ORDINANCE NO. 09-742

AN ORDINANCE OF THE CITYOF SALMON, 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: A FOUR PERCENT (4%) TAX ON HOTEL-MOTEL OCCUPANCY CHARGES, PROVIDING FOR A TEN-YEAR DURATION OF SAID NON-PROPERTY TAXES; ESTABLISHING THE PURPOSES FOR WHICH THE REVENUES DERIVED FROM SAID NON-PROPERTY TAXES SHALL BE USED; CREATION OF A LOCAL OPTION TAX COMMISSION TO RECOMMEND EXPENDITURE OF REVENUES; AUTHORIZING THE CITY FINANCE DIRECTOR/TREASURER 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, APPEALS, INTEREST ON DEFICIENCY, COLLECIONS 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 BY THE CITY FINANCE DIRECTOR/TREASURER; 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 SALMON:

SECTION 1. FINDING: The City Council of the City of Salmon hereby finds that the City of Salmon 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 and said City; and, that said visitors and travelers require services of said City which place an undue burden upon the taxpayers of said City.

SECTION 2. DEFINITIONS: For the purposes of this Ordinance, the following terms, phrases, words and derivations shall have the meaning given herein:

A) Hotel-Motel Rental: The term "Hotel-Motel Rental" shall mean any business including hotels, motels, other sleeping accommodations 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 a residence is maintained continuously under terms of a lease or similar agreement for a period in excess of thirty (30) days.

B) Hotel-Motel Occupancy Charge: The term "Hotel-Motel Occupancy Charge" means and includes the total Sales Price for the rental use or temporary occupancy of a Hotel-Motel Rental.

C) In the City of Salmon means within the municipal boundaries of the City of Salmon, Idaho.

D) Person: The term "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.

E) Taxpayer: Any person subject to or liable for any taxes imposed by this Ordinance.

SECTION 3. IMPOSITION AND RATE OF CERTAIN NON-PROPERTY TAXES, TO-WIT: A FOUR PERCENT (4%) OCCUPANCY TAX ON HOTEL-MOTEL RENTALS: The City of Salmon hereby imposes and shall collect certain local-option non-property taxes as follows:

(A) A four percent (4%) occupancy tax on the Hotel-Motel Occupancy Charge from all Hotel-Motel Rentals; and,

(B) All monies collected and/or retained under the provisions of this ordinance shall be held in trust for the City of Salmon and for payment thereof to the City Finance Director/Treasurer in the manner and at the times provided in this ordinance.

SECTION 4. DURATION OF TAXES: The non-property taxes authorized and collected under this ordinance are hereby imposed for duration of ten (10) years from the effective date of this ordinance.

SECTION 5. PURPOSES OF TAXES: The non-property tax revenue derived from and collected under this ordinance shall be used for the following purposes:

(A) Modernization, maintenance, and improvements of the Salmon Valley Community Pool;
(B) City promotion and development, visitor information, special events, economic growth, marketing, and advertising;
(C) Direct costs to collect and enforce the tax.

SECTION 6. LOCAL OPTION TAX COMMISSION TO RECOMMEND EXPENDITURE OF REVENUES:

(A) The Mayor shall appoint five (5) independent tourist affected Salmon city business owners or their representatives, with approval by a majority (one-half plus one) of the Salmon City Council, to a Local Option Tax Commission (LOT Commission). The LOT Commission shall be comprised of four (4) members of different City Advisory Committees.

(B) The members of the LOT Commission shall have the responsibility to develop annual budgets and make specific recommendations for the use of the local-option tax revenues derived from the taxes assessed pursuant to this Ordinance, in accordance with the uses specified in Section 5 above.

(C) The LOT Commission will annually host at least one public meeting prior to making its recommendation to the City Council for the budget for the upcoming fiscal year. At such meeting, the LOT Commission shall present all requests which have been made for the use of the non-property tax revenues. Following the public meeting, the LOT Commission shall develop a proposed budget for the use of the said revenues to be included in the overall City budget. The Chairperson of the LOT Commission shall attend the City's staff level budget meetings in a capacity equivalent to that of a department head when the annual budget is developed.

SECTION 7. AUTHORIZATION FOR CITY FINANCE DIRECTOR/TREASURER TO ADMINISTER, REGULATE AND COLLECT SAID NON-PROPERTY TAXES: The City Finance Director/Treasurer of the City of Salmon is hereby authorized and empowered to administer, regulate and collect payment of all non-property taxes adopted and imposed by this Ordinance. Said Finance Director/Treasurer 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.

SECTION 8. CREATION OF A PROPERTY TAX RELIEF FUND: Pursuant to Idaho Code §50-1045, there is hereby created in the office of the City Finance Director/Treasurer 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 by the City Finance Director/Treasurer into the Municipal Property Tax Relief Fund. Such excess revenues shall be used to reduce City property taxes in the ensuing fiscal year by the amount of all excess revenues placed in said Municipal Property Tax Relief Fund.

SECTION 9. PERMITS REQUIRED AND ISSUANCE OF PERMITS:

(A) Every person desiring to engage in or conduct the business of a Hotel-Motel Rental within this City shall file with the City Clerk an application for a City of Salmon 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 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 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.

SECTION 10. METHOD FOR PAYMENT OF TAXES:

(A) The taxes imposed by this Ordinance shall be computed and paid for each calendar month. Said taxes are due and payable to the City Finance Director/Treasurer 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 Salmon local-option non-property tax permit and number shall file a City of Salmon 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 Finance Director/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 monthly returns shall notify the City Finance Director/Treasurer in writing and the City Finance Director/Treasurer thereupon may require reporting of State Tax Returns over some other period, but shall require payment of taxes on a monthly basis.

(B) The first payment of taxes under this Ordinance shall be due and payable together on the first day of February, 2010 for that period beginning January 1, 2010, and ending January 31, 2010. Thereafter all payments shall be made monthly.

(C) A City of Salmon local-option non-property tax return shall be filed each and every month 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 Finance Director/Treasurer shall have the same effect to exempt the sale from the taxes imposed hereunder as in the Idaho Sales Tax Act.

SECTION 11. AUDITS -DEFICIENCY DETERMINATIONS:

(A) The City Finance Director/Treasurer 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 Finance Director/Treasurer 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 Finance Director/Treasurer 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 Finance Director/Treasurer's possession.

(C) The City Finance Director/Treasurer shall give written notice of its determination and the amount of its deficiency, including interest, at a rate per annum equal to the New York prime rate of interest as expressed in the Wall Street Journal, from the date prescribed for payment of the tax.

SECTION 12. 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 Finance Director/Treasurer 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 Finance Director/Treasurer in said person's application for a non-property tax permit.

SECTION 13. APPEALS, INTEREST ON DEFICIENCY:

(A) When a re-determination is made, the City Finance Director/Treasurer 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 Finance Director/Treasurer's 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 by the City Finance Director/Treasurer 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 deficiencies shall be assessed and shall become due and payable upon notice and demand from the City Finance Director/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 Finance Director/Treasurer and shall be collected as part of the tax at a rate per annum equal to the New

York prime rate of interest as expressed in the Wall Street Journal, from the date prescribed for payment of the tax.

SECTION 14. COLLECTIONS AND ENFORCEMENT: As soon as practical after the monthly City of Salmon local-option non-property tax Return and payment is filed, the City Finance Director/Treasurer 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 Finance Director/Treasurer, or duly authorized Clerk, 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 Finance Director/Treasurer, or Clerk, 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.

SECTION 15. REFUNDS, LIMITATIONS AND INTEREST:

(A) If the City Finance Director/Treasurer 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 Finance Director/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 Finance Director/Treasurer 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 a rate of interest per annum equal to the New York prime rate of interest as expressed in the Wall Street Journal from the date which such tax was paid.

(D) Appeal from the City Finance Director/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.

SECTION 16. 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.

SECTION 17. 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 Finance Director/Treasurer 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 therefor (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.

SECTION 18. 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 Finance Director/Treasurer 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.

SECTION 19. GENERAL ADMINISTRATION BY CITY FINANCE DIRECTOR/TREASURER:

(A) The City Finance Director/Treasurer shall enforce the provisions of this Ordinance and may prescribe, adopt and enforce rules and regulations relating to its administration and enforcement. The City of Salmon 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 Salmon shall keep such records, receipts, invoices, and other pertinent papers as the City Finance Director/Treasurer may require. Each such taxpayer

who files tax payments required under this Ordinance shall keep all such records for not less than five (5) years after making such payments unless the City Finance Director/Treasurer in writing authorizes their destruction.

(C) The City Finance Director/Treasurer, or any person authorized in writing by the Clerk, 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 by the City Finance Director/Treasurer upon request of the latter, or by agreement with the City Finance Director/Treasurer permit an auditor designated by the City Finance Director/Treasurer to visit the place where the records are kept, and there audit such records.

SECTION 20. 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 Salmon local-option non-property tax permit and tax number revoked. The City Clerk or Deputy Clerk shall send written notice of revocation of said permit and tax number 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 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 or Deputy Clerk shall not reissue said permit nor issue a new permit to said person until said person places with the City Finance Director/Treasurer 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 Finance Director/Treasurer, 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 Finance Director/Treasurer 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 Salmon 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 became 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 makes the rental in question.

SECTION 21. 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 change equal to five percent (5%) of the tax not paid, or a minimum of $10 (whichever is greater). The City Finance Director/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 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 Finance Director/Treasurer shall determine and assess such penalties, and the same shall become due and payable upon notice and demand from the City Finance Director/Treasurer. The City Finance Director/Treasurer 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.

SECTION 22. 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.

SECTION 23. CONFIDENTIALITY OF INFORMATION

(A) No City Finance Director/Treasurer of the City of Salmon, Idaho, nor any duly authorized Clerk or 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 Salmon 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 any 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.

SECTION 24. 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 25. REPEALER CLAUSE: All Ordinances or parts thereof in conflict herewith are hereby repealed.

SECTION 26. EFFECTIVE DATE: This Ordinance shall be in full force and effect on September 2, 2009, after voter approval, passage by City Council and Mayor, and Publication according to law.

PASSED BY THE CITY COUNCIL and approved by the Mayor this 2nd day of September, 2009.

John W. Miller

John Miller, Mayor
City of Salmon

ATTEST:

George Ambrose, City Clerk/Administrator

SUMMARY OF ORDINANCE NO. 09-742

The following is a summary of the principal provisions of Ordinance No. 09-742 of the City of Salmon, Idaho, duly approved and adopted on September 2, 2009, by the City Council and Mayor of the City of Salmon:

AN ORDINANCE OF THE CITY OF SALMON, IDAHO, FINDING THAT THE CITY OF SALMON IS A RESORT CITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE IMPOSITION OF CERTAIN NON-PROPERTY TAXES, TO-WIT: A FOUR PERCENT (4%) TAX ON HOTEL-MOTEL OCCUPANCY CHARGES; PROVIDING FOR A TEN-YEAR DURATION OF THE NON-PROPERTY TAXES; ESTABLISHING THE PURPOSES FOR WHICH THE REVENUES DERIVED FROM SAID NON-PROPERTY TAXES SHALL BE USED; PROVIDING FOR CREATION OF A PROPERTY TAX RELIEF FUND; AUTHORIZING THE CITY FINANCE DIRECTOR/TREASURER TO ADMINISTER, REGULATE, AND COLLECT THE NON-PROPERTY TAXES; PROVIDING FOR MUNICIPAL NON-PROPERTY TAX PERMITS AND ISSUANCE THEREOF; PROVIDING FOR THE METHOD FOR PAYMENT OF TAXES; PROVIDING FOR AUDITS AND DEFICIENCY DETERMINATIONS; PROVIDING FOR REDETERMINATIONS OF DEFICIENCY; PROVIDING FOR APPEALS AND INTEREST ON DEFICIENCY; PROVIDING FOR COLLECTIONS AND ENFORCEMENT; PROVIDING FOR 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 BY FINANCE DIRECTOR/TREASURER; PROVIDING PENALTIES AND PENALTY CHARGES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR CONFIDENTIALITY OF INFORMATION; PROVIDING FOR A SEVERABILITY AND REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

Section 1: It is hereby determined that the City Council of the City of Salmon finds that the City of Salmon is a "resort city" as defined by Idaho Code §50-1044.

Section 2 sets forth definitions.

Section 3 imposes the following non-property taxes: a 4% hotel-motel occupancy tax and provides for the monies collected and/or retained to be held in trust by the City Finance Director/Treasurer.

Section 4 imposes a ten-year duration of the non-property taxes, from the effective date of this ordinance.

Section 5 describes the purposes of the taxes collected under this ordinance.

Section 6 provides for a Local Option Tax Commission to recommend expenditure of revenues.

Section 7 authorizes the City Finance Director/Treasurer to administer, regulate and collect payment of the non-property taxes.

Section 8 creates a Municipal Property Tax Relief Fund, to be used to reduce City property taxes in the ensuing fiscal year.

Section 9 provides a procedure for obtaining a separate non-property tax permit for each place of business, prohibits the assignability of a permit and requires the use of a tax permit number on all filing, payment and correspondence with regard to the non-property taxes.

Section 10 provides a method for payment of the non-property taxes, requires the monthly payment of the taxes beginning on January 1, 2010, first payment being due February 1, 2010 and requires a tax return to be filed regardless whether any tax is due.

Section 11 authorizes the City Finance Director/Treasurer to order audits of any taxpayer to ascertain correctness or completeness of any return or payment, to determine the amount of tax due, and to make a deficiency determination including interest based on the New York prime rate of interest as expressed in the Wall Street Journal.

Section 12 establishes a procedure to seek a redetermination by the City Finance Director/Treasurer of a deficiency determination.

Section 13 provides for a procedure for a taxpayer against whom a redetermination is made to appeal to the City Council or file a complaint in District Court for review of the City Finance Director/Treasurer's redetermination, and provides for interest upon any deficiency assessed from the date of the tax was due.

Section 14 authorizes the City Finance Director/Treasurer to collect and enforce the tax, and authorizes the City Finance Director/Treasurer to examine records and to summon a person to produce records and/or testimony.

Section 15 provides for credits, refunds, limitations and interest on any amount overpaid or erroneously or illegally collected or computed, and provides time limits on such credits or refunds.

Section 16 imposes personal liability for payment of taxes, penalties and interest.

Section 17 generally provides that taxes imposed under this ordinance shall be assessed within three years of the time the return upon which the tax was due or should have been paid, whichever is later, and provides for exceptions to the three year period of limitation upon assessment and collection if a deficiency determination had been made, if a request has been made by an estate, if a false or fraudulent return has been made, or if no return has been made.

Section 18 requires a buyer of a business or of goods subject to this ordinance to inquire about any tax due and to withhold the amount of tax due from the purchase price, and provides that the successor is personally liable for any tax due.

Section 19 authorizes the City Finance Director/Treasurer to prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of this ordinance, requires a

taxpayer to retain records related to tax payments for five years, and authorizes the City Finance Director/Treasurer's office to examine such records.

Section 20 provides that each violation of this ordinance is a misdemeanor punishable by a fine of not more than three hundred dollars ($300.00) or imprisonment in the county jail for a period not to exceed six (6) months, or both such fine and imprisonment; provides a procedure for the revocation of a non-property tax permit and tax number; authorizes the City Clerk to post security deemed necessary to insure compliance with this ordinance; authorizes the amount of tax due, plus interest and attorney fees, to be a lien on property that can be enforced in court; and establishes the burden of proving a transaction is not subject to this ordinance is on the person who makes the sale or rental in question.

Section 21 provides a penalty charge of 5% of the tax not paid or a minimum of $10, and the procedure for determining and assessing penalties.

Section 22 exempts transactions by the State of Idaho from the provisions of this ordinance.

Section 23 of Ordinance No. 09-742 provides for confidentiality of information.

Section 24 provides for a severability clause.

Section 25 provides a repealer clause.

Section 26 of Ordinance No. 09-742 provides for an effective date on September 2, 2009, after voter approval on November 3, 2009 and after its passage, approval and publication according to law.

The full text of Ordinance No. 09-742 is available at Salmon City Hall at 200 Main Street, Salmon, Idaho and will be provided to any citizen upon request during regular business hours.

CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Salmon, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 09-742 of the City of Salmon, that I have compared it to the full text of Ordinance No. 09-742, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this 2nd day of September, 2009.

John S. McKinney, Salmon City Attorney