount financed, and losses; provided that cash discounts allowed and taken on sales shall not be included, nor shall the sales price include the amount charged for labor or services rendered in installing, applying, remodeling or repairing property sold. Any provision of this ordinance to the contrary notwithstanding, the sales tax levied herein on any transaction in which a part of the purchase price is represented by an article traded in shall be payable on the total purchase price unless the market value of the article traded in. At such time as the article traded in is sold, the sales tax shall be collected in the same manner and to the same extent as in the case of the original sale.

(2) "Sales Price" shall not include any amount designated as a cash discount or a rebate by the vendor or manufacturer of any new vehicle subject to the motor vehicle license tax. For purposes of this subparagraph "rebate" means any amount offered by a vendor or manufacturer as a deduction from the listed retail price of the vehicle.

(3) "Sales Price" shall not include the first Fifty Thousand Dollars of the sales price of new farm equipment used in poultry production.

r. "Storage" means any keeping or retention in the taxing jurisdiction of tangible personal property.

s. "Tangible Personal Property" means personal property which may be seen, weighed, measured, felt or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes or other obligations or securities; gold, silver or numismatic coins, or platinum, gold, or silver bullion having a total value of One Thousand Dollars or more; or proprietary geophysical survey information or geophysical data analysis furnished under a restricted use agreement even though transferred

in the form of tangible personal property. The term "tangible personal property" shall also not include the repair of a vehicle by a licensed motor vehicle dealer which is performed subsequent to the lapse of the applicable warranty on that vehicle and at no charge to the owner of the vehicle. For the purpose of assessing a sales and use tax on this transaction, no valuation shall be assigned to the services, performed or the parts used in the repair. (The clause relative to warranty repairs shall be effective August 21, 1992.)

t. "Taxing Jurisdiction" means the City as herein defined.

u. (1) "Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it shall not include the sale at retail of that property in the regular course of business or the donation to a school in the state which meets the definition provided in R.S. 17:236 or to a public or recognized independent institution of higher education in the state of property previously purchased for resale in the regular course of a business.

(2) "Use" shall not include the exercise of any right or power by a free hospital over items, including, but not limited to, supplies and equipment, which are reasonably necessary for the operation of the free hospital.

v. "Verifiable Records" means documents sufficient to independently support claims of sales and purchases. The Director is authorized to provide by rule and regulation specific documentation necessary to satisfy this requirement.

Section 2. IMPOSITION OF TAXES

a. There is hereby levied from and after January 1, 1995, for general municipal purposes, a tax upon the sale at retail, the use, the consumption, the distribution and storage as defined herein, and upon the lease or rental of tangible personal property and the sale of services within the City at a rate of two (2%) percent.

b. Reserved.

c. Reserved.

d. Reserved.

e. Each of the taxes specified herein shall be levied upon the following:

(1) The Sales Price of each item or article of tangible personal property when sold at retail in the taxing jurisdiction, the tax to be computed on gross sales for the purpose of remitting the amount of tax due the taxing jurisdiction, and to include each and every retail sale.

(2) 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 taxing jurisdiction, provided there shall be no duplication of the tax.

(3) The gross proceeds derived from the lease or rental of tangible personal property, where the lease or rental of such property is an established business, or part of the same is incidental or germane to the business.

(4) The monthly lease or rental price paid by the lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the owner of the tangible personal property.

(5) The gross proceeds derived from the sale of services.

(6) Interstate sales to the extent authorized by Act 155 of 1990 (R.S. 47:305(E)).

(7) Refinery gas to the extent and in the manner authorized by Act 476 of 1990 (R.S. 47:305D(1)(b)).

f. The taxes shall be collected from the dealer and paid at the time and in the manner hereinafter provided. The taxes so levied are, and shall be, in addition to all other taxes,

whether levied in the form of sales, excise, license, privilege or property taxes levied by any city, school board or parish ordinance.

g. The collection of the taxes herein levied shall be made in the name of the taxing jurisdiction by the Director.

h. The Director will use the integrated bracket schedules provided by the Secretary of Revenue and Taxation, State of Louisiana, pursuant to Louisiana Revised Statutes, Title 47, Section 304, for the purpose of tax collection within the meaning of this ordinance.

Section 3. EXEMPTIONS FROM TAX

The following transactions are exempt from all of the taxes imposed by this ordinance.

a. The sale at retail, the use, the consumption, the distribution and storage, to be used or consumed in the taxing jurisdiction, of the following tangible personal property:

Gasoline, natural gas, steam, water when delivered to consumers through mains, pipes or conduits, electric power or energy, newspapers, fertilizer and containers used for farm products when sold directly to the farmer.

b. 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 (50) tons load displacement and over, built in Louisiana, and the gross proceeds from the sale of such ships, vessels, or barges, when sold by the builder thereof.

c. Materials and supplies purchased by the owners or operators of ships or vessels operating exclusively in foreign or interstate coastwise commerce, where such materials and supplies are loaded upon the ship or vessel for use or consumption in the maintenance and operation thereof; repair services performed upon ships or vessels operating exclusively in foreign or interstate coastwise commerce; and materials and supplies used in such repairs, where such materials and supplies enter into and become a component part of such ships or vessels; laundry services performed for the owners or operators of such ships or vessels operating exclusively in foreign or interstate coastwise commerce, where the laundered articles are to be used in the course of the operation of such ships or vessels.

d. The sale in the taxing jurisdiction 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 the producer, they are not exempted from the taxes imposed by this ordinance; however, each and every agricultural commodity sold by any person other than a producer, to any other person who purchases not for the direct consumption, but for the purpose of acquiring a raw product for the 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 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. The term "agricultural commodity", for the purpose hereof, shall mean horticultural, viticultural, poultry, farm and range products, and livestock and livestock products.

e. All sales by dealers in the operation of businesses which are rehabilitation units for the blind.

f. Any exclusion or exemption specifically mandated to include municipalities or parishes by the provisions of L.R.S. 47:301 -305.46, et seq.

g. (1) (a) The sales of tangible personal property at, admission charges for, outside gate admission to, or parking fees associated with, events sponsored by 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 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.

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

(c) This subsection 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.

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

(3) An exemption certificate must be obtained from the Director under such regulations as he shall prescribe in order for nonprofit organizations to qualify for the exemption provided in this subsection.

(4) In no case shall any organization which endorses any candidate for political office or otherwise is involved in political activities be eligible for the exemption herein provided.

h. The value of catalogs distributed or intended for distribution in the taxing jurisdiction, without charge to the recipient.

i. Purchases made by bona fide fire protection districts.

j. Pharmaceutical samples approved by the United States Food and Drug Administration which are manufactured in Louisiana or imported into Louisiana for distribution without charge to physicians, dentists, clinics, or hospitals.

k. The acquisition of material, supplies, vehicles, or equipment made by a public trust pursuant to the provisions of R.S. 38:2212.3 (Act 780 of 1989).

l. Orthotic devices, prosthetic devices, prostheses and restorative materials utilized by or prescribed by dentists in connection with health care treatment or for personal consumption or use.

m. Purchases by or for the City of Baker, Louisiana, or its departments, agents, or officers.

Section 4. Reserved

Section 5. ADVERTISING AGENCY EXCLUSION

It is not the intention of this ordinance to levy a tax upon any advertising service rendered by an advertising business, including but not limited to advertising agencies, design firms, and print and broadcast media, or any member, agent, or employee thereof, to any client whether or not such service also involves a transfer to the client of tangible personal property. However, a transfer of mass-produced advertising items by an advertising business which manufactures the items itself to a client for the client's use, which transfer involves the furnishing of minimal services other than manufacturing services by the advertising business shall be a taxable sale or use of tangible personal property; however, in no event shall tax be levied on charges for creative services which are separately invoiced.

Section 6. COLLECTION OF TAX FROM DEALER

a. On all tangible personal property imported or caused to be imported from other states or other political subdivisions of this state or 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 articles had been sold at retail for use or consumption in the taxing jurisdiction. For the purpose of this ordinance, the use, or consumption, or distribution, or storage of tangible personal property shall each be equivalent to a sale at

retail, and the tax shall thereupon immediately levy and be collected in the manner provided herein, provided there shall be no duplication of the tax in any event.

b. (1) It is not the intention of this ordinance to levy a tax upon articles of tangible personal property imported into the taxing jurisdiction, or produced or manufactured in the taxing jurisdiction for export, nor is it the intention of this ordinance to levy a tax on bona fide interstate commerce. It IS, however, the intention of this ordinance to levy a tax on the sale at retail, the use, the consumption, the distribution, and the storage, to be used or consumed in the taxing jurisdiction of tangible personal property after it has come to rest in the taxing jurisdiction and has become a part of the mass of property in the taxing jurisdiction.

(2) A credit against the use tax imposed by the 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 Louisiana, or in a city or county or other political subdivision in a state other than Louisiana, the proof of the payment of such tax to be according to rules and regulations made by the Director. The amount of the credit shall be calculated by multiplying the rate of the similar tax paid in the other taxing jurisdiction by the cost price of the tangible personal property at the time of its importation into this Taxing Jurisdiction. In no event shall the credit be greater than the tax imposed by this Taxing Jurisdiction upon the particular tangible personal property which is the subject of this Taxing Jurisdiction's use tax.

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

c. Any provision of this ordinance to the contrary notwithstanding, the tax herein levied on the sale or use of any motor vehicle, automobile, motorcycle, truck, truck-tractor, trailer, semi-trailer, motor bus, house trailer, or any other vehicle subject to the vehicle registration license tax of the State of Louisiana, shall be collected as provided in this subsection.

(1) The Director shall enter into an agreement by which the tax herein levied on any such vehicle shall be paid to the Vehicle Commissioner of the State of Louisiana at the time of application for a certificate of title or vehicle registration license. The sales tax levied by Section 2 hereof on any such vehicles shall be due at the time registration or any transfer of registration is required by the vehicle registration license tax law (R.S. 47:451., et seq.). The use tax levied by Section 2 hereof on the use of any such vehicle shall be due at the time the first registration in this state is required by the vehicle registration license tax law (R.S. 47:451., et seq.).

(2) Each vendor of a vehicle covered by the provisions hereof shall furnish to the purchaser at the time of sale a sworn statement showing the serial number, motor number., type, year and model of the vehicle sold; the total sales price, any allowances for, and a description of, any vehicle taken in trade, and the total cash difference paid, or to be paid by the purchaser between the vehicles purchased and traded in and the sales or use tax to be paid, along with such other information as the Vehicle Commissioner may, by regulation, require. All labor, parts, accessories and other equipment which are attached to the vehicle at the time of sale, and which are included in the sale price, are to be considered a part of the vehicle.

(3) It is not the intention of this subsection 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 subsection is not to be construed as so doing. It is the intention of this subsection to transfer the collection of the sales and use tax on vehicles from the vendor to the Vehicle Commissioner and to provide a method of collection of the tax directly from the vendee or user by the Vehicle Commissioner, as authorized in the case of state sales and use taxes by the provisions of Act 182 of 1962.

(4) The Director is further authorized to promulgate such rules and regulations as may be necessary in order to carry out the terms and conditions of any agreement entered into with the Vehicle Commissioner for the purposes hereof.

d. Auctioneers shall be responsible for the collection of all taxes on retail sales by them and shall report and remit such taxes as provided in this ordinance.

Section 7. COLLECTION OF TAX BY DEALER

a. (1) The tax herein levied shall be collected by the dealer from the purchaser or consumer, except for the collection of tax on the lease or rental of property for use offshore as otherwise provided in Section Id(5) hereof. The dealer shall have the same right in respect to collecting the tax from the purchaser, or in respect to nonpayment of the tax by the purchaser, as if the tax were a part of the purchase price of the property or charges for services, and payable at the time of the sale; however, the taxing jurisdiction shall be joined as a party in any action or proceeding brought by the dealer to collect the tax.

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

(3) 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 taxing jurisdiction, and it shall be the duty of the purchaser to file a return thereof with the Director and to pay the tax imposed thereon to the taxing jurisdiction within fifteen (15) days after such sale was made or rendered.

b. (1) The dealership, as far as practicable, add the exact amount of the tax imposed under this ordinance, or the average equivalent thereof, in conformity with the rules and regulations to be issued by the Director, to the sales price or charge, and when added, such tax shall constitute a part of such price or charge, and shall be a debt from the purchaser or consumer to the dealer, until paid, and shall be recoverable at law in the same manner as other debts. Any dealer who shall neglect, fail or refuse to collect the tax herein provided upon any, every and all retail sales made by him or his agent or employee, which is subject to the tax imposed in this ordinance, shall be liable for, and pay the tax himself.

(2) Where the tax collected for any period is in excess of the total amount of sales taxes imposed in the taxing jurisdiction, the total collected must be paid over to the taxing jurisdiction, less the commission to be allowed the dealer as hereinafter set forth.

c. 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.

d. The sums of money collected by the dealer for payment of any taxes imposed herein shall be and remain the property of the Taxing Jurisdiction.

Section 8. CERTIFICATE OF AUTHORITY

a. 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, dealers purchasing or importing tangible personal property for resale commencing business after the effective date of this ordinance, or opening new places of business after such date, shall within three (3) days after such commencement or opening file with the Director a certificate of registration on a form prescribed by him. The Director 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 thereof, 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 the 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 Director upon the dealer's ceasing to do business at the place therein named.

b. A wholesale dealer or jobber shall collect the tax imposed by this ordinance unless the purchaser shall have filed a certificate of registration as prescribed herein and received a certificate of authority to collect the tax imposed by this ordinance; however, the payment of the tax by such purchaser shall not relieve the purchaser of the duty hereunder imposed upon such purchaser to collect the tax upon any resale made by him. Such purchaser who shall thereafter file a certificate of registration and receive a certificate of authority to collect the tax may, upon application therefore, receive a refund of the taxes paid by him upon property thereafter resold by him, and upon the receipts from which he shall have collected and paid over to the taxing jurisdiction, the tax herein imposed.

Section 9. IMPORT PERMITS

a. In order to prevent the illegal importation of tangible personal property which is subject to the tax into the taxing jurisdiction and to strengthen and make more effective the manner and method of enforcing payment of the tax imposed by this ordinance, the Director 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 the 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 taxing jurisdiction which property is subject to tax imposed by this ordinance, to apply to the Director 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 Director may deem proper or necessary to prevent the illegal importation of tangible personal property into the taxing jurisdiction. Such permits shall be free of cost to the applicant and may be obtained at the office of the Director.

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

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

Section 10. RETURNS AND PAYMENTS OF TAX: DELINQUENT INTEREST. PENALTY. ATTORNEY FEES: VENDORS' COMPENSATION

a. The taxes levied hereunder shall be due and payable on the first day of the month next following the month in which this ordinance takes effect. 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 taxing jurisdiction, upon forms prescribed, prepared and furnished by the Director, returns showing the gross sales or purchases arising from all sales or purchases taxable under this ordinance 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 Director

by all dealers on or before the twentieth (20th) day of each month for the preceding calendar month. Such returns shall show further information as the Director may require to enable him to correctly compute and collect the tax herein levied. Such returns shall be signed by the dealer filing the same and his signature thereon shall constitute a warranty on the part of the dealer that he has read and examined the 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 taxing jurisdiction the required tax due for the preceding calendar month.

b. The Director may agree with a dealer to allow for quarterly reporting and remitting of the taxes under the sales and use tax ordinance when such taxes amount to \$50 or less per month.

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

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

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

f. At the time of transmitting the return required hereunder to the Director, the dealer shall remit to the taxing jurisdiction therewith the amount of the tax due under the applicable provisions of this ordinance, and failure to so remit such tax shall cause the tax to become delinquent.

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

(2) All taxes, interest and penalties imposed under this ordinance shall be paid to the taxing jurisdiction in the form of remittance required by the Director.

(3) All penalties and interest imposed by this ordinance shall be payable to and recoverable by the taxing jurisdiction 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 Director, he may remit or waive payment of the whole, or any part, of any penalty, and may remit and waive payment of any interest charged in excess of the rate of one and one-quarter (1-1/4%) percent per month.

h. For the purpose of collecting and remitting to the taxing jurisdiction the tax imposed by this ordinance, the dealer is hereby declared to be the agent of the taxing jurisdiction.

i. Anything to the contrary in this ordinance notwithstanding, rental-purchase agreements, as defined in Louisiana Act 204 of 1991, shall be deemed to be sales and the tax due on such transactions shall be payable in equal monthly installments over the entire term of the rental-purchase agreement, rather than at its inception.

j. However, a person who leases or rents tangible personal property to customers who provide information to such person that they will use the property only offshore beyond the territorial limits of the state shall not be included in the term "dealer" for purposes of the collection of the rental or lease tax imposed by this ordinance on such lease or rental contracts. For purposes of this subparagraph, "use" means the operational or functional use of the property and not other uses related to its possession such as transportation, maintenance, and repair. It is the intention of this subparagraph that the customers of such persons shall remit any tax due on the lease or rental of such property directly to the Taxing Jurisdiction.

Section 11. RECORDS

a. Every dealer required to make a report or pay any tax under this ordinance shall keep and preserve verifiable records of the sales, purchases or leases taxable under this ordinance, and such other books of account as may be necessary to determine the amount of the tax due hereunder, and such other information as may be required by the Director. Each dealer shall secure, maintain and keep, until the taxes to which they relate have prescribed, a complete record of tangible personal property received, used, sold at retail, distributed, or stored, leased or rented, within the taxing jurisdiction by such dealer, together with invoices, bills of lading, and other pertinent records and papers as may be required by the Director for the reasonable administration of this ordinance, and a complete record of all sales or purchases of services taxable under this ordinance until the taxes to which they relate have prescribed. These records shall be open to examination by the Director at all reasonable hours.

b. All wholesale dealers and jobbers in the taxing jurisdiction shall keep and preserve verifiable records of all sales of tangible personal property in the taxing jurisdiction whether such sales be for cash or on terms of credit. These records shall include the name and address of the purchaser, the date of the purchase, the article purchased, and the price at which the article is sold to the purchaser. These records shall be kept until the taxes to which they relate have prescribed and shall be open to examination by the Director at all reasonable hours.

c. For the purpose of enforcing the collection of the tax levied by this ordinance, the Director is hereby specifically authorized and empowered to examine, at all reasonable hours, the books, records and other documents of all transportation companies, agencies or firms operating in the taxing jurisdiction, 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. In the event said transportation company, agency or firm shall refuse to permit such examination of its books, records and other documents by the Director, as aforesaid, the Director may proceed by rule, in term time or in chambers, in any court of competent jurisdiction and require said transportation company, agency or firm to show cause why the Director should not be permitted to examine its books, records or other documents, and in case said rule be made absolute, the same shall be considered a judgment of the court and every violation of the judgment as a contempt thereof and punished according to law.

Section 12. DIRECTOR'S AUTHORITY TO EXAMINE AND AUDIT

a. For the purpose of administering this ordinance, the Director may make or cause to be made 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 Director 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.

b. It shall be lawful for the Director to receive the written oath of any person signing any application, deposition, statement or report required by the Director, in the administration of this ordinance.

c. The Director 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 Director in writing.

Section 13. DIRECTOR'S AUTHORITY TO DETERMINE THE TAX

a. (1) After a report or return is filed under the provisions of the ordinance, the Director shall cause to be made 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 hereunder, he shall assess the .additional amount of tax and any penalties and interest due. The assessment so made shall be considered prima facie correct and the burden shall be on the dealer to show the contrary.

(2) 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 Director 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 taxing jurisdiction, and assess and collect the tax and interest, plus penalty, if such have accrued, on the basis of such assessment, which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the dealer.

b. In the event the dealer has imported the 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, the Director shall ascertain, in any manner feasible, the true cost price and assess and collect the tax with interest, plus penalties, if such have accrued, on the true cost price as assessed by him. The assessment so made shall be considered prima facie correct, and the burden shall be on the dealer to show the contrary.

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

d. All taxes, penalties and interest assessed pursuant to the provisions of this ordinance shall be paid within thirty (30) days after notice and demand shall have been mailed to the dealer liable therefore by the taxing jurisdiction.

e. If taxes, penalties and interest assessed shall not be paid within thirty (30) days, there shall be added to the amount assessed, in addition to interest as hereinabove provided, and any other penalties provided by this ordinance, a sum equivalent to five (5%) percent of the tax.

Section 14. PROCEEDINGS TO COMPEL ACTION

a. If any dealer subject to make and file a return required by any provision 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 due, the Director shall give such dealer fifteen (15) days notice, in writing, requiring such dealer to appear before him with such books, records and papers as he may require, relating to the business of such dealer for such taxable period. The Director may require such dealer, or the agents or employees of such dealer, to give testimony or to answer interrogatories, under oath administered by the Director respecting the sale at retail, the use, or consumption, or distribution, or storage for use or consumption, in the taxing jurisdiction, 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.

b. If any dealer fails to make any such return, or refuses to permit an examination of his 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 Director 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 to so appear and testify, and to produce such books, records and papers as may be required.

c. Any person 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 15. JEOPARDY ASSESSMENT

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

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

c. The taxpayer against whom the assessment lies can stay distraint of his property, or sale of his property already distrained, as the case may be, only by the immediate payment of the assessment or by posting with the Director a surety bond for twice the amount of such assessment, or of a lower amount acceptable to the Director, with such sureties as the Director deems necessary. The taxpayer shall have sixty (60) calendar days from the date of payment, or the date of posting bond, to appeal to the courts as provided in Section 19 hereof for a redetermination of the assessment. During this period, the Director shall hold any payment made in an escrow account. If the taxpayer does not appeal, the Director shall immediately credit such payment to tax collections or proceed to collect from sureties, if any were given. In the event of an appeal, such payment or demand for payment from sureties given shall be held in abeyance pending the redetermination or affirmation of the assessment by the court which reviews the matter. Final payment, or collection from sureties, will be for the amount of the affirmed or redetermined assessment.

Section 16. DISTRAINT PROCEDURE

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

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

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

d. Any person in possession of property or rights to property subject to distraint upon which a levy has been made shall, upon demand by the Director, surrender such property or rights to the Director unless such property or rights, at the time of such and, subject to an attachment or execution under any Judicial process. Any person falling or refusing to surrender any such property or rights shall be liable to the taxing jurisdiction in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes, penalties, and interest and other costs and charges which are due.

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

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

Section 17. SUMMARY PROCEEDINGS

In addition to any other procedure provided in this ordinance or elsewhere in the laws of this city, parish and state and for the purpose of facilitating and expediting the determination and trial of all claims for taxes, penalties, interest, attorney fees or other costs and charges arising under this ordinance, there is hereby provided a summary proceeding for the hearing and determination of all claims by or on behalf of the taxing jurisdiction, or by or on behalf of the Director, for taxes, penalties, interest, attorney fees, costs or other charges due thereon, by preference in all courts, all as follows:

a. All such proceedings, whether original or by intervention or third opposition, or otherwise, brought by or on behalf of the taxing jurisdiction, or by or on behalf of the Director, for the determination or collection of any tax, interest, penalty, attorney fees, costs or other charge, claimed to be due under any provision of this ordinance, shall be summary and shall always be tried or heard by preference, in all courts, original or appellate, whether in or out of term time, and either in open court or chambers, at such time as may be fixed by the court, which

shall be not less than two (2) nor more than ten (10) days after notice to the defendant or opposing party.

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

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

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

e. The City Police for the City of Baker and the Sheriff for the Parish of East Baton Rouge shall enforce injunctions prohibiting the further pursuit of business when a valid injunction and Judgment has been obtained from a court of competent Jurisdiction involving delinquent sales and use tax under the provision of this ordinance until such time as the delinquent tax, interest, penalties and costs have been paid by the dealer retailer.

f. 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 taxing jurisdiction is hereby vested with authority, on motion in a court of competent jurisdiction, to take a rule on the 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 the dealer should not be ordered to cease from further pursuit of business as a dealer and in case the rule is made absolute, the order thereon rendered shall be considered a judgment in favor of the taxing jurisdiction, prohibiting such dealer from the further pursuit of business until such time as he has paid the delinquent tax, interest, penalties and every violation of the injunction shall be considered as a contempt of court and punished according to law. 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 will be sold at retail, used or consumed, or stored for use or consumption in the taxing jurisdiction, or leased or rented within the taxing jurisdiction, and is subject to the tax herein levied; however, such presumption shall be prima facie only, and subject to proof furnished to the Director.

Section 18. DEALER'S RIGHT TO A HEARING

If any dealer shall be aggrieved by any findings or assessment of the Director, he may, within thirty (30) days of the receipt of notice of the assessment or finding, file a protest with the Director in writing, signed by himself or his duly authorized agent, which shall be under oath and shall set forth the reason therefore, and may request a hearing. Thereafter, the Director shall grant a hearing to said dealer, if a hearing has been requested, and may make any order confirming, modifying or vacating any such finding or assessment. The filing of any such protest shall not abate any penalty for nonpayment, nor shall it stay the right of the taxing jurisdiction to collect the tax in any manner herein provided. Appeals

from the decision of the Director shall be directed to any state, city or federal court of competent jurisdiction, as provided for in Section 19b hereof.

Section 19. LEGAL REMEDIES FOR DISPUTE SETTLEMENT

a. (1) A right of action is hereby created to afford a remedy at law for any dealer aggrieved by any provisions of this ordinance. In the case of such dealer's resisting the payment of any amount found due, or the enforcement of any provisions of this ordinance in relation thereto, such dealer shall pay under protest the amount found due by the Director, and shall give the Director notice, at the time, of his intention to file suit for the recovery of the same. Upon receipt of such notice, the amount so paid shall be segregated and held by the Director for a period of thirty (30) days. If suit is filed within such time for recovery of the amount prod, such funds so segregated shall be further held in pending the outcome of the suit. If the dealer prevails, the Director shall refund the amount to the claimant with interest at the rate provided in RS. 33:2718, covering the period from the date the funds were received by the taxing jurisdiction to the date of refund.

(2) The Director may transfer to the taxpayer at, any time before judgment, taxes, penalty, and interest paid under protest when there is a genuine legal issue and he feels such transfer is in the best interest of the taxing jurisdiction. Interest in connection with such transfers shall be calculated as follows:

(a) For whatever portion of the judgment awarded to the taxing jurisdiction, the taxpayer shall owe interest at the rate specified in this ordinance from the date the tax was due until the date it was paid under protest. Further, the taxpayer shall owe interest at one-half the rate specified in this ordinance from the date the Director transferred the tax, penalty, and interest to the taxpayer until the date of repayment by the taxpayer.

(b) For that portion of the judgment awarded to the taxpayer, the taxing jurisdiction shall owe interest at the rate specified in this ordinance from the date taxes were paid under protest until the date of transfer to the taxpayer by the Director.

b. 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 Mayor.

c. This section shall be construed to provide a legal remedy in the state, city or federal courts, by action of law, in case such taxes or their collection are claimed to be an unlawful burden upon interstate commerce, in violation of any Act of Congress or the United States Constitution, or the Constitution of the State of Louisiana, or in federal jurisprudence; however, 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 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 Director until the question of law involved has been determined by the courts and shall then be disposed of as therein provided.

Section 20. PERSONAL LIABILITY OF DEALER

The liability of any person or dealer arising from any tax, interest and penalty from the time they are due shall be a personal debt of such person or dealer to the taxing jurisdiction, recoverable in any court of competent jurisdiction in an action at law by the taxing jurisdiction. 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 here under shall be paid to the taxing jurisdiction.

Section 21. OFFICER AND DIRECTOR LIABILITY

a. Notwithstanding any other provision of law to the contrary, if any corporation fails to file returns or to remit the sales and use taxes collected from purchasers or consumers, the Director is authorized, as an alternative means of enforcing collection, to hold those officers or directors having direct control or supervision of such taxes or charged with the responsibility of filing such returns and remitting such taxes and who willfully fail to remit or account for such taxes withheld or collected, personally liable for the total amount of such taxes withheld or collected, and not accounted for or not remitted, together with any interest, penalties, and fees accruing thereon. Collection of the total amount due may be made from anyone or any combination of such officers or directors who willfully fail to remit or account for such taxes withheld or collected, by use of any of the alternative remedies for the collection of taxes.

b. A corporation by resolution of the board of directors may designate an officer or director, having direct control or supervision of such taxes or charged with the responsibility of filing such returns and remitting such taxes, and such resolution shall be filed with the Director.

Section 22. SUCCESSOR LIABILITY

a. If any dealer liable for any tax, interest or penalty hereunder shall sell out his business or stock of goods, or shall quit the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting business. His successor, successors or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such taxes, interest and penalties due and unpaid until such time as the former owner shall produce a receipt from the Director, 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 above provided, he shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid on account of the operation of the business by any former owner, owners or assignors.

b. In the case of a dealer who has quit a business, and who subsequently opens another similar business under the same ownership, whether that ownership is individual, partnership, corporation, or other, that dealer shall be liable for any tax, interest, or penalty owed by the original business.

Section 23. THIRD PARTY LIABILITY

In the event that any dealer is delinquent in the payment of the tax herein provided for, the Director 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, either personal property or debts, until the Director 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 Director of any and all such credits, other personal property, or debts in their possession, under their control, or owing by them.

Section 21. CORPORATE ACTIONS

No corporation organized under the laws of the state shall hereafter be dissolved, or effect a merger, reorganization or consolidation under any law of the state by the action of the stockholders, or by the decree of any court until all taxes, fees, penalties and interest imposed on the corporation in accordance with the 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 taxing jurisdiction 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 25. RULES. REGULATIONS. AND TAX FORMS

- a. The Director 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 thereby.
- b. The Director shall design, prepare, print and furnish to all dealers, or make available to all dealers, all necessary forms for filing returns, and instructions to insure a full collection from dealers and an accounting for the taxes due. Failure of any dealer to secure such forms shall not relieve him from the payment of taxes at the time and in the manner herein provided.
- c. The Director may design, prepare, print and furnish consolidated or combined forms for the use of those dealers who are required to file returns under this ordinance.
- d. The cost of preparing and distributing the report forms and paraphernalia for the collection of the tax, and of the inspection and enforcement duties required herein, shall be borne out of appropriations by the Council of the City of Baker, unless otherwise specified herein.
- e. The Director may revise, publish and adopt tax reporting forms, systems, and procedures which require the reporting of summary tax amounts which have been rounded off to the nearest whole dollar. The whole-dollar rounding off shall only be employed in reporting periodic summary tax amounts as directed by the Director and shall not be applied to individual transactions or tax applications.

Section 26. NOTICE REQUIREMENTS

Any notice required to be given by the Director 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 27. SECURITY TAX DEPOSIT

a. The Director may require a bond or other security for the payment of any taxes, fees, interest, or penalties where any of the following conditions apply:

(1) The taxpayer is three (3) months or more delinquent in reporting or remitting due taxes, penalties or interest.

(2) A new owner has purchased a business which, at the time of the sale, is '1 delinquent in remitting taxes, penalties or interest.

(3) The dealer is an itinerant vendor, which includes sellers at flea markets, sellers by the roadside, or any other peddler not having a fixed place of business.

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

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

d. All delinquent sales and use tax accounts shall be reviewed periodically and tax deposits shall be applied to delinquent tax accounts. Taxpayers will be notified when tax deposits are so applied and shall then be required to provide additional security tax deposits to replace the amount applied to the delinquent tax account.

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

Section 28. DIRECTOR'S RECORDS

a. The Director shall keep a record of all of the official acts, and shall preserve copies of all rules, decisions and orders made by him. Copies of such rules, decisions, 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 (\$1.00) dollar, which shall be deposited in the City Parish General Fund.

b. All returns or reports filed with the taxing jurisdiction pursuant to the provisions of this ordinance shall be preserved for three (3) years, and thereafter may be destroyed by order of the Director.

Section 29. AUTHORITY TO HIRE EXPERTS

The Director may, on behalf of the taxing jurisdiction, contract with and hire expert consultants, for the purpose of evaluating and appraising equipment and machinery and related work necessary in connection with sales and use tax audits by the Finance Department. Any such contracts of employment shall be subject to the approval of the Baker Council.

Section 30. AUTHORITY FOR INSTALLMENT AGREEMENTS

The Director may enter into a formal installment payment agreement with a taxpayer for the collection of past due tax, penalty and interest, when in his opinion it is in the best interest of the taxing jurisdiction to do so.

Section 31. CLAIMS FOR REFUND

a. In the event purchases are returned to the dealer by the purchaser or consumer after the tax imposed by this ordinance has been collected or charged to the account of the consumer or user, the dealer shall be entitled to reimbursement of the amount of tax so collected or charged by him in the manner prescribed by the Director, and in case the tax has not been remitted by the dealer to the taxing jurisdiction, 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 taxing jurisdiction, through the Director, 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 taxing jurisdiction at full face value from the dealer to whom it is issued in the remittance for subsequent taxes accrued under the provisions of this ordinance.

b. If the dealer has made an overpayment of his taxes, he may at any time within three (3) years from December 31 of the year in which the tax became due or within one (1) year from the date the tax was paid, whichever is later, on any original or additional tax assessed against him, file with the Director a claim under oath for refund, in such form as the Director 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 Director, as hereinbefore provided, or after proceedings on appeal have been finally determined. For the purpose of this section, "overpayment" means a payment of tax, penalty or interest when none was due, or the excess of the amount of tax, penalty or interest paid over the amount due. The Director is authorized to deduct travel expenses associated with conducting refund audits.

c. If upon examination of such claim for refund, it shall be determined by the Director 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 dealer shall be entitled to a refund of the tax so overpaid. If the Director shall reject the claim

for refund in whole or in part, he shall make an order accordingly and serve written notice upon such dealer. A dealer may appeal any such rejection as provided in Section 19 hereof, provided said appeal is taken within thirty (30) days from the date of such notice.

d. Where no question of fact or law is involved, and it appears from the records of the taxing jurisdiction that any monies have been erroneously or illegally collected from any dealer, or have been paid by any dealer under a mistake of fact or law, the Director may, at any time within three (3) years from December 31 of the year in which the tax became due or within one (1) year from the date the tax was paid, whichever is later, upon making a record in writing of his reasons therefore, certify that any dealer is entitled to such refund, and thereupon, the Director shall authorize the payment thereof from the current year revenues. No claim for refund shall be allowed after a lapse of the three (3) year or one (1) year period.

e. When, to secure compliance with any of the provisions of this ordinance, any monies shall have been deposited with the taxing jurisdiction by any dealer, and shall have been paid over to the taxing jurisdiction, and the Director shall be satisfied that such dealer has fully complied with all such provisions, the Director shall so certify and authorize repayment from the current year revenues to such dealer of such monies, or such part thereof as the Director shall certify has not been applied by him to the satisfaction of any indebtedness arising under this ordinance.

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

(2) The refund shall be granted whenever the Louisiana Department of Revenue and Taxation has found the dealer to be entitled to a tax refund in accordance with R.S. 47:315(B)(4).

(3) The prescription on such refund shall begin to run from the date of signature on the federal income tax return charging off such debt.

(4) Whenever the balance of an account that had been determined to be worthless and sales tax refunded is recovered at a later date, the payment shall be reported as a new sale in the month recovered for sales tax purposes.

(5) The provisions of this Section shall apply to debts that are incurred on or after September 3, 1989.

g. Claims for credit or refunds as mentioned herein without Council approval will be limited to \$10,000.

h. Interest shall be allowed on such refunds or credits as provided by R.S. 33:2718.

Section 32. CRIMINAL PENALTIES

a. Whoever shall violate the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than Five Hundred and No/100 (\$500) Dollars or imprisonment in jail for not more than sixty (60) days, or both such fine and imprisonment, in the discretion of the court.

b. The following specific offenses shall be punishable as set out in Subsection a. above:

(1) Any person who, as a purchaser, is obligated to report and pay the tax imposed upon any purchase made by him under the foregoing circumstances of Section 7a of this ordinance, and who fails, neglects and refuses to file a return thereof with the Director and pay the tax imposed thereon, within the time stated, as required by this ordinance, after such sale is made, shall be guilty of a misdemeanor;

(2) Any dealer who shall fail, neglect or refuse to collect the tax as provided in Section 7a of this ordinance, whether by himself or through his agents or employees, shall, in addition to the penalty of being liable for paying the tax himself, be guilty of a misdemeanor;

(3) Any person who violates Section 7c of this ordinance with respect to advertising shall be guilty of a misdemeanor;

(4) Any dealer who shall violate any of the provisions of Section 22 and Section 23 of this ordinance shall be guilty of a misdemeanor;

(5) Any dealer subject to the provisions of this ordinance who upon failing or refusing to furnish any return herein required to be made, or failing or refusing to furnish a supplemental return or other data required by the Director shall be guilty of a misdemeanor;

(6) Any dealer required to make, render, sign or verify any return as aforesaid in the provisions of this ordinance and who makes a false or fraudulent return, with intent to evade the tax hereby levied shall be guilty of a misdemeanor;

(7) The president, executive officers, managers and directors of any corporation who shall violate any provision of this ordinance with the intent to evade the tax levied under this ordinance shall be guilty of a misdemeanor. Such conviction shall in no way prevent other action against the corporation for the recovery of the tax, interest and penalties that may be due;

(8) Any dealer who imports or ships by truck, automobile, or other means of transportation other than common carrier and who violates Section 9a, b, or c of this ordinance shall be guilty of a misdemeanor, and each such importation or shipment shall constitute a separate offense;

(9) The failure of any dealer, wholesaler, jobber, transportation company, agency or firm in the taxing jurisdiction to keep, preserve, and allow inspection of the records required in Section 11 and Section 12 of this ordinance, shall be deemed a misdemeanor; the failure to keep such records for each and every tax reporting period as required by this ordinance shall constitute a separate offense.

Section 33. SEVERABILITY

If any section, subsection, sentence, clause or phrase of this ordinance be held invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Baker Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, or phrases may be so declared invalid.

Section 34. SAVINGS CLAUSE

a. Nothing in this ordinance shall be construed to deprive any dealer of any remedy in the review of the taxes levied herein, or in any proceedings to collect such taxes given such dealer by any other law, or to deprive the taxing jurisdiction of any remedy for the enforcement of this ordinance through any procedure or remedies expressly permitted herein or by any other law.

b. Nothing herein shall be construed as repealing or altering any ordinance levying such taxes for periods prior to the effective date hereof.

Section 35. MISCELLANEOUS PROVISIONS

a. Supplemental Nature of Tax. The tax levied herein is declared to be supplemental and in addition to all other taxes levied by and under the authority of the Council of the City of Baker, Louisiana, of any kind or nature.

b. Citation. This ordinance may be cited, or otherwise referred to, as the Baker Sales and Use Tax Ordinance.

c. Working Arrangements - East Baton Rouge Parish. To facilitate the enforcement of this ordinance and to make it more convenient for the dealers to comply with the provisions of the ordinance dealing with the collection of the taxes levied herein, the City Treasurer is authorized and empowered to avail himself of the services and assistance of the Director of Finance of East Baton Rouge Parish and to make working agreements as are necessary for the proper enforcement of this ordinance.

d. Disposition of Proceeds. The proceeds to be derived from the taxes levied herein are to be used for works of public improvement and for lawful corporate purposes and all such tax revenues and avails are hereby irrevocably and irrepealably dedicated to be used solely for such purposes.

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

YEAS: Bryant, Dunn, Jackson, Vincent, Young

NAYS: None

ABSENT: None

ABSTAIN: None

This ordinance was presented January 12, 2021 at the regular meeting of the Baker City Council held via telephone conference call in Baker, Louisiana.

And the ordinance was declared adopted on this the 26th day of January 2021 at the regular meeting of the Baker City Council held via telephone conference call in Baker, Louisiana.

ATTEST:

/s/Angela Canady Wall, LCMC, Clerk of Council

/s/Darnell Waites, Mayor