

ORDINANCE NO. 1317

AN ORDINANCE OF THE CITY OF SANDPOINT, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, REPEALING AND REPLACING TITLE 3, CHAPTER 10, HOTEL/MOTEL OCCUPANCY TAX; PROVIDING IN SECTION 1 THAT SANDPOINT IS A RESORT CITY; PROVIDING FOR DEFINITIONS, INCLUDING DEFINITIONS OF A HOTEL-MOTEL, ROOM OCCUPANCY CHARGE, TAXPAYER, AND SALE AND SALES PRICE; PROVIDING FOR THE IMPOSITION OF CERTAIN NONPROPERTY TAXES, TO-WIT: A SEVEN PERCENT (7%) HOTEL/MOTEL ROOM AND SHORT TERM RENTAL (THIRTY 30 OR FEWER DAYS) OCCUPANCY TAX; PROVIDING FOR A TEN (10) YEAR DURATION FOR SAID NONPROPERTY TAX; PROVIDING THE PURPOSES FOR WHICH THE REVENUES DERIVED FROM SAID NONPROPERTY TAX SHALL BE USED, INCLUDING CITY INFRASTRUCTURE AND CAPITAL PROJECTS, STREET OVERLAYS, SIDEWALK IMPROVEMENTS, ADDITIONAL BIKE PATHS, PUBLIC SAFETY SERVICES, PUBLIC PARKS OPERATIONS, PROPERTY TAX RELIEF, AND ACTUAL COSTS OF COLLECTION; CREATING A PROPERTY TAX RELIEF FUND; AUTHORIZING THE CITY TREASURER TO ADMINISTER, REGULATE, AND COLLECT SAID NONPROPERTY TAX AND REQUIRING THAT PERSONS ENGAGING IN THE BUSINESS OF RENTING OUT A HOTEL OR MOTEL ROOM ARE TO FILE AN APPLICATION FOR A NONPROPERTY TAX PERMIT AND PROVIDING FOR SUCH PERMITS AND ISSUANCE; PROVIDING FOR A METHOD TO PAY THE TAX, FOR FILING OF A NONPROPERTY TAX RETURN, PROVIDING THE TIMES FOR PAYMENT OF THE TAXES, AND PROVIDING FOR EXEMPTIONS; PROVIDING FOR AUDITS AND DEFICIENCY DETERMINATIONS, INCLUDING INTEREST AT 12% PER ANNUM OR AS OTHERWISE SET BY LAW; PROVIDING FOR A HEARING PROCESS BEFORE THE TREASURER FOR REDETERMINATIONS OF DEFICIENCY IF A PETITION IS FILED WITHIN 30 DAYS; PROVIDING FOR APPEALS OF A REDETERMINATION OF DEFICIENCY BY THE TREASURER AND PROVIDING, ON A DEFICIENCY, INTEREST IN THE AMOUNT OF 12% OR AS OTHERWISE ALLOWED BY LAW; PROVIDING FOR COLLECTIONS AND ENFORCEMENT, INCLUDING AUTHORIZING THE TREASURER TO EXAMINE RECORDS OF PERSONS LIABLE FOR THE TAX, AND AUTHORIZING THE PERSON LIABLE FOR SAID TAX TO BE SUMMONED TO PROVIDE DATA, BOOKS OF ACCOUNTING, AND OTHER DATA IN REGARDS TO THE TAX; PROVIDING FOR REFUNDS, A ONE YEAR STATUTE OF LIMITATIONS ON REFUNDS, AND PROVIDING, IN THE EVENT OF REFUNDS, FOR INTEREST OF 12% PER ANNUM OR AS OTHERWISE ALLOWED BY LAW; PROVIDING THAT THOSE PERSONALLY RESPONSIBLE FOR PAYMENT OF TAXES HAVE A DUTY TO PAY THE TAX IMPOSED BY THIS ORDINANCE ON BEHALF OF THE CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP; PROVIDING FOR A THREE YEAR PERIOD OF LIMITATIONS FOR ASSERTING THE TAX IS DUE AND PROVIDING FOR A SIX YEAR PERIOD TO COLLECT A TAX IF ASSERTED WITHIN THE THREE YEAR TIME PERIOD, PROVIDING FOR SUSPENDING OF THE LIMITATION FOR ASSERTION AND COLLECTION IN EVENT OF COURT ACTIONS AND APPEALS, PROVIDING FOR ASSESSMENT AND COLLECTION IN THE CASE OF DECEDENTS, AND PROVIDING FOR A THREE YEAR LIMITATION FOR COLLECTION OF THE TAX RUNNING FROM THE DISCOVERY OF FRAUD OR FAILURE TO FILE A RETURN REGARDLESS OF

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WHETHER THERE HAD BEEN AN ASSESSMENT OF TAX; ESTABLISHING SUCCESSOR'S LIABILITY BY REQUIRING THAT, IF A VENDOR IS LIABLE FOR ANY AMOUNT OF TAX, THE VENDEE SHALL MAKE AN INQUIRY TO THE TREASURER AND WITHHOLD FROM THE PURCHASE PRICE THE TAX THAT IS DUE UNTIL SUCH TIME AS THE VENDOR PRODUCES RECEIPTS THAT NO TAX IS DUE AND PROVIDING THAT FAILURE TO DO SO SHALL MAKE A PURCHASER LIABLE FOR THE TAX; PROVIDING FOR GENERAL ADMINISTRATION BY THE CITY TREASURER, INCLUDING ENFORCEMENT, AUDITING, AND INVESTIGATIONS, REQUIRING EVERY HOTEL/MOTEL OWNER (TAXPAYER) TO KEEP SUCH RECORDS AS THE TREASURER MAY REQUIRE, AND ALLOWING FOR INVESTIGATION OF RECORDS OF THOSE OWING THE TAX; PROVIDING FOR A MISDEMEANOR PENALTY WITH A FINE OF UP TO ONE THOUSAND DOLLARS AND/OR SIX MONTHS IN JAIL FOR VIOLATION OF THIS ORDINANCE, AND PROVIDING FOR REVOCATION OF NONPROPERTY TAX PERMITS AND CITY LICENSES UNTIL SUCH TIME AS A SECURITY THREE TIMES GREATER THAN THE ESTIMATED MONTHLY AMOUNT DUE FROM THE TAXPAYER IS PAID, PROVIDING FOR APPEALS OF REVOCATION OF NONPROPERTY TAX PERMITS; PROVIDING THAT ANY AMOUNT OF TAX DUE UNDER THIS ORDINANCE, WHICH A PERSON FAILS TO REPORT OR ACCURATELY COMPUTE, SHALL BECOME A LIEN OF THE TAXPAYER AND PROVIDING THAT SAID LIEN MAY BE ENFORCED WITH INTEREST AND REASONABLE COSTS OF COLLECTION, INCLUDING ATTORNEY FEES, PROVIDING THAT THE BURDEN OF SHOWING A RENTAL OF A HOTEL/MOTEL ROOM IS NOT A SALE UNDER THE ORDINANCE IS UPON THE PERSON WHO MAKES THE SALE OR RENTAL; PROVIDING FOR PENALTY CHARGES AND STATING THAT ANY PERSON WHO IS REQUIRED TO COLLECT AND PAY OVER ANY TAX IMPOSED BY THIS ORDINANCE AND WHO REFUSES OR FAILS TO DO SO IS LIABLE FOR A PENALTY OF 5% OR \$10, WHICHEVER IS GREATER, AND PROVIDING FOR PAYMENT OF THE PENALTY, PROVIDING FOR THE CITY COUNCIL TO CHANGE THE PENALTY BY RESOLUTION AND FURTHER PROVIDING FOR A PENALTY EQUAL TO THE AMOUNT OF THE TAX EVADED OR NOT COLLECTED OR NOT ACCOUNTED FOR AND PAID OVER AND, IN SUCH CASES, PROVIDING FOR A NOTICE PROCESS AND APPEAL PROCESS; PROVIDING FOR EXEMPTIONS TO THE ORDINANCE FOR CERTAIN GOVERNMENTAL ENTITIES; PROVIDING FOR CONFIDENTIALITY OF INFORMATION AND PROVIDING FOR INSPECTION BY CERTAIN OTHER GOVERNMENTAL ORGANIZATIONS; PROVIDING IN SECTION 2 FOR SEVERABILITY; AND PROVIDING IN SECTION 3 FOR PUBLICATION AND AN EFFECTIVE DATE OF THIS ORDINANCE.

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WHEREAS: On November 4, 2014, the voters of Sandpoint approved an increase in the City's hotel/motel occupancy tax, to be effective January 1, 2016; and

WHEREAS: It is necessary to amend City Code in order to reflect the new 7% tax, including corresponding dates, terms, and other information.

NOW, THEREFORE, be it ordained by the Mayor and City Council of the City of Sandpoint:

**Section 1:** That Sandpoint City Code Title 3, Chapter 10, Hotel/Motel Occupancy Tax, be repealed and a new Title 3, Chapter 10, be adopted, to read as follows:

**3-10-1: FINDINGS:**

The City Council of the City of Sandpoint, Bonner County, Idaho, hereby finds that said City is a resort City, with a population not in excess of ten thousand (10,000), according to the most recent census within the state of Idaho, that it is organized under the general laws of the state, and that it derives the major portion of its economic well-being from businesses catering to recreational needs and meeting needs of people traveling to said City for an extended period of time.

**3-10-2: DEFINITIONS:**

**HOTEL-MOTEL:** The term "hotel-motel" means any business, including, but not limited to, hotels, motels, condominiums, tourist homes, bed and breakfast establishments and any other business which, in the regular course of business, rents or leases for occupancy temporary lodging to individuals with or without meals, except where residence is maintained continuously under terms of a lease or similar agreement for a period in excess of thirty (30) days.

**ROOM OCCUPANCY CHARGE:** The term "room occupancy charge" means and includes the total amount charged for the rental use or temporary occupancy of a room or living unit, valued in money, whether paid in money or otherwise, without any deduction.

**TAXPAYER:** Any person subject to or liable for any tax or payment of any tax imposed under this Chapter.

**IN THE CITY OF SANDPOINT:** Within the municipal boundaries of the City of Sandpoint, Bonner County, Idaho.

**PERSON:** The term person means and includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit.

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**SALE:** The term sale shall include providing hotel, motel, condominium, tourist home or trailer court accommodations and services, except where residence is maintained continuously under the terms of a lease for similar agreement for a period in excess of thirty (30) days.

**SALES PRICE:** The term sales price means and includes the total amount for which hotel-motel rooms are rented, valued in money, whether paid in money or otherwise, without any deduction.

**3-10-3: IMPOSITION AND RATE OF CERTAIN NONPROPERTY TAXES, TO-WIT: A SEVEN PERCENT (7%) TAX ON OCCUPANCY:**

The City of Sandpoint hereby imposes and shall collect, as set forth herein, certain nonproperty taxes as follows:

A. **HOTEL/MOTEL ROOM OCCUPANCY:** A tax is hereby imposed at the rate of five percent (7%) on any short term room occupancy charge (thirty days or less) for each hotel-motel room rented or leased within the City of Sandpoint, Bonner County, Idaho. Said room occupancy tax shall apply to, be computed on and collected on all room occupancy charges, including all credit, installment, conditional or similar rental or lease fees at the time the fee for rental is charged. Said room occupancy tax shall be collected by the owner of said property or his authorized agent from the renter or lessee.

B. All monies collected under the provisions of this chapter shall be held in trust for the City of Sandpoint and for payment thereof to the City Treasurer in the manner and at the times in this Chapter provided.

**3-10-4: DURATION OF TAXES:**

The nonproperty taxes authorized and collected under this Chapter are hereby imposed for a duration of ten (10) years from the effective date of the Ordinance.

**3-10-5: PURPOSES FOR WHICH THE REVENUES DERIVED FROM SAID NONPROPERTY TAXES SHALL BE USED:**

The nonproperty tax revenue derived from and collected under this Chapter shall be used for the following purposes:

- A. City infrastructure and capital projects.
- B. Street overlays, sidewalk repair, extension and replacement, and additional bike paths.
- C. Public safety services, including lifeguards, bicycle patrol, services for public events, public transportation, and grant match.
- D. Public parks operations.

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- E. Any excess revenues received will be place in a designated property tax relief fund.
- F. The city will retain the actual cost of collecting and administering the tax.

**3-10-6: CREATION OF A PROPERTY TAX RELIEF FUND:**

There is hereby created in the office of the City Treasurer a fund to be designated as "Municipal Property Tax Relief Fund." All monies collected under this Chapter, and not otherwise budgeted by the City Council, shall be placed by the City Treasurer into the municipal property tax relief fund. All monies collected and placed into said fund shall be used to replace City property taxes in the ensuing fiscal year.

**3-10-7: AUTHORIZATION FOR CITY TREASURER TO ADMINISTER, REGULATE AND COLLECT SAID NONPROPERTY TAXES:**

The City Treasurer of the City of Sandpoint is hereby authorized and empowered to administer, regulate and collect payment of all nonproperty taxes adopted and imposed by this Chapter. Said Treasurer shall have all of the powers set forth in this Chapter, together with those additional powers necessary and proper to carry out the provisions of this Chapter.

**3-10-8: PERMITS; ISSUANCE:**

A. Every person desiring to engage in or conduct the business of renting a hotel-motel room within this City shall file with the City Clerk an application for a municipal nonproperty tax permit for each place of business. A separate permit is required for each place of business within the City. Every application for said permit shall be made upon a form prescribed by the City Clerk and shall set forth the name under which the applicant transacts or intends to transact business, the location of the business or places of business, and such other information as the City Clerk may require. The application shall be signed by the owner, if he is a natural person or, in the case of an association or partnership, by a member or partner or, in the case of a corporation, by a corporate officer, or other person authorized by the business to sign the application.

B. Upon filing an application meeting the requirements set out above, the City Clerk shall issue to each applicant a permit for each place of business. A permit shall not be assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the location for which it was issued. Issuance of a permit may be subject to additional requirements as set forth in this Chapter.

C. On the face of the permit shall be fixed a municipal nonproperty tax permit number, which shall be used by the applicant as an identifying number on all filing, payment and correspondence with regard to the nonproperty tax imposed under this Chapter.

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**3-10-9: METHOD FOR PAYMENT OF TAXES:**

A. The taxes imposed by this Chapter shall be computed and paid for each calendar month. Said taxes are due and payable to the City Treasurer on or before the 20th day of the succeeding month. The amount of tax paid shall be computed on the total dollar value of hotel-motel room charges; each person required to hold a municipal nonproperty tax permit and number shall file a municipal nonproperty tax return and a copy of their Idaho state sales tax return for the month at the same time said taxes are paid to the City Treasurer, unless said person has been permitted, in writing, by the Idaho State Tax Commission to file quarterly sales or use tax returns. Persons who have been permitted to file other than quarterly returns shall notify the City Treasurer in writing, and the City Treasurer thereupon may require reporting of State tax returns over some other period.

B. The first payment of any new taxes under this Chapter shall be due and payable together on the 20th day of February 2016, for that period beginning January 1, 2016, and ending January 31, 2016. Thereafter, all payments shall be made monthly.

C. A municipal nonproperty tax return shall be filed each and every month by every person engaging in the sale of the hotel-motel rental or lease, regardless of whether or not any tax is due. Returns shall be signed by the person required to file the return or by a duly authorized agent.

D. A valid sales tax exemption certificate issued by the Idaho State Tax Commission upon filing a copy thereof with the City Clerk shall have the same effect to exempt the sale from the taxes imposed hereunder as in the Idaho Sales Tax Act.

**3-10-10: AUDITS; DEFICIENCY DETERMINATIONS:**

A. The City Treasurer may order an audit of any taxpayer under this Chapter for the purpose of ascertaining the correctness or completeness of any return or payment.

B. If any error or omission is discovered in such audits or in any other way, the City Treasurer may compute and determine the amount of tax due upon the basis of facts obtained from such information with its possession and assert a deficiency. One or more deficiency determinations may be made for the amount due for one or for more than one period. In making such determinations, the City Treasurer may offset over payments against amounts due. Further, said determinations shall be made for the period or periods in respect to which the person fails to make a return and shall be based upon any information which is in the City Treasurer's possession.

C. The City Treasurer shall give written notice of its determination and the amount of its deficiency, including interest, at the rate of twelve percent (12%) per annum or such other rate as may be allowed by Idaho Code and as set by resolution adopted by the City Council from the date due, to the person from whom such deficiency amount is due. Such notice may be given

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personally or mailed to the person at the address furnished to the City Clerk in the non property tax permit application.

**3-10-11: REDETERMINATION OF DEFICIENCY:**

A. Any person against whom a deficiency determination is made under this Chapter, or any person directly interested, may petition the City Clerk in writing for a redetermination within thirty (30) days after service upon the person of notice thereof. If the petition for redetermination is not filed within the thirty (30) day period, the determination becomes final at the expiration of the period.

B. If a petition for redetermination is filed within the thirty (30) day period, the City Treasurer shall reconsider the determination and, if the person so requests in the petition, the City Treasurer shall grant the person an oral hearing and give said person ten (10) days notice of the time and place of the hearing personally or by mail addressed to the person at the address furnished to the City Clerk in said person's application for a nonproperty tax permit.

**3-10-12: APPEALS; INTEREST ON DEFICIENCY:**

A. When a redetermination is made, the City Treasurer shall give notice to the taxpayer against whom the redetermination is made. Within thirty (30) days of the date upon which such notice of redetermination is mailed or served, the taxpayer may file with the City Treasurer an appeal to the City Council for redetermination, which will be heard at the next viable Council meeting. If the Council decision is unsatisfactory to the appellant, the taxpayer may file a complaint with the district court for review of the City Treasurer's or Council's redetermination. There shall be no right of review to the City Council nor to the district court on the determination of taxes due made by the City Treasurer unless a petition for redetermination has been timely filed. No assessment of a deficiency in respect to the tax imposed by this Chapter or proceeding for its collection filed until such notice has been mailed to the taxpayer and expiration of such thirty (30) day period after notice of redetermination, nor If a protest is filed until a decision on the protest becomes final. If the taxpayer does not protest to the City Council or file an action in district court with the time prescribed in this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the City Treasurer.

B. Interest upon any deficiency shall be assessed at the same time as the deficiency and shall become due and payable upon notice and demand from the City Treasurer and shall be collected as part of the tax at the rate of twelve per cent (12%) interest per annum from the date prescribed for payment of the tax or at that maximum rate of interest as may be allowed by Idaho Code and/or set by resolution adopted by the City Council.

**3-10-13: COLLECTIONS AND ENFORCEMENT:**

As soon as practical after monthly municipal nonproperty tax return and payment is filed, the City Treasurer shall examine the same and determine the correct amount of the tax. For the

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purpose of ascertaining the correctness of any payment determining the amount of tax due where none has been made, determining liability of any person for any tax payable under this Chapter, or the liability at law or in equity of any person in respect to any tax provided by this Chapter or collecting any such liability, the City Treasurer, or duly authorized deputy, is authorized (1) to examine the books, papers, records or other data which may be relevant or material to the inquiry; (2) to summon the person liable for the tax or any officer, agent or employee of such person, or any person having possession, custody or care of books of accounting containing entries relating to the business of the person liable for the tax, to appear before the City Treasurer, or deputy, at a time and place named in its summons to produce such books, papers, records or other data and/or give such testimony under oath as may be relevant or material to such inquiry.

### **3-10-14: REFUNDS, LIMITATIONS AND INTEREST:**

A. If the City Treasurer determines that any amount due under this Chapter has been paid more than once or has been erroneously or illegally collected or computed, the City Treasurer shall set forth that fact in its records and the excess amount paid or collected may be credited on any amount due or payable to the City Treasurer for nonproperty taxes from that person, and any balance refunded to the person by whom it was paid or to his successors, administrators or executors.

B. No such credit or refund shall be allowed or made after one year from the time the payment was made unless before the expiration of such period a claim therefore is filed by the taxpayer.

C. Interest shall be allowed on the amount of such credits or refunds at the rate of twelve (12%) percent interest per annum from the date which such tax was paid or the maximum rate of interest may be allowed by Idaho code and/or set by resolution adopted by the City Council.

D. Appeal from the City Treasurer's decision denying in part or in whole a claim for refund shall be made in accordance with the laws of the state of Idaho with regard to claims against municipalities.

### **3-10-15: RESPONSIBILITY FOR PAYMENT OF TAXES:**

Every person with a duty to account for or pay over any tax imposed by this Chapter on behalf of a corporation as an officer employee of the corporation, or on behalf of any limited liability company or on behalf of a partnership as a member employee of the partnership shall be personally liable for payment of such tax, plus penalties and interest.

### **3-10-16: PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION:**

A. The amount of taxes imposed under this Chapter shall be assessed within three (3) years of the time the return upon which the tax asserted to, be due was or should have been filed, whichever is later; provided, however, if a deficiency determination or assessment has been made within the prescribed time, such tax may be collected within a period of six (6) years after

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assessment. The running of limitations provided by this section shall be suspended for the period during which the City Treasurer is prohibited from making the assessment or from collecting or proceeding in court due to a petition for redetermination or an appeal therefrom, and for thirty (30) days thereafter .

B. In the cases of taxes due during the lifetime of a decedent, the tax shall be assessed any proceedings for collection begun within six (6) months after written request therefore (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent, unless the assessment is stayed by a petition for redetermination or any appeal therefrom.

C. In the case of a false or fraudulent return with intent to evade tax, or of a failure to file a return, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within three (3) years after the date of the discovery of the facts constituting fraud.

**3-10-17: SUCCESSORS' LIABILITY:**

A. If a vendor liable for any amount of tax under this Chapter sells out his business or stocks and goods, the purchaser shall make an inquiry to the City Treasurer and withhold from the purchase price any amount of tax that may be due under this Chapter until such time as the vendor produces receipt stating that no amount is due.

B. If the purchaser of business or stock of goods fails to withhold from the purchase price as above required, he is personally liable for the payment of the amount required to be withheld by him.

**3-10-18: GENERAL ADMINISTRATION BY CITY TREASURER:**

A. The City Treasurer shall enforce the provisions of this Chapter and may prescribe, adopt and enforce rules and regulations relating to its administration and enforcement. The City Treasurer may employ qualified auditors for examination of taxpayers' books and records, and shall also employ such accountants, investigators, assistants, clerks, and other personnel as are necessary for the efficient administration of this Chapter, and may delegate authority to its representatives to conduct hearings or perform other duties imposed by this Chapter.

B. Every Taxpayer subject to this Chapter shall keep such records, receipts, invoices and other pertinent papers as the City Treasurer may require. Every such Taxpayer who files tax payments required under this Chapter shall keep all such records for not less than four (4) years after making such payment unless the City Treasurer in writing authorizes their destruction.

C. The City Treasurer, or any person authorized in writing by the Treasurer, may examine the books, papers, records, and equipment of any taxpayer or any person liable for any tax, and may investigate the character of the business of the person in order to verify the accuracy of any

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return made, or if no return is made by the person, to ascertain and determine the amount required to be paid. Any Taxpayer whose pertinent records are kept outside of the City must bring the records to the City for examination by the City Treasurer upon request of the latter or, by agreement with the City Treasurer, permit an auditor designated by the City Treasurer to visit the place where the records are kept and there audit such records.

**3-10-19: PENALTIES:**

A. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor, punishable by up to six (6) months in jail and/or One Thousand Dollars (\$1,000.00) fine, or both. Furthermore, each month in which a person fails to report, or intentionally fails to accurately compute, or intentionally fails to accurately disclose the total amount of sales or rentals or the amount of tax to be paid as imposed under this Chapter, shall be considered a separate offense.

B. Any person who violates any provision of this Chapter shall have his municipal nonproperty tax permit, tax number revoked and any other municipal license of any kind. The City Clerk shall send written notice of revocation of said permit and tax number to the permit holder by mailing same certified mail to the address given on the permit application. The permit holder shall have ten (10) days from the date said notice is mailed to file a written request of appeal with the City council, challenging said revocation. If no appeal is timely made said revocation becomes final. Whenever a person subject to this Chapter has had said permit and tax number revoked, the City Clerk shall not reissue said permit nor issue a new permit to said until said person places with the City Clerk a bond or other sufficient security in the amount equal to three (3) times the actual, determined or estimated average monthly amount of tax payable by such person pursuant to this Chapter.

C. The City Clerk, whenever it is deemed necessary to ensure compliance with this Chapter, may require any person subject to this Chapter to place with the City such security as it may determine. Security shall not be greater than three (3) times the estimated average monthly amount payable by such persons pursuant to this Chapter. The amount of the security may be increased or decreased by the City Clerk at any time, subject to the limitations set forth above.

D. Any amount of tax due under this Chapter for which a person fails to report or accurately compute shall become a lien upon the property of said taxpayer on the date that the same becomes due, and the City may seek to enforce said lien and collect all taxes and interest due, together with the reasonable costs of collection, including attorney's fees, in a court of competent jurisdiction.

E. For the purposes of proper administration of this Chapter, and to prevent evasion of said nonproperty taxes, the burden of proving that a rental of hotel-motel room is not a sale under this Chapter is upon the person who makes the sale or rental in question.

**3-10-20: PENALTY CHARGES:**

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A. Any person who is required to collect and pay over any tax imposed by this Chapter and fails or refuses to pay over to the City the same when due in accordance with this Chapter shall be liable for a penalty on the tax not paid. Said penalty charge shall may be modified by resolution adopted by city council, but shall initially be equal to five percent (5%) of the tax not paid or a minimum of \$10 (whichever is greater). the City Treasurer shall assess and collect said fee at the time any delinquent tax payment is tendered. The permit holder shall have ten (10) days from the date payment is made to file a written appeal with the City council, challenging said penalty determination. If no appeal is timely made as herein provided, said penalty determination shall be final.

B. Any person who is required to collect, truthfully account for, and pay over any tax imposed by this Chapter and who willfully fails to collect such a tax or truthfully account for or pay over such a tax, or willfully attempts in any manner to evade or defeat such a tax or payment thereof, shall, in addition to the other penalties provided by law, be liable to a penalty equal to the amount of the tax evaded, or not collected, or not accounted for and paid over. The City Treasurer shall determine and assess such penalties, and the same shall become due and payable upon notice and demand from the City Treasurer. The City Treasurer shall send written notice of such penalty charge to the permit holder by mailing same certified mail to the address given on the permit application. The permit holder shall have ten (10) days from the date said notice is mailed to file a written request of appeal with the City council challenging said penalty charge determination. If no appeal is timely made, said penalty charge determination becomes final.

### **3-10-21: EXEMPTIONS:**

All transactions by the City of Sandpoint, Bonner County, Lake Pend Oreille School District or the State of Idaho, otherwise subject to imposition of said taxes, are exempt from the provisions of this Chapter.

### **3-10-22: CONFIDENTIALITY OF INFORMATION:**

A. No City Clerk of the City of Sandpoint, nor any duly authorized deputy City Clerk, agent or employee shall divulge or make known to any persons, in any manner, any information whatsoever submitted or obtained directly or indirectly, pursuant to this Chapter, or to permit any nonproperty tax return or information supplied with regard thereto, or any copy thereof, or any paper or book so obtained, to be seen or examined by any person except as provided by law; provided that in any action or proceeding brought for the collection, remission, cancellation, or refund of the whole or any part of a tax imposed under this Chapter, or for enforcing the penalties prescribed for making false or fraudulent returns, any and all information contained in or provided with said returns may be made accessible to the elected and appointed officials, officers and representatives of said City charged with enforcing or defending same, all such returns, information, statements and correspondence relating thereto may be produced into evidence in any action, civil or criminal, directly pertaining to such returns or the tax imposed on the basis of such returns.

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B. The Sandpoint City Council, as provided by law or under such rules and provisions as it may prescribe, may permit, notwithstanding the provisions of this Chapter as to secrecy, the Commissioner of Internal Revenue of the United States or his delegate or the proper officer of any state imposing a tax to inspect the nonproperty tax returns or information provided or obtained in connection therewith, or may furnish to such office, or his authorized agent, copies or an abstract thereof.

C. Nothing in this Chapter shall prohibit a taxpayer or authorized representative, upon proper identification, from inspecting and copying his own nonproperty tax returns and information supplied therewith.

**Section 2: Severability**

It is hereby declared to be the legislative intent that the provisions, and parts thereof, of this Ordinance shall be severable. Should any section, subsection, paragraph, clause or phrase of this Ordinance, or any particular application thereof, be declared invalid or unconstitutional for any reason by a court of competent jurisdiction, such decision shall not affect the remaining portions of said section, subsection, paragraph, clause or phrase of this Ordinance.

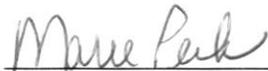
**Section 3: Effective Date and Publication**

This Ordinance shall be in full force and effect on January 1, 2016, after adoption by the City Council and publication according to law.

PASSED AND ADOPTED AS AN ORDINANCE OF THE CITY OF SANDPOINT, IDAHO,  
AT A REGULAR SESSION OF THE SANDPOINT CITY COUNCIL ON October 7, 2015.

  
Carrie Logan, Mayor

ATTEST:

  
Maree Peck, City Clerk

SUMMARY OF ORDINANCE NO. 1317  
Hotel/Motel Occupancy Tax

AN ORDINANCE OF THE CITY OF SANDPOINT, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, REPEALING AND REPLACING TITLE 3, CHAPTER 10, HOTEL/MOTEL OCCUPANCY TAX; PROVIDING IN SECTION 1 THAT SANDPOINT IS A RESORT CITY; PROVIDING FOR DEFINITIONS, INCLUDING DEFINITIONS OF A HOTEL-MOTEL, ROOM OCCUPANCY CHARGE, TAXPAYER, AND SALE AND SALES PRICE; PROVIDING FOR THE IMPOSITION OF CERTAIN NONPROPERTY TAXES, TO-WIT: A SEVEN PERCENT (7%) HOTEL/MOTEL ROOM AND SHORT TERM RENTAL (THIRTY 30 OR FEWER DAYS) OCCUPANCY TAX; PROVIDING FOR A TEN (10) YEAR DURATION FOR SAID NONPROPERTY TAX; PROVIDING THE PURPOSES FOR WHICH THE REVENUES DERIVED FROM SAID NONPROPERTY TAX SHALL BE USED, INCLUDING CITY INFRASTRUCTURE AND CAPITAL PROJECTS, STREET OVERLAYS, SIDEWALK IMPROVEMENTS, ADDITIONAL BIKE PATHS, PUBLIC SAFETY SERVICES, PUBLIC PARKS OPERATIONS, PROPERTY TAX RELIEF, AND ACTUAL COSTS OF COLLECTION; CREATING A PROPERTY TAX RELIEF FUND; AUTHORIZING THE CITY TREASURER TO ADMINISTER, REGULATE, AND COLLECT SAID NONPROPERTY TAX AND REQUIRING THAT PERSONS ENGAGING IN THE BUSINESS OF RENTING OUT A HOTEL OR MOTEL ROOM ARE TO FILE AN APPLICATION FOR A NONPROPERTY TAX PERMIT AND PROVIDING FOR SUCH PERMITS AND ISSUANCE; PROVIDING FOR A METHOD TO PAY THE TAX, FOR FILING OF A NONPROPERTY TAX RETURN, PROVIDING THE TIMES FOR PAYMENT OF THE TAXES, AND PROVIDING FOR EXEMPTIONS; PROVIDING FOR AUDITS AND DEFICIENCY DETERMINATIONS, INCLUDING INTEREST AT 12% PER ANNUM OR AS OTHERWISE SET BY LAW; PROVIDING FOR A HEARING PROCESS BEFORE THE TREASURER FOR REDETERMINATIONS OF DEFICIENCY IF A PETITION IS FILED WITHIN 30 DAYS; PROVIDING FOR APPEALS OF A REDETERMINATION OF DEFICIENCY BY THE TREASURER AND PROVIDING, ON A DEFICIENCY, INTEREST IN THE AMOUNT OF 12% OR AS OTHERWISE ALLOWED BY LAW; PROVIDING FOR COLLECTIONS AND ENFORCEMENT, INCLUDING AUTHORIZING THE TREASURER TO EXAMINE RECORDS OF PERSONS LIABLE FOR THE TAX, AND AUTHORIZING THE PERSON LIABLE FOR SAID TAX TO BE SUMMONED TO PROVIDE DATA, BOOKS OF ACCOUNTING, AND OTHER DATA IN REGARDS TO THE TAX; PROVIDING FOR REFUNDS, A ONE YEAR STATUTE OF LIMITATIONS ON REFUNDS, AND PROVIDING, IN THE EVENT OF REFUNDS, FOR INTEREST OF 12% PER ANNUM OR AS OTHERWISE ALLOWED BY LAW; PROVIDING THAT THOSE PERSONALLY RESPONSIBLE FOR PAYMENT OF TAXES HAVE A DUTY TO PAY THE TAX IMPOSED BY THIS ORDINANCE ON BEHALF OF THE CORPORATION, LIMITED LIABILITY COMPANY, OR PARTNERSHIP; PROVIDING FOR A THREE YEAR PERIOD OF LIMITATIONS FOR ASSERTING THE TAX IS DUE AND PROVIDING FOR A SIX YEAR PERIOD TO COLLECT A TAX IF ASSERTED WITHIN THE THREE YEAR TIME PERIOD, PROVIDING FOR SUSPENDING OF THE LIMITATION FOR ASSERTION AND COLLECTION IN EVENT OF COURT ACTIONS AND APPEALS, PROVIDING FOR ASSESSMENT AND COLLECTION IN THE CASE OF DECEDENTS, AND PROVIDING FOR A THREE YEAR LIMITATION FOR COLLECTION OF THE TAX RUNNING FROM THE DISCOVERY OF FRAUD OR FAILURE TO FILE A RETURN REGARDLESS OF WHETHER THERE HAD BEEN AN

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ASSESSMENT OF TAX; ESTABLISHING SUCCESSOR'S LIABILITY BY REQUIRING THAT, IF A VENDOR IS LIABLE FOR ANY AMOUNT OF TAX, THE VENDEE SHALL MAKE AN INQUIRY TO THE TREASURER AND WITHHOLD FROM THE PURCHASE PRICE THE TAX THAT IS DUE UNTIL SUCH TIME AS THE VENDOR PRODUCES RECEIPTS THAT NO TAX IS DUE AND PROVIDING THAT FAILURE TO DO SO SHALL MAKE A PURCHASER LIABLE FOR THE TAX; PROVIDING FOR GENERAL ADMINISTRATION BY THE CITY TREASURER, INCLUDING ENFORCEMENT, AUDITING, AND INVESTIGATIONS, REQUIRING EVERY HOTEL/MOTEL OWNER (TAXPAYER) TO KEEP SUCH RECORDS AS THE TREASURER MAY REQUIRE, AND ALLOWING FOR INVESTIGATION OF RECORDS OF THOSE OWING THE TAX; PROVIDING FOR A MISDEMEANOR PENALTY WITH A FINE OF UP TO ONE THOUSAND DOLLARS AND/OR SIX MONTHS IN JAIL FOR VIOLATION OF THIS ORDINANCE, AND PROVIDING FOR REVOCATION OF NONPROPERTY TAX PERMITS AND CITY LICENSES UNTIL SUCH TIME AS A SECURITY THREE TIMES GREATER THAN THE ESTIMATED MONTHLY AMOUNT DUE FROM THE TAXPAYER IS PAID, PROVIDING FOR APPEALS OF REVOCATION OF NONPROPERTY TAX PERMITS; PROVIDING THAT ANY AMOUNT OF TAX DUE UNDER THIS ORDINANCE, WHICH A PERSON FAILS TO REPORT OR ACCURATELY COMPUTE, SHALL BECOME A LIEN OF THE TAXPAYER AND PROVIDING THAT SAID LIEN MAY BE ENFORCED WITH INTEREST AND REASONABLE COSTS OF COLLECTION, INCLUDING ATTORNEY FEES, PROVIDING THAT THE BURDEN OF SHOWING A RENTAL OF A HOTEL/MOTEL ROOM IS NOT A SALE UNDER THE ORDINANCE IS UPON THE PERSON WHO MAKES THE SALE OR RENTAL; PROVIDING FOR PENALTY CHARGES AND STATING THAT ANY PERSON WHO IS REQUIRED TO COLLECT AND PAY OVER ANY TAX IMPOSED BY THIS ORDINANCE AND WHO REFUSES OR FAILS TO DO SO IS LIABLE FOR A PENALTY OF 5% OR \$10, WHICHEVER IS GREATER, AND PROVIDING FOR PAYMENT OF THE PENALTY, PROVIDING FOR THE CITY COUNCIL TO CHANGE THE PENALTY BY RESOLUTION AND FURTHER PROVIDING FOR A PENALTY EQUAL TO THE AMOUNT OF THE TAX EVADED OR NOT COLLECTED OR NOT ACCOUNTED FOR AND PAID OVER AND, IN SUCH CASES, PROVIDING FOR A NOTICE PROCESS AND APPEAL PROCESS; PROVIDING FOR EXEMPTIONS TO THE ORDINANCE FOR CERTAIN GOVERNMENTAL ENTITIES; PROVIDING FOR CONFIDENTIALITY OF INFORMATION AND PROVIDING FOR INSPECTION BY CERTAIN OTHER GOVERNMENTAL ORGANIZATIONS; PROVIDING IN SECTION 2 FOR SEVERABILITY; AND PROVIDING IN SECTION 3 FOR PUBLICATION AND AN EFFECTIVE DATE OF THIS ORDINANCE.

SUMMARY OF ORDINANCE NO. 1317  
Hotel/Motel Occupancy Tax

SECTION 1 repeals and replaces City Code Title 3, Chapter 10, Hotel/Motel Occupancy Tax; SECTION 2 provides for severability; and SECTION 3 provides for publication and an effective date.

The full Ordinance is on file with the Sandpoint City Clerk and will be promptly provided during regular business hours to any citizen on personal request.

Dated the 7<sup>th</sup> day of October, 2015.

  
\_\_\_\_\_  
Maree Peck, City Clerk

Publication Date: Oct-14, 2015

**STATEMENT OF LEGAL ADVISER**

I, Scot R. Campbell, legal adviser for the City of Sandpoint, Idaho, have examined the foregoing summary of Sandpoint Ordinance No. 1317 and find it to be a true and complete summary of said ordinance that provides adequate notice to the public of the contents thereof.

  
\_\_\_\_\_  
Scot R. Campbell, City Attorney

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO )  
 ) ss.  
County of Bonner )

Danielle Rucker, being first duly sworn on oath, deposes and states:

1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached Summary of Ordinance No 137. My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the bookkeeper of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;

3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.

4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 1 consecutive weeks, commencing on the 14 day of October, 2015, and ending on the 14 day of October, 2015.

Danielle Rucker

State of Idaho, county of Bonner ss.

On this 14 day of Oct., in the year of 2015, before me, Sherilyn Jones, Notary Public, personally appeared

Danielle Rucker, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he

(or they) executed the same.

Sherilyn Jones  
Notary Public  
Residing at: Sandpoint  
Comm. Exp.: 2/24/17



Clark  
211.74

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Dated the 7th day of October, 2015.  
Maree Peck, City Clerk

STATEMENT OF LEGAL ADVISER

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Scot R. Campbell, City Attorney