

## HAILEY ORDINANCE NO. 950

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, FINDING THAT THE CITY OF HAILEY IS A RESORT CITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE IMPOSITION OF CERTAIN NON-PROPERTY TAXES, TO-WIT: A THREE PERCENT (3%) TAX ON THE RENTAL OF VEHICLES, A THREE PERCENT (3%) TAX ON HOTEL-MOTEL OCCUPANCY CHARGES, A TWO PERCENT (2%) TAX ON RETAIL SALE OF LIQUOR BY-THE-DRINK, AND A ONE PERCENT (1%) TAX ON THE SALE OF RESTAURANT FOOD; PROVIDING FOR A FOUR-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 CLERK 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 CITY CLERK; PROVIDING PENALTIES AND PENALTY CHARGES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Mayor and Hailey City Council find that the City derives the major portion of its economic well-being from people catering to recreational needs;

WHEREAS, the Mayor and Hailey City Council find that the City has a significant economic dependence upon visitors and travelers passing through or staying in the city;

WHEREAS, the Mayor and Hailey City Council find that visitors and travelers to the City of Hailey require municipal services which place an undue burden upon City taxpayers; and

WHEREAS, the Mayor and Hailey City Council find that the volume of visitors has increased the impact on City services, including emergency response services, and increased the impact on City parks, streets and other City infrastructure.

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

**SECTION 1. ADOPTION.** Title 5, Business Licenses and Regulations, of the Hailey Municipal Code is amended by the addition of a new Chapter 5.32, entitled "Non-property Taxes," with the addition of the following language:

5.32.010 Findings. The City Council of the City of Hailey hereby finds that a) the City of Hailey is a municipal corporation and a political subdivision of the State of Idaho, organized under the general laws of the State of Idaho, b) the population of the City of Hailey is less than 10,000 according to the most recent census, c) the City of Hailey has a significant economic dependence upon visitors and travelers passing through or staying in the City of Hailey, and d) the City of Hailey derives the major portion of its economic well-being from businesses catering to recreational needs and meeting needs of people traveling to the City of Hailey for an extended period of time. Based on these findings, the Hailey City Council finds that the City of Hailey is a resort city as defined by Idaho Code §50-1044.

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

“City” shall mean either the municipal corporation of the City of Hailey, Blaine County, Idaho.

“City Clerk” shall mean the duly appointed and acting city clerk for the City, and his/her duly authorized deputy.

“Hotel-Motel” shall mean any business including hotels, motels, condominiums, tourist homes, 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.

“Liquor By-The-Drink” shall mean and include all of the following:

(A) “Alcohol” means the product of distillation of any fermented liquor, rectified either once or oftener, whatever may be the origin thereof, or synthetic ethyl alcohol.

(B) “Spirits” means 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” means any alcoholic 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” means any alcoholic beverage obtained from the fermentation of sugar, barley, hops, malt, yeast and similar ingredients.

(E) Any liquid or solid, patented or not, containing alcohol, spirits, or wine and susceptible to being consumed by a human being, for beverage purposes.

“Person” or “person” shall mean 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.

“Rental Vehicle” shall mean a passenger motor vehicle, rented or leased for temporary use or occupancy, except where a vehicle is leased or occupied under the terms of a lease or similar agreement for a period in excess of thirty (30) days. For the purpose of this ordinance, Rental Vehicle shall not include operated vehicle rentals.

“Rental Vehicle Charge” shall mean the total amount charged for rental use of a Rental Vehicle, valued in money, whether paid in money or otherwise, without any deduction.

“Restaurant Food” shall mean all food, meals or drinks, and nondepreciable goods and services directly consumed by customers included in the charged thereof, which are furnished,

prepared and sold on the premises and which are customarily furnished, prepared and sold as the primary use of the premises.

“Room Occupancy Charge” shall mean the total amount charged for rental use or temporary occupancy of a room or living unit in a Hotel-Motel, valued in money, whether paid in money or otherwise, without any deduction.

“Retail Sale” shall mean the sale of Liquor By-The-Drink for consumption on the premises and/or sale of Restaurant Food on the premises, other than resale in the regular course of business, and shall include any transfer of money, title, exchange, barter or credit, conditional or otherwise, in any manner or by any means whatsoever as consideration.

“Sale” or “sale” shall mean any transfer of title, exchange or barter, conditional or otherwise, of tangible personal property for a consideration and shall include any similar transfer of possession found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, exchange or barter. For the purpose of this definition, sale shall include the lease or rental of tangible personal property.

“Sales Price” shall mean the total amount for which Liquor By-The-Drink or Restaurant Food is sold, and the total amount of the Rental Vehicle Charge or Room Occupancy Charge, including services agreed to be rendered as a part of the sale, rental or lease, valued in money, whether paid in money or otherwise, without any deduction.

“Taxpayer” shall mean any person subject to or liable for any tax or payment of any tax imposed under this ordinance.

5.32.030 Imposition of Certain Non-Property Taxes. The City hereby imposes and shall collect certain non-property taxes as follows:

(A) Rental Vehicle Tax: A tax is hereby imposed at the rate of three percent (3%) on the Rental Vehicle Charge for each Rental Vehicle rented or leased within the City. The Rental Vehicle tax shall apply to and be computed on the rental of all Rental Vehicles including all credit, installment, conditional or similar rental or lease fees at the time the Rental Vehicle Charge is charged. The Rental Vehicle tax shall be collected by the owner or his authorized agent from the renter or lessee.

(B) Hotel-Motel Occupancy Tax: A tax is hereby imposed at the rate of three percent (3%) on the Room Occupancy Charge for each Hotel-Motel room or living unit rented or leased within the City. The Hotel-Motel occupancy tax shall apply to and be computed on the rental of all Hotel-Motel rooms including all credit, installment, conditional or similar rental or lease fees at the time the Room Occupancy Charge is charged. The Hotel-Motel occupancy tax shall be collected by the owner of the Hotel-Motel or his authorized agent from the renter or lessee.

(C) Liquor By-The-Drink Tax: A tax is hereby imposed at rate of two percent (2%) of the Sales Price upon each Retail Sale of Liquor By-The-Drink within the City. The tax shall apply to and be computed on all Retail Sales of Liquor By-The-Drink including credit, or similar sales at the time of the sale. The Liquor By-The-Drink tax shall be collected by the retailer from the consumer.

(D) Restaurant Food Tax: A tax is hereby imposed at rate of one percent (1%) of the Sales Price upon each Retail Sale of Restaurant Food within the City. The tax shall apply to and be computed on all Retail Sales of Restaurant Food including credit, or similar sales at the time of the sale. The Restaurant Food tax shall be collected by the retailer from the consumer.

(E) Fractional Portion: When the Sales Price involves a fraction of a dollar, the non-property tax shall be collected on that fractional portion of the price adding thereto the tax based upon the following bracket system:

Rental Vehicle and Hotel-Motel Occupancy Taxes (3%)

\$ .01	to	\$ .24	\$0.00
.25	to	.49	0.01
.50	to	.74	0.02
.75	to	.99	0.03

(Each whole dollar \$0.03)

Liquor By-The-Drink Tax (2%)

\$ .01	to	\$ .33	\$0.00
.34	to	.66	0.01
.67	to	.99	0.02

(Each whole dollar \$0.02)

Restaurant Food Tax (1%)

\$ .01	to	\$ .49	\$0.00
.50	to	.99	0.01

(Each whole dollar \$0.01)

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. The retailer may retain any amount collected under the 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.

(F) Monies Collected Held in Trust: All monies collected and/or retained under the provisions of this ordinance 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 ordinance provided.

5.32.040 Duration of Taxes. The non-property taxes authorized and collected under this ordinance are hereby imposed for a duration of four (4) years from the effective date of this ordinance.

5.32.050 Purposes of Taxes. The non-property tax revenue derived from and collected under this ordinance shall be used for the following purposes:

(A) Emergency services (rapid response, life saving, traffic enforcement, training, staffing, equipment, vehicles, etc.).

(B) Maintenance, improvement and acquisition of parks.

- (C) Road repair, transportation enhancements and snow removal.
- (D) City promotion, visitor information, special events and economic development.
- (E) Town improvements (library modernization, sidewalks, town square, etc.).
- (F) Public transit and related improvements.
- (G) Direct cost to administer and enforce this ordinance.

5.32.060        Creation of a Property Tax Relief Fund. 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 ordinance, 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 the Municipal Property Tax Relief Fund shall be used to replace City property taxes in the ensuing fiscal year.

5.32.070        Authority of City Clerk. The City Clerk is hereby authorized and empowered to administer, regulate and collect payment of all non-property taxes adopted and imposed by this ordinance. The City 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.

5.32.080        Permits; Issuance.

(A) Every person desiring to engage in or conduct business of renting Rental Vehicles and Hotel-Motel rooms and selling Liquor By-The-Drink and/or Restaurant Food within the City shall file with the City Clerk an application for a municipal 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 such a permit shall be made upon a form prescribed by the City Clerk and shall set forth the name under which the applicant transacts or intends to transact business, the location of the business or places of business, and such other information as the City Clerk may require. The application shall be signed by the owner, if he is a natural person; or in the case of an association or limited liability company, by member or partner; or in the case of a corporation, by an executive officer or other person authorized by the corporation to sign the application; or in the case of a partnership, by a partner; or in the case of any other legal entity, by an authorized person. Initial permits shall be issued upon completion of the application for each permit sought.

(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 or entity 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 such permit may be subject to additional requirements as set forth in this ordinance.

(C) On the face of the permit shall be affixed a municipal non-property tax number which shall be used by the applicant as an identifying number of all filing, payment and correspondence with regard to the non-property tax imposed under this ordinance.

5.32.090        Method for Payment of Taxes.

(A) The taxes imposed by this ordinance shall be computed and paid for each calendar month. The taxes imposed by this ordinance 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 the Rental Vehicle and Room Occupancy Charges, and of the Sale Price of the Retail Sale of Liquor By-The-Drink and/or Restaurant Food. Each person required to hold a municipal non-property tax permit and number shall file a municipal non-property tax return and a copy of their Idaho State Sales Tax Return for the month at the same time the taxes imposed by this ordinance are paid to the City Clerk, unless the person has been permitted in writing by the Idaho State Tax Commission to file quarterly sales or use tax returns. Persons who have been permitted to file other than quarterly returns shall notify the City 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 August 25, 2006, for that period beginning July 1, 2006, and ending July 31, 2006. Thereafter 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 the rental or lease of Rental Vehicles and Hotel-Motel rooms and in the sale of Liquor By-The-Drink and/or sale of restaurant food, regardless of whether any tax is due. Returns shall be signed by the person required to file the return or by a duly authorized agent.

#### 5.32.100 Audits; Deficiency Determinations.

(A) The City Clerk 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 the City Clerk's 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, such 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 his or her determination and the amount of the deficiency, including interest 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 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 in the non-property tax permit application.

#### 5.32.110 Redetermination 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 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 the person's application for a non-property tax permit.

#### 5.32.120 Appeals, Interest on Deficiency.

(A) When a redetermination is made, the City Clerk shall give notice to the Taxpayer against whom the redetermination is made. Within thirty (30) days of the date upon which such notice of redetermination is mailed or served, the Taxpayer may file an appeal 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 of 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 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 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 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.

#### 5.32.130 Collections and Enforcement.

As soon as practical after a monthly municipal 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 the 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 is authorized:

(A) To examine the books, papers, records or other data which may be relevant or material to the inquiry;

(B) 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, 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.

#### 5.32.140 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 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 successors, administrators or executors.

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

(C) Interest shall be allowed on the amount of such credits or refunds at 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 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.

5.32.150      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, limited liability company, partnership or other legal entity, as an officer, employee or agent of the entity, shall be personally liable for payment of such tax, plus penalties and interest.

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

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

5.32.170      Successors' Liability.

(A) If a vendor liable for any amount of tax due 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 a 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, the purchaser or officer, employee or agent of the entity is personally liable for the payment of the amount required to withheld by him, which amount shall become immediately due and payable with interest as herein provided, and suit may be filed within the time limit set forth in subsection 5.32.160 (A) of this ordinance.

5.32.180      General Administration by City Clerk.

(A) The City Clerk shall enforce the provisions of this ordinance 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 Taxpayer's 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 his or her representatives to conduct hearings, or perform other duties imposed by this ordinance.

(B) Every Rental Vehicle business owner, Hotel-Motel owner, seller of Liquor By-The-Drink, and seller of Restaurant Food in this City shall keep such records, receipts, invoices, and other pertinent papers as the City Clerk may require. Every such Rental Vehicle business owner, Hotel-Motel owner, seller of Liquor By-The-Drink and seller of Restaurant Food 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 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 person renting Rental Vehicles, any Hotel-Motel owner, any person selling Liquor By-The-Drink and any person selling Restaurant Food, or any person liable for any tax thereon, 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 persons who rent Rental Vehicles, any Hotel-Motel owners, any persons who sell Liquor By-The-Drink and any persons who sell Restaurant Food, whose pertinent records are kept outside of the City, must bring the records to the City for examination by the City Clerk upon request of the City Clerk, 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.

#### 5.32.190 Penalties.

(A) Any person who violates any provision of this ordinance 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 ordinance, shall be considered a separate offense.

(B) Any person who violates any provision of this ordinance shall have his municipal non-property tax permit and tax number revoked. The City Clerk shall send written notice of revocation of the permit and tax number to the permit holder by mailing the permit certified mail to the address given on the permit application. The permit holder shall have ten (10) days from the date the notice is mailed to file a written request for appeal with the City Council, challenging the revocation. If no appeal is timely made, the revocation becomes final. Whenever a person subject to this ordinance has had a permit and tax number revoked, the City Clerk shall not reissue the permit nor issue a new permit to the person until the 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 ordinance.

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

(D) Any person who violates any provision of this ordinance shall have all municipal beer license(s), and wine license(s), and retail liquor by-the-drink license(s) 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 the Taxpayer on the date that the same becomes due, and the City may seek to enforce the 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 purpose of proper administration of this ordinance and to prevent evasion of non-property taxes, the burden of proving that the rental of a Rental Vehicle or a Hotel-Motel room or the Retail Sale of Liquor By-The-Drink or Restaurant Food is not subject to a non-property tax imposed by this ordinance, is upon the person who makes the sale or rental in question.

5.32.200 Penalty Charge.

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 five percent (5%) per month for a maximum of twenty-five percent (25%) of the amount of the tax evaded, or not collected, or not accounted for and paid over. 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 permit holder by mailing the notice by certified mail to the address given on the permit application. The permit holder shall have ten (10) days from the date the notice is mailed to file a written request of appeal with the City Council challenging the penalty charge determination. If no appeal is timely made, the penalty charge determination becomes final.

5.32.210 Exemptions.

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

**Section 2. SEVERABILITY CLAUSE.** If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

**Section 3. EFFECTIVE DATE.** This Ordinance shall be in full force and effect on July 1, 2006, and after its passage, approval and publication according to law

**PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL** and approved by the Mayor this 26<sup>th</sup> day of June, 2006.

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Susan McBryant, Mayor  
City of Hailey

ATTEST:

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Heather Dawson, City Clerk