ORDINANCE # 2016-10
INTRODUCED BY Alexius
DATE INTRODUCED 2/2/16
ITEM NUMBER 2016-02-02
PUBLIC HEARING 3/1/16
ADOPTED/TABLED 3/1/16 (as amended)
EFFECTIVE Upon Adoption 3/1/16
BOOK # _____ PAGE # _____
RECORDATION # _____
AMENDED BY ORDINANCE # _____
DATE AMENDED _____

ADOPTION INTRODUCTION

AMENDED

**CITY OF COVINGTON**
**STATE OF LOUISIANA**

**ORDINANCE NUMBER 2016-10**

# AN ORDINANCE OF THE CITY OF COVINGTON PROVIDING FOR THE EXTENSION AND REDEDICATION OF THE LEVY WITHIN THE CITY OF COVINGTON, ~~EFFECTIVE APRIL 1, 2016~~, OF A ONE PERCENT (1%) SALES AND USE TAX (THE "TAX") UPON THE SALE AT RETAIL, THE USE, THE LEASE OR RENTAL, THE CONSUMPTION, AND THE STORAGE FOR USE OR CONSUMPTION, OF TANGIBLE PERSONAL PROPERTY AND UPON THE SALE OF SERVICES IN SAID CITY, THE EXTENSION AND REDEDICATION OF SAID TAX HAVING BEEN AUTHORIZED AT A SPECIAL ELECTION HELD IN THE CITY ON NOVEMBER 21, 2015

**WHEREAS**, under the provisions of Article VI, Section 29 of the Constitution of the State of Louisiana of 1974, and other constitutional and statutory authority and an election held on November 21, 2015, the City of Covington, State of Louisiana (the "City"), acting through the City Council of the City of Covington, State of Louisiana, as its governing authority (the "Governing Authority"), is authorized to extend the levy and ~~collect~~ collection within the City, a of one percent (1%) sales and use tax (the "Tax"), upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption, of tangible personal property and upon the sale of services defined in applicable statutory authority, pursuant to the following proposition which was approved at said election held on November 21, 2015:

SALES TAX EXTENSION AND REDEDICATION PROPOSITION

> Shall the City of Covington, State of Louisiana (the "City"), continue to levy and collect the existing one percent (1%) sales and use tax (the "1982 Tax") authorized at elections held on September 11, 1982, April 16, 1988 and July 21, 2001, (an estimated $4,110,000 reasonably expected at this time to be collected from the levy of the tax for an entire year), for an additional eighteen (18) years from and after October 31, 2027, or until all bonds payable from said Tax are paid, whichever is later, and shall the proceeds of the Tax heretofore and hereafter collected, be used for any lawful corporate purpose of the City, including, but not limited to, funding into bonds, constructing, improving, extending, maintaining and/or operating: playgrounds and recreational facilities, public roads, streets, bridges and crossings, sewerage, garbage disposal, water works, public safety operations and facilities and other public improvements and facilities for the City, title to which shall be in the public?

**WHEREAS**, in compliance with the aforesaid constitutional and statutory authority and said special election of November 21, 2015, it is the desire of this

Governing Authority to provide for the extension of the levy and collection of the Tax and to provide for distribution of the proceeds thereof and other matters in connection therewith as hereinafter provided in this ordinance;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Covington, State of Louisiana, acting as the governing authority of the City of Covington, State of Louisiana, thereof, that:

SECTION 1. Imposition. ~~Pursuant to the authority of a special election held in the City on November 21, 2015, the Tax is hereby levied upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption, of tangible personal property, and upon the lease or rental of tangible personal property and on the sales of services in the City of Covington, State of Louisiana, as defined by law. The Uniform Local Sales Tax Code, as enacted by Act 73 of the 2003 Regular Session of the Louisiana Legislature and as it may be amended, shall apply in the assessment, collection, administration and enforcement of the Tax, the provisions of which are hereby incorporated by reference.~~ Pursuant to the authority of a special election held in the City on November 21, 2015, the levy of the Tax is hereby extended for an additional eighteen years from its current termination date through and including October 31, 2045. The Tax shall continue to be levied upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption, of tangible personal property, and upon the lease or rental of tangible personal property and on the sales of services in the City of Covington, State of Louisiana, as defined by law. The Uniform Local Sales Tax Code, as enacted by Act 73 of the 2003 Regular Session of the Louisiana Legislature and as it may be amended, shall apply in the assessment, collection, administration and enforcement of the Tax, the provisions of which are hereby incorporated by reference.

SECTION 2. Rate of Tax. ~~The Tax is levied at the rate of one percent (1%) of the sales price of each item or article of tangible personal property when sold at retail in the City, the Tax to be computed on gross sales for the purpose of remitting the amount of tax due to the City, and to include each and every retail sale. The Tax is levied at the rate of one percent (1%) of the cost price of each item or article of tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in the City, provided there shall be no duplication of the Tax. The Tax is levied at the rate of one percent (1%) of the gross proceeds derived from the lease or rental of tangible personal property, as defined by law, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to the said business, or of the monthly lease or rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the owner of the tangible personal property. The Tax is levied at the rate of one percent (1%) of the amount paid or charged for taxable services, as defined by law, performed in the City.~~ The Tax shall continue to be levied at the rate of one percent (1%) of the sales price of each item or article of tangible personal property when sold at retail in the City, the Tax to be computed on gross sales for the purpose of remitting the amount of tax due to the City, and to include each and every retail sale. The Tax is levied at the rate of one percent (1%) of the cost price of each item or article of

tangible personal property when the same is not sold but is used, consumed, distributed, or stored for use or consumption in the City, provided there shall be no duplication of the Tax. The Tax is levied at the rate of one percent (1%) of the gross proceeds derived from the lease or rental of tangible personal property, as defined by law, where the lease or rental of such property is an established business, or part of an established business, or the same is incidental or germane to the said business, or of the monthly lease or rental price paid by lessee or rentee, or contracted or agreed to be paid by lessee or rentee to the owner of the tangible personal property. The Tax is levied at the rate of one percent (1%) of the amount paid or charged for taxable services, as defined by law, performed in the City.

SECTION 3. Effective Date. ~~The Tax shall be effective on April 1, 2016.~~ The change in purpose of the Tax proceeds shall be effective immediately.

SECTION 4. Term. The Tax shall remain in effect for eighteen (18) years (November 1, 2027 through October 31, 2045).

SECTION 5. Purposes. The proceeds of the Tax heretofore or hereafter collected shall be used for the purposes set forth in the proposition approved by the voters in the special election held in the City on November 21, 2015, authorizing the Tax, which proposition is set forth in the preamble hereto.

SECTION 6. ~~Vendor's Compensation. For the purpose of compensating the dealer in accounting for and remitting the Tax levied by this ordinance, each dealer shall be allowed one and one-tenth percent (1.1%) of the amount of Tax due and accounted for and remitted to the City's collector in the form of a deduction in submitting its report and paying the amount due by the dealer, provided the amount due was not delinquent at the time of payment, and provided the amount of any credit claimed for taxes already paid to a wholesaler shall not be deducted in computing the commission allowed the dealer hereunder.~~ Uniform Sales Tax Controlling. If any provision of this ordinance shall be in conflict with the provisions of the Uniform Local Sales Tax Code, the provisions of the Uniform Local Sales Tax Code shall be controlling.

~~SECTION 7. Exclusions and Exemptions. The Governing Authority adopts none of the optional exclusions or exemptions allowed by State sales and use tax law, nor does this Governing Authority adopt any exclusions or exemptions authorized by legislation enacted under Article VI, Section 29 (D)(1) of the Constitution of the State of Louisiana of 1974, that are not allowed as an exclusion or exemption from State sales and use tax. Included within the base of the Tax is every transaction, whether sales, use, lease or rental, consumption, storage or service, with no exclusions or exemptions except for those mandated upon political subdivisions by the Constitution or statutes of the State of Louisiana, including the Act.~~

~~SECTION 8. Interest on Unpaid Amount of Tax Due. As authorized by La. R.S. 47:337.69, the interest on unpaid amounts of the Tax which are due shall be at the rate of one percent (1%) per month.~~

~~SECTION 9. Delinquency Penalty. The delinquency penalty, as provided by La. R.S. 47:337.70, shall be five percent (5%) per month on the unpaid amount of the Tax due for each thirty-day period, not to exceed five thirty-day periods.~~

~~SECTION 10. Penalty for False, Fraudulent or Grossly Incorrect Return. The penalty as authorized by La. R.S. 47:337.72 shall be fifty percent (50%) of the amount of the Tax found to be due.~~

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

~~SECTION 12. Penalty for Insufficient Funds Check. The penalty as authorized by La. R.S. 47:337.74 shall be an amount of twenty dollars ($20.00).~~

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

~~SECTION 14. Penalty for Costs Incurred. As provided by R.S. 47:337.75, and under the circumstances set forth therein, a penalty shall be added to the amount of Tax due in an amount as itemized by the Collector to compensate for all costs incurred in making an examination of books, records or documents, or an audit thereof, or in the holding of hearings or the subpoenaing and compensating of witnesses.~~

~~SECTION 15. Distraint Penalty. The penalty as provided by R.S. 47:337.76 in cases where the distraint procedure is used in the collection of the Tax shall be ten dollars ($10.00).~~

~~SECTION 16. Limits on Interest, Penalty and Attorney Fees. Should the interest, penalties or attorney fees herein, or the combined interest, penalties and attorney fees, be declared to be in excess of limits provided by other law, including relevant jurisprudence, then the maximum interest, penalties and attorney fees allowed by such other law shall apply.~~

~~SECTION 17. Collector. The Tax levied by this ordinance is authorized to be collected by a "Collector" which term shall mean the St. Tammany Parish Sheriff's Office.~~

~~SECTION 18. Powers of Collector. The Collector is hereby authorized, empowered and directed to carry into effect the provisions of this ordinance, to appoint deputies, assistants or agents to assist it in the performance of its duties, and in pursuance thereof to make and enforce such rules as it may deem necessary.~~

~~SECTION 19. Agreement to Collect Tax on Vehicles. With regard to the collection of the Tax on any motor vehicle, automobile, truck, truck trailer, trailer, semi-trailer, motor bus, home trailer, or any other vehicle subject to the vehicle registration license Tax, this Governing Authority, acting through the City Council of the City, is authorized to enter into an agreement or agreements with the Vehicle Commissioner, Department of Public Safety and Corrections, for the collection of the Tax on such vehicles, as provided by R.S. 47:303(B).~~

~~SECTION 20. Revenues of Tax. All taxes, revenues, funds, assessments, moneys, penalties, fees or other income which may be collected or come into the possession of the Collector under any provision or provisions of this ordinance relating to the Tax shall be promptly deposited by the Collector for the account of the City in a special fund heretofore established and maintained for the deposit of such proceeds, which fund shall be a separate bank account to be maintained with the regularly designated fiscal agent of the City; provided, however, any amount which is paid under protest or which is subject to litigation may be transferred to a separate account established by the Collector with said fiscal agent pending the final determination of the protest or litigation.~~

~~In compliance with the said special election of November 21, 2015, authorizing the Tax, after all reasonable and necessary costs and expenses of collecting and administration of the Tax have been paid as provided for above, the remaining balance in said special fund shall be available for appropriation and expenditures by this Governing Authority solely for the purposes designated in the applicable proposition authorizing the levy of the Tax.~~

~~SECTION 21. Severability. If any or more of the provisions of this ordinance shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this ordinance, but this ordinance shall be construed and enforced as if such illegal or invalid provisions had not been contained herein. Any constitutional or statutory provision enacted after the date of this ordinance which validates or makes legal any provision of this ordinance which would not otherwise be valid or legal, shall be deemed to apply to this ordinance.~~

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

SECTION ~~23~~ 7. Effective Date of Ordinance. This ordinance shall be in full force and effect immediately upon its adoption, being an ordinance affecting the public peace, health and safety.

SECTION ~~24~~ 8. Publication and Recordation. This ordinance shall be published in one issue of the official journal of this Governing Authority as soon as is reasonably possible. A certified copy of this ordinance shall be recorded in the mortgage records of the Parish of St. Tammany, State of Louisiana.

**WHEREUPON,** this ordinance having been submitted in writing, having been read by title and adopted at a public meeting of the City Council of the City of Covington, State of Louisiana, was then submitted to an official vote as a whole, the vote thereon being as follows:

**MOVED FOR ADOPTION** as amended by O'Keefe, seconded by Rolling.

**YEAS:** 7 **ABSENT:** 0

**NAYS:** 0 **ABSTAIN:** 0

**PASSED AND ADOPTED** this 1st day of March, 2016.

Lee S. Alexius
LEE S. ALEXIUS
COUNCIL PRESIDENT

Bonnie D. Champagne
BONNIE D. CHAMPAGNE
COUNCIL CLERK

Presented to the Mayor this 3rd day of March, 2016, at 11:10 o'clock A.M.

Bonnie D. Champagne
BONNIE D. CHAMPAGNE
COUNCIL CLERK

Approved ✓ or Vetoed ___ by the Mayor on this 3rd day of March, 2016.

MICHAEL B. COOPER
MAYOR

Received from the Mayor on the 3rd day of March, 2016, at 3:45 o'clock P.M.

Bonnie D. Champagne
BONNIE D. CHAMPAGNE
COUNCIL CLERK

There being a favorable vote on the ordinance of at least a majority of the authorized members of the Governing Authority, the ordinance was declared adopted on this the 1st day of March, 2016.

Bonnie D. Champagne

BONNIE D. CHAMPAGNE
COUNCIL CLERK