

ORDINANCE NO. 2500

AN ORDINANCE WHICH PROVIDES FOR AN ALTERNATIVE SALES AND USE TAX CALCULATION TO APPLY TO THE SALE OR USE OF CONSTRUCTION EQUIPMENT AND VEHICLES

PURPOSE.

The Finance Director of the City has examined the present sales and use taxation which applies to construction companies operating or doing business within the City limits. The Finance Director has found that there are a number of construction activities and companies doing business in the City and that the frequency and duration such companies operate in the City varies greatly. Some companies have their principal places of business in the City but do a significant amount of their work outside the City. Other companies, while having their principal place of business outside the City limits, do a substantial portion of their work in the City. Those located outside the City who perform work in the City may not always pay the proper sales and use tax in accordance with the existing provisions of the Article 24 of the Code of Ordinances. The practical limitations and difficulties of collection too often result in some companies suffering an economic disadvantage equal to the amount of sales/use taxes paid by one but not paid by another. In order to increase the actual rates of collection and to make certain that the sales and use taxation system applies fairly and equally to all who operate within the City, no matter where the principal place of business is located, without the need to continuously inspect each and every construction site within the City, the Finance Director has recommended that a modified rate should be applied to the sales/use tax rate with respect to certain kinds of equipment used in construction. The City Council finds that the recommendation of the Finance Director is appropriate and fair.

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

Section 24-64 of the Code of Ordinances, is amended by the addition of a new subsection (9) which shall read as follows:

"A. Upon receipt of a written request from a person in the construction business who uses, stores, operates, or owns construction machinery in the City of Grand Junction, the Finance Director is hereby authorized to establish an alternative tax calculation which shall apply to the purchase or use of construction machinery, as hereinafter defined, which purchase or use would otherwise obligate such person to pay to the City two and three quarters percent (2.75%) of the amount of the sale or purchase, pursuant to the other provision of Article 24 of the Code of Ordinances. For the purposes of this section 24-64(9), construction machinery means, as defined by C.R.S. 42-1-102: motor vehicles, mobile machinery, self-propelled construction equipment, semi-trailers, trailers, utility trailers, and vehicles. Such

alternative rate shall not apply to a passenger car and truck which has a gross vehicle weight rating of 10,000 pounds or less.

B. Subsection (1) of Section 24-53, entitled 'Exempt items and transactions' is amended to read: '(1) Motor vehicles, trailers, and semi-trailers, and semi-trailers registered outside the City, except to the extent that the alternative tax calculation authorized by Section 24-64(9) may apply.' The balance of subsection (1) which begins with the word 'Caveat:' is not amended or repealed.

C. The alternative sales/use tax calculation will be calculated as follows:

The taxpayer's gross revenue from construction activities during the prior year (gross revenue reported on the taxpayer's last fiscal year federal tax return or other annual period as approved by Finance Director) shall be the denominator. The taxpayer's gross revenues generated from construction activities within the City limits during the prior year shall be the numerator. The ratio of such numerator and denominator shall be converted to a percentage. Such percentage calculated shall be compared to 25% and the greater of the two percentages shall be multiplied by the sales/use tax rate in effect. The resulting product is the alternative rate to be applied to the sale or use of construction machinery.

If a requesting taxpayer has not been in existence for at least 365 days prior to the request, then the Finance Director may establish an alternative tax calculation based on verified information supplied by the taxpayer; the Finance Director may refuse to determine an applicable alternative tax calculation for a taxpayer who has not been in existence for the requisite 365 days if the Finance Director reasonably determines that the information available to him is insufficient to make a reasonably accurate estimate.

D. If any portion of this ordinance is deemed by a court of competent jurisdiction to be unconstitutional or otherwise unenforceable in whole or in part, all provisions of this ordinance shall fail. It is the Council's intent that the provisions of this ordinance shall fail. It is the Council's intent that the provisions of this ordinance not be severable but rather, in such event, the provisions of Article 24 of the City Code shall apply as though this ordinance had not been adopted.

E. The credit provisions of Section 24-65(15) shall apply with respect to construction machinery on which the taxpayer has previously paid a Colorado municipal sales or use tax. Said construction machinery would not be allowed or included in the alternative tax calculation as provided above.

F. If a taxpayer has more than one place or location of business, revenues generated from the business located inside the City's

limit or the place of business closest to the City limits will be used in calculating the numerator and denominator, as specified herein.

G. The alternative tax calculation established herein will be effective for only twenty-four (24) months from the date of approval on new purchases, leases and acquisitions and must be renewed periodically by making written application to the Finance Director on forms provided by the City of Grand Junction.

H. The Finance Director, or his designee, may at any time, but not to exceed once each year unless for good cause, inspect, interview and audit the taxpayer and the employees of the taxpayer and any and all of the taxpayer's books, documents or other records as may be necessary to substantiate taxpayer's gross revenues. Should such inspection, interview or audit reveal an underpayment of tax of five (5) percent or more with respect to any reporting period, the Finance Director shall impose and the taxpayer shall pay, in addition to amounts otherwise due pursuant to this Article 24, a penalty of 20 percent of the underpaid amount in addition to the costs incurred by the City (including but not limited to accounting fees, the value of accountants or other professionals engaged in such audit, inspection or interview) as a consequence of such audit, inspection or interview."

INTRODUCED this 19th day of December, 1990.

PASSED and ADOPTED this 16th day of January, 1991.

William E. McCurry

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President of the Council

Attest:

Neva B. Lockhart, CMC

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City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 2500, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 19th day of December, 1990, and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official Seal of said City this 17th day of January, 1991.

Neva B. Lockhart

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Neva B. Lockhart, CMC  
City Clerk

Published: December 28, 1990

Published: January 18, 1991

Effective: February 17, 1991