

Iberia Parish Tourist Commission  
Board Minutes  
January 28, 2020

Germaine Comeaux called the regularly scheduled meeting of the Iberia Parish Tourist Commission to order at 10:30 A.M. at the Iberia Parish Convention & Visitors Bureau, 2513 Hwy 14, New Iberia, LA.

Present:

Germaine Comeaux  
Heidi Martin  
Kirsten Bourque  
Joyce Buller  
Elizabeth Bodin  
Tammy Gordon

Absent:

Phebe Hayes

Public:

Andy Shealy, Counsel for the Commission

Present but not participating in formal actions:

Fran Thibodeaux, Staff  
Dwayne Judice, Staff  
Celine Alis, Staff

Due to absent member the election of 2020 officers will be on the February agenda.

A motion by Heidi Martin, seconded by Elizabeth to approve the January 28, 2020 Agenda. Motion carried.

Marti Harrell presented the Greater Iberia Chamber of Commerce Positively Iberia Media Campaign.

The Chairman called to discuss the tourist commission occupancy tax ordinance. Andy Shealy, Legal Counsel for the Commission discussed Occupancy Tax Ordinance No. 2020-01. A motion by Tammy Gordon, seconded by Kirsten Bourque adopting Ordinance 2020-01 (Iberia Parish Tourist Commission Hotel/Motel Occupancy Tax Ordinance) as presented by Counsel for the Commission, that the Ordinance be recorded in the records of the Clerk of Court, Iberia Parish, Louisiana, and included in whole in the minutes of the Commission published in the Official Journal of the Commission.

Yeas: Germaine Comeaux, Heidi Martin, Kirsten Bourque, Joyce Buller, Elizabeth Bodin, Tammy Gordon

Nays: None

Absent: Phebe Hayes

Motion Carried

**IBERIA PARISH TOURIST COMMISSION  
HOTEL/MOTEL OCCUPANCY TAX ORDINANCE NO. 2020-01**

**AN ORDINANCE CONTINUING, REENACTING, LEVYING AND IMPOSING A TAX OF FOUR (4%) PERCENT ON THE PRICE CHARGED FOR THE OCCUPANCY OF HOTEL ROOMS, MOTEL ROOMS, COTTAGES, AND OVERNIGHT CAMPSITES AND CAMPING FACILITIES WITHIN IBERIA PARISH, LOUISIANA; PROVIDING FOR THE COLLECTION AND ENFORCEMENT OF SAID TAX; PROVIDING FOR THE DEDICATION OF A PORTION OF SAID TAX TO THE IBERIA INDUSTRIAL DEVELOPMENT FOUNDATION; PROVIDING FOR THE EFFECTIVE DATE THEREOF; AND OTHERWISE PROVIDING WITH RESPECT THERETO.**

WHEREAS, Act No. 47 of the 1995 Regular Session of the Louisiana Legislature authorized a transfer of the authority to levy hotel/motel occupancy taxes from parish governing authorities to parish visitors, tourist and convention bureaus; and

WHEREAS, La. R.S. 33:4574.1.1 A (13) authorizes the Iberia Parish Tourist Commission to levy and collect a tax of four (4%) percent upon the occupancy of hotel rooms, motel rooms and overnight camping facilities; and

WHEREAS, the Iberia Parish Tourist Commission has taken advantage of that authority, has been assessing and collecting the hotel/motel occupancy tax authorized by La. R.S. 33:4574.1.1 A (13) for in excess of twenty-five (25) years and wishes to continue to do so by more fully and completely providing rules and regulations for the continuation, imposition, collection and enforcement of such hotel/motel occupancy tax.

NOW, THEREFORE, BE IT ORDAINED by the Iberia Parish Tourist Commission that, under the authority provided by Act No. 47 of the 1995 Regular Session of the Louisiana Legislature, as may be amended from time-to-time, La. R.S. 33:4574.1.1 A (13) and any other applicable statutory or constitutional authority, an occupancy tax of four (4%) percent is hereby continued and immediately levied and imposed upon the price charged for the occupancy of hotel rooms, motel rooms, other rooms, cottages and overnight campsites and overnight camping facilities within Iberia Parish, Louisiana.

BE IT FINALLY ORDAINED, that, under the authority provided by Act No. 47 of the 1995 Session of the Louisiana Legislature, as may be amended from time-to-time, La. R.S. 33:4574.1.1 and any other applicable statutory or constitutional authority, the Iberia Parish Tourist Commission adopts the following Ordinance for the continuation, imposition, collection and enforcement of said tax, which comprehensive rules and regulations for the imposition, collection and enforcement thereof shall become effective on April 1, 2020.

**DIVISION 1 - OCCUPANCY TAX**

**Sec. 1-01      Definitions.**

As used in this Ordinance, the following words and phrases shall have the meanings ascribed to them unless the context clearly indicates otherwise.

Commission means the Iberia Parish Tourist Commission, a political subdivision of the State of Louisiana, whose boundaries are coterminous with those of Iberia Parish, Louisiana.

Collector means the treasurer of the Commission and his representative or the duly authorized agent or agents designated by the Commission for the collection of the tax imposed by this Ordinance.

Dealer means every person who owns or operates a hotel, motel, cottage, overnight campsite and/or overnight camping facility for occupancy by a transient guest for dwelling, lodging or sleeping.

Distrain or distrain means the right by the Collector to levy upon and seize and sell, or the levying upon and seizing and selling of, any property or rights to property of a delinquent Dealer not exempt from seizure under the laws of the State of Louisiana, for the purpose of satisfying the tax, interest, penalties or other charges due under the provisions of this Ordinance.

Hotel means any establishment, public or private, engaged in the business of furnishing or providing rooms, cottages, overnight campsites or overnight camping facilities intended or designed for dwelling, lodging or sleeping purposes to transient guests where such establishment consists of one or more guest rooms or spaces.

Occupant means a transient guest of a hotel, motel, cottage, overnight campsites or overnight camping facility.

Overnight camping facility means any tract of land containing one or more cabins, lodges and/or spaces for tents, provided to guests or occupants for recreational purposes; including, but not limited to a tract of land containing paved or gravel parking spaces, which may include sewer and/or electrical hookups, meant to accommodate recreational vehicles (RVs), campers, fifth wheels, pop-ups or other similar vehicles and/or other trailers containing rubber tires and requiring a license plate.

Person shall include any individual, firm, partnership, joint venture, association, corporation, cooperative, estate, trust, business trust, receiver, syndicate, parish, city, municipality, state or public board, public commission or public or semi-public corporation, bureau or other political subdivision or any board, agency, university, school, college, instrumentality or other group or combination thereof acting as a unit.

Sales Price means the gross price charged by a Dealer for the use or occupancy of a hotel or motel room, other room, cottage, overnight campsite or overnight camping facility without any deductions therefrom.

Tax means the tax imposed by this Ordinance.

Tax Recipient Bodies means the Iberia Parish Tourist Commission and the Iberia Parish Industrial Development Foundation.

## **Sec. 1-02      Imposition of Occupancy Tax**

- (a) There is hereby continued and immediately levied and imposed a tax on the occupancy of hotel rooms, motel rooms, cottages, overnight campsites and overnight

camping facilities at the rate of four (4%) percent of the Sales Price of the hotel room, motel room, other room, cottage overnight campsite or overnight camping facility.

- (b) Pursuant to and in accordance with the provisions of La. R.S. 33:4574.1.1 I, from the Tax continued, levied and imposed herein, an amount equal to the proceeds of a two (2%) percent occupancy tax shall be dedicated and paid over to the Iberia Industrial Development Foundation.
- (c) The Tax shall be collected from Occupants by Dealers and shall be paid at the time and in the manner provided hereinafter.
- (d) The Tax shall be in addition to all other taxes levied by the Commission, whether excise, license, privilege or property taxes.

**Sec. 1-03      Collection of Tax.**

- (a) The collection of the Tax shall be performed by the Collector in the name of the Commission. All Dealers shall collect and remit the Tax to the Collector.
- (b) The initial Collector shall be the Sales Tax Department of the Iberia Parish School Board.
- (c) The Commission may enter into a cooperative endeavor agreement for the collection of the Tax with the governing authority of Iberia Parish or with any public entity authorized to collect sales or use taxes. Any such cooperative endeavor agreement shall contain whatever terms and conditions the Commission deems necessary and appropriate and may provide for the payment of a reasonable collection fee.

**Sec. 1-04      Treatment of Tax by Dealer.**

- (a) As far as practicable, Dealers shall add the exact amount of the Tax to the Sales Price for a hotel room, motel room, other room, cottage, overnight campsite or overnight camping facility and, when added, the Tax shall constitute a part of the Sales Price and shall be a debt from the Occupant to the Dealer, until paid, and shall be recoverable at law in the same manner as any other debts.
- (b) No Dealer shall advertise or hold out to the public, either directly or indirectly, that it will relieve an Occupant from payment of all or any part of the Tax.
- (c) The Dealer is required to state and collect the Tax separately from the Sales Price.
- (d) The Collector may prescribe the method to be used by the Dealer in collecting the Tax and the schedule of the amount of the Tax to be collected from Occupants.

When such methods and schedules are prescribed by the Collector, the Dealer shall comply with those methods and schedules.

- (e) To aid in the administration, collection and enforcement of the Tax, every Dealer shall file with the Collector a certificate of registration in a form prescribed by the Collector. The Collector, within five (5) days after registration, without charge to the Dealer, shall issue a certificate of authority empowering the Dealer to collect the Tax from Occupants at each applicable business location or place of business. Each certificate shall state the location or place of business to which it is applicable. Certificates of authority shall be non-assignable and non-transferable and shall be surrendered to the Collector immediately upon the Dealer ceasing to do business at the location or place named therein. Any dealer already registered with the Collector prior to the passage of this Ordinance, need not obtain a replacement certificate.
- (f) Any Dealer who neglects, fails or refuses to collect the Tax, either directly or through his employees or representatives, shall be liable for and pay the Tax itself.
- (g) The money collected by the Dealer for payment of the Tax shall be and remain the property of the Commission and/or the Iberia Industrial Development Foundation and shall be deemed to be held in trust for the appropriate Tax Recipient Body.

**Sec. 1-05      Exemption and exclusions.**

The Tax imposed herein shall not apply to the following:

- (a) Hospitals, convalescent, nursing homes or sanitariums or any hotel-like facility operated by or in conjunction with a hospital or medical facility providing rooms exclusively for patients and their families;
- (b) Hotel rooms containing the basic elements of a home, including full-sized and integrated kitchen appliances and facilities, rented to the same occupant for an uninterrupted period of greater than one (1) year, where the occupant uses the facilities of the hotel as a home with the intent to permanently remain there, as evidenced by a written lease or other such agreement;
- (c) The occupancy of overnight camping facilities where the guest or patron enters into a lease of the premises for greater than one (1) year, where the occupant uses the facilities of the overnight camping facility as a home with the intent to permanently remain there, as evidenced by a written lease or other such agreement; and
- (d) A mobile home park which primarily consists of mobile, manufactured and/or factory built home units which have been built to the standards set forth in Subsection 22 of Section 5402 of Title 42 of the United States Code and immobilized by declaration of the owner, as contemplated in La. R.S. 47:301 (16) (g) and La. R.S. 9:1149.4.

**Sec. 1-06 Returns and payment of Tax including interest, penalties and attorney fees.**

- (a) The Tax shall be due and payable by all Dealers monthly on the first day of the month.
- (b) Each Dealer shall prepare and transmit to the Collector, upon forms prescribed, prepared and furnished by it, returns showing the Sales Price derived from all taxable transactions on or before the twentieth day of each month for the preceding calendar month. The returns shall show such additional information as the Collector may require to enable him to correctly compute and collect the Tax owed. The returns shall be signed by the Dealer filing the return, and his signature thereon shall constitute a representation and warranty on the part of the Dealer that he has read and examined the return and that, to the best of his information, knowledge and belief, the information contained therein is true, correct and complete.

(c) (1) At the time of transmitting the return to the Collector, the Dealer shall also remit the tax due. Failure to do so shall cause the Tax to become delinquent.

(2) Any Dealer who fails to pay the Tax on or before the day on which the Tax is required to be paid, shall, in addition to the Tax due, pay interest on the past due tax at the rate specified hereinafter each month or fraction thereof that the Tax remains unpaid, to be calculated from the date the Tax was due to the date of actual payment.

(3) In addition, a Dealer shall pay any special penalty or penalties provided by this Ordinance.

- (d) The Collector, for good cause, may, for a period not to exceed thirty (30) days, extend the time for making any returns required under the provisions of this Ordinance.
- (e) The Collector or his authorized representative is hereby authorized to enter into an agreement with a Dealer to allow for quarterly reporting and remitting of the Tax if the Tax due is one hundred dollars (\$100.00) or less per month.
- (f) The Collector may agree with a Dealer to allow for the collection and remittance of the Tax by or from his independent agents or contractors.
- (g) The Collector may agree with a Dealer to accept his tax returns and remittances on an irregular basis, when past returns and knowledge of the common business practices of the Dealer indicate to the Collector that the only tax liability of the Dealer is based upon infrequent transactions.
- (h) If the Tax due from a Dealer is not paid on or before the twentieth day of the month next following the month for which the Tax is due, the Dealer shall, in addition to the Tax, be liable for, and shall pay, interest on the Tax due but unpaid at a rate of fifteen (15%) percent per annum for each month or fractional part thereof in which the Tax remains unpaid. If it becomes necessary to file suit for the collection of any unpaid

tax, interest or penalties, the Dealer shall also be liable for attorney fees at the rate of ten (10%) percent of the aggregate of the tax, interest and penalty due. All interest and penalties due for subsequent months will be assessed and due as of the first day of each succeeding month. The Commission is authorized to employ private counsel to assist in the collection of any tax, penalties or interest due pursuant to this Ordinance or to represent it in any proceeding arising out of or related to this Ordinance.

- (i) If a Dealer fails to make any return required by this Ordinance in a timely manner or makes an incorrect return and if the circumstances indicate willful negligence or intentional disregard of the provisions of this Ordinance or the rules and regulations relating thereof, but no intent to defraud, there shall be imposed, in addition to any other penalties provided herein, a penalty of five (5%) percent of the Tax or deficiency found to be due or ten dollars (\$10.00), whichever is greater if the failure to comply is not more than thirty (30) days. An additional penalty of five (5%) percent shall accrue for each additional thirty (30) days or fraction thereof for a failure to comply not to exceed a total of twenty-five (25%) percent. This penalty shall be an obligation to be collected and accounted for in the same manner as if it were a part of the Tax due and can be enforced either in a separate action or in the same action for the collection of the Tax.
- (j) If a Dealer pays the Tax by means of a bank check and if the check is returned unpaid by the bank on which it is drawn because of insufficient funds in the bank account on which the check was drawn, there shall be imposed, in addition to any other penalties provided by this Ordinance or by law, a penalty to compensate the Collector for the costs of handling the check in an amount equal to one (1) percent of the amount of the check or twenty dollars (\$20.00), whichever is greater.
- (k) All penalties and interest imposed by this Ordinance shall be payable to and recoverable by the Collector in the same manner as if they were part of the Tax.
- (l) If the failure to pay any of the Tax when due is explained to the satisfaction of the Collector, he may remit or waive payment of the whole or any part of any penalty and may remit and waive payment of any interest charged.

**Sec. 1-07      Records and inspection thereof.**

- (a) It shall be the duty of every Dealer to keep and preserve suitable records of transactions taxable under this Ordinance and such other books of account as may be necessary to determine the Tax imposed and due under this Ordinance and such other information as may be required by the Collector. Each Dealer shall secure, maintain and keep, until the Tax to which they relate has prescribed, a complete record of any taxable transaction by the Dealer, together with invoices and other pertinent records and papers as may be required by the Collector for the reasonable administration of this Ordinance.

- (b) For the purpose of administering this Ordinance, the Collector, whenever he deems it expedient, may make or cause to be made by an employee or other representative engaged in the administration of this Ordinance an examination or investigation of the place of business, if any, and the books, records, papers, vouchers, accounts and documents of any Dealer. It shall be the duty of every Dealer and every director, official, agent or employee of every Dealer to exhibit to the Collector or his employee or representative all of the books, records, papers, vouchers, accounts and documents of the Dealer and to facilitate any examination or investigation insofar as it may be in his or their power so to do.
- (c) The Collector shall keep a record of all of his official acts and shall preserve copies of all rules, decisions and orders made by him or by any employee or representative in charge of the collection of the Tax. Copies of rules, decisions or orders and of any paper or papers filed in any office maintained by the Collector in the administration of this Ordinance may be authenticated under the Collector's 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 a copy of any such rules, decisions, orders or papers, the Collector shall be paid a fee of one dollar (\$1.00) which shall be paid to the Collector.
- (d) The records and files of the Collector relating to the administration of this Ordinance shall be considered confidential and privileged, and neither the Collector nor any employee engaged in the administration of this Ordinance or charged with the custody of records or files relating thereto, shall divulge or disclose any information obtained from any records or files or from any examination or inspection of the premises or the books, records or other documents of any Dealer. Neither the Collector nor any employee or representative engaged in the administration of this Ordinance or charged with the custody of any such records or files shall be required to produce any of them for the inspection of any Person or for use in any action or proceedings except in an action or proceedings under the provisions of this Ordinance or when the records or files or the facts shown thereby directly relate to such an action or proceedings.
- (e) Nothing contained in this Ordinance shall be construed to prevent:
- (1) The delivery to a Dealer, or his duly authorized representatives, of a copy of any return, report or other paper filed by him pursuant to the provisions of this Ordinance;
  - (2) The publication of statistics organized in such a manner as to prevent the identification of any particular Dealer or any return or report filed by it or the information contained therein;
  - (3) The inspection by the Collector or other legal representative of the Commission or the Iberia Industrial Development Foundation of the returns, reports or files relating to the claim of any Dealer who shall have brought an action to review or



set aside any tax or against whom an action or proceedings has been instituted in accordance with the provisions of this Ordinance;

- (4) The examination of the records and files by the Collector or by his duly authorized representatives;
- (5) The examination of the records and files of the Collector by the Administrator or Director of the Commission or the Iberia Industrial Development Foundation for the purpose of assisting the Collector in the administration, enforcement or collection of the Tax, except that such Administrator or Director shall maintain the confidentiality of the records and files of the Collector and Dealer; or
- (6) The furnishing, in the discretion of the Collector, of any information disclosed by the records or files to any official Person or body of any other political subdivision or state or of the United States who shall be concerned with the administration of any similar tax by that political subdivision or state or the United States.

**Sec. 1-08 Remedies for collection.**

(a) (1) If any Dealer fails to make a report and pay the Tax required by this Ordinance or if any Dealer makes a grossly incorrect report or a report that is false or fraudulent, it shall be the duty of the Collector to make an estimate of the taxable transactions of the Dealer for the taxable period and assess and collect the estimated tax, interest and penalty, if any have accrued, on the basis of the assessment. The assessment shall be considered prima facie correct, and the Dealer shall have the burden to show that the assessment is incorrect.

(2) If an estimate and assessment require an examination of books, records or documents of the Dealer or an audit thereof, the Collector shall add to the assessment the cost of the examination together with any penalties accruing thereon. Those costs and penalties when collected shall be held for the account of the Commission in the same manner as the Tax.

(3) If any Person or Dealer fails to make a return or report as required by this Ordinance, the Collector, within three (3) years after the last day on which the omitted report could have been filed without penalty, may make an estimate of the amount of the Tax for which that Person or dealer is liable from any information he is able to conveniently obtain and, according to that estimate, may assess the tax, fees, penalties and interest due the Commission, give notice of the assessment to the Person or Dealer and may make demand upon that Person or Dealer for payment, otherwise the claim shall prescribe.

(4) After a return or report is filed pursuant to the provisions of this Ordinance, the Collector may make such further audit or investigation as he may deem necessary and if he determines that there is a deficiency with respect to the payment of the Tax, he shall assess the additional Tax and any penalties and interest due the Commission from that Person or Dealer and make demand upon him for payment.

(b) (1) If the Collector finds that a Person or Dealer obligated to pay or remit the Tax

is planning to quickly depart from Iberia Parish 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 the Tax due, whereby it shall have become important that proceedings be instituted without delay, the Collector may immediately make a determination from any available information or by estimate or otherwise of the amount of the tax, penalty and interest the taxpayer is liable to pay pursuant to this Ordinance. After making that determination, the Collector shall immediately assess that amount and, by a writing to be retained as part of his official records, indicate that the assessment has been made and, without any notice, proceed to distraint any non-exempt property belonging to the taxpayer. This assessment may be made whenever the Tax becomes due pursuant to the provisions of this Ordinance, regardless of whether it is then payable or not.

(2) As soon as feasible after an assessment, and not later than (2) two calendar days thereafter, the Collector shall send by registered or certified mail a notice to the taxpayer against whom the assessment lies at the address given in the last report filed by the taxpayer or, if no report has been filed, to any last known address that may be obtainable. The notice shall inform the taxpayer of the assessment, its basis and jeopardous nature; make demand for immediate payment thereof; and give notice that any non-exempt property distrained or to be distrained will be subject to sale necessary to satisfy the assessment.

(3) 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 Collector a surety bond for the amount of the assessment or such lower amount as may be acceptable to the Collector, with such sureties as the Collector deems appropriate. The taxpayer shall have sixty (60) calendar days from the date of payment or the date of posting bond to appeal to the appropriate courts as provided herein for a determination of the assessment. During this period, the Collector shall hold any payment made in an escrow account. If the taxpayer does not appeal, the Collector shall immediately credit the payment to tax collections or proceed to collect the amount of the assessment from sureties, if any were given. In the event of an appeal, the payment or demand for payment from sureties shall be held in abeyance pending the determination or affirmation of the assessment by the court that reviews the matter. Final payment or collection from sureties will be for the amount of the affirmed or determined assessment.

Any tax, 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 taxpayer by the Collector. If the Tax, penalties and interest so assessed shall not be paid within thirty (30) days, there shall be added to the amount assessed, in addition to interest as provided above and any other penalties provided by this Ordinance, a sum equivalent to five (5) percent of the Tax.

(c) The liability of any Person or Dealer arising from the Tax, interest or penalty imposed pursuant to this Ordinance, from the time they are due, shall be a personal debt of that Person or Dealer to the Commission recoverable by the Commission in any court of competent jurisdiction in an action at law. Those debts, whether sued upon or not, shall be a lien upon all the property of the delinquent Person or Dealer, except as against an innocent purchaser for value without notice in the actual and ordinary course of business, and shall have preference in any distribution of the assets of the Person or Dealer whether in bankruptcy, insolvency or otherwise. The proceeds of any judgment or order obtained hereunder shall be paid to the Commission.

(d) (1) If any Dealer liable for the Tax, interest or penalty imposed pursuant to this Ordinance shall sell his business 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 a sufficient amount of the purchase money to cover the amount of the taxes, interest and penalties due and unpaid until such time as the former owner shall produce a receipt from the Collector showing payment in full or a certificate stating that no tax, interest or penalties are due. If the purchaser of a business fails to withhold purchase money as provided, he shall be personally liable for the payment of the Tax, interest and penalties owed by the former owner.

(2) In the case of a Dealer who quits 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.

(e) If any Dealer is delinquent in the payment of the Tax, the Collector may give notice of the amount of the delinquency by registered mail to all Persons having in their possession or under their control any credits or other personal property belonging to the Dealer or owing any debts to the Dealer at the time of receipt by them of the notice, and thereafter any Person so notified shall neither transfer or make any other disposition of any credits, personal property or debts until the Collector shall have consented to a transfer or disposition or until thirty (30) days after receipt of notice. All Persons so notified, within five (5) days after receipt of notice, must advise the Collector of any and all credits, personal property or debts in their possession, under their control or owing by them, as the case may be.

(f) (1) If a Dealer, required to make and file a return pursuant to any of the provisions of this Ordinance, fails to render the return within the time required or renders a return which is false or fraudulent (in that it contains statements which differ from the true Sale Price or other transactions taxable pursuant to this Ordinance or otherwise fails to comply with the provisions of this Ordinance for the taxable period for which the return is made), the Collector shall give the Dealer fifteen (15) days written notice, which notice shall require the Dealer to appear before the Collector or his employee or representative with such books, records and papers as the Collector or his employee or representatives may require relating to the business of the Dealer for the taxable period; and the Collector may require the Dealer or his employees or representatives to give testimony or to answer interrogatories, under oath administered by the Collector or his assistants, respecting the transactions subject to the Tax or the failure to make a report required by this Ordinance.

(2) If any Dealer fails to make a return or refuses to permit an examination of his books, records or papers or to appear and answer questions within the scope of an investigation relating to the transaction subject to the Tax, the Collector may apply to any court of competent jurisdiction for an order requiring the Dealer to make such return or requiring the Dealer or his employees or representatives to appear and answer questions and/or permit an examination, and the court or any judge thereof shall issue, upon such reasonable notice as shall be prescribed therein, an order to be served upon the Dealer or his representatives or employees directing him

or them to so appear and testify and to produce such books, records and papers as may be required. Any Person or any member of any firm, co-partnership, joint venture, association or corporation or any representative or employee thereof who fails to comply with any such order shall be guilty of contempt and shall be punished as provided by law in cases of contempt.

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

- (1) All proceedings, whether original or by intervention or otherwise, brought by or on behalf of the Commission or by or on behalf of the Collector for the determination or collection of any tax, interest, penalty, attorney fees, costs or other charges claimed to be due under any provision of this Ordinance shall be summary and shall be tried or heard by preference in the court of original jurisdiction, 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;
- (2) All defenses, whether by exception or to the merits, made or intended to be made to any 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 continuances shall be granted by any court to any defendant except for the legal grounds set forth in La. C. C. Pro. Art. 1602;
- (3) All matters involving any claim shall be decided as soon as practicable after submission, whether in term time or in vacation;
- (4) If the pleadings filed on behalf of the Commission or on behalf of the Collector is accompanied by an affidavit of the Collector or of the attorney filing the pleading stating that the facts as alleged are true and correct to the best of the affiant's information, knowledge or belief, all of the facts alleged in the pleading shall be accepted as prima facie true and as constituting a prima facie case, and the burden of proof to establish anything to the contrary shall rest wholly on the defendant or opposing party; and
- (5) The appropriate municipal police department and/or the Sheriff of Iberia Parish shall enforce all injunctions prohibiting the further pursuit of business when a valid injunction and judgment has been obtained from a court of competent jurisdiction involving delinquent taxes due pursuant to this Ordinance until such

time as the delinquent tax, interest, penalties and costs have been paid by the Dealer.

(h) Failure to pay any tax when due, without demand or putting in default, shall cause the tax, interest, penalties and costs to become immediately delinquent, and the Collector is hereby vested with authority, on motion in a court of competent jurisdiction, to take a rule 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 which always shall be tried by preference, why a Dealer should not be ordered to cease from further pursuit of business as a Dealer, and, if the rule is made absolute, the order thereon rendered shall be considered a judgment in favor of the Commission prohibiting the Dealer from the further pursuit of business until such time as he has paid the delinquent tax, interest, penalties and costs. Every violation of the injunction shall be considered as a contempt of court and punished according to law.

(i) (1) The Collector may require a bond or other security for the payment of the Tax, fees, interest, or penalties where any of the following conditions apply:

- a. The taxpayer is three (3) months or more delinquent in reporting or remitting the Tax, penalties or interest; or
- b. A new owner has purchased a business, which, at the time of the sale, is delinquent in reporting or remitting the Tax, penalties or interest.

(2) The requirement of a security deposit may be satisfied by payment in the form of cash, certified check, cashier check or money order.

(3) The security deposit shall be an estimate of three (3) months of the Tax, penalty and interest. The estimate shall be based on the average of the past twelve (12) months remittances of the Tax, penalty and interest or knowledge of finances of the related business or other relevant information. Additional three-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.

(4) All delinquent tax accounts shall be reviewed periodically and tax deposits shall be applied to delinquent tax accounts. Taxpayers shall be notified when tax deposits are so applied and shall then be required to provide additional security deposits to replace the amount applied to the delinquent tax account.

(5) The Collector shall retain these security deposits until such time as the delinquent taxpayer has remained current in reporting and remitting taxes for a period of twelve (12) consecutive months or until such time as the business has ceased its operations within Iberia Parish.

(j) (1) If any Dealer against whom the Tax has been assessed shall refuse or neglect

to pay the Tax within the time prescribed in this Ordinance, it shall be lawful for the Collector to enforce collection of the Tax, together with interest and penalty, and any other additional amounts added by law by distraint and sale of any property or rights to property belonging to the delinquent Dealer.

(2) Whenever the Collector or his authorized representative shall distraint any property of a taxpayer or Dealer, he shall cause to be made a list of the property or effects distrained, a copy of which signed by the Collector or his authorized representative shall be sent by registered mail to the taxpayer or Dealer at his last known address or business address or served on him in person. This list shall be accompanied with a notice of the sum demanded and a notice of the time and place where the property will be sold if a sale is necessary. Thereafter, the Collector or his authorized representative shall cause a notice to be published in the official journal of the Commission 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 Collector or his authorized representative may postpone the sale from time to time if it deems advisable but not for a period exceeding thirty (30) calendar days. If the sale is continued it shall be readvertised.

(3) Any Person in possession of property or rights to property subject to distraint upon which a levy has been made, upon demand by the Collector or his authorized representative, shall surrender the property or rights to the Collector or his authorized representative unless such property or right, at the time of demand, is subject to an attachment or execution under any other judicial process. Any Person failing or refusing to surrender any property or rights shall be liable to the Collector in a sum equal to the value of the property or rights not so surrendered but not exceeding the amount of the Tax, penalties, interest, costs and other charges due.

(4) The Collector or his authorized representative shall sell at public auction for cash to the highest bidder so much of the property distrained by him as may be necessary to satisfy the Tax, penalties, interest, cost and other charges due. The Collector shall give the purchaser a certificate of sale which will be prima facie evidence of the proper regularity of his proceedings in making the sale and which will transfer to the purchaser all rights, title and interest of the Dealer or taxpayer in the property sold.

(5) Out of the proceeds of the sale, the Collector shall first pay all costs of the sale and then apply so much of the balance of the proceeds as may be necessary to pay the assessment. Any remaining balance shall be paid to the Dealer or taxpayer.

(k) The Collector may enter into a formal installment payment agreement with a Dealer or taxpayer for the collection of any past due tax, penalty and interest when, in his opinion, it is in the best interest of the Commission to do so.

(1) No corporation organized under the laws of the State of Louisiana shall be dissolved or effect a merger, reorganization or consolidation under any laws of the State of Louisiana by the action of the stockholders or by the decree of any court until all of the Tax, fees, penalties, interest and other charges imposed on the corporation pursuant to this Ordinance have been paid in full. No foreign corporation which has obtained authority from the State of Louisiana to transact business in this State may surrender its authority and withdraw from the State of

Louisiana until all of the Tax, fees, penalties, interest and other changes imposed upon the corporation pursuant to this Ordinance has been paid in full.

(l) (1) Notwithstanding any other provision of law to the contrary, if any corporation fails to file returns or to remit the Tax due, as an alternative means of enforcing collection, the Collector is authorized to hold the officers or directors of the corporation who have direct control or supervision over the Tax due under this Ordinance or charged with the responsibility of filing returns for, and remitting, the Tax due and who willfully fails to remit or account for the Tax collected, personally liable for the total amount of the Tax collected and not accounted for or not remitted, together with any interest, penalties, cost and other charges accruing thereon. Collection of the total amount due may be made from any one or any combination of the officers or directors of the corporation who willfully fail to remit or account for the Tax collected by use of any of the methods authorized by this Ordinance.

(2) A corporation by resolution of the board of directors may designate an officer or director having direct control or supervision over the Tax due or charged with responsibility of filing returns and remitting Tax. That resolution shall be filed with the Louisiana Secretary of State.

(m)(1) The tax levied under this Ordinance shall prescribe three (3) years from the thirty-first day of December of the year in which the Tax becomes due.

(2) The prescriptive period running against the Tax shall be interrupted by any of the following:

- a. The action of the Collector in assessing taxes in the manner prescribed by law;
- b. Filing of a summary proceeding in court;
- c. Filing of any pleadings relating to the Tax by the Commission or by the taxpayer with any state or federal court;
- d. Filing of a false or fraudulent return relating to the Tax; and
- e. Failure to file a return relating to the Tax with intent to defraud.

(3) The running of a prescriptive period also may be suspended by means of a written agreement between a Dealer or taxpayer and the Commission made prior to the lapse of the period.

**Sec. 1-09 Refunds and reimbursements.**

(a) (1) If the Sales Price is refunded to an Occupant after the Tax has been collected or

charged, a Dealer shall be entitled to reimbursement of the amount of the Tax collected or charged, in the manner prescribed by the Collector, and, if the Tax has not been remitted by the Dealer to the Collector, the Dealer may deduct the Tax in submitting his return. Upon receipt of a sworn statement by a Dealer as to the gross amount of refunds during the period covered by the sworn statement, which period shall not be longer than ninety (90) days, the Collector, shall issue to the Dealer an official credit memorandum equal to the net amount remitted by the Dealer for the Tax collected and refunded. A memorandum shall be accepted by the Commission at full face value from the Dealer to whom it is issued in the subsequent remittance of the Tax accrued pursuant to this Ordinance.

- (2) If any Dealer gives the Collector notice within the time provided in subparagraph (1) above, a Dealer, at any time within three (3) years from December thirty-first of the year in which the Tax becomes due or after one (1) year from the date the Tax is paid, whichever is later, may file with the Collector a claim under oath for refund, in such form as the Collector may prescribe, stating the grounds thereof. However, no claim for refund shall be required or permitted to be filed with respect to any portion of the Tax paid after protest has been filed with the Collector as hereafter provided or after proceedings on appeal have been finally determined.
- (3) If, upon examination of a claim for refund, it is determined by the Collector that there has been an overpayment of the Tax, the amount of overpayment shall be credited against any liability of the Dealer pursuant to this Ordinance, and if there is no liability, the Dealer shall be entitled to a refund of the Tax overpaid. If the Collector rejects the claim for refund in whole or in part, he shall make an order and serve notice upon the Dealer. A Dealer may appeal a rejection as provided in subparagraph (1) above hereof, provided the appeal is taken within thirty (30) days from the date of notice.
- (4) Where no question of fact or law is involved and it appears from the records of the Collector that any monies have been erroneously or illegally collected from a Dealer or has been paid by a Dealer under a mistake of fact or law, the Collector, at any time within three (3) years from December thirty-first of the year in which the Tax becomes due or after one (1) year from the date the Tax is paid, whichever is later, upon making a record in writing of his reasons therefor, may certify that a Dealer is entitled to a refund, and thereupon the Collector shall authorize the payment thereof from any appropriation available for such purposes. No claim for refund shall be allowed after a lapse of three (3) years from December thirty-first of the year in which the Tax becomes due or after one (1) year from the date the Tax is paid, whichever is later. Interest shall be computed at the rate provided for in La. R.S. 47:337.80.
- (5) When, in order to secure compliance with any of the provisions of this Ordinance, monies have been deposited with the Collector by any Dealer and have been paid over to the Commission and the Collector is satisfied that the Dealer has fully complied with all applicable provisions, the Collector shall so certify and authorize repayment from any appropriations available for such



purpose to the Dealer of the monies or such part thereof as the Collector shall certify has not been applied by him to the satisfaction of any indebtedness arising pursuant to this Ordinance. Claims for credits and/or refunds without the approval of the Commission shall be limited to five thousand (\$5,000.00) dollars.

(6) a. Whenever the unpaid balance of an account due to a Dealer has been found to

be uncollectable or worthless 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 these accounts.

b. The prescription for such a refund or credit shall begin to run from the date of signature on the federal income tax return charging off the debt.

c. Whenever the balance of an account that had been determined to be worthless and the Tax refunded is recovered at a later date, the payment shall be reported as a new taxable transaction in the month recovered.

#### **Sec. 1-10 Remedies of the Dealer.**

(a) (1) A right of action is hereby created to provide a remedy at law for any Dealer aggrieved by the provisions of this Ordinance, and, if a Dealer resisting the payment of any amount found due or the enforcement of any provisions of any laws relating thereto, the Dealer shall pay the amount found due by the Collector and, at the time of payment, shall give the Collector notice of his intention to file suit for the recovery of the Tax paid; and, upon receipt of notice, the amount so paid shall be segregated and held by the Collector for a period of thirty (30) days; and, if suit is filed within that thirty (30) day period, the funds so segregated shall continue to be segregated pending the outcome of the suit. If the Dealer prevails, the Collector shall refund the amount to the claimant with interest at the rate as provided for in La. R. S. 47:337.80, covering the period from the date the funds were received by the Collector to the date of refund.

(2) This Section shall afford a legal remedy and right of action in any city or state court having jurisdiction over the parties and subject matter for a full and complete adjudication of any and all questions arising out of the enforcement of this Ordinance and as to the legality of any tax accrued or accruing pursuant to this Ordinance or the method of enforcement thereof. In such actions, service shall be upon the Chairman of the Board of the Commission.

(3) This Section shall be construed to provide a legal remedy in the appropriate city, state or federal court if the Tax or the collection thereof is claimed to be an unlawful burden upon interstate commerce or is in violation of any act of Congress, the United States Constitution, the Constitution of the State of

Louisiana, or any Louisiana law and if jurisdiction is vested in any of those courts; provided that, upon request of the Dealer and upon proper showing by the Dealer that the principal of law involved in an additional assessment is already pending before a court for judicial determination, the Dealer upon agreement to abide by the decisions of that court, may pay the assessment under protest, but need not file an additional suit. In such cases, the Tax paid under protest shall be segregated and held by the Collector until the question of law involved has been determined by the court and shall then be disposed of in accordance with that decision.

- (b) If any Dealer is aggrieved by any finding or assessment of the Collector, within thirty (30) days of the receipt of notice of the assessment or finding, he may file a protest in writing signed by him or his duly authorized representative, which protest shall be under oath and shall set forth the reasons therefor, and he may request a hearing. If a hearing is requested, the Collector shall grant such hearing to the Dealer and may make an order confirming, modifying or vacating any finding or assessment. The filing of a protest shall not abate any penalty for nonpayment, nor shall it stay the right of the Collector to collect the Tax in any manner provided herein unless the Dealer furnishes security of a kind and in an amount satisfactory to the Collector. Appeals from the decision of the Collector shall be directed to any appropriate city or state court of competent jurisdiction as provided by law.

#### **Sec. 1-11 Penalties for Violations.**

Any Dealer or responsible person who violates any of 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 (\$500.00) dollars or imprisonment in the parish jail for not more than six (6) months, or both.

#### **Sec. 1-12 Other Administrative Provisions.**

- (a) Any notice required to be given by the Collector pursuant to this Ordinance may be given by personal service on the Dealer for whom it is intended or by mail, addressed to the Dealer for whom it is intended at the address given in the Dealer's last report filed pursuant to the provisions of this Ordinance or, if no report has been filed, to such address as may be obtainable. The mailing of a notice shall be presumptive evidence of its receipt by the Dealer to whom it is addressed.
- (b) Nothing in this Ordinance shall be construed as depriving the Dealer, in the review of the Tax or in any proceedings to collect the Tax, of any remedy afforded the Dealer by any other law or as depriving the Commission enforcement of this Ordinance through any procedure or remedies expressly provided in this Ordinance or in any other law.
- (c) If any section, subsection, sentence, clause or phrase of this Ordinance is held invalid, that decision shall not affect the validity of the remaining portions of this Ordinance. The Commission declares that it would have passed this Ordinance, and each section,

subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentence, clauses or phrases may be declared invalid.

(d) The Tax is declared to be supplemental and in addition to all other taxes levied by and under the authority of the Commission.

(e) This Ordinance may be cited or otherwise referred to as the "Iberia Parish Tourist Commission Hotel/Motel Occupancy Tax Ordinance."

(f) (1) The Collector and his employees and representatives are hereby designated as the agents and representatives of the Commission for purposes of administration, enforcement and collection of the Tax provided for herein. The Collector is authorized and empowered to adopt rules, regulations and procedures for implementation, administration, enforcement and collection of the Tax, receive and receipt for payment of the Tax, make refunds, deposit moneys, conduct hearings and audits, make estimates of the Tax due and assessments thereof, file suit to collect the Tax, interest, penalties, fees, costs and other charges, issue notices, maintain records, purchase, prepare and distribute forms, supplies and paraphernalia for the collection of the Tax, compromise and adjust claims and, in general, perform all other acts which the Commission could do in administering, enforcing and/or collecting the Tax.

(2) The Collector is duly authorized and empowered to carry into effect the provisions of this Ordinance to make and enforce such rules as he may deem necessary. Such regulations whereon promulgated shall have the full force and effect of law. Promulgation shall be accomplished by publication at least one (1) time in the official journal of the Commission.

(g) The Collector, on behalf of the Commission, may contract with and hire expert consultants in connection with tax audits conducted by the Collector. Any contracts of employment shall be subject to approval by the Commission.

(h) The Collector shall design, prepare, print and furnish to Dealers or make available to Dealers, all necessary forms for filing returns, and instructions to insure a full collection and an accounting of the Tax due from Dealers. The failure of any Dealer to secure forms promulgated by the Collector shall not relieve a Dealer from the payment of the Tax at the time and manner provided for herein.

### **Sec. 1-13      Disposition of tax proceeds and revenues.**

(a) All Tax, revenues, funds, assessments, monies, penalties, fees or other income which may be collected or come into the possession of the Collector as agent of the Commission, under any provision or provisions of this Ordinance shall be promptly deposited by the Collector for the account of the Commission and/or the Iberia Parish Industrial Development Foundation with the regularly designated fiscal agent or agents of the appropriate Tax Recipient Body, provided however, any amount which is paid under protest and is subject to litigation may be transferred to a separate account established by the Collector pending final determination of the protest or litigation.

- (b) Out of the funds on deposit, the Collector shall first pay all reasonable and necessary costs and expenses of collecting the Tax and administering the provisions of this Ordinance, as well as the various administrative procedures established herein. These costs and expenses shall be reported to the Commission monthly by the Collector.

**Sec. 1-14      Miscellaneous.**

- (a) Any provision of this Ordinance to the contrary notwithstanding, the Commission may contract with anyone for the performance of any or all of the duties of the Collector provided for herein.
- (b) A certified copy of this Ordinance shall be recorded as soon as possible with the Clerk of Court of Iberia Parish, Louisiana.
- (c) The Official Journal of the Commission shall be The Daily Iberian.
- (d) This Ordinance shall also be published in the Official Journal of the Commission as soon as practicable after its adoption but before April 1, 2020.

**SECRETARY'S CERTIFICATE**

I hereby certify that I am the duly authorized and acting Secretary of the Iberia Parish Tourist Commission, that the foregoing Ordinance was duly adopted at a meeting of the Board of Directors of the Iberia Parish Tourist Commission called for, and held on, January 28, 2020, that the Ordinance is in full force and effect with an effective date of April 1, 2020.

\_\_\_\_\_  
SECRETARY

\_\_\_\_\_  
(DATE)

A motion by Tammy Gordon, seconded by Heidi Martin to approve the December 2019 Minutes. Motion carried.

A motion by Heidi Martin, seconded by Tammy Gordon to approve the December 2019 Finance Report. Motion carried.

#### Executive Director's Report

Press Releases

Media Report

Leads Report

Partner Notices

Newsletter

Blogs

Partner Lead Report

Event planner meetings

Discover Iberia Magazine

Bayou Teche Museum online auction update

LA Registrar of Voters meeting

Bayou Teche Scenic Byway update "National & All American Road Byway" application

Legislative Session update

Bayou Teche National Paddle Trail kiosks update

Bayou Teche National Paddle Trail Loreauville kiosk unveil Jan. 28 at 1:00 pm

Facility Maintenance update

Grand Reveil Acadien 2020 update

Facility Maintenance

Board training (ethics, sexual harassment) & Financial Disclosure Form Tier 2.1

#### Board Reports

Iberia Parish events

Iberia Preservation Alliance events update

Positively Iberia Campaign

Iberia Chamber of Commerce Banquet

Gumbo Cook Off

Loreauville Community Project

Mardi Gras Feb. 25

Acadiana Regional Airport update

IDF update

Delcambre Farmers & Seafood Market update

Mardi Gras Krewes update

George Rodrigue Park fundraiser event update

Iberia African American Historical Society – First Light performance

Next meeting February 18, 2020

A motion by Elizabeth Bodin, seconded by Tammy Gordon to adjourn. Motion carried.