

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. 4886

AN ORDINANCE AMENDING TITLE 3 CHAPTER 8 OF THE GRAND JUNCTION MUNICIPAL CODE PERTAINING TO LODGING TAX FOR ONLINE TRAVEL COMPANIES AND SHORT TERM RENTALS AND THE THREE PERCENT LODGING TAX INCREASE AS APPROVED BY THE VOTERS IN THE NOVEMBER 6, 2018 ELECTION

RECITALS:

On May 28, 2019, the Supreme Court of Colorado held that Expedia and other online travel companies were exempt from remitting accommodation (lodging) taxes to the Town of Breckenridge. The Supreme Court found that online travel companies were not lessors or renters with a possessory interest in renting hotel rooms for the purpose of the hotel accommodation tax ordinance. The Court held that the ruling is not dispositive; meaning, it depends upon whether or not the language of the accommodation laws of each jurisdiction exempt online travel companies from remitting accommodation taxes to the jurisdiction.

The Supreme Court did not overturn its decision in *City & County of Denver v. Expedia, Inc.* of 2017 that required Expedia to remit lodging taxes to the City and County of Denver. Denver's code can be distinguished from Breckenridge's as Denver requires vendors to collect and remit the prescribed tax on the purchase price of any furnished lodging rather than limiting the collection of taxes to lessors or tenants of the accommodations.

The City has, prior to and after these Supreme Court decisions, considered transactions from online travel companies as taxable by policy and in practice. In light of the 2019 Supreme Court ruling, City staff compared Title 3 Chapter 8 of the City's current code with the laws of Breckenridge and Denver and recommend solidifying the City's position by making changes to the City's Code to clarify the obligations of online travel companies and short term rental agencies for the purpose of remitting lodging tax.

Furthermore, this ordinance includes an amendment to the definitions of "lodging" and "person" for the purpose of lodging tax. Home rule municipalities like Grand Junction can require local businesses to remit directly to the municipality, decide their own tax base, and audit local businesses directly. Many businesses are multi-jurisdictional and the variation of tax laws per jurisdiction is burdensome. The Colorado General Assembly adopted Senate Joint Resolution (SJR) 14-038, asking Colorado Municipal League to develop a package of standardized definitions. Amending the "lodging" and "person" definitions as they pertain to lodging tax will begin the move for the City towards the statewide goal of standardized definitions.

Lastly, the citizens of Grand Junction voted in favor of a lodging tax increase of three percent in the November 6, 2018 election. This ordinance includes the amendment to reflect the voter approved revenue change for the voter approved purposes (promotion and marketing for travel and tourism-related activities including but not limited to sports-related tourism and support for direct air service in Grand Junction).

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

Title 3 Chapter 8 shall be revised as follows (additions are shown in **bold print** and deletions marked with ~~strike through~~ notations):

3.08.030 Definitions.

Lodging (also referred to as lodging services) shall mean ~~the providing of the right to use or possess, for consideration, any room or rooms for temporary occupancy,~~ **the furnishing of rooms or accommodations by any person or representative thereof to any person or representative thereof who for consideration uses, possesses, occupies or has the right to use, possess or occupy any such room or accommodation,** such as, but not limited to: a room in a hotel, **motor hotel**, guesthouse, hotel apartment and lodgings, motel, **guest** ranch, resort, mobile home **or mobile home park**, bed and breakfast establishment, **residence, apartment**, movable structure, auto camp, trailer court **and park, trailer coach**, inn, hostel ~~or park,~~ **or similar establishment** under any concession, permit, right of access, lease, contract, license to use or other arrangement or otherwise, but shall not include rentals under a written agreement for occupancy for a period of 30 consecutive days or more.

Person shall include any individual, firm, partnership, joint enterprise, corporation, **limited liability company**, estate or trust, **receiver, trustee, assignee, lessee, or any person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise**, or any group or combination acting as a unit, **or** in the plural as well as in the singular number.

3.08.040 Levy of tax – Amount – Payment – Collection, etc.

(a) Amount of Tax.

(1) There is hereby levied and shall be collected and paid a tax by every person exercising the taxable privilege of purchasing lodging **or making sales of or furnishing lodging to a purchaser** as in this chapter defined.

(2) The amount of the tax levied hereby is ~~three~~ **six** percent of the gross taxable sale paid or charged for purchasing such lodging.

(3) Any person providing lodging within the City of Grand Junction shall collect a tax from all those to whom lodging is provided amounting to ~~three~~ **six** percent of the total rental revenue received by such vendor. Such tax shall be in addition to any other tax (**including but not limited to sales and use tax**) or levy for providing such service.

(4) Any vendor making sales of or furnishing lodging to a purchaser in the City of Grand Junction shall collect a tax from all those to whom purchase such lodging amounting to six percent of the total rental revenue received by such vendor. Such tax shall be in addition to any other tax (including but not limited to sales and use tax) or levy for providing such service.

(4) **(5) Additional Tax.** The City of Grand Junction lodging tax shall be increased by \$1,850,000 in the first year (2019), and by whatever additional amounts are raised annually thereafter, by the adoption of an additional three percent tax on the price paid for lodging in the City, with the additional three percent tax collected in the same manner as the City's lodging tax; with all or any portion of the net proceeds of the additional three percent lodging tax, as determined by the City Council, being collected, retained and spent to fund promotion and marketing for travel and tourism-related activities such as and including but not limited to:

(i) Marking, travel and tourism-related activities that supporting destination marketing of the area;

(ii) Marketing, supporting, and/or arranging for additional direct airline service to and from Grand Junction;

(iii) Marketing, promoting, and sponsoring sporting activities, events, tournaments, competitions and exhibitions.

Except that no vendor processing fee shall apply to the increase and shall the revenues generated by such tax increase and proceeds be collected and spent by the City as a voter approved revenue change, without regard to any spending, revenue-raising, or other limitation contained within Article X, Section 20 of the Constitution or any other law.

(e) Collection Requirement.

(1) It shall be unlawful for a person providing lodging to rent lodging without collecting, in addition to the rent thereof, the tax as provided in this chapter.

(2) It shall be unlawful for any vendor making sales of or furnishing lodging to a purchaser in the city, which are taxable under the provisions of this chapter, at the time of making such sales, to fail to collect the tax imposed by this chapter from the purchaser.

(f) Unlawful for Person/Vendor Providing Lodging or Making Sales of or Furnishing Lodging to Assume Tax. It shall be unlawful for a person providing lodging to rent lodging or a vendor making sales of or furnishing lodging to a purchaser without collecting, in addition to the rental thereof, the tax as provided for in this chapter.

(g) Unlawful for Person/Vendor Providing Lodging or Making Sales of or Furnishing Lodging to Refuse Payment. It shall be unlawful for the person/vendor providing lodging:

(1) to fail or refuse to pay to the City Finance Director the tax collected by such **person or vendor**; or

(2) to fail to file reports required of such **person or vendor** under the terms of this chapter.

3.08.050 Records – Regulations – Enforcement, etc.

(k) Vendors' Collection Fee. Vendors collecting and remitting the tax can, if such vendor is in compliance with the several provisions of this chapter, deduct three and one-third percent of the amount remitted **subject to the original lodging tax of 3% (not including the 2019 lodging tax increase of 3%)** as a collection fee.

ALL OTHER PROVISIONS OF TITLE 3 CHAPTER 8 SHALL REMAIN IN FULL FORCE AND EFFECT.

Introduced on first reading the 16th day of October, 2019 and ordered published in pamphlet form.

Adopted on second reading this 6th day of November, 2019 and ordered published in pamphlet form.


Rick Taggart
Mayor

ATTEST:



Wanda Winkelmann
City Clerk



I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 4886 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 16th day of October, 2019 and the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, in pamphlet form, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 6th day of November, 2019, at which Ordinance No. 4886 was read, considered, adopted and ordered published in pamphlet form by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 8th day of November, 2019.



Deputy City Clerk

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Published: November 08, 2019
Effective: December 08, 2019