

ORDINANCE NO. 1399

AN ORDINANCE OF THE CITY OF SANDPOINT, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, REPEALING SANDPOINT CITY CODE TITLE 3, CHAPTER 10, HOTEL/MOTEL OCCUPANCY TAX, AND REPLACING WITH A NEW TITLE 3, CHAPTER 10, SHORT TERM RENTAL OCCUPANCY TAX; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS: On November 8, 2022, the voters of Sandpoint approved an increase in the City's occupancy tax upon hotel, motel, and other sleeping/lodging accommodations rented or leased for a period of thirty (30) or fewer days, to be effective through December 31, 2035; and

WHEREAS: It is necessary to amend City Code in order to reflect the new 14% tax, including corresponding dates, terms, and other information.

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

ORDINANCE SECTION 1 – CITY CODE TITLE 3, CHAPTER 10:

That Sandpoint City Code Title 3, Chapter 10, Hotel/Motel Occupancy Tax, be repealed and a new Title 3, Chapter 10, be adopted, known as Short Term Rental Occupancy Tax, to state as follows:

3-10-1: FINDINGS:

The Sandpoint City Council hereby finds that the City of Sandpoint in Bonner County, Idaho, 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 Sandpoint for an extended period of time.

3-10-2: DEFINITIONS:

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

OCCUPANCY TAX: The term "occupancy tax" means a local option nonproperty tax assessed upon a short term occupancy charge. (See also Resort City Tax / RCT.)

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.

RESORT CITY TAX (RCT): The term "resort city tax" or "RCT" means a local option nonproperty tax assessed upon a short term occupancy charge. (See also Occupancy Tax.)

SALE: The term sale shall include rental or leasing of short term lodging, as defined herein.

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SALES PRICE: The term sales price means and includes the total amount for which short term lodging is rented, valued in money, whether paid in money or otherwise, without any deduction.

SHORT TERM LODGING: The term "short term lodging" means sleeping or lodging accommodations rented or leased for a period of thirty (30) or fewer days, including, but not limited to, hotels, motels, condominiums, bed and breakfast establishments, short term rental of dwelling units, and any other such temporary lodging rented or leased to individuals with or without meals.

SHORT TERM OCCUPANCY CHARGE: The term "short term occupancy charge" means the total amount charged for short term lodging or sleeping accommodations, valued in money, whether paid in money or otherwise, without any deduction.

SHORT TERM RENTAL: The term "short term rental" means the same as, and is interchangeable with, the term "short term lodging", as herein defined.

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

3-10-3: IMPOSITION AND RATE OF A LOCAL-OPTION NONPROPERTY TAX, TO-WIT: A FOURTEEN PERCENT (14%) TAX ON SHORT TERM LODGING:

The City of Sandpoint hereby imposes and shall collect, as set forth herein, a local-option nonproperty tax as follows:

A. **OCCUPANCY TAX:** A tax is hereby imposed at the rate of fourteen percent (14%) on any short term occupancy charge (thirty or fewer days) for short term lodging accommodations rented or leased within the City of Sandpoint, Bonner County, Idaho. Said occupancy tax shall apply to, be computed on and collected on all occupancy charges, including all credit, installment, conditional or similar rental or lease fees at the time the fee for rental is charged. Said occupancy tax shall be collected from the renter or lessee by the owner of said property or his authorized agent.

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 in the manner and at the times in this Chapter provided.

3-10-4: DURATION OF TAX:

The occupancy tax authorized and collected under this Chapter are hereby imposed from January 1, 2023, through December 31, 2035.

3-10-5: PURPOSES FOR WHICH THE REVENUES DERIVED FROM SAID OCCUPANCY TAX SHALL BE USED:

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Half (50%) of the occupancy tax revenue derived from and collected under this Chapter shall be used for the following purposes, as approved by voters in 2014:

- 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.

The other half (the remaining 50%) of the occupancy tax revenue derived from and collected under this Chapter shall be used for the following purposes, as approved by voters in 2022:

- A. Street pavement, sealing, widening, reconstruction, and associated stormwater infrastructure.
- B. Pedestrian Priority Network improvements including sidewalk and pathway maintenance, reconstruction and extensions to provide connectivity and increase ADA accessibility and safety.

As the city will retain the actual cost of collecting and administering the tax, tax revenue derived from and collected under this Chapter shall also be used for administrative costs and direct costs to collect and enforce the tax. Any excess revenues received will be place in a designated property tax relief fund.

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

There is hereby created a City of Sandpoint 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 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: CITY OFFICIAL DESIGNATED FOR REMITTANCE OF TAXES:

Pursuant to Idaho Code § 50-1047, the City Treasurer is the city official designated to whom taxes collected pursuant to this ordinance shall be remitted.

3-10-8: PERMITS; ISSUANCE:

A. Every person desiring to engage in the renting or leasing of short term lodging within this City shall file with the City an application for a Short Term Rental Occupancy Tax Permit. 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 applicant to sign the application.

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B. Upon the receipt of a complete, signed application, the City shall issue a Short Term Rental Occupancy Tax Permit, which shall not be assignable and shall be valid only for the person in whose name it is issued at the location 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 Short Term Rental Occupancy Tax Permit number, which shall be used by the applicant as an identifying number on all filing, payment and correspondence with regard to the occupancy tax imposed under this Chapter.

3-10-9: METHOD FOR PAYMENT OF TAX:

A. The City of Sandpoint tax remittance schedule coincides with State of Idaho deadlines, where tax is due and remitted monthly on or before the 20th of the month following collection. For taxpayers who have been granted a quarterly or annual remittance schedule by the State, this same schedule for the City tax can be accommodated if the taxpayer provides their State schedule notice to the City. The amount of tax owed to the City shall be computed on the total dollar value of short term occupancy charges and shall be reported on the Sandpoint Resort City Tax Return (a/k/a RCT Remittance Form), signed by the person required to file the return or by a duly authorized agent and, as applicable, accompanied by a copy of the taxpayer's Idaho State Sales & Use Tax Return (Form 850), as well as their Travel & Convention Tax Return (Form 1152). A return shall be filed each and every month (or quarter or year, as applicable per the taxpayer's schedule), whether or not any tax is due.

B. The first payment of any new taxes under this Chapter shall be due and payable together on the 20th day of February 2023, for that period beginning January 1, 2023, and ending January 31, 2023. Thereafter, all payments shall be made monthly (or quarterly or annually, as applicable per the taxpayer's schedule).

3-10-10: 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.

3-10-11: COLLECTIONS AND ENFORCEMENT:

As soon as practical after the tax return is filed and remittance received, the City shall examine the same and determine the correct amount of the tax. For the purpose of ascertaining the accuracy of any payment or 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 or a party contracted by the City is authorized to examine the books, papers, records or other data

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which may be relevant or material to the inquiry and 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 or the tax, to appear at a time and place specified by the City 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.

3-10-12: REFUNDS, LIMITATIONS AND INTEREST:

A. If the City determines that any amount due under this Chapter has been paid more than once or has been erroneously or illegally collected or computed, this fact shall be set forth in the City's records, and the excess amount paid or collected may be credited on any tax amount due or payable to the City 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'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.

3-10-13: PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION:

A. The amount of tax 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 assessment. The running of limitations provided by this section shall be suspended for the period during which the City 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 case of tax 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.

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3-10-14: 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 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.

3-10-15: RECORD KEEPING, EXAMINATION OF RECORDS:

A. The City shall enforce the provisions of this Chapter and may prescribe, adopt and enforce rules and regulations relating to its administration and enforcement, employing qualified auditors for examination of taxpayers' books and records, and such accountants, investigators, assistants, clerks, and other personnel as are necessary for the efficient administration of this Chapter. Authority may be delegated to the City's 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 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, in writing, authorizes their destruction.

C. The City 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 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 upon request or, by agreement with the City, permit an auditor designated by the City to visit the place where the records are kept and there audit such records.

3-10-16: 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 a fine of One Thousand Dollars (\$1,000.00). 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 Short Term Rental Occupancy Tax Permit and tax number revoked. The City 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

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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 shall not reissue said permit nor issue a new permit until said person places with the City 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, 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 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 fees, in a court of competent jurisdiction.

E. For the purpose of proper administration of this Chapter and to prevent evasion of the tax imposed herein, the burden of proving that a rental of short term lodging is not a sale under this Chapter is upon the person who makes the sale or rental in question.

3-10-17: PENALTY CHARGES:

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 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 shall determine and assess such penalties, and the same shall become due and payable upon notice and demand from the City. The City 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.

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3-10-18: AUDITS; DEFICIENCY DETERMINATIONS:

A. The City 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 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 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's possession.

C. The City shall give written notice of determination and the amount of 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 personally or mailed to the person at the address furnished to the City in the Short Term Rental Occupancy Tax Permit application.

3-10-19: 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 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 shall reconsider the determination and, if the person so requests in the petition, the City 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 in said person's application for a Short Term Rental Occupancy Tax Permit.

3-10-20: APPEALS; INTEREST ON DEFICIENCY:

A. When a redetermination is made, the City 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 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's redetermination. There shall be no right of review to the City Council nor to the district court on the City's determination of taxes due 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

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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.

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 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.

ORDINANCE 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.

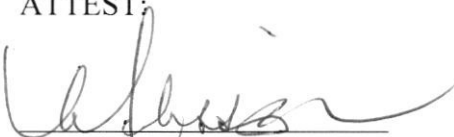
ORDINANCE SECTION 3 – EFFECTIVE DATE AND PUBLICATION:

This Ordinance shall be in full force and effect on January 1, 2023, 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 DECEMBER 7, 2022.



Shelby Rognstad, Mayor

ATTEST:


Melissa Ward, City Clerk