

CITY OF RIGGINS ORDINANCE NO. 220

LOCAL OPTION TAX

AN ORDINANCE OF THE CITY OF RIGGINS, IDAHO COUNTY, IDAHO, FINDING THAT SAID CITY HAS SIGNIFICANT ECONOMIC DEPENDENCE ON VISITORS AND TRAVELERS; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE IMPOSITION OF CERTAIN NON-PROPERTY TAXES, TO-WIT: AN ADDITIONAL TWO PERCENT (2%) OCCUPANCY TAX ON LODGING RENTALS; A TWO PERCENT (2%) TAX ON LIQUOR BY THE DRINK; A TWO PERCENT (2%) TAX ON PREPARED MEALS; A ONE PERCENT (1%) TAX ON ALL OTHER TAXABLE RETAIL SALES; PROVIDING FOR A 10 TEN (10) YEAR DURATION OF SAID NON-PROPERTY TAXES; ESTABLISHING THE PURPOSES FOR WHICH THE REVENUES DERIVED FROM SAID NON-PROPERTY TAXES SHALL BE USED; AUTHORIZING THE CITY CLERK TO ADMINISTER, REGULATE, AND COLLECT SAID NON-PROPERTY TAXES; CREATING A PROPERTY TAX RELIEF FUND; PROVIDING FOR PERMITS AND ISSUANCE; PROVIDING METHOD FOR PAYMENT OF TAXES, AUDITS, DEFICIENCY DETERMINATIONS; RE-DETERMINATIONS OF DEFICIENCY, APPEALS, INTEREST ON DEFICIENCY, COLLECTIONS AND ENFORCEMENT; REFUNDS, LIMITATIONS AND INTEREST; PROVIDING FOR RESPONSIBILITY FOR PAYMENT OF TAXES; PROVIDING PERIOD OF LIMITATION ON ASSESSMENT AND COLLECTION; ESTABLISHING SUCCESSOR'S LIABILITY; PROVIDING FOR GENERAL ADMINISTRATION AND ENFORCEMENT; PROVIDING PENALTIES AND PENALTY CHARGES; PROVIDING EXEMPTIONS; PROVIDING CONFIDENTIALITY OF INFORMATION; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE; AND, PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF RIGGINS, IDAHO:

- 1) **FINDING**: The City Council of the City of Riggins hereby finds that said City has a population not in excess of 10,000 according to the most recent census and is a City that derives the major portion of its economic well being from people catering to recreational needs and meeting needs of people traveling to said destination 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 community of said City; and, that said visitors and travelers require services of said City which place an undue burden upon the taxpayers of said City.
- 2) **DEFINITIONS**: For the purposes of this Ordinance, the following terms, phases, words and derivations shall have the meaning given herein.

LODGING RENTAL: Means and includes any business including hotels, motels, hotel room, motel room, condominium, home, room, or campground, or any other residential unit or business which rents or leases for occupancy temporary lodging, sleeping accommodations or recreation vehicle spaces to individuals with or without meals, for a period of thirty (30) days or less.

LODGING OCCUPANCY CHARGE: The term "Lodging Occupancy Charge" means and includes the total Sales Price for the rental use or temporary occupancy of a Lodging Rental.

IN THE CITY OF RIGGINS: The term means within the municipal boundaries of the City of Riggins, Idaho County, Idaho.

LIQUOR BY THE DRINK: Means the retail sale of alcohol for consumption on the licensed and/or catered premise. Includes, without limitation:

1. 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.
2. Spirits: Any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, among other things, brandy, rum, gin, and whiskey.
3. 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.).
4. Beer: Any alcohol beverage obtained from the fermentation of sugar, barley, hops, malt, yeast, and similar ingredients.
5. Any liquid or solid, patented or not, containing alcohol, spirits, or wine and susceptible of being consumed by a human being, for beverage purposes.

Exempt Sales: The retail sale of alcohol at special events and activities sponsored by the community or not-for-profit organizations obtaining an Idaho State Permit, whose proceeds are used for the benefit of the community, shall be considered exempt sales, and will not be subject to the Riggins Local Option Tax.

PREPARED MEALS: The term means any food or meals prepared and sold by restaurants, cafes, and bars operating within the City. Prepared meals also include food and meals prepared by catering services, for consumption within the City of Riggins. Prepared meals do not include pre-packaged or bulk foods or meals, not intended to be consumed on premise, which are sold incidental to grocery, deli or gasoline sales.

PERSON: The term "person" includes any individual, firm, co-partnership, joint venture, association, temporary vendor, corporation, limited liability company, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit.

ALL OTHER TAXABLE RETAIL SALES: The term means a sale for any purpose other than resale in the regular course of business where the sale is taxable under Idaho Code Section 63-3612, with the exception of the lease or rental of tangible personal property.

TAXPAYER: Any person subject to or liable for any taxes imposed by this Ordinance.

- 3) **IMPOSITION AND RATE OF CERTAIN NON-PROPERTY TAXES, TO-WIT: A TWO PERCENT (2%) OCCUPANCY TAX ON LODGING RENTALS; A TWO PERCENT (2%) SALES TAX ON LIQUOR BY THE DRINK AND PREPARED MEALS; A ONE PERCENT (1%) SALES TAX ON ALL OTHER TAXABLE RETAIL SALES:** The City of Riggins, hereby imposes and shall collect certain local-option non-property taxes, as follows:
- i. An additional two percent (2%) sales tax on the Lodging Occupancy Charge from all Lodging Rentals; and,
 - ii. An additional two percent (2%) sales tax upon liquor by the drink and prepared meals from all business conducted in restaurants, cafes and bars; and
 - iii. An additional one percent (1%) sales tax on all other taxable retail sales.
 - iv. The retailer shall calculate the tax upon the entire amount of purchases of the consumer made at a particular time subject to this Ordinance, and not separately upon each item purchased.
 - v. All monies collected and/or retained under the provisions of this Ordinance shall be held in trust for the City of Riggins and for payment thereof to the City Clerk in the manner and at the times provided in this Ordinance.
- 3) **DURATION OF TAXES:** The non-property taxes authorized and collected under this Ordinance are hereby imposed for a duration of ten (10) years from the effective date of this Ordinance.
- 4) **PURPOSES FOR WHICH THE REVENUES DERIVED FROM SAID NON-PROPERTY TAXES SHALL BE USED:** The local-option non-property tax revenue derived from and collected under this Ordinance shall be used only for the following purposes:
- i. City Infrastructure, capital projects and equipment
 - ii. Excess revenue placed in a designated property tax relief fund
 - iii. City will retain cost of collecting and administering the tax
- 5) **AUTHORIZATION FOR CITY CLERK TO ADMINISTER, REGULATE AND COLLECT SAID NON-PROPERTY TAXES:** The City Clerk of the City of Riggins is hereby authorized and empowered to administer, regulate and collect payment of all non-property taxes adopted and imposed by this Ordinance. Said Clerk shall have all of the powers set forth in this Ordinance together with those additional powers necessary and proper to carry out the provisions of this Ordinance.
- 6) **CREATION OF A PROPERTY TAX RELIEF FUND:** Pursuant to Idaho Code § 50-1045, there is hereby created a fund to be designated as the "Municipal Property Tax Relief Fund." Any revenues collected under this Ordinance in excess of the amount budgeted by the City Council for the use of said revenues, shall be placed into the Municipal Property Tax Relief Fund. Such excess revenues shall be used to replace City property taxes in the ensuing fiscal year by the amount of all excess revenues placed in said Municipal Property Tax Relief Fund.
- 7) **PERMITS REQUIRED AND ISSUANCE OF PERMITS:**
- a) Every person desiring to engage in or conduct the business of a Lodging Rental; to sell liquor by the drink or prepared meals; or to sell any other taxable retail product within this City shall file with the City Clerk an application for a City of Riggins local-option non-property 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 Council and shall set forth the name under which the applicant transacts or intends to transact business, the location of the business or places of businesses, and such other information as the City may require. The application shall be signed by the owner, if they are a natural person; or in the case of an association or partnership, by a member or partner, in the case of a corporation, by an executive officer or other person authorized by the corporation 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 Ordinance.
- c) On the face of the permit shall be fixed a municipal non-property tax number which shall be used by the applicant as an identifying number on all filing, payment and correspondence with regard to the non-property tax imposed under this Ordinance.

8) METHOD FOR PAYMENT OF TAXES:

- a) The taxes imposed by this Ordinance shall be computed and paid for each calendar month, unless said person has been permitted in writing by the Idaho State Tax Commission to file quarterly sales or use tax returns. Said taxes are due and payable to the City Clerk on or before the 20th day of the succeeding month. The amount of tax paid shall be computed on all sales subject to taxation under this Ordinance. Each person required to hold a City of Riggins local-option non-property tax permit and number shall file a City of Riggins local-option non-property 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 Clerk, 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 monthly returns shall notify the City Clerk in writing and the City Clerk thereupon may require reporting of State Tax Returns over some other period.
- b) The first payment of taxes under this Ordinance shall be due and payable together on the 20th of March, 2017 for that period beginning February 1, 2017, and ending February 28, 2017. Thereafter all payments shall be made monthly, or quarterly, upon prior written approval by the City Clerk.
- c) A City of Riggins local-option non-property tax return shall be filed each and every month, or quarter if authorized by Idaho State Tax Commission and the City of Riggins, by every person engaging in sales subject to taxation under this Ordinance 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.

9) AUDITS - DEFICIENCY DETERMINATIONS:

- a) The City Council may order an audit of any taxpayer under this Ordinance 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 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's possession.

- c) The City shall give written notice of its determination and the amount of its deficiency, including interest, at the rate of twelve percent (12%) 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 in the non-property tax permit application.

10) RE-DETERMINATION OF DEFICIENCY:

- a) Any person against whom a deficiency determination is made under this Ordinance, or any person directly interested, may petition in writing for a re-determination within thirty (30) days after service upon the person of notice thereof. If the petition for re-determination is not filed within the thirty (30) day period, the determination becomes final at the expiration of the period.
- b) If a petition for re-determination is filed within the thirty (30) day period the City Council shall reconsider the determination and, if the person so requests in the petition, 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 non-property tax permit.

11) APPEALS, INTEREST ON DEFICIENCY:

- a) When a re-determination 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 re-determination. There shall be no right of review to the City Council nor to the District Court on the determination of taxes due made unless a re-determination has been timely filed. No assessment of a deficiency in respect to the tax imposed by this Ordinance 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 re-determination, 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.
- 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 and shall be collected as part of the tax at the rate of twelve percent (12%) per annum from the date prescribed for payment of the tax.

- 12) COLLECTIONS AND ENFORCEMENT:** As soon as practical after monthly City of Riggins local-option non-property tax return and payment is filed, the City Clerk shall examine the same and 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 Ordinance, or the liability at law or in equity of any person in respect to any tax provided by this Ordinance or collecting

any such liability, the City Clerk, or duly authorized agent, 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 Clerk, or authorized agent, 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.

13) REFUNDS, LIMITATIONS AND INTEREST:

- a) If the City Clerk determines that any amount due under this Ordinance 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 for non-property 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 (1) 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 percent (12%) per annum from the date that such tax was paid.
- d) Appeal from the 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.

14) RESPONSIBILITY FOR PAYMENT OF TAXES: Every person with a duty to account for or pay over any tax imposed by this Ordinance 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.

15) PERIOD OF LIMITATION UPON ASSESSMENT AND COLLECTION:

- a) The amount of taxes imposed under this Ordinance 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 re-determination or an appeal therefrom, and for thirty (30) days hereafter.
- b) In the case of taxes due during the lifetime of a decedent, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be 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 re-determination 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 the fraud.

16) 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 Ordinance 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, they are personally liable for the payment of the amount required to be withheld by them.

17) GENERAL ADMINISTRATION BY CITY CLERK:

- a) The City Council shall enforce the provisions of this Ordinance and may prescribe, adopt and enforce rules and regulations relating to its administration and enforcement. The Council 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 Ordinance, and may delegate authority to its representatives to conduct hearings, or perform other duties imposed by this Ordinance.
- b) Taxpayers in the City of Riggins shall keep such records, receipts, invoices, and other pertinent papers as the City may require. Each such taxpayer who files tax payments required under this Ordinance shall keep all such records for not less than four (4) years after making such payments unless the City in writing authorizes their destruction.
- c) The City Clerk, or any person authorized in writing by the Council, 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 Council, permit an auditor designated by the City to visit the place where the records are kept, and there audit such records.

18) PENALTIES:

- a) Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, punishable by up to one (1) year in the county jail, and/or Three Hundred Dollar (\$300.00) fine, or both. Furthermore, each month in which a person fails to report, or intentionally fails to compute accurately, or intentionally fails to disclose accurately the total amount of sales or rentals or the amount of tax to be paid, as imposed under this Ordinance, shall be considered a separate offense.
- b) Any person who violates any provision of this Ordinance shall have his City of Riggins local-option non-property tax permit and tax number revoked. Written notice of revocation of said permit and tax number to the permit holder will be sent by mailing the same by 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 Ordinance has had said permit and tax number revoked, the City Clerk shall not reissue said permit nor issue a new permit to said person 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 Ordinance.

- c) The City Council, whenever it is deemed necessary to insure compliance with this Ordinance, may require any person subject to this Ordinance to place with it such security as it may determine. The amount of said security shall not be greater than three (3) times the estimated average monthly amount payable by such persons pursuant to this Ordinance. The amount of the security may be increased or decreased by the City Council at any time, subject to the limitations set forth above.
- d) Any person who violates any provision of this Ordinance shall have all City of Riggins local-option non-property tax permits revoked.
- e) Any amount of tax due under this Ordinance 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.
- f) For the purposes of proper administration of this Ordinance, and to prevent evasion of said local-option non-property taxes, the burden of proving that a rental is not a rental under this Ordinance is upon the person who owns the property in question.

19) **PENALTY CHARGES:**

- a) Any person who is required to collect and pay over any tax imposed by this Ordinance and fails or refuses to pay over to the City the same when due in accordance with Section 9, hereinabove, shall be liable and pay a penalty charge equal to five percent (5%) of the tax not paid, or a minimum of \$10 (whichever is greater). The City Clerk 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 Ordinance 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 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 or paid over. The City Clerk shall determine and assess such penalties, and the same shall become due and payable upon notice and demand. The City Clerk shall send written notice of such penalty charge to the permit holder by mailing the same by 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 as herein provided, said penalty charge determination shall be final.

- 20) **EXEMPTIONS:** Only those transactions which are exempted from the taxes imposed by the State of Idaho pursuant to the Sales Tax Act, as that Act may be amended, are also exempt from the provisions of this Ordinance.

21) **CONFIDENTIALITY OF INFORMATION:**

- a) No City Clerk of the City of Riggins, Idaho County, Idaho, 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 Ordinance, or to permit any non-property 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 Ordinance, 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 the 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.

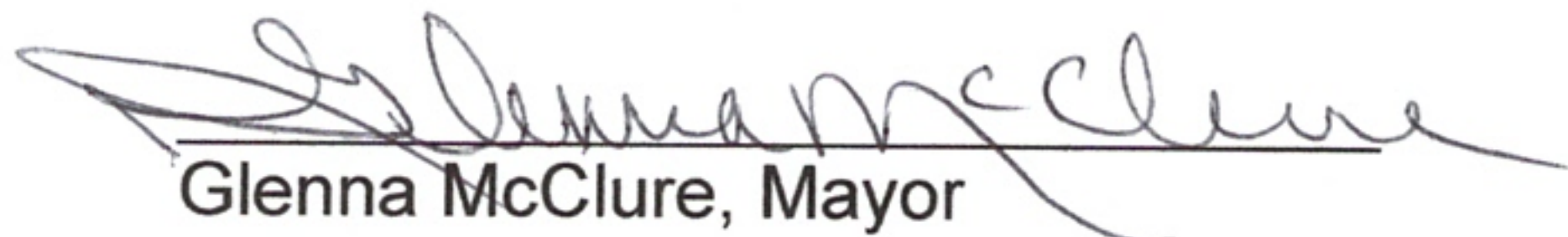
- b) The Riggins City Council, under such rules and provisions as it may prescribe, may permit, notwithstanding the provisions of this Ordinance as to secrecy, the Commission of Internal Revenue of the United States or his delegate or the proper officer of Idaho state imposing a tax to inspect the non-property tax returns or information provided or obtained in connection therewith, or may furnish to such officer, or his authorized agent, copies or an abstract thereof.
- c) Nothing in the Ordinance shall prohibit a taxpayer, or authorized representative upon proper identification, from inspecting and copying his own non-property tax returns and information supplied therewith.

22) **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.

23) **REPEALER CLAUSE:** All Ordinances or parts thereof in conflict herewith are hereby repealed.

24) **EFFECTIVE DATE:** This Ordinance shall be in full force and effect on February 1, 2017, after voter approval, passage by City Council and Mayor, and publication according to law prior to JANUARY 31, 2017.

PASSED AND APPROVED by the Mayor and Council of the City of Riggins on this 14th day of December, 2016.


Glenna McClure, Mayor

ATTEST:


Brenda Tilley, City Clerk-Treasurer