

**CITY OF RIFLE, COLORADO
ORDINANCE NO. 16
SERIES OF 2018**

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO, AMENDING
CHAPTER 4 AND CHAPTER 6 OF THE RIFLE MUNICIPAL CODE
PERTAINING TO THE COLLECTION OF SALES AND USE TAX,
UPDATING DEFINITIONS AND AMENDING CERTAIN FEES.

WHEREAS, the City of Rifle ("Rifle" or the "City") is a home-rule municipality organized pursuant to Article XX of the Colorado Constitution and with the authority of the Rifle Home Rule Charter; and

WHEREAS, the City is attempting to standardize its Sales Tax Code with other cities and towns in Colorado pursuant to the Sales Tax Definition Project spearheaded by the Colorado Municipal League; and

WHEREAS, Chapter 4, Article II, Division 2 of the Rifle Municipal Code provides for the regulation and administration of the collection of sales tax; and

WHEREAS, Chapter 6, Article II of the Rifle Municipal Code provides for the process of acquiring a sales tax license; and

WHEREAS, the City desires to amend Chapter 4 sales tax definitions and to revise certain provisions of the Chapter to conform with said definitions; and

WHEREAS, the City desires to amend Chapter 6 to revise certain provisions of the Chapter to conform with the definitions in Chapter 4; and

NOW, THEREFORE, THE COUNCIL OF THE CITY OF RIFLE, COLORADO, ORDAINS THAT:

1. The City Council incorporates the foregoing recitals as conclusions, facts, determinations, and findings by the City Council.

2. Section 4-2-20(b) of the Rifle Municipal Code is hereby amended as follows, with underlined text added and ~~strike-through language deleted~~:

Sec. 4-2-20. - Legislative intent; uniform interpretation; simplification.

(b) It is hereby declared to be the legislative intent of the City Council that, for the purposes of this Article, every person who stores or uses any automotive ~~motor~~ vehicle, trailer, semi-trailer or other personal property for which a title is issued and registered with the County Clerk and Recorder is exercising a taxable privilege.

3. Section 4-2-30 of the Rifle Municipal Code is hereby repealed in its entirety and replaced with the following:

Sec. 4-2-30. Definitions.

The following words and phrases, as used in this Article, shall have the meanings set forth below. These definitions are intended, as nearly as practical, to be consistent with other sales and use tax ordinances imposed by other home rule municipalities.

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 as 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 service.

Auction means any sale where tangible personal property is sold by an auctioneer who is either the agent for 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 any device used or designed for aviation or flight in the air. *Automotive vehicle* includes, but is not limited to, motor vehicles,

trailers, semi-trailers 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: (1) has been certified as a nonprofit organization under 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 burdens of government.

City means the municipality of Rifle.

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.

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.

Community organization means a nonprofit entity organized and operated exclusively for the promotion of social welfare, primarily engaged in promoting the common good and general

welfare of the community, 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.

Construction equipment means any equipment, including mobile machinery and mobile equipment, which is used to erect, install, alter, 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 independent identity to become an integral part of a completed structure or project for all private improvements. *Construction materials* includes but is 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, weather stripping, 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 part of a completed structure or project are not construction materials.

Consumer means: any individual person or a person engaged in business in the City, who 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 including, but not limited to, computers, software program, hardware or firmware.

Digital product means a modern version of a traditional 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.

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 Code, 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 (1) of the following activities by a person:

- a. Directly, indirectly or by a subsidiary maintains a building, store, office, salesroom, warehouse or other place of business within the taxing jurisdiction.
- b. Sends one (1) or more employees, agents or commissioned sales persons into the taxing jurisdiction to solicit business or to install, assemble, repair, service or assist in the use of his or her products, or for demonstration or other reasons.
- c. Maintains one (1) or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction.
- d. Owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction.

e. Makes more than one (1) delivery into the taxing jurisdiction within a twelve-month period.

f. Is used by the manufacturer, compounder, wholesaler, jobber, retailer, packager, distributor or bottler to contain or label the finished product;

g. Is transferred by said person along with and as a part of the finished product to the purchaser; and

h. Is not returnable to said person for reuse.

Fabricating means an operation which changes the form or state of tangible personal property.

Factory built housing means a manufactured home, sectional or modular home.

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

Finance director means the City Treasurer or such other person designated by the City.

Food means food for domestic home consumption as defined in 7 U.S.C. § 2012(g) as amended, for purposes of the federal food stamp program as defined in 7 U.S.C. § 2012(h), 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; cold sandwiches; deli trays; and food or drink vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor.

Garage sales means sales of tangible personal property, except automotive vehicles, occurring at the residence of the seller, where the property to be sold was originally purchased for use by members of the household where such sale is being conducted. The term includes, but is not limited to, yard sales, estate sales, and block sales.

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 sales and use tax license issued by the City.

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

Lodging services means the provision or facilitation of provision of any rooms or accommodations by any person, partnership, association, corporation, estate, representative capacity or any combination of individuals by whatever name known to a person who, for a consideration including barter, trade or timesharing uses, possesses or has the right to use or possess any room or other accommodation, including but not limited to a hotel, inn, bed and breakfast residence, apartment, single family residence, lodging house, condominium, motor hotel, guesthouse, guest ranch, trailer coach, mobile home, auto camp, trailer court and park, or similar establishment, for a period of less than thirty (30) days under any concession, permit, right of access, license to use, or other agreement.

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.

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 or performance as a business 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.

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.

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, but which have been redesigned or modified by the mounting thereon of special equipment or machinery and may be only incidentally operated or moved over the public highways. This definition includes but is not limited to wheeled vehicles commonly used in the construction, maintenance and repair of roadways, the drilling of wells and 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 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.

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.

Photovoltaic systems means a power system designed to supply useable 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 and other electrical accessories to set up a working system.

Person means any individual, firm, partnership, joint venture, corporation, estate, 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.

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

- a. Are primarily devoted to advertising; and
- b. The distribution, insertion or attachment of which is commonly paid for by the advertiser

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.

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.

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, and 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 practitioner of the healing arts, or given orally by a practitioner, not including drugs available over the counter, 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 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 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:

- a. Such exchanged property is to be sold thereafter in the usual course of the retailer's business; or
- b. 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:

- a. The amount of money received or due in cash and credits.
- b. Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- c. Any consideration valued in money, such as trading stamps or coupons whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
- d. 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 the note 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.
- e. Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.
- f. Transportation and other charges to effect delivery of tangible personal property to the purchaser.
- g. Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.

h. The gross purchase price of articles sold after manufacturing or after having been made to order, including the gross value of all the materials used, labor and service performed and the profit thereon.

Price or purchase price shall not include:

- a. Any sales or use tax imposed by the State of Colorado or by any political subdivision thereof.
- b. 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 Colorado. Out-of-state trade-ins are an allowable adjustment to the purchase price.
- c. 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 not an allowable adjustment to the price in reporting gross sales.

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

Prosthetic devices 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. *Prosthetic devices* includes but is not limited to prescribed auditory, ophthalmic, ocular, cardiac, dental, therapeutic or orthopedic devices or appliances, oxygen concentrators and oxygen with related accessories.

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

- a. Transfer, either conditionally or absolutely, of title, possession or both to tangible personal property, other taxable products, or taxable services;
- b. 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.
- c. Performance of taxable services; or
- d. Barter or exchange for other tangible personal property, other taxable products, or services.

The terms *purchase* and *sale* do **not** include:

- a. A division of partnership assets among the partners according to their interests in the partnership.
- c. The transfer of assets of shareholders in the formation or dissolution of professional corporations.
- d. 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;
- e. A transfer of a partnership interest.
- f. The transfer of assets to a commencing or existing partnership, if no consideration including, but not limited to, the assumption of a liability is paid for the transfer of assets;
- g. The repossession of personal property by a chattel mortgage holder or foreclosure by a lienholder.
- h. The transfer of assets from a parent corporation to a subsidiary corporation which is owned at least eighty percent (80%) by the parent corporation, which transfer is solely in exchange for stock or securities of the subsidiary corporation.
- i. The transfer of assets from a subsidiary corporation which is owned at least eighty percent (80%) by the parent corporation to a parent corporation or to another subsidiary which is owned at least eighty percent (80)% 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.
- k. 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 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 corporation 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 corporation. To such an extent any transfer referred to in this Paragraph shall constitute a sale. For the purposes of this Paragraph, a closely held subsidiary corporation is one in which the parent corporation owns stock possessing at least eighty percent (80%) of the total combined voting power of all classes of stock entitled to vote and owns at least eighty percent (80%) 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, including but not limited to pool, golf, billiards, skating, tennis, bowling, 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 means all sales except wholesale sales.

Retailer means any person selling, leasing or renting tangible personal property or services at retail. *Retailer* shall include any:

- a. Auctioneer.
- b. Salesperson, representative, peddler or canvasser, who makes sales as a direct or indirect agent of or obtains such property or services sold from a dealer, distributor, supervisor or employer.
- c. 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 the proceeds are to be used for charitable or governmental purposes.
- d. Retailer-contractor, when acting in the capacity of a retailer.

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 resale (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.

Sales tax means the tax to be collected and remitted by a retailer on sales taxed under this Article.

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

School means an educational organization which maintains a faculty and curriculum and has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are routinely conducted.

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). 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, or maintain a copy of, software, regardless of the form of the software.

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 system 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 provision of broadcast or pre-recorded audio programming to a building or portion thereof. Such term 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, railroad 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 or storing means any keeping or retention of, or exercise of dominion or control over, 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 within or without the City for any person or vendor.

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

Tax means the use tax due from a consumer, 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 any other fee that is not reported and/or not paid on or before the date that any return or payment of the tax is required under the terms of this Code.

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

Taxable services means services subject to tax pursuant to this Article.

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

Telecommunications service means 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, but not limited to wire, cable, fiber optical cable, microwave, radio wave, Voice over Internet Protocol (VoIP), internet access, remote access to computers and electronic storage equipment, or any combination of such media, including any form of mobile two-way communication. *Therapeutic devices* means devices, appliances or related accessories that correct or treat a human physical disability or surgically created abnormality.

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

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

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

Transient merchant means any person who engages in the business of transient/temporary 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.

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, or withdrawn 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.

Vendor is synonymous with *retailer*, as the same is defined above.

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 sales to licensed retailers, jobbers, dealers or wholesalers for resale. Sales by wholesalers to consumers are not *wholesale sales*. Sales by wholesalers to nonlicensed retailers are not *wholesale sales*.

Wholesaler means any person selling to retailers, jobbers, dealers or other wholesalers for resale, and not for storage, use, consumption or distribution.

4. Section 4-2-110 of the Rifle Municipal Code is hereby amended as follows, with underlined text added and ~~strike through language deleted~~:

Sec. 4-2-110. - Sales tax imposed upon certain transactions, property and services.

There is hereby levied a tax in an amount equal to four and one-quarter percent (4.25%) of the amount of the sale, which shall be imposed upon:

(1) All sales of commodities and services as defined in Section 4-2-30 above unless specifically exempted in this Article.

(2) The sale of tangible personal property, ~~including food, that is sold, leased or rented at retail, whether or not such property has been included in a previous taxable transaction.~~

(3) Telephone services for all local calls originating in the City on telephone instruments located in the City.

(4) Meals, food, drinks and cover charges, if any, furnished in any restaurant, eating house, hotel, club, resort or other such place at which meals, food or drinks are regularly sold to the public.

(5) Gas and electricity furnished for domestic, commercial or industrial consumption.

(6) Automotive ~~motor~~ vehicles sold, leased or rented to residents of the City.

5. Section 4-2-120(3) of the Rifle Municipal Code is hereby amended as follows, with underlined text added and ~~strike through language deleted~~:

Sec. 4-2-120. - Transactions exempt from sales tax.

(3) Prescription drugs for humans and prosthetic devices.

6. Section 4-2-240 of the Rifle Municipal Code is hereby amended as follows, with underlined text added and ~~strike through language deleted~~:

Sec. 4-2-240. - ~~Motor~~ Automotive vehicles and trailers.

(a) It is unlawful to register an automotive ~~motor~~ vehicle in violation of the provisions of Section 42-6-137(2), C.R.S.

(b) Any person who causes an automotive ~~motor~~ vehicle to be registered in violation of the provisions of Section 42-6-137(2), C.R.S., in addition to any other penalties provided by law, shall be assessed a civil penalty of five hundred dollars (\$500.00) pursuant to the authority granted in Section 42-6-137(4), C.R.S. This civil penalty shall be assessed as follows:

(1) When the Finance Director determines on such information as is available that a person has caused an automotive ~~motor~~ vehicle to be registered in violation of the provision of Section 42-6-137(2), C.R.S., the Finance Director shall provide such person with a penalty assessment. If the City Treasurer has also determined pursuant to this Article that sales or use taxes are due to the City on the purchase of such automotive ~~motor~~ vehicle, the penalty assessment may be included in the notice of deficiency.

7. Section 4-2-400(c)(4) of the Rifle Municipal Code is hereby amended as follows, with underlined text added and ~~strike through language deleted~~:

Sec. 4-2-400. - Lien for tax due.

(c) The attachment and priority of such lien shall be as follows:

(4) Automotive ~~motor~~ vehicles which are properly registered in the State, showing the lessor as owner thereof, shall be exempt from such lien except that such lien shall apply to the extent that the lessee has an earned reserve, allowance for depreciation not to exceed the fair market value or similar interest which is or may be credited to the lessee.

7. Section 6-2-80 of the Rifle Municipal Code is hereby amended as follows, with underlined text added and ~~strike through language deleted~~:

Sec. 6-2-80. - Special event licenses.

(a) A *special event* is any event such as a fair, exhibition or bazaar held on a single premises and has more than three (3) Vendors is no longer than ~~ten (10)~~ seven (7) consecutive days. The sponsoring organization of any special event shall apply for and obtain a special event license at least fourteen (14) days prior to the event. This license will cover all participating merchants in the event. The special event license fee is set forth in Appendix A to this Code

(b) The sponsoring organization of a special event will be responsible for collecting the City sales tax from each merchant and remitting it in its entirety to the City. An "Event Sales Tax Worksheet" will be completed for each merchant and returned to the City with the sales tax remittance.

8. Appendix A of the Rifle Municipal Code is hereby amended as follows, with underlined text added and ~~strike through language deleted~~:

4-2-350(b)	Notice of assessment	\$5 20.00
4-2-400(a)	Lien Processing <u>Summons and Complaint Processing</u>	\$10 250.00 <u>\$500.00 + actual costs and attorney fees</u>

INTRODUCED on October 17, 2018, read by title, passed on first reading, and ordered published by title as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on November 7, 2018, passed without amendment, approved, and ordered published in full as required by the Charter.

Dated this 7 day of November 2018.

CITY OF RIFLE, COLORADO

BY:


Mayor

ATTEST:


City Clerk

