

**CITY OF SHERIDAN, CO
ORDINANCE NO. 5-2021**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERIDAN, COLORADO,
AMENDING ARTICLE V OF CHAPTER 62 OF THE SHERIDAN MUNICIPAL CODE
PERTAINING TO SALES AND USE TAXES**

WHEREAS, Article V of Chapter 62 of the Sheridan Municipal Code, enacted on February 23, 2005, incorporates by reference the provisions of the State's Sales and Use Tax, C.R.S. § 39-26, as they existed on December 31, 2004; and

WHEREAS, by virtue of this incorporation by reference, the City's sales tax scheme imposes sales tax on the sale of tangible personal property and on the furnishing of services, and exempts certain sales and services from the city sales tax, coterminous with the State as of December 31, 2004; and

WHEREAS, since the enactment of Article V of Chapter 62 of the Sheridan Municipal Code in 2005, there have been numerous changes to State sales and use tax scheme and, by extension, the provisions of C.R.S. § 39-26 that were in effect on December 31, 2004; and

WHEREAS, it has become difficult and inconvenient for taxpayers to reference the provisions of C.R.S. § 39-26 as they existed on December 31, 2004 as distinguished from the version of C.R.S. § 39-26 currently in effect; and

WHEREAS, the City desires to provide taxpayers clarity on the City's sales and use tax base, by specifying in its existing Code which sales and services were taxable, and which sales and services were exempt, as of December 31, 2004, rather than relying on a general reference to C.R.S. § 39-26; and

WHEREAS, City Council has determined that maintaining the local collection of sales and use taxes for the City is of paramount importance to the continued financial strength of the City; and

WHEREAS, City Council has determined that the retail business community desires better uniformity and simplicity when operating in the City; and

WHEREAS, City Council has determined that sales tax revenue is directly tied to how well the City's retail business community is faring, City Council and staff have generally supported the idea that the City should simplify the tax code, without sacrificing revenue; and

WHEREAS, City Council has determined that revenue neutral tax simplification is generally construed as good for business and good for the community as a whole.

WHEREAS, clarifying the existing code and adopting standardized definitions will neither create any new taxes, increase any existing taxes, nor remove any existing exemptions, but instead will make it significantly easier for taxpayers to reference and understand those taxes that are already in existence.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHERIDAN, COLORADO, THAT:

Section 1. Section 62-143, "Definitions," of the Sheridan Municipal Code is amended by the deletion and addition of the following definitions, to be inserted in alphabetical order, to read as follows

Agricultural compounds means insecticides, fungicides, growth-regulating chemicals, enhancing compounds, semen, vaccines and hormones.

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;
- (2) Viticultural, fruit, and vegetable products;
- (3) Livestock;
- (4) Milk;
- (5) Honey; and
- (6) Poultry and eggs.

Medical items means urine-and blood-testing kits and materials; insulin measuring and injecting devices, including hypodermic syringes and needles; prosthetic devices for animals or humans; wheelchairs and hospital beds; corrective eyeglasses, contact lenses or hearing aids; and drugs or materials furnished by a licensed medical or dental practitioner as part of professional services provided to a patient.

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.

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 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 practitioner of the healing arts. 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

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.

Therapeutic device means devices, appliances, or related accessories that correct or treat a human physical disability or surgically created abnormality.

Section 2. Section 62-174, "Sales tax – Taxable property and services," of the Sheridan Municipal Code is hereby amended by the addition of a new subsection (9), to read as follows:

(9) Sales of tangible personal property by a retailer-contractor, when acting as a retailer, shall be subject to sales tax on the total sales price. Labor and installation charges are not taxable if separately stated.

Section 3. Section 62-175, "Same – Exempt property and services," of the Sheridan Municipal Code is hereby amended by the addition of a new subsection (53), to read as follows:

(53) *Therapeutic devices.* All sales of therapeutic devices with a retail value of one hundred dollars or less, and all sales of therapeutic devices with a retail value of one hundred dollars or more when sold in accordance with a written recommendation from a licensed doctor.

Section 4. Section 62-175, "Same – Exempt property and services," of the Sheridan Municipal Code is hereby amended by the addition of a new subsection (54), to read as follows:

(54) *Certain medical items.* All sales of medical items, as defined in this article.

Section 5. Section 62-175, "Same – Exempt property and services," of the Sheridan Municipal Code is hereby amended by the addition of a new subsection (55), to read as follows:

(55) Labor sold with tangible personal property, if such labor is stated separately on the invoice from the tangible personal property sold.

Section 6. Subsection 62-175(11), "Same – Exempt property and services," of the Sheridan Municipal Code is hereby amended to read as follows:

(11) *Commercial agriculture and livestock operations.* All sales and purchases of feed, seeds, and orchard trees for commercial agriculture and commercial livestock operations. The lease or rental of farm equipment for use primarily and directly in any farm operation, if the fair market value of the farm equipment is at least one thousand dollars. All sales and purchases of agricultural compounds in caring for livestock. All sales and purchases of pesticides for commercial agriculture and commercial livestock operations, provided that such pesticides are registered by the commissioner of agriculture pursuant to the Pesticide Act, article 9 of title 35, C.R.S., and offered for sale by a licensed dealer pursuant to C.R.S. 35-9-115.

Section 7. Subsection 62-175(12), "Same – Exempt property and services," of the Sheridan Municipal Code is hereby amended to read as follows:

(12) *Commercial packaging materials.* Sales of tangible personal property for use as commercial packaging materials or commercial shipping materials.

Section 8. Subsection 62-175(46), "Same – Exempt property and services," of the Sheridan Municipal Code is hereby amended to read as follows:

(46) *Taxed commodities.* The sale of any commodity upon which there has been accrued or paid the tax prescribed by C.R.S. article 27 of title 39, including all sales of motor fuel upon which there has been accrued or has been paid either the gasoline tax or special fuel tax under the provisions of the Colorado Motor Fuel Tax of 1933.

Section 9. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The city council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 10. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

Section 11. The repeal or modification of any provision of the Sheridan Municipal Code by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 12. This ordinance is deemed necessary for the preservation of the public property, health, welfare, peace and safety.

PASSED AND APPROVED on first reading the 12th day of July 2021 and ordered published.

PASSED AND APPROVED on second reading the 26th day of July 2021 and ordered published.


Tara Beiter-Fluhr, Mayor

ATTEST:


Arlene Sagee, City Clerk



APPROVED AS TO FORM:


William P. Hayashi, City Attorney