

ORDINANCE 8425

AN ORDINANCE AMENDING SECTION 3-1-1, B.R.C. 1981, BY ADDING THE TERMS “MARKETPLACE,” “MARKETPLACE FACILITATOR,” “MARKETPLACE SELLER” AND “MULTICHANNEL SELLER” TO THE DEFINITION OF “RETAILER” AND DEFINING EACH INDIVIDUALLY; AND SETTING FORTH RELATED DETAILS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. The definition of “Retailer” in Section 3-1-1, “Definitions,” B.R.C. 1981, is amended to read as follows:

**3-1-1. - Definitions.**

*Retailer or Vendor* means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. The terms *Retailer* or *Vendor* shall include, but are not limited to, any: (1) Auctioneer; (2) 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; (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 the proceeds are 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*; and (5) *Marketplace facilitator, marketplace seller, or multichannel seller.*

Section 2. Amend Section 3-1-1, “Definitions,” B.R.C. 1981, to add the following new definitions:

**3-1-1 - Definitions.**

*Marketplace* means a physical or electronic forum, including, but not limited to, a store, a booth, an internet website, a catalog, or a dedicated sales software application, where tangible personal property, taxable products, or taxable services are offered for sale.

*Marketplace Facilitator* means a person who:

- (a) Contracts with a marketplace seller or multichannel seller to facilitate for consideration, regardless of whether or not the consideration is deducted as fees

1                   from the transaction, the sale of the marketplace seller's tangible personal  
2                   property, products, or services through the person's marketplace;

3                   (b) Engages directly or indirectly, through one or more affiliated persons, in  
4                   transmitting or otherwise communicating the offer or acceptance between a  
5                   purchaser and the marketplace seller or multichannel seller; or

6                   (c) Either directly or indirectly, through agreements or arrangements with third  
7                   parties, collects payment from the purchaser on behalf of the seller.

8                   Marketplace Facilitator does not include a person that exclusively provides internet  
9                   advertising services or lists products for sale, and that does not otherwise meet this definition.

10                   Marketplace Seller means a person, regardless of whether or not the person is engaged in  
11                   business in the city, which has an agreement with a marketplace facilitator and offers for sale  
12                   tangible personal property, products, or services through a marketplace owned, operated, or  
13                   controlled by a marketplace facilitator.

14                   Multichannel Seller means a retailer that offers for sale tangible personal property,  
15                   commodities, or services through a marketplace owned, operated, or controlled by a marketplace  
16                   facilitator, and through other means.

17                   Section 3. If any provision of this ordinance, or the application of such provision to any  
18                   person or circumstance, is held to be unconstitutional, then the remainder of this ordinance, and  
19                   the application of the provisions of such to any person or circumstance, shall not be affected  
20                   thereby.

21                   Section 4. This ordinance shall become effective on the first day of the month that is at  
22                   least 30 days after date of its adoption.

23                   Section 5. This ordinance is necessary to protect the public health, safety, and welfare of  
24                   the residents of the city and covers matters of local concern.

25                   Section 6. The city council deems it appropriate that this ordinance be published by title  
only and orders that copies of this ordinance be made available in the office of the city clerk for  
public inspection and acquisition.

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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY  
TITLE ONLY this 15th day of September 2020.

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Sam Weaver,  
Mayor

Attest:

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Pamela Davis,  
City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 6th day of October  
2020.

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Sam Weaver,  
Mayor

Attest:

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Pamela Davis,  
City Clerk