

APPROVED

ORDINANCE NO. 56 D-6

AN ORDINANCE OF THE CITY OF STANLEY, CUSTER COUNTY, IDAHO AMENDING STANLEY MUNICIPAL CODE TITLE CHAPTER 3, SECTION 04 REAFFIRMING THAT THE CITY HAS SIGNIFICANT ECONOMIC DEPENDENCE ON VISITORS AND TRAVELERS; REAFFIRMING THAT A BROAD BASED MUNICIPAL NON-PROPERTY TAX AT THE RATE OF TWO AND ONE-HALF PER CENTUM (2.5%) UPON ALL ITEMS TAXABLE PURSUANT TO IDAHO CODE SECTION 63-3601, AS ALLOWED BY IDAHO CODE SECTION 50-1046(C) IS IN THE BEST INTEREST OF THE CITY; FINDING THAT SUCH NON-PROPERTY TAX MAY PROVIDE REVENUE TO SUPPORT PLANNING, IMPROVEMENTS, OPERATION AND MAINTENANCE OF THE COMMUNITY BUILDING AND RECREATION FACILITIES, INCLUDING PIONEER PARK, VALLEY CREEK PRESERVE AND THE CENTRAL IDAHO DARK SKY RESERVE; EMERGENCY SERVICES AND LAW ENFORCEMENT; CAPITAL IMPROVEMENTS AND MAINTENANCE OF ROADS AND WATER SYSTEMS; DIRECT COSTS TO COLLECT AND ENFORCE THE TAX; PROMOTIONS FOR THE CITY, INCLUDING SUPPORT FOR COMMUNITY BASED ORGANIZATIONS, EXCEPT THOSE RECEIVING MONEY FROM TAXING DISTRICTS; SPECIAL EVENTS, FESTIVALS, AND OTHER SUCH ACTIVITIES THAT ENHANCE BUSINESS AND PROVIDE TAX REVENUES FOR THE CITY; MATCHING FUNDS FOR GRANTS USED TO FURTHER THE GOALS OF THE STANLEY COMPREHENSIVE PLAN; COSTS FOR PLANNING, DESIGN, CONSTRUCTION AND MAINTENANCE OF WATER AND SEWER SYSTEMS AND OTHER INFRASTRUCTURE TO SUPPORT WORKFORCE HOUSING; COSTS FOR PLANNING, DESIGN, CONSTRUCTION, MAINTENANCE AND SUPERVISION OF WORKFORCE HOUSING BUILT ON CITY-OWNED PROPERTY THAT IS OWNED AND MANAGED BY THE CITY; AND SUPPORT FOR A CENTRALIZED RECYCLING PROGRAM. PROVIDING FOR AMENDMENT OF THE CITY'S NON-PROPERTY TAX ORDINANCE; PROVIDING FOR IMPOSITION OF SUCH MUNICIPAL NON-PROPERTY TAX THROUGH THE YEAR 2031 IF APPROVED BY THE VOTERS; PROVIDING THAT THE CITY'S EXISTING NON-PROPERTY TAX ORDINANCE WILL BE UNCHANGED EXCEPT AS EXPRESSLY SET FORTH HEREIN; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Stanley is eligible to impose a non-property tax under I.C. 50-1044 because it is a resort city that derives the major portion of its economic well-being from businesses catering to recreational needs and meeting needs of people traveling to that Stanley for an extended period of time.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF STANLEY, IDAHO, AS FOLLOWS:

Section 1: That Chapter 3.04 entitled "Non-Property Tax" of Stanley Municipal Code is hereby amended as follows:

ORIGINAL IN RED

- 3.04.010: FINDINGS:
- 3.04.011: FINDINGS; NONPROPERTY TAX IMPOSED:
- 3.04.020: DEFINITIONS:
- 3.04.030: IMPOSITION OF CERTAIN NONPROPERTY TAXES:
- 3.04.040: DURATION OF TAXES:
- 3.04.050: PURPOSES FOR REVENUES FROM TAXES:
- 3.04.060: AUTHORIZATION OF CITY CLERK:
- 3.04.070: METHOD FOR PAYMENT OF TAXES:
- 3.04.080: AUDITS; DEFICIENCY DETERMINATIONS:
- 3.04.090: REDETERMINATION OF DEFICIENCY:
- 3.04.100: APPEALS, INTEREST ON DEFICIENCY:
- 3.04.110: COLLECTIONS AND ENFORCEMENT:
- 3.04.120: REFUNDS, LIMITATIONS AND INTEREST:
- 3.04.130: RESPONSIBILITY FOR PAYMENT OF TAXES:
- 3.04.140: PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION:
- 3.04.150: SUCCESSORS' LIABILITY:
- 3.04.160: GENERAL ADMINISTRATION BY CITY CLERK:
- 3.04.170: PENALTIES:
- 3.04.180: PENALTY CHARGE:
- 3.04.190: EXEMPTIONS:
- 3.04.200: SEVERABILITY:

3.04.010: **FINDINGS:** The city council of the city of Stanley hereby finds that said city derives the major portion of its economic well-being from people and business catering to recreational needs and meeting needs of people traveling to the city for an extended period of time; that said city has a significant economic dependence upon visitors and travelers passing through or staying in the city and surrounding area; and that said visitors and travelers require services of said city which place an undue burden upon the taxpayers of said city.

3.04.011: **FINDINGS; NON-PROPERTY TAX IMPOSED:** The impacts of visitors and travelers upon the City will be addressed by imposition of a non-property tax at the rate of two and one-half per centum (2.5%) on all sales within the City which are taxable pursuant to I.C. 63-3601.

3.04.020 DEFINITIONS:

HOTEL-MOTEL: Any business including hotels, motels, condominiums, tourists' homes, and any other business which in the regular course of business rents or leases for occupancy temporary overnight 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.

IN THE CITY OF STANLEY: Within the exterior boundaries of the city of Stanley, Custer County, Idaho.

LIQUOR BY THE DRINK: The term used in this chapter includes:

- A. Alcohol: The product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin thereof, or synthetic ethyl alcohol.
- B. Spirits: Any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including among other things, brandy, rum, whiskey and gin.
- C. Wine: Any alcohol beverage obtained by the fermentation of the natural sugar content of fruits (grapes, apples, etc.) or other agricultural products containing sugar (honey, milk, etc.).
- D. Beer: Any alcohol beverage obtained from the fermentation of sugar, barley, hops, malt, yeast, and similar ingredients.
- E. Other: Any liquid or solid, patented or not, containing alcohol, spirits, or wine and susceptible of being consumed by a human being, for beverage purposes.

PERSON: 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.

ROOM OCCUPANCY CHARGE: 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.

SALE OF LIQUOR BY THE DRINK: The terms “sale”, “retail sale”, and “sale at retail” mean sale of liquor by the drink for consumption on the premises, and including any transfer of money, title, exchange, barter, or credit, conditional or otherwise, in any manner or by any means whatsoever as consideration.

SALES PRICE: The total amount for which any sale taxable pursuant to this chapter is sold, valued in money, whether paid in money or otherwise, without any deduction.

SELLER: Any individual, partnership, corporation, organization or association that engages in sales which are taxable pursuant to Idaho Code § 63-3601 et seq. and including, without limitation, sales of liquor by-the-drink for consumption on the premises, whether by agent, employee or principle.

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

3.04.030 IMPOSITION OF CERTAIN NONPROPERTY TAXES:

A. All Sales Taxable Pursuant To Idaho Code: A tax is hereby imposed at the rate of two and one-half percent (2.5%) on all sales subject to taxation pursuant to I.C. § 63-3619 et seq. within the City of Stanley, Custer County, Idaho. Said tax shall apply, be computed on and collected on all such sales including all credit, installment, conditional or similar payment arrangements. Said tax shall be

collected by the seller or retailer from the purchaser.

B. Reserved.

C. Fractional Portion: When the sales price involves a fraction of a dollar, said non-property taxes shall be collected on that fractional portion of the price by adding thereto the tax based as follows:

<u>Fractional Portion</u>	<u>Tax</u>
\$0.01 to \$0.59	\$0.01
0.60 to 0.99	0.02

The retailer shall calculate the tax upon the entire amount of purchases of the consumer made at a particular time subject to this chapter, and not separately upon each item purchased. The retailer may retain any amount collected under said bracket system which is in excess of the amount of tax for which he is liable to the city during the period as compensation for the work of collecting the tax.

(D) Monies Held In Trust: All monies collected and/or retained under the provisions of this chapter shall be held in trust for the city and for payment thereof to the city clerk in the manner and at the times in this chapter provided.

3.04.040 DURATION OF TAXES:

This chapter shall be effective through the first Tuesday in November 2031 with the question of an extension, if desired, being put to the voters of the City of Stanley on the Tuesday after the first Monday in November 2030 in a valid municipal election. An approved extension would be in effect as of the first Tuesday, November 2031.

3.04.050 PURPOSES FOR REVENUES FROM TAXES:

The non-property tax revenue derived from and collected under this chapter shall be used for the following purposes:

- A. Planning, improvements, operation and maintenance of the community building and recreation facilities, including Pioneer Park, Valley Creek Preserve and the Central Idaho Dark Sky Reserve.
- B. Emergency services and law enforcement.
- C. Capital improvements and maintenance of roads and water systems.
- D. Direct costs to collect and enforce tax.
- E. Promotion for the city, including community-based organizations, except those receiving money from taxing districts.

- F. Support for special events and other such activities that enhance business and provide tax revenues for the city.
- G. Matching funds for grants used to further the goals of the Stanley comprehensive plan.
- H. Costs for planning, design, construction and maintenance of water and sewer systems and other infrastructure to support workforce housing.
- I. Costs for planning, design, construction, maintenance and supervision of workforce housing built on city-owned property that is owned and managed by the city.
- J. Support for a centralized recycling program.

3.04.060 AUTHORIZATION OF CITY CLERK:

- A. The city clerk is hereby authorized and empowered to administer, regulate, and collect payment of all non-property taxes adopted and imposed by this chapter. Said clerk shall have all the powers set forth in this chapter together with those additional powers necessary and proper to carry out the provisions of this chapter.
- B. There is hereby created in the office of the city clerk a fund to be designated as the “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 clerk 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.

3.04.070 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 clerk on or before the twenty fifth day of the succeeding month. The amount of tax paid shall be computed on the total dollar value of taxable sales.
- B. The first payment of taxes under this chapter shall be due by December 25, 2021, for that period beginning November 1, 2021 and ending November 30, 2021. All payments shall be made monthly.
- C. A municipal non-property tax return shall be filed each and every month by every person engaging in taxable sales 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.

3.04.080 AUDITS; DEFICIENCY DETERMINATIONS:

- A. The city clerk may order an audit of any taxpayer under this chapter for the purpose of ascertaining the correctness or completeness of any return or prepayment.

- B. If any error or omission is discovered in such audits or in any other way, the city clerk may compute and determine the amount of tax due upon the basis of facts obtained from such information within 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 a determination, the city clerk may offset overpayments 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 clerk's possession.
- C. The city clerk shall give written notice of its determination and the amount of its deficiency, including interest, at the rate of eight percent (8%) per annum 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 clerk.

3.04.090 REDETERMINATION OF DEFICIENCY:

- A. Any person against whom a deficiency determination is made under this chapter, or any person directly interested, may petition 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 clerk shall reconsider the determination and, if the person so requests in the petition, grant the person 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.

3.04.100 APPEALS, INTEREST ON DEFICIENCY:

- A. When a redetermination is made, the city clerk shall give notice to the taxpayer against whom the re-determination is made. Within thirty (30) days of the date upon which such notice of re-determination is mailed or served, the taxpayer may file an appeal with the city council or may file a complaint with the district court for review of the city clerk's redetermination. There shall be no right or review to the city council nor to the district court on the determination of taxes due made by the city clerk 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 to collect for its collection shall be made, begun or prosecuted 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 within the time prescribed in this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the city clerk.

- 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 clerk and shall be collected as part of the tax at the rate of eight per cent (8%) per annum from the date prescribed for payment of the tax.

3.04.110 COLLECTIONS AND ENFORCEMENT:

- A. As soon as practical after monthly municipal non-property tax return and payment is filed, the city clerk shall examine same, determine the correct amount of the tax. For the 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 clerk, 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 person liable for the tax, to appear before the city clerk, 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.

3.04.120 REFUNDS, LIMITATIONS AND INTEREST:

- A. If the city clerk 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 clerk 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 clerk for non-property taxes from that person, and any balance refunded to the person by whom it was paid, or to his successor, 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 eight per centum (8%) per annum from the date which said tax was paid.
- D. Appeal from the city clerk'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.

3.04.130 RESPONSIBILITY FOR PAYMENT OF TAXES:

- A. 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 a

partnership, as a member employee of the partnership shall be personally liable for payment of such tax, plus penalties and interest.

3.04.140 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 assessment. The running of limitations provided by this section shall be suspended for the period during which the city clerk 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 during the lifetime of a decedent, the tax shall be assessed and 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, without assessment, at any time within three (3) years after the date of the discovery of the facts constituting the fraud.

3.04.150 SUCCESSORS' LIABILITY:

- A. If a vendor liable for any amount of tax under this ordinance sells out his business or stocks and goods, the vendee shall make an inquiry to the city clerk 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 to be extended a purchase price valued in money.

3.04.160 GENERAL ADMINISTRATION BY CITY CLERK:

- A. The city clerk shall enforce the provisions of this chapter and may prescribe, adopt and enforce rules and regulations relating to its administration and enforcement. The city clerk 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 representative to conduct hearings or perform other duties imposed by this chapter.
- B. Every owner and/or operator of any business, which conducts taxable sales in this city, shall keep such records, receipts, invoices, and other pertinent papers as the city clerk may

require. Every such person shall keep all such records for not less than four (4) years after making such payments unless the city clerk in writing authorizes their destruction.

- C. The city clerk, or any person authorized in writing by the clerk, may examine the books, papers, records and equipment of any owner and/or operator of any business or enterprise which conducts taxable sales in this city 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. If pertinent records are kept outside of the city they must be delivered within the city for examination by the city clerk upon request of the latter, or by agreement with the city clerk permit an auditor designated by the city clerk to visit the place where the records are kept, and there audit such records.

3.04.170 PENALTIES:

- A. Any person who violates any provision of this chapter shall be guilty of a misdemeanor, punishable by up to one year in the county jail and/or three hundred dollars (\$300.00) 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 their municipal business license(s), beer license(s), wine license(s), and retail liquor by the drink license(s) revoked. The city clerk shall send written notice of revocation of license to the license holder by mailing same certified mail to the address given on the application. The license 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 liquor license revoked, the city clerk shall not reissue said license nor issue a new license to said person 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. Reserved.
- 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 and collection, including attorney fees, in a court of competent jurisdiction.
- E. For the purposes of proper administration of this chapter, and to prevent evasion of said non-property taxes, the burden of proving that a sale is not a sale under this chapter is upon the person who makes the sale or rental in question.

3.04.180 PENALTY CHARGE:

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 and 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 other penalties provided by law, be assessed a penalty equal to the amount of tax evaded, or not collected, or not accounted for and paid over, and said penalty shall be collected as part of the tax. The city clerk shall determine and assess such penalties, and the same shall become due and payable upon notice and demand from the city clerk. The city clerk shall send written notice of such penalty charge to the license holder by mailing same certified mail to the address given on the business, liquor, or other municipally issued license. The license 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.

3.04.190 EXEMPTIONS:

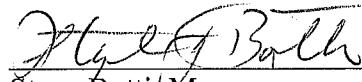
All transactions by the State of Idaho, otherwise, subject to imposition of said taxes, are exempt from the provisions of this chapter.

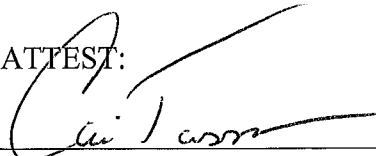
3.04.200 SEVERABILITY:

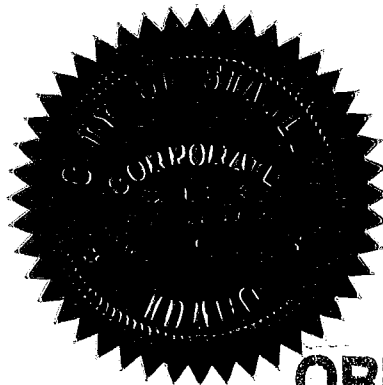
It is hereby declared to be the legislative intent that the provisions, and parts thereof, of this ordinance shall be severable. Should any section, subsection, paragraph, clause or phrase of this ordinance, or any particular application thereof, be declared invalid or unconstitutional for any reason 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 2: Section 2: This Ordinance, or summary thereof in compliance with Section 50-901A, Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication following voter approval on or about November 3rd, 2020.

PASSED BY THE COUNCIL OF THE CITY OF STANLEY, IDAHO ON THIS
31st DAY OF August, 2020


Steve Botti, Mayor

ATTEST:

City Clerk



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