

**CITY OF GRAND JUNCTION, COLORADO**

**ORDINANCE NO. 4892**

**AN ORDINANCE TO AMEND PART OF CHAPTER 3 SECTION 12 SUBSECTION 020 OF THE CITY OF GRAND JUNCTION MUNICIPAL CODE OF ORDINANCES RELATING TO SALES AND USE TAX DEFINITIONS**

**RECITALS:**

Colorado municipalities are heavily dependent on sales tax revenue. Home rule municipalities, including the City of 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. A committee was established to develop the definitions. The updated definitions reflect current tax practices so no new tax is levied and no increase in tax revenue is predicted. Definitional changes will not trigger a TABOR election.

It is the Council's intent to cooperate in furtherance of a statewide goal to have all locally collecting municipalities agree to use standard definitions in their sales and use tax codes. The adoption of standard definitions will benefit businesses and municipalities by creating uniformity and simplicity. Only the definitions that are applicable to the City of Grand Junction are included herein.

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

Chapter 3 Section 12 Subsection 020 of the City of Grand Junction Municipal Code shall be revised as follows (additions documented in bold print and deletions marked with strike-through notations):

**3.12.020. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Access services means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.~~

***Agricultural producer*** means a person regularly engaged in the business of using land for the production of commercial crops or commercial livestock. The term includes farmers, market gardeners, commercial fruit growers, livestock breeders, dairymen, poultrymen, and other persons similarly engaged, but does not include a person who breeds or markets animals, birds, or fish for domestic pets nor a person who cultivates, grows, or harvests plants or plant products exclusively for that person's own consumption or casual sale.

***Aircraft*** means a device that is used or intended to be used for flight in the air.

***Aircraft part*** means any tangible personal property that is intended to be permanently affixed or attached as a component part of an aircraft.

***Aircraft simulator*** means a Flight Simulator Training Device (FSTD) as defined in Part I of Title 14 of the Code of Federal Regulations that is qualified in accordance with Part 60 of Title 14 of the Code of Federal Regulations for use in a Federal Aviation Administration Approved Flight Training Program.

***Aircraft simulator part*** means any tangible personal property that is originally designed and intended to be permanently affixed or attached as a component part of an aircraft, and which will also function when it is permanently affixed or attached as a component part of an aircraft simulator.

***Airline company*** means any operator who engages in the carriage by aircraft of persons or property a common carrier for compensation or hire, or the carriage of mail, or any aircraft operator who operates regularly between two (2) or more points and publishes a flight schedule. Airline company shall not include operators whose aircraft are all certified for a gross takeoff weight of twelve thousand five hundred (12,500) pounds or less and who do not engage in scheduled service or mail carriage services.

***Auction*** means any sale where tangible personal property is sold by an auctioneer who is either the agent or the owner of such property or is in fact the owner thereof.

***Automotive vehicle*** means any vehicle or device in, upon, or by which any person or property is or may be transported or drawn upon a public highway or right-of-way, or any device used or designed for aviation or flight in the air. Such term includes, but is not limited to, motor vehicles, trailers, semitrailers, or mobile homes. "Automotive vehicle" shall not include devices moved by human power or used exclusively upon stationary rails or tracks.

***Business*** means all activities engaged in or caused to be engaged in with the object of gain, benefit or advantage, direct or indirect.

**Candy** means a preparation of sugar, honey, or other natural or artificial sweeteners, in combination with chocolate, fruit, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour, products that require refrigeration or marijuana infused products.

**Carrier access services** means the services furnished by a local exchange company to its customers who provide telecommunications services which allow them to provide such telecommunications services.

**Charitable organization** means any entity **which:** ~~organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, so long as:~~

- ~~(1) No part of the net earnings of which inures to the benefit of any private shareholder or individual;~~
- ~~(2) No substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; and~~
- ~~(3) Which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.~~

**(1) has been certified as a nonprofit organization under Section 501(c)(3) of the Internal Revenue Code, and**

**(2) is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons or animals, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons or animals, and thereby lessens the burden of government.**

**City** means municipality of Grand Junction.

**Coins** means monetized bullion or other forms of money manufactured from gold, silver, platinum, palladium or other such metals now, in the future or heretofore designated as a medium of exchange under the laws of this State, the United States or any foreign nation.

**Coin operated device** means any device operated by coins or currency or any substitute therefor.

**Collection costs** shall include, but is not limited to, all costs of audit, assessment, bank fees, hearings, execution, lien filing, distraint, litigation, locksmith fees, auction fees and costs, prosecution and attorney fees.

**Commercial packaging materials** means containers, labels, and/or cases, that become part of the finished product to the purchaser, used by or sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use, and is not returnable to said person for reuse. Commercial packaging materials does not include commercial shipping materials.

**Commercial shipping materials** means materials that do not become part of the finished product to the purchaser which are used exclusively in the shipping process.

**Commercial shipping materials** include but are not limited to containers, labels, pallets, banding material and fasteners, shipping cases, shrink wrap, bubble wrap or other forms of binding, padding or protection.

**Construction activity** means to build, construct, reconstruct, alter, expand, modify or improve any building, dwelling or other structure, or improvement, on or to real property.

**Construction equipment** means any ~~purchased tangible personal property used, owned, operated or stored by a person engaging in construction activity, including, but not limited to, equipment, machinery, tools, automotive vehicles, mobile machinery and self-propelled construction equipment~~ **equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, demolish, repair, remodel, or otherwise make improvements to any real property, building, structure or infrastructure.**

**Construction materials** means tangible personal property which, when combined with other tangible personal property, loses its identity to become an integral and inseparable part of a completed structure or project including public and private improvements. Construction materials include, but are not limited to, such things as asphalt, bricks, builders' hardware, caulking material, cement, concrete, conduit, electric wiring and connections, fireplace inserts, electrical heating and cooling equipment, flooring, glass, gravel, insulation, lath, lead, lime, lumber, macadam, millwork, mortar, oil, paint, piping, pipe valves and pipe fittings, plaster, plumbing fixtures, putty, reinforcing mesh, road base, roofing, sand, sanitary sewer pipe, sheet metal, site lighting, steel, stone, stucco, tile, trees, shrubs and other landscaping materials, wallboard, wall coping, wallpaper, weatherstripping, wire netting and screen, water mains and meters, and wood preserver. The above materials when used for forms or other items which do not remain as an integral or inseparable part of a completed structure or project are not construction materials.

**Consumer** means any ~~individual person, or any other person,~~ engaged in business in the City who **purchases**, uses, stores, distributes or otherwise consumes in the City tangible personal property or taxable services purchased from sources inside or outside the City.

***Contract auditor*** means a duly authorized agent designated by the taxing authority and qualified to conduct tax audits on behalf of and pursuant to an agreement with the municipality.

***Contractor*** means any person who shall build, construct, reconstruct, alter, expand, modify, or improve any building, dwelling, structure, infrastructure, or other improvement to real property for another party pursuant to an agreement. For purposes of this definition, contractor also includes subcontractor.

***Cover charge*** means a charge paid to a club or similar entertainment establishment which may, or may not, entitle the patron paying such charge to receive tangible personal property, such as food and/or beverages.

***Data processing equipment*** means any equipment or system of equipment used in the storage, manipulation, management, display, reception or transmission of information.

***Digital product*** means an electronic product including, but not limited to: (1) "digital images" which means works that include, but are not limited to, the following that are generally recognized in the ordinary and usual sense as "photographs," "logos," "cartoons," or "drawings." (2) "digital audio-visual works" which means a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any, (3) "digital audio works" which means works that result from the fixation of a series of musical, spoken, or other sounds, including ringtones. For purposes of the definition of "digital audio works", "ringtones" means digitized sound files that are downloaded onto a device and that may be used to alert the customer with respect to a communication, and (4) "digital books" which means works that are generally recognized in the ordinary and usual sense as "books".

***Distribution*** means the act of distributing any article of tangible personal property for use or consumption, which may include, but not be limited to, the distribution of advertising gifts, shoppers guides, catalogs, directories, or other property given as prizes, premiums, or for goodwill or in conjunction with the sales of other commodities or services.

***Document*** means all written, printed, typed, recorded or graphic matter, photographic matter, sound reproductions, computer files, tapes, inputs or outputs, however produced or reproduced, or all other matters from which information may be obtained, and drafts and nonidentical copies thereof. "Nonidentical copies" refers to reproductions, however made, of the original document which have notations, markings, comments or other material not appearing on the original.

***Drugs dispensed in accordance with a prescription*** means drugs dispensed in accordance with an order in writing, dated and signed by a licensed practitioner of the healing arts, or given orally by such a practitioner, and immediately reduced to writing by the pharmacist, assistant

pharmacist, or pharmacy intern, specifying the name and address of the person for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

***Dual residency*** means those situations including, but not limited to, where a person maintains a residence, place of business or business presence, both within and outside the City. A person shall be deemed to have established a legitimate residence, place of business or business presence outside of the City for purposes of dual residency if the person has a physical structure owned, leased or rented by such person which is designated by street number or road location outside of the City, has within it a telephone or telephones in the name of such person and conducts business operations on a regular basis at such location in a manner that includes the type of business activities for which the business (person), as defined in this chapter, is organized.

***Dwelling unit*** means a building or any portion of a building designed for occupancy as complete, independent living quarters for one (1) or more persons, having direct access from the outside of the building or through a common hall and having living, sleeping, kitchen and sanitary facilities for the exclusive use of the occupants.

***Engaged in business in the City*** means performing or providing services or selling, leasing, renting, delivering or installing tangible personal property for storage, use or consumption within the City. "Engaged in business in the City" includes, but is not limited to, any one of the following activities by a person:

- (1) ~~Maintaining or using,~~ Directly, indirectly or by a subsidiary, **maintains** a building, store, office, salesroom, warehouse, or other place of business within the City;
- (2) ~~Sending~~s one or more employees, agents or **commissioned** salespersons into the City to solicit business or to install, assemble, repair, service or assist in the use of its products, or for demonstration or other reasons;
- (3) ~~Maintaining~~s one or more employees, agents or **commissioned** salespersons at a location within the City;
- (4) ~~Ownings, leasinges, rentings or otherwise exercisinges~~ control over real or personal property within the City; or
- (5) ~~Makinges~~ more than one delivery into the City within any 12-month period.

***Exempt commercial packaging materials*** means containers, labels or shipping cases sold to a person engaged in manufacturing, compounding, wholesaling, jobbing, retailing, packaging, distributing or bottling for sale, profit or use that meet all of the following conditions:

- (1) Are used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product;

- (2) Are transferred by such person along with, and as a part of, the finished product to the purchaser; and
- (3) Are not returnable to such person for reuse.

***Factory built housing* means a manufactured home or modular home.**

*Farm closeout sale* means full and final disposition of all tangible personal property previously used by a farmer or rancher in farming or ranching operations which are being abandoned.

***Farm equipment* means any farm tractor, as defined in Section 42-1-102(33), C.R.S., any implement of husbandry, as defined in Section 42-1-102(44), C.R.S., and irrigation equipment having a per unit purchase price of at least one thousand dollars (\$1,000.00). Farm equipment also includes, regardless of purchase price, attachments and baling wire, binders twine and surface wrap used primarily and directly in any farm operation. Farm equipment also includes, regardless of purchase price, parts that are used in the repair or maintenance of the Farm equipment described in this Paragraph, all shipping pallets, crates, or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications. Farm equipment also includes, regardless of purchase price, dairy equipment. Except for shipping pallets, crates or aids used in the transfer or shipping of agricultural products, Farm equipment does not include: (1) Vehicles subject to the registration requirements of Section 42-3-103, C.R.S., regardless of the purpose for which such vehicles are used; (2) Machinery, equipment, materials, and supplies used in a manner that is incidental to a farm operation; (3) Maintenance and janitorial equipment and supplies; and (4) Tangible personal property used in any activity other than farming, such as office equipment and supplies and equipment and supplies used in the sale or distribution of farm products, research, or transportation.**

***Farm operation* means the production of any of the following products for profit, including, but not limited to, a business that hires out to produce or harvest such products:**

- (1) Agricultural, viticultural, fruit, and vegetable products;
- (2) Livestock;
- (3) Milk;
- (4) Honey; and
- (5) Poultry and eggs.

**Finance director** means the Finance Director of the City or such other person designated by the municipality; Finance Director shall also include such person's designee.

**Food for home consumption** means food for domestic home consumption as defined in 7 U.S.C. Section 2012(g), **(k) (2014)**, as amended, for purposes of the federal food stamp program as defined in 7 U.S.C. Section 2012(h), **supplemental nutrition assistance program, or any successor program, as defined as 7 U.S.C. sec. 2012 (t)**, as amended; except that "food" does not include carbonated water marketed in containers; chewing gum; seeds and plants to grow food; prepared salads and salad bars; **packaged and unpackaged cold sandwiches; delicatessen trays; and hot or cold beverages served in unsealed containers or cups that are** food or drink vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor.

**Gross sales** means the total amount received in money, credit, property or other consideration valued in money for all sales, leases, or rentals of tangible personal property or services.

**Internet access services** means services that provide or enable computer access by multiple users to the Internet, but shall not include that portion of packaged or bundled services providing phone or television cable services when the package or bundle includes the sale of Internet Access Services.

**Internet subscription service** means software programs, systems, data and applications available online through rental, lease or subscription, that provide information and services including, but not limited to, data linking, data research, data analysis, data filtering or record compiling.

**License** means a City sales and use tax license.

**Linen services** means services involving provision and cleaning of linens, including, but not limited to, rags, uniforms, coveralls and diapers.

**Lodging services** means the furnishing of rooms or accommodations by any person to another person who for a consideration uses, possesses, or has the right to use or possess any room in a hotel, inn, bed and breakfast, residence, apartment, hotel, lodginghouse, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, or trailer court and park, or similar establishment, for a period of less than 30 days under any concession, permit, right of access, license to use, or other agreement, or otherwise.

**Machinery** means any apparatus consisting of interrelated parts used to produce an article of tangible personal property. The term includes both the basic unit and any adjunct or attachment necessary for the basic unit to accomplish its intended function.



***Magazine*** includes print and electronic versions of publications that appear at stated intervals at least four times per year, and contains news or information of general interest to the public or to some particular organization or group of people. “Magazine” does not include books published or issued at stated intervals, advertising pamphlets, circulars, fliers, guides or handbooks, catalogs, programs, scorecards, maps, real estate brokers’ listings, price or order books, printed sales messages, shopping guides, corporate reports issued to stockholders, media advertising or direct mail advertising services. Magazines that sell for more than the original selling price are considered collectible items and are subject to sales tax. For example, a first edition of a comic book, sold for more than the original price, would be subject to sales tax as a collectible.

***Manufactured home*** means any preconstructed building unit or combination of preconstructed building units, without motive power, where such unit or units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for occupancy by persons for residential purposes, in either temporary or permanent locations, and which unit or units are not licensed as a vehicle.

***Manufacturing*** means ~~the operation of producing a new product, article, substance or commodity different from and having a distinctive name, character or use from raw or prepared materials.~~ **the operation or performance of an integrated series of operations which places a product, article, substance, commodity, or other tangible personal property in a form, composition or character different from that in which it was acquired whether for sale or for use by a manufacturer. The change in form, composition or character must result in a different product having a distinctive name, character or use from the raw or prepared materials.**

***Manufacturing equipment*** means machinery or machine tools used directly and exclusively in manufacturing by a person engaged in manufacturing, compounding for sale, profit or use any article, substance or commodity.

***Medical marijuana*** means marijuana acquired, possessed, cultivated, manufactured, delivered, transported, supplied, sold, or dispensed to a person who qualifies as a patient with a debilitating medical condition(s) under Article XVIII, Section 14, of the Colorado Constitution, and which person holds a valid “registry identification card” issued by the State of Colorado pursuant to Colorado Constitution, Article XVIII, Section 14.

***Medical supplies*** means drugs dispensed in accordance with a prescription; insulin in all its forms dispensed pursuant to the direction of a licensed physician; glucose useable for treatment of insulin reactions; urine- and blood-testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes and needles; prosthetic devices; wheelchairs and hospital beds; drugs or materials when furnished by a practitioner of the

healing arts as part of professional services provided to an individual; and corrective eyeglasses, contact lenses, or hearing aids.

*Mobile machinery and self-propelled construction equipment* means those vehicles, self-propelled or otherwise, which are not designed primarily for the transportation of persons or cargo over the public highways; and those motor vehicles which may have originally been designed for the transportation of persons or cargo over the public highways, and those motor vehicles which may have originally been designed for the transportation of persons or cargo but which have been redesigned or modified by the mounting thereon of special equipment or machinery, and which may be only incidentally operated or moved over the public highways; and includes, but is not limited to, wheeled vehicles commonly used in the construction, maintenance, and repair of roadways, the drilling of wells, or the digging of ditches.

***Modular home* means any structure that consists of multiple sections fabricated, formed or assembled in manufacturing facilities for installation and assembly at the building site, and is constructed to the building codes adopted by the State Division of Housing, created in Section 24-32-706, C.R.S., and is designed to be installed on a permanent foundation.**

***Motor fuel* means gasoline, casing head or natural gasoline, benzol, benzene and naphtha, gasohol and any other liquid prepared, advertised, offered for sale, sold for use or used or commercially usable in internal combustion engines for the generation of power for the propulsion of motor vehicles upon the public highways. The term does not include fuel used for the propulsion or drawing of aircraft or railroad cars or railroad locomotives.**

*Newspaper* means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The term "newspaper" does not include magazines, trade publications or journals, credit bulletins, advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

*Numismatic collectibles* includes paper money, such as bank notes, coin-like metals and items used in place of currency and securities and/or stocks, bonds and certificates when the same are held, sold or transferred as collectibles.

*Occasional sale* means retail sales by charitable and/or community organizations for fundraising purposes, which funds are retained by the organization to be used in the course of that organization's charitable service to the community, provided the following occur:

- (1) The sale of tangible personal property takes place no more than 12 days, consecutive or not, during any one calendar year; and

(2) ~~Gross-Net~~ sales do not exceed \$25,000 in one calendar year.

~~Pay television shall include, but not be limited to, cable, microwave or other television service for which a charge is imposed.~~

**Online garage sales** means sales of tangible personal property, except automotive vehicles, occurring online, where the property to be sold was originally purchased for use by the seller or members of the seller's household.

**Parent** means a parent of a student.

**Person** means any individual, firm, partnership, joint venture, corporation, limited liability company, estate or trust, receiver, trustee, assignee, lessee, or any person acting in a fiduciary or representative capacity, whether appointed by court or otherwise, or any group or combination acting as a unit.

**Photovoltaic system** means a power system designed to supply usable solar power by means of photovoltaics, a method of converting solar energy into direct current electricity using semiconducting materials that create voltage or electric current in a material upon exposure to light. It consists of an arrangement of several components, including solar panels to absorb and convert sunlight into electricity, a solar inverter to change the electric current from DC to AC, as well as mounting, cabling, metering systems and other electrical accessories to set up a working system.

**Precious metal bullion** means any precious metal, including but not limited to, gold, silver, platinum, palladium, that has been put through a process of refining and is in such a state or condition that its value depends upon its precious metal content and not its form.

**Prepress preparation material** means all materials used by those in the printing industry including, but not limited to, airbrush color photos, color keys, dies, engravings, light-sensitive film, light-sensitive paper, masking materials, Mylar, plates, proofing materials, tape, transparencies, and veloxes, which are used by printers in the preparation of customer specific layouts or in plates used to fill customers' printing orders, which are eventually sold to a customer, either in their original purchase form or in an altered form, and for which a sales or use tax is demonstrably collected from the printer's customer, if applicable, either separately from the printed materials or as part of the inclusive price therefor. Materials sold to a printer which are used by the printer for the printer's own purposes, and are not sold, either directly or in an altered form, to a customer, are not included within this definition.

**Preprinted newspaper supplements** means inserts, attachments, or supplements circulated in newspapers that:

(1) Are primarily devoted to advertising; and

- (2) The distribution, insertion, or attachment of which is **commonly** paid for by the advertiser.

*Prescription drugs for animals* means ~~drugs dispensed in accordance with any order in writing, dated and signed by a practitioner, or given orally by a practitioner, specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.~~ **means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. seq., as amended, to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any order in writing, dated and signed by a licensed veterinarian specifying the animal for which the medicine or drug is offered and directions, if any, to be placed on the label.**

*Prescription drugs for humans* means a drug which, prior to being dispensed or delivered, is required by the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sect. 301, et. seq., as amended, to state at a minimum the symbol "Rx Only", and is dispensed in accordance with any written or electronic order dated and signed by a licensed practitioner of the healing arts, or given orally by a practitioner and immediately reduced to writing by the pharmacist, assistant pharmacist, or pharmacy intern, specifying the name and any required information of the patient for whom the medicine, drug or poison is offered and directions, if any, to be placed on the label.

*Price or purchase price* means ~~the price to the consumer, exclusive of any direct tax imposed by the federal government or by this chapter, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if such exchanged property is to be sold thereafter in the usual course of the retailer's business; or such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this State, including, but not limited to, vehicles operating upon public highways, off-highway recreational vehicles, watercraft, and aircraft. Any money and/or other consideration paid over and above the value of the exchanged property is subject to tax.~~ **aggregate value measured in currency paid or delivered or promised to be paid or delivered in consummation of a sale, without any discount from the price on account of the cost of materials used, labor or service cost, and exclusive of any direct tax imposed by the federal government or by this article, and, in the case of all retail sales involving the exchange of property, also exclusive of the fair market value of the property exchanged at the same time and place of the exchange, if:**

- (1) Such exchanged property is to be sold thereafter in the usual course of retailer's business, or
- (2) Such exchanged property is a vehicle and is exchanged for another vehicle and both vehicles are subject to licensing, registration, or certification under the laws of this state, including, but not limited to, vehicles operating upon public highways, off highway recreation vehicles, watercraft, and aircraft. Any money or

other consideration paid over and above the value of the exchanged property is subject to tax.

***Price or purchase price includes:***

- (1) The amount of money received or due in cash and credits.
- (2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- (3) Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or any other person reimburses the retailer for part of the purchase price and other media of exchange.
- (4) The total price charged on credit sales, including finance charges which are not separately stated. An amount charged as interest on the unpaid balance of the purchase price is not part of the purchase price unless the amount added to the purchase price is included in the principal amount of a promissory note; except that the interest or carrying charge set out separately from the unpaid balance of the purchase price on the face of a note or other written evidence of debt is not part of the purchase price. An amount charged for insurance on the property sold and separately stated is not part of the purchase price.
- (5) Installation, delivery and wheeling-in charges included in the purchase price and not separately stated;
- (6) Transportation and other charges to effect delivery of tangible personal property to the purchaser;
- (7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock; and
- (8) The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all materials used, labor and service performed and the profit thereon.

***Price or purchase price shall not include:***

- 1) Any sales or use tax imposed by the State or by any political subdivision thereof;
- (2) The fair market value of property exchanged if such property is to be sold thereafter in the retailer's usual course of business. This is not limited to

exchanges in the State. Out-of-State trade-ins are not included in the purchase price;

(3) **Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser. An anticipated discount to be allowed for payment on or before a given date is included in the purchase price.**

*Private communications services* means telecommunications services furnished to a subscriber, which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the exclusive or priority use of any interstate intercommunications system for the subscriber's stations.

***Prosthetic devices for animals* means any artificial limb, part, device or appliance for animal use which replaces a body part or aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular patient; and is prescribed by a licensed veterinarian. Prosthetic devices include, but are not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, and oxygen concentrators with related accessories.**

***Prosthetic devices for humans* means any artificial limb, part, device or appliance for human use which aids or replaces a bodily function; is designed, manufactured, altered or adjusted to fit a particular individual; and is prescribed by a licensed practitioner of the healing arts. The term "prosthetic devices" includes, but is not limited to, prescribed auditory, ophthalmic or ocular, cardiac, dental, or orthopedic devices or appliances, oxygen concentrators, and oxygen with related accessories.**

***Purchase or sale* means the acquisition, for any consideration by any person, of tangible personal property, or **other taxable products or taxable services** that are purchased, leased, rented, or sold, used, stored, distributed or consumed, but excludes a bona fide gift of property or services. **These terms include capital leases, installment and credit sales, and property and services acquired by:****

~~(1) The term "purchase" or "sale" includes capital leases, installment and credit sales, and property and services acquired by:~~

~~(i) A transfer, either conditionally or absolutely, of title or possession or both to tangible personal property;~~

~~(ii) A lease, lease purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property or taxable services;~~

~~(iii) Performance of taxable services; or~~

~~(iv) Barter or exchange for other property or services, including coupons;~~

~~(2) The terms "purchase" and "sale" do not include:~~

~~(i) A division of partnership assets among the partners according to their interests in the partnership;~~

~~(ii) The formation of a corporation by the owners of a business and the transfer of their business assets to the corporation in exchange for all the corporation's outstanding stock, except qualifying shares, in proportion to the assets contributed;~~

~~(iii) The transfer of assets of shareholders in the formation or dissolution of professional corporations;~~

~~(iv) The dissolution and the pro-rata distribution of the corporation's assets to its stockholders;~~

~~(v) A transfer of a partnership interest;~~

~~(vi) The transfer in a reorganization qualifying under Section 368(a)(1) of the Internal Revenue Code of 1954, as amended;~~

~~(vii) The formation of a partnership by the transfer of assets to the partnership or transfers to a partnership in exchange for proportionate interests in the partnership;~~

~~(viii) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;~~

~~(ix) The transfer of assets from a parent corporation to a subsidiary corporation or corporations which is owned at least 80 percent by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation;~~

~~(x) The transfer of assets from a subsidiary corporation or corporations which are owned at least 80 percent by the parent corporation to a parent corporation or to another subsidiary which is owned at least 80 percent by the parent corporation, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;~~

~~(xi) The transfer of assets between parent and closely held subsidiary corporations, or between subsidiary corporations closely held by the same parent corporation, or between corporations which are owned by the same shareholders with identical percentages of stock, computed on a share-by-share basis, when a~~

~~tax imposed by this chapter was paid by the transfer corporation at the time it acquired such assets; however, any increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor corporation is taxable. For the purposes of this paragraph, a "closely held subsidiary corporation" is one in which the parent corporation owns stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and owns at least 80 percent of the total number of shares of all other classes of stock.~~

- (1) Transfer, either conditionally or absolutely, of title or possession or both to tangible personal property, other taxable products, or taxable services;**
- (2) A lease, lease-purchase agreement, rental or grant of a license, including royalty agreements, to use tangible personal property, other taxable products, or taxable services. The utilization of coin operated devices, except coin-operated telephones, which do not vend articles of tangible personal property shall be considered short term rentals of tangible personal property;**
- (3) Performance of taxable services; or**
- (4) Barter or exchange for other tangible personal property, other taxable products, or services.**

**The terms Purchase and Sale do not include:**

- (1) A division of partnership assets among the partners according to their interests in the partnership;**
- (2) The transfer of assets of shareholders in the formation or dissolution of professional corporations, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;**
- (3) The dissolution and the pro rata distribution of the corporation's assets to its stockholders, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;**
- (4) A transfer of a partnership or limited liability company interest;**
- (5) The transfer of assets to a commencing or existing partnership or limited liability company, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;**
- (6) The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder;**



(7) The transfer of assets from a parent company to a subsidiary company or companies which are owned at least eighty percent by the parent company, which transfer is solely in exchange for stock or securities of the subsidiary company;

(8) The transfer of assets from a subsidiary company or companies which are owned at least eighty percent by the parent company to a parent company or to another subsidiary which is owned at least eighty percent by the parent company, which transfer is solely in exchange for stock or securities of the parent corporation or the subsidiary which received the assets;

(9) The transfer of assets between parent and closely held subsidiary companies, or between subsidiary companies closely held by the same parent company, or between companies which are owned by the same shareholders in identical percentage of stock ownership amounts, computed on a share-by-share basis, when a tax imposed by this article was paid by the transferor company at the time it acquired such assets, except to the extent that there is an increase in the fair market value of such assets resulting from the manufacturing, fabricating, or physical changing of the assets by the transferor company. To such an extent any transfer referred to in this paragraph (9) shall constitute a sale. For the purposes of this paragraph (9), a closely held subsidiary corporation is one in which the parent company owns stock possessing or membership interest at least eighty percent of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent of the total number of shares of all other classes of stock.

***Rail carrier*** means as defined in Section 10102 of Title 49 of the United States Code as of October 10, 2013, and as it may be amended hereafter.

***Rail carrier part*** means any tangible personal property that is originally designed and intended to be permanently affixed or attached as a component part of a locomotive or rail car used by a rail carrier.

***Recreation services*** means all services relating to athletic or entertainment participation events **and/or activities** including but not limited to pool, golf, billiards, skating, tennis, bowling, health/athletic club memberships, coin-operated amusement devices, video games and video club memberships.

***Renewable energy*** means any energy resource that is naturally regenerated over a short time scale and derived directly from the sun (such as thermal, photochemical, and photoelectric), indirectly from the sun (such as wind, hydropower, and photosynthetic energy stored in biomass), or from other natural movements and mechanisms of the environment (such as geothermal and tidal energy). Renewable Energy does not include

energy resources derived from fossil fuels, waste products from fossil sources, or waste products from inorganic sources.

***Resident*** means a person who resides or maintains one or more places of business within the City, regardless of whether that person also resides or maintains a place of business outside of the City.

*Retail sales* mean all sales except wholesale sales.

*Retailer* means any person selling, leasing, or renting **or granting a license to use** tangible personal property or services at retail. "Retailer" shall include, **but is not limited to**, any:

- (1) Auctioneer;
- (2) Salesperson, representative, peddler or canvasser who makes sales as direct or indirect agent of, or obtains such property or services sold from, a dealer, distributor, supervisor or employer;
- (3) Charitable organization or governmental entity which makes sales of tangible personal property to the public, notwithstanding the fact that the merchandise sold may have been acquired by gift or donation or that consideration received is to be used for charitable or governmental purposes;
- (4) **Retailer-Contractor, when acting in the capacity of a seller of building supplies, construction materials, and other tangible personal property.**

***Retailer-Contractor*** means a contractor who is also a retailer of building supplies, construction materials, or other tangible personal property, and purchases, manufactures, or fabricates such property for sale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts.

*Return* means the sales and use tax reporting form used to report sales and use tax **any form prescribed by the city/town administration for computing and reporting a total tax liability.**

***Sale that benefits a Colorado school*** means a sale of a commodity or service from which all proceeds of the sale, less only the actual cost of the commodity or service to a person or entity as described in this Code, are donated to a school or a school-approved student organization.

*Sales tax* means the tax to be collected and remitted by a retailer on sales taxed pursuant to this chapter.

*School* for the purposes of ~~GJMC 3.12.070(cc)~~ includes both public and private schools for students in kindergarten through twelfth grade or any portion of those school grades.

~~Preschools, trade schools, and post-secondary schools are not eligible for this exemption.~~  
**means a public or nonpublic school for students in kindergarten through 12<sup>th</sup> grade or any portion thereof.**

*Security system services* means electronic security system services. Such term does not include nonelectronic security services such as consulting or human or guard dog patrol services.

***Soft drink* means a nonalcoholic beverage that contains natural or artificial sweeteners. Soft drink does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent of vegetable or fruit juice by volume.**

***Software program* means a sequence of instructions that can be measured, interpreted and executed by an electronic device (e.g. a computer, tablets, smart phones) regardless of the means by which it is accessed or the medium of conveyance. Software program includes:**

- (1) Custom software program, which is a software program prepared to the special order or specifications of a single customer;**
- (2) Pre-written software program, which is a software program prepared for sale or license to multiple users, and not to the special order or specifications of a single customer. Pre-written software is commonly referred to as “canned,” “off-the-shelf (“COTS”),” “mass produced” or standardized;”**
- (3) Modified software, which means pre-written software that is altered or enhanced by someone other than the purchaser to create a program for a particular user; and**
- (4) The generic term “software,” “software application,” as well as “updates,” “upgrades,” “patches,” “user exits,” and any items which add or extend functionality to existing software programs.**

***Software as a Service* means software that is rented, leased or subscribed to from a provider and used at the consumer’s location, including but not limited to applications, systems or programs.**

***Software License Fee* means a fee charged for the right to use, access, or maintain software programs.**

***Software Maintenance Agreement* means an agreement, typically with a software provider, that may include**

- (1) provisions to maintain the right to use the software;**

- (2) provisions for software upgrades including code updates, version updates, code fix modifications, enhancements, and added or new functional capabilities loaded into existing software, or
- (3) technical support.

***Solar thermal systems*** means a system whose primary purpose is to use energy from the sun to produce heat or cold for: (1) Heating or cooling a residential or commercial building; (2) Heating or cooling water; or (3) Any industrial, commercial, or manufacturing process.

***Sound system services*** means ~~sound system services involving~~ the provision of broadcast or prerecorded audio programming to a building or portion thereof. "Sound system service" does not include installation of sound systems where the entire system becomes the property of the building owner or the sound system service is for presentation of live performances.

***Special fuel*** means kerosene oil, kerosene distillate, diesel fuel, all liquefied petroleum gases, and all combustible gases and liquids for use in the generation of power for propulsion of motor vehicles upon the public highways. The term does not include fuel used for the propulsion or drawing of aircraft, rail-cars or railroad locomotives.

***Special sales event*** means any sales event which includes more than three (3) Vendors taking place at a single location for a limited period of time not to exceed seven (7) consecutive days.

***Storage*** means any keeping or retention of, or exercise dominion or control over, or possession of, for any length of time, tangible personal property not while in transit but on a stand still basis for future use when leased, rented or purchased at retail from sources either within or without the City from any person or vendor.

***Student*** means any person enrolled in a school.

***Tangible personal property*** means ~~corporeal~~ personal property that can be one or more of the following: seen, weighed, measured, felt, touched, stored, transported, exchanged, or that is in any other manner perceptible to the senses.

***Tax*** means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

***Tax deficiency or Deficiency*** means any amount of tax, penalty, interest, or other fee that is not reported and paid on or before the due date that any return or payment of the tax is required under the terms of this chapter.

***Taxable sales*** means gross sales less any exemptions and deductions specified in this chapter.

*Taxable services* means services subject to tax pursuant to this chapter.

*Taxpayer* means any person obligated to collect and/or pay tax under the terms of this chapter.

*Telecommunications service* means the **service of which the object is the** transmission of any two-way interactive electromagnetic communications, including but not limited to voice, image, data and any other information, by the use of any means including, but not limited to, wire, cable, fiber optical cable, microwave, radio wave, **Voice over Internet Protocol (VoIP)**, or any combinations of such media **including** ~~“Telecommunications service” includes, but is not limited to, basic local exchange telephone service; toll telephone service; teletypewriter service including but not limited to residential and business service; directory assistance; cellular mobile telephone or telecommunications service; specialized mobile radio and two-way pagers and paging service; any form of mobile two-way communication. “Telecommunications service” does not include separately stated nontransmission services which constitute computer processing applications used to act on the information to be transmitted.~~

***Television and entertainment services* means audio or visual content, that can be transmitted electronically by any means, for which a charge is imposed.**

~~*Therapeutic device* means devices, appliances or related accessories that are sold to correct or treat a human physical disability or surgically created abnormality. If such a device, appliance or related accessory has a retail value of more than \$100.00, it must be sold in accordance with a written recommendation from a practitioner of the healing arts to qualify as a therapeutic device for purposes of this chapter.~~

***Toll free telecommunications service* means a telecommunications service that allows a caller to dial a number without incurring an additional charge for the call.**

~~*Total tax liability and tax due* means the total of all tax, penalties and/or interest owed by a taxpayer and shall include sales tax collected in excess of such tax computed on total sales.~~

***Transient / Temporary sale* means a sale by any person who engages in a temporary business of selling and delivering goods within the city for a period of no more than seven consecutive days.**

***Transient / Temporary vendor* means any person who engages in the business of transient / temporary sales.**

***Use* means the exercise, for any length of time by any person within the City of any right, power or dominion over tangible personal property or services when rented, leased or purchased at retail from sources either within or without the City from any person or vendor or used in the performance of a contract in the City whether such tangible personal property is owned or not owned by the taxpayer. Use also includes the withdrawal of items from inventory for consumption.**

*Use tax* means the tax paid or required to be paid by a consumer for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City.

*WATS/800 service* means any outbound or inbound interstate-wide area telecommunications service or other similar service which entitles the subscriber, upon payment of a periodic charge, based upon a flat amount and/or usage, to make or receive a large volume of telephonic communications to or from persons having telephone or radio telephone stations in specified areas which are outside the telephone system area in which the subscriber's station is located.

*Wholesale sales* means a sales by a wholesaler to licensed retailers, jobbers, dealers, or other wholesalers for resale and does not include a sale by wholesalers to users or consumers not for resale; latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this chapter. ~~Sales by wholesalers to consumers are not wholesale sales. Sales by wholesalers to nonlicensed retailers are not wholesale sales.~~

*Wholesaler* means any person doing an organized wholesale or jobbing business and selling to retailers, jobbers, dealers or other wholesalers for resale, and not for storage, use, consumption or distribution.

*Yard sale* means the retail sale of tangible personal property by an individual who resides on the real estate on which the retail sale occurs for which sales occur no more than four calendar days, whether consecutive or not, in any 12-month period, and which the gross sales do not exceed \$5,000 in any 12-month period, so long as such individual is not authorized to operate a home occupation, pursuant to GJMC 21.04.040(g), from out of the residence at which the retail sale occurs. **This term includes, but is not limited to, garage sales, estate sales, and block sales.**

Introduced on first reading the 20<sup>th</sup> day of November, 2019 and ordered published in pamphlet form.

Adopted on second reading this 4<sup>th</sup> day of December, 2019 and ordered published in pamphlet form.



J. Merrick Taggart  
Mayor

ATTEST:



Wanda Winkelmann  
City Clerk



I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 4982 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 20<sup>th</sup> day of November, 2019 and that 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 4<sup>th</sup> day of December, 2019, at which Ordinance No. 4982 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 6<sup>th</sup> day of December, 2019.

  
Deputy City Clerk

Published: November 22, 2019

Published: December 6, 2019

Effective: January 5, 2020