

1 ORDINANCE 8457

2 AN ORDINANCE AMENDING SECTION 3-1-1, "DEFINITIONS,"
3 AND ADDING A NEW SECTION 3-2-10, "MARKET PLACE
4 SALES," B.R.C. 1981, TO ASSIST IN FACILITATING TAXATION
5 ON REMOTE SALES INTO THE CITY; AND SETTING FORTH
6 RELATED DETAILS.

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

9 Section 1. Section 3-1-1, "Definitions," B.R.C. 1981, is amended to read as follows:

10 . . .

11 Economic Nexus means the connection between the city and a person not having a
12 physical nexus in the State of Colorado, which connection is established when the person or
marketplace facilitator makes retail sales into the city, and:

- 13 (a) In the previous calendar year, the person, which includes a marketplace facilitator,
14 has made retail sales into the state exceeding the amount specified in C.R.S. § 39-26-
15 102(3)(c), as amended; or
- 16 (b) In the current calendar year, 90 days has passed following the month in which the
17 person, which includes a marketplace facilitator, has made retail sales into the state
18 exceeding the amount specified in C.R.S. § 39-26-102(3)(c), as amended.

19 This definition does not apply to any person who is doing business in this state but
20 otherwise applies to any other person.

21 *Engaged in business in the city* means performing or providing services or selling,
22 leasing, renting, delivering or installing tangible personal property or products for storage, use or
23 consumption, within the City. *Engaged in business in the city* includes, without limitation, any
24 one of the following activities by a person:

- 25 (a) Directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom,
warehouse, or other place of business within the city;
- (b) Sending one or more employees, agents or commissioned sales persons 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 reason;
- (c) Maintaining one or more employees, agents or commissioned sales persons on duty at
a location within the city;
- (d) Owning, leasing, renting or otherwise exercising control over real or personal
property within the city; ø

- 1 (e) Making more than one delivery into the city within a twelve-month period by any
2 means other than a common carrier;
3 (f) Who is a retailer or vendor in the state of Colorado making more than one delivery
4 into the city within a twelve month period; or
5 (g) Making retail sales sufficient to meet the definitional requirements of economic
6 nexus.

7 ...
8 Section 2. A new Section 3-2-10, "Marketplace Sales," is added to read as follows:

9 **3-2-10. - Marketplace Sales.**

10 (a) Requirements of Marketplace Facilitator.

- 11 (1) A marketplace facilitator engaged in business in the city is required to collect and
12 remit sales tax on all taxable sales made by the marketplace facilitator or facilitated
13 by it for marketplace sellers or multichannel sellers to customers in the city, whether
14 or not the marketplace seller for whom sales are facilitated would have been required
15 to collect sales tax had the sale not been facilitated by the marketplace facilitator.
16 (2) A marketplace facilitator shall assume all the duties, responsibilities, and liabilities
17 of a vendor. Marketplace facilitators shall be liable for the taxes collected from
18 marketplace sellers or multichannel sellers. The city may recover any unpaid taxes,
19 penalties, and interest from the marketplace facilitator that is responsible for
20 collecting on behalf of marketplace sellers or multichannel sellers.
21 (3) The liabilities, obligations, and rights set forth under this chapter are in addition to
22 any duties and responsibilities of the marketplace facilitator has under this chapter if
23 it also offers for sale tangible personal property, products, or services through other
24 means.
25 (4) A marketplace seller, with respect to sales of tangible personal property, products, or
services made in or through a marketplace facilitator's marketplace, does not have
the liabilities, obligations, or rights of a retailer under this chapter if the marketplace
seller can show that such sale was facilitated by a marketplace facilitator:
(A) With whom the marketplace seller has a contract that explicitly provides that
the marketplace facilitator will collect and remit sales tax on all sales subject to
tax under this chapter; or
(B) From whom the marketplace seller requested and received in good faith a
certification that the marketplace facilitator is registered to collect sales tax and
will collect sales tax on all sales subject to tax under this chapter made in or
through the marketplace facilitator's marketplace.
(5) If a marketplace seller makes a sale that is not facilitated by a licensed marketplace
facilitator in a marketplace, the marketplace seller is subject to all of the same
licensing, collection, remittance, filing and recordkeeping requirements as any other
retailer.

- (b) Auditing. With respect to any sale, the city shall solely audit the marketplace facilitator for
sales made by marketplace sellers or multichannel sellers but facilitated by the
marketplace. The city will not audit or otherwise assess tax against marketplace sellers or


1 multichannel sellers for sales facilitated by a marketplace facilitator.

2 Section 3. The provisions of this Ordinance shall be effective as of October 1, 2021 to
3 provide the city's Finance Department time to work through the state's single point of filing
4 software.
5

6 Section 4. This ordinance is necessary to protect the public health, safety, and welfare of
7 the residents of the city and covers matters of local concern.
8

9 Section 5. The city council deems it appropriate that this ordinance be published by title
10 only and orders that copies of this ordinance be made available in the office of the city clerk for
11 public inspection and acquisition.
12

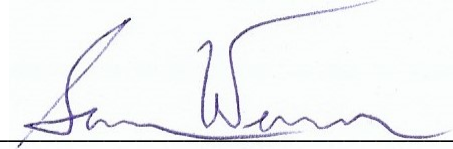
13 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
14 TITLE ONLY this 4th day of May 2021.

15 
16 _____
17 Sam Weaver,
18 Mayor

18 Attest:

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20 _____
21 City Clerk
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1 READ ON SECOND READING, PASSED AND ADOPTED this 18th day of May 2021.

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5 Sam Weaver,
6 Mayor

7 Attest:

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9 City Clerk

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