

The following ordinance, which was previously introduced in written form at a regular meeting of the Mayor and Board of Aldermen on November 3, 2003, a summary thereof having been published in the official journal, together with a notice of public hearing which was held in accordance with said public notice, was brought up for final passage on motion of Joe R. Aswell and seconded by Eddie Ford:

ORDINANCE NO. 75

An ordinance providing for the levy within the Village of Choudrant, State of Louisiana, effective January 1, 2004, of a one and one-fourth percent (1-1/4%) 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 Village, levying and providing for the assessment, collection, payment and dedication of the proceeds of such Tax and the purpose for which the proceeds of the Tax may be expended, such Tax having been authorized at a special election held in the Village on October 4, 2003.

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 October 4, 2003, the Mayor and Board of Aldermen of the Village of Choudrant, State of Louisiana (the "Governing Authority"), is authorized to levy and collect within the Village of Choudrant, State of Louisiana (the "Village") a one and one-fourth percent (1-1/4%) sales and use tax (the "Tax") beginning January 1, 2004, upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption, of tangible personal property and upon the sale of services as defined in Sections 301-317, inclusive, of Title 47 of the Louisiana Revised Statutes of 1950, as amended (R.S. 47:301-47:317), and other applicable statutory authority, pursuant to the following proposition which was approved at said election held on October 4, 2003:

**SALES TAX PROPOSITION**

**SUMMARY: AUTHORITY FOR THE VILLAGE OF CHOUDRANT, STATE OF LOUISIANA, TO LEVY A 1-1/4% SALES AND USE TAX TO BE USED FOR ANY LAWFUL CORPORATE PURPOSE OF THE VILLAGE, WITH THE PROCEEDS OF THE TAX BEING SUBJECT TO FUNDING INTO BONDS.**

Shall the Village of Choudrant, State of Louisiana (the "Village"), under the provisions of Article VI, Section 29 of the Constitution of the State of Louisiana of 1974, and other constitutional and statutory authority, be authorized to levy and collect a tax of one and one fourth per cent (1-1/4%) (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 on sales of services in the Village, all as defined in La. R.S. 47:301 to 47:317, inclusive, with the proceeds of the Tax (after paying the reasonable and necessary costs and expenses of collecting and administering the Tax), to be dedicated and used for any lawful corporate purpose of the Village, and shall the Village be further authorized to fund the proceeds of said Tax into bonds for any capital purpose, to the extent and in the manner permitted by the laws of Louisiana, including particularly, Sub-Part F, Part III, Chapter 4, Title 39 of the Louisiana Revised Statutes of 1950?

WHEREAS, in compliance with the aforesaid constitutional and statutory authority and said special election of October 4, 2003, it is the desire of this Governing Authority to provide for 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 Governing Authority of the Village of Choudrant, State of Louisiana, that:

SECTION 1. Imposition. Pursuant to the authority of a special election held in the Village on October 4, 2003, a tax is hereby levied upon the sale at retail, the use, the lease or rental, the consumption, and the storage for use or consumption, of tangible personal property, and upon the lease or rental of tangible personal property and on the sales of services in the Village (the "Tax"), as defined by law. The Uniform Local Sales Tax Code, as enacted by Act 73 of the 2003 Regular Session of the Louisiana Legislature and as it may be amended (the "Act"), shall apply in the assessment, collection, administration and enforcement of the Tax , the provisions of which are hereby incorporated by reference.

SECTION 2. Rate. The Tax is levied at the rate of one and one-fourth percent (1-1/4%) of the sales price of each item or article of tangible personal property when sold at retail in the Village, the Tax to be computed on gross sales for the purpose of remitting the amount of tax due to the Governing Authority and to include each and every retail sale. The Tax is levied at the rate of one and one-fourth percent (1-1/4%) 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 Village, provided there shall be no duplication of the Tax. The Tax is levied at the rate of one and one-fourth percent (1-1/4%) 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 and one-fourth percent (1-1/4%) of the amount paid or charged for taxable services, as defined by law, performed in the Village.

SECTION 3. Effective Date. The Tax shall be effective January 1, 2004.

SECTION 4. Term. The Tax has no term limit pursuant to the proposition approved by the voters at the October 4, 2003 election.

SECTION 5. Purposes. The proceeds of the Tax shall be used as authorized by the voters in a special election held in the Village on October 4, 2003, i.e., for the purposes stated in the proposition set forth above.

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 two percent (2%) of the amount of Tax due and accounted for and remitted to the Governing Authority's collector in the form of a deduction in submitting his report and paying the amount due by the dealer, provided the amount due was not delinquent at the time of payment, and provided the amount of any credit claimed for taxes already paid to a wholesaler shall not be deducted in computing the commission allowed the dealer hereunder.

SECTION 7. Exclusions and Exemptions. The Governing Authority adopts none of the optional exclusions or exemptions allowed by state sales and use tax law, nor does the Governing Authority adopt any exclusions or exemptions 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 used tax. Included within the Tax base 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. The interest on unpaid taxes provided for by La. R.S. 47:337.69 shall be at the rate of one and one-fourth percent (1-1/4%) per month.

SECTION 9. Delinquency Penalty. Penalty as provided by La. R.S. 47:337.70 shall be five percent (5%) per month, maximum of five months.

SECTION 10. Penalty for False or Fraudulent Return. Penalty as provided by La. R.S. 47:337.72 shall be five percent (5%) of the Tax found to be due.

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

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

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

SECTION 14. 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. Distrainment 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 Lincoln Parish Sales and Use Tax Commission.

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 Mayor and on behalf of the Village, for the collection of the tax on such vehicles, are authorized to enter into an agreement with the Vehicle Commissioner, Department of Public Safety and Corrections, as provided by R.S. 47:303(B).

SECTION 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 forwarded to the Village and shall be deposited by the Village in a special fund to be established and maintained for the deposit of such proceeds, which fund shall be a separate bank account established and maintained with the regularly designated fiscal agent of the Village, 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 October 4, 2003, authorizing the Tax, after all reasonable and necessary costs and expenses of collecting and administration of the Tax has been paid as provided for above, the remaining balance in such special fund shall be available for appropriation and expenditures by the Governing Authority solely for the purposes designated in the 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. Effective Date. This ordinance shall be in full force and effect immediately upon its adoption, being an ordinance affecting the public peace, health and safety.

SECTION 23. 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 Lincoln, State of Louisiana.

This ordinance having been submitted in writing was then submitted to a vote, the vote thereon being as follows:

<u>Member</u>	<u>Yea</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstaining</u>
Reagan Aswell	<u>X</u>	___	___	___
Jimmy McGrew	<u>X</u>	___	___	___
Eddie Ford	<u>X</u>	___	___	___

And this ordinance was declared adopted on this, 17<sup>th</sup> day of November, 2003.

-S- Ann Ambrose  
Clerk

-S- Bill Sanderson  
Mayor