

**ORDINANCE OF THE  
CITY OF LONE TREE**

**Series of 2019**

**Ordinance No. 19-06**

**AN ORDINANCE AMENDING ARTICLE III OF CHAPTER 4 OF THE CITY OF  
LONE TREE MUNICIPAL CODE CONCERNING SALES AND USE TAX  
DEFINITIONS AND CLARIFICATION OF CERTAIN TAXABLE TRANSACTIONS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LONE TREE,  
COLORADO:**

**ARTICLE 1 – AUTHORITY**

The City of Lone Tree (the “City”) is a home rule municipality operating under the Lone Tree Home Rule Charter (the “Charter”) adopted on May 5, 1998 and a Municipal Code (the “Code”), codified and adopted on December 7, 2004. Pursuant to the Charter, the Code and the authority given home rule cities, the City may adopt and amend Ordinances and adopt codes by reference.

**ARTICLE 2 – DECLARATIONS OF POLICY**

A. The City Council has adopted a comprehensive sales and use tax code codified in Article III of Chapter 4 of the Municipal Code.

B. The City Council desires to update and amend sections of Article III of Chapter 4 to:

1. Adopt standardized sales and use tax definitions developed through the sales tax simplification project for home rule municipalities initiated by the Colorado Municipal League pursuant to the Colorado Senate Joint Resolution SJR 14-038; and
2. Remove certain sales and use tax transactions from taxation that are no longer being taxed by the City.

C. The City Council has determined that:

1. The standard tax definitions project is a major collaborative sales tax simplification initiative by Colorado's home rule municipalities that locally collect their sales tax and the retail business community;
2. The City will cooperate in furtherance of a statewide goal to have all locally collecting municipalities agree to use standard definitions in their sales and use tax codes;

3. Maintaining the local collection of sales and use taxes for the City is of paramount importance to the continued financial strength of the City of Lone Tree;
4. The retail business community desires better uniformity and simplicity when operating in multiple local jurisdictions;
5. The City is able to simplify the tax code definitions without sacrificing revenue; and
6. The City can modify the City's sales and use tax inclusions and exemptions in compliance with the Taxpayer Bill of Rights (TABOR) by remaining revenue neutral.

### **ARTICLE 3 – SAFETY CLAUSE**

The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare.

### **ARTICLE 4 – ADOPTION**

The following sections of Article III, Sales and Use Tax, of Chapter 4 of the Municipal Code, are hereby amended:

- A. Section 4-3-20, titled *Definitions*, is hereby amended to read in full as follows:

For the purposes of this Article, the definition of words herein contained shall be as said words are defined in Sections 39-26-102 and 39-26-201, C.R.S., provided that references to the "state" as the jurisdictional taxing authority shall be read to mean "City" and that the enumerated definitions specifically set forth in this Article shall control, supersede and govern where there is a conflict between the statutory definitions and the definitions herein set forth. Further, in instances in which the statutory definitions give rise to an exclusion or exemption from the taxes herein imposed, the terms of this Article shall control. Except as so modified, said definitions of Sections 39-26-102 and 39-26-201, C.R.S., are incorporated herein by this reference.

*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, propelled 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 and 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.

*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 section 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 burden of government.

*City* means the home-rule municipality of the City of Lone Tree.

*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.

*Construction materials* means tangible personal property which, when combined with other tangible property, loses its identity to become an integral and inseparable part of a structure or building project, and the term includes public and private improvements to real property. Construction and building materials include, but are 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 conduit, pipes and 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, wall board, 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 or inseparable part of a structure or project, are not *construction materials*

*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 of the following activities by a person: (1) directly, indirectly, or by a subsidiary maintains a building, store, office, salesroom, warehouse, or other place of business within the taxing jurisdiction; (2) sends one 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 its

products, or for demonstration or other reasons; (3) maintains one or more employees, agents or commissioned sales persons on duty at a location within the taxing jurisdiction; (4) owns, leases, rents or otherwise exercises control over real or personal property within the taxing jurisdiction; or (5) makes more than one delivery into the taxing jurisdiction within a twelve month period by any means other than a common carrier.

*Medical supplies* means drugs, prosthetic devices and special beds for patients with neuromuscular or similar debilitating ailments, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine, dentistry or podiatry; corrective eyeglass lenses (including eyeglass frames) and corrective contact lenses, when sold for the direct, personal use of a specific individual in accordance with a prescription or other written directive issued by a licensed practitioner of medicine or optometry; wheelchairs and crutches, when sold for the direct, personal use of a specific individual; oxygen and hemodialysis products for use by a medical patient, hearing aids, hearing aid batteries, insulin, insulin measuring and injecting devices, glucose to be used for treatment of insulin reactions, and human whole blood, plasma, blood products and derivatives. This definition excludes items purchased for use by medical and dental practitioners or medical facilities in providing their services, even though certain of those items may be packaged for single use by individual patients after which the item would be discarded.

*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 word does not include magazines, trade publications or journals, credit bulletins, advertising inserts, preprinted newspaper supplements, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revising service, books or pocket and paperback editions of books.

*Person* means any individual, firm, partnership, joint venture, corporation or limited liability company, association, estate or trust, receiver, trustee, assignee, lessee or ~~fiduciary~~ 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.

*Price or purchase price* means the aggregate value measured in currency of the United States paid, delivered or promised to be paid or delivered in consummation of a sale or purchase, without any discount on account of the cost of the property sold, cost of materials, labor or service used, 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 exchange if: (1) such exchanged property is to be sold thereafter in the usual course of the retailer's business or, (2) 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:

- (1) The amount of money received or due in cash and credits.
- (2) Property at fair market value taken in exchange but not for resale in the usual course of the retailer's business.
- (3) Any consideration valued in money, whereby the manufacturer or someone else reimburses the retailer for part of the purchase price and other media of exchange.
- (4) The total price charged on credit sales including finance charges which are not separately stated at the time of sale. 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 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 at the time of sale is not part of the purchase price.
- (5) Installation, applying, remodeling or repairing the property, delivery and wheeling-in charges included in the purchase price and not separately stated.
- (6) Transportation and other charges to effect delivery of tangible personal property to the purchaser.
- (7) Indirect federal manufacturers' excise taxes, such as taxes on automobiles, tires and floor stock.
- (8) 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:

- (1) Any sales or use tax imposed by the state of Colorado or by any political subdivision thereof.
- (2) The fair market value of property exchanged if such property is to be sold thereafter in the retailers' 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.
- (3) Discounts from the original price if such discount and the corresponding decrease in sales tax due is actually passed on to the purchaser, and the seller is not reimbursed for the discount by the manufacturer or someone else. 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.
- (4) The consideration received for labor or services used in installing, applying, refinishing or repairing the property sold if the consideration for such services is separately stated from the consideration received for the tangible personal property in the retail sale; or

(5) The amount paid by any purchaser as, or in the nature of, interest or finance charges on account of credit extended in connection with the sale of any tangible personal property if the interest or finance charges are separately stated from the consideration received for the tangible personal property transferred in the retail sale.

*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.

*Retailer* means any person selling, leasing, renting, or granting a license to use tangible personal property or services at retail. retailer shall include, but is 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.

*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 sale (which may include installation), repair work, time and materials jobs, and/or lump sum contracts.

*Return* means any form prescribed by the city/town administration for computing and reporting a total tax liability.

*Security system services* means electronic alarm and/or monitoring services. such term does not include non-electric security services such as consulting or human or guard dog patrol services engaged for the warning or protection of persons or property.

*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) regardless of the means by which it is accessed or the medium of conveyance. 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.

*Sound system services* means the provision of broadcast or pre-recorded audio programming to a building or structure or a part of either, but the term does not include sound systems installed for presentation of live performances or systems that are acquired for ownership by the owner or manager of the building or structure.

*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 propulsion or drawing of aircraft, railroad cars or railroad locomotives.

*Storage* means any keeping or retention of, exercise of dominion or control over or possession for any length of time 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 either within or without the City from any person or vendor.

*Tax* means the use tax due from a consumer or the sales tax due from a retailer or the sum of both due from a retailer who also consumes.

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

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

*Telecommunications services* means the transmission of which the object is any two-way interactive electromagnetic communications, including but not limited to voice, image, data and any other information, by the use of any means and not limited to wire, cable, fiber optical cable, microwave, radio wave, voice over internet protocol (voip), or any combinations of such media, including any form of mobile two-way communication.

*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. Use also includes the withdrawal of items from inventory for consumption.

*WATS Service* means any interstate-wide area telecommunications services or similar service, sometimes using prefixes of "1-800/866" or similar, which entitles the subscriber, upon payment of a periodic charge based on a fixed amount or usage, to place or receive telephonic communications to or from persons having a telephone or radio telephone station in specified areas that are outside the telephone system area in which the subscriber's station is located.

*Wholesale sales* means:

- a. A sale by wholesalers to licensed retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers to users or

consumers not for resale; latter types of sales shall be deemed to be retail sales and shall be subject to the provisions of this chapter.

B. Subsection (c) of Section 4-3-110, titled *Sales Tax*, is amended to read as follows:

(c) All sales taxes shall apply to the sale of tangible personal property and the furnishing of services as follows, subject to the exemptions specified in this Article.

- (1) On the purchase price paid or charged upon all sales of tangible personal property at retail.
- (2) In the case of retail sales involving the exchange of property, on the purchase price paid or charged, including the fair market value of property exchanged at the time and place of the exchange, excluding, however, from the consideration of purchase price, the fair market value of the exchanged property if such exchanged property is to be sold thereafter in the usual course of the retailer's business.
- (3) Upon the purchase price or charge for telephone and telecommunications services, including, in addition to audio and video transmission and reception, other two-way electronic or electromagnetic wave transmissions, receptions or communications of any sort, by or through any medium, whether such services are furnished by public or private persons that, except as otherwise provided by this Article for mobile telecommunications services, both originate in and are charged to a telephone number or an account located within the City, excepting however, carrier access services, WATS service and interstate or international telephone and telecommunications service. Taxable telephone and telecommunications services include intrastate telecommunications services originating from or received on telecommunications equipment in the City if the charge for the service is billed to an apparatus, telephone or account in the City, without regard to where the bill for such service is actually received. If a person presents to the City written proof of double or overlapping taxation of the particular service involved, the City shall credit against the tax imposed hereunder the amount of tax actually and required by law to be paid to the other taxing jurisdiction.

a. As the term *mobile telecommunications services* is used in this Section, unless the context otherwise requires:

1. *Act* means the *Federal Mobile Telecommunications Sourcing Act*, 4 U.S.C. §§ 116 to 126.
2. *Customer* means customer as defined in § 124(2) of the Act.
3. *Home service provider* means home service provider as defined in § 124(5) of the Act.
4. *Mobile telecommunications services* means mobile telecommunications service as defined in § 124(7) of the Act.
5. *Place of primary use* means the place of primary use as defined in § 124(8) of the Act.

- b. All charges for mobile telecommunications services that are deemed to be provided by the customer's home service provider under §§ 116 through 126 of the Act are subject to tax by the City within its territorial limits encompassing the person's place of primary use, regardless of where the mobile telecommunications services originate, terminate or pass through, and no other taxing jurisdiction may impose taxes, charges or fees on charges for such mobile telecommunications services. The tax shall be collected in accordance with the provisions of this Article and the Act.
  - c. The City Manager may require payment of the tax on any other basis permitted by this Article when a person fails to provide a place of primary use or the Act is determined to be inapplicable to the tax imposed by this Article on mobile telecommunications services.
- (4) For gas and electric service, whether furnished by municipal, public or private corporations or enterprises; for gas, coal, fuel oil, coke and electricity furnished and sold for commercial or industrial consumption and not for resale; and upon steam furnished or sold by municipal, public or private corporations or enterprises when consumed or used by commercial or industrial purchasers.
  - (5) Upon the amount paid for food or drink served or furnished in or by restaurants, cafes, lunch counters, cafeterias, hotels, drugstores, social clubs, nightclubs, cabarets, resorts, snack bars, caterers, carryout shops, grocery delicatessens and other like places of business at which prepared food or drink is sold, including sales from pushcarts, motor vehicles and other mobile facilities. Cover charges, by whatever name known, required to be paid in order to obtain food or drink so furnished and mandatory service charges, whether described as tips, gratuities or otherwise, shall be included as part of the amount paid for such food or drink. However, meals provided to employees of the places mentioned in this Paragraph at no charge or at a reduced charge and which are considered as part of their salary, wages or income shall be exempt from taxation under the provisions of this Section.
  - (6) In addition to other taxes imposed by the City, the sales tax on the entire amount charged to any person for rooms or accommodations as designated in Section 39-26-102(11), C.R.S., when rented or hired for use for thirty-one (31) days or less.
  - (7) Pre-written software programs that are delivered to the customer in a tangible medium. Computer software is not delivered to the customer in a tangible medium if it is provided through an application service provider, delivered by electronic computer software delivery or transferred by load and leave computer software delivery.

C. Subsection (c) of Section 4-3-120, titled *Use Tax*, is hereby amended as follows:

- (c) All use taxes shall apply to every person exercising the taxable privilege of using, storing, distributing or consuming in the City any article of tangible personal property or taxable service, purchased at retail, for said exercise of said privilege, as follows:
  - (1) On the purchase price paid or charged upon all purchases of tangible personal property.

(2) In the case of retail sales involving the exchange of property, on the purchase price paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, excluding, however, from the consideration or purchase price, the fair market value of the exchanged property if such exchanged property is to be sold thereafter in the usual course of the retailer's business.

(3) Upon the purchase price or charge for telephone and telecommunications services, including, in addition to audio and video transmission and reception, other two-way electronic or electromagnetic wave transmissions, receptions or communications of any sort, by or through any medium, whether such services are furnished by public or private persons, that, except as otherwise provided by this Article for mobile telecommunication services, both originate in and are charged to a telephone number or an account located within the City, excepting however, carrier access services and interstate or international telephone and telecommunications service. Taxable telephone and telecommunications services include intrastate telecommunications service originating from or received on telecommunications equipment in the City if the charge for the service is billed to an apparatus, telephone or account in the City without regard to where the bill for such service is actually received. If a person presents to the City written proof of double or overlapping taxation of the particular service involved, the City shall credit against the tax imposed hereunder the amount of tax actually and required by law to be paid to the other taxing jurisdiction.

a. As regards the term *mobile telecommunications services* used in this Section, unless the context otherwise requires:

1. *Act* means the *Federal Mobile Telecommunications Sourcing Act*, 4 U.S.C. §§ 116 to 126.
2. *Customer* means customer as defined in § 124(2) of the Act.
3. *Home service provider* means home service provider as defined in § 124(5) of the Act.
4. *Mobile telecommunications service* means mobile telecommunications services as defined in § 124(7) of the Act.
5. *Place of primary use* means the place of primary use as defined in § 124(8) of the Act.

b. All charges for mobile telecommunications services that are deemed to be provided by the customer's home service provider under §§ 116 through 126 of the Act are subject to tax by the City within its territorial limits encompassing the person's place of primary use, regardless of where the mobile telecommunication services originate, terminate or pass through, and no other taxing jurisdiction may impose taxes, charges or fees on charges for such mobile telecommunications services. The tax shall be collected in accordance with the provisions of this Article and the Act.

c. The City Manager may require payment of the tax on any other basis permitted by this Article when a customer fails to provide its place of primary use or the Act is determined to be inapplicable to the tax imposed by this Article on mobile telecommunications services.

(4) For gas and electric service, whether furnished by municipal, public or private corporations or enterprises; for gas, coal, fuel oil, coke and electricity furnished and sold for commercial or industrial consumption and not for resale; and upon steam furnished or sold by municipal, public or private corporations or enterprises when consumed or used by commercial or industrial purchasers.

(5) Upon the purchase price or charge for data processing equipment and pre-written software programs that are delivered to the customer in a tangible medium. computer software is not delivered to the customer in a tangible medium if it is provided through an application service provider, delivered by electronic computer software delivery or transferred by load and leave computer software delivery.

D. Section 4-3-130, titled *General provisions and limitations*, is hereby amended to add the following new subsections (q) and (r) to read as follows:

(q) The following transactions are considered retail sales subject to the provisions of this article the leasing, hiring or renting of or granting of a license to use (including royalty agreements) tangible personal property to a user or consumer thereof; sales of commercial packaging materials that are returnable or for which a "deposit," cash refund or other consideration is received for recycling; or sales of tangible personal property to persons for resale when there is a likelihood that the City will otherwise lose tax revenues due to the difficulty of policing the business operations because:

1. of the frequent replacement of independent contractors or agents;
2. of the lack of a place of business in which to display a City retail sales license;
3. of the lack of a place of business in which to keep records;
4. of the lack of adequate records;
5. the persons engaged in selling, or in the chain of selling events, are minors or transients; or
6. the persons selling, or in the chain of events leading to sale, are engaged essentially in providing services in transferring tangible personal property.

(r) In order to be qualified to purchase taxable goods and services without paying City tax, a charitable organization must first apply for and obtain an exempt purchaser affidavit from the City.

E. Section 4-3-210, titled *Sales Tax*, under Division 3 (*Exemptions*), is hereby amended to read as follows:

Sec. 4-3-210. - Sales tax.

There shall be exempt from the sales tax levied under the provisions of this Article the following:

- (1) All sales to the United States government, to the State, its departments and institutions, and the political subdivisions thereof only when purchased in their governmental capacities.

- (2) All sales made to charitable organizations that present an exempt purchaser affidavit issued by the City when purchased for their regular charitable functions and activities.
- (3) All sales of cigarettes.
- (4) All sales of motor fuel and special fuel.
- (5) All sales of medical supplies and prosthetic devices.
- (6) All sales of food for domestic home consumption as defined in 7 U.S.C. § 2012(k), excluding carbonated water marketed in containers, chewing gum, seeds and plants to grow foods, prepared salads and salad bars, packaged and unpackaged cold sandwiches, deli trays and hot or cold beverages served in unsealed containers or cups that are vended by or through machines or non-coin-operated coin-collecting food and snack devices on behalf of a vendor and excluding those sales of prepared food and drink described in Paragraph 4-3-110(c)(5).
- (7) Sales of tangible personal property to purchasers residing or doing business outside the City, provided that delivery thereof is made to the purchaser at such residence or business address of the purchaser outside the City by a common carrier, by the seller or by mail.
- (8) All sales which the City is prohibited from taxing under the Constitution or laws of the United States or the Constitution of the State.
- (9) All sales or leases of automotive vehicles upon which a specific ownership tax is paid or required to be paid.
- (10) All sales of construction materials for use in improving real property outside the City if the purchaser presents to the retailer or vendor a building permit or similar documentation approved by the City Manager providing evidence that a locally imposed use tax has been paid, or is required to be and will be paid, to the locality in which the real property is located and on which the construction materials are to be used.
- (11) Sales and purchases of electricity, coal, wood, gas, fuel oil or coke sold, but not for resale, to occupants of residences, whether owned, leased or rented by said occupants, for the purpose of operating residential fixtures and appliances that provide light, heat and power for such residences. *Gas* shall include natural, manufactured and liquefied petroleum gas.
- (12) Subject to the provisions of Paragraph (2) above, occasional sales by a charitable organization as provided in Section 39-26-718(1)(b), C.R.S.
- (13) No sales tax shall apply to the sales of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another municipality or county equal to or in excess of that sought to be imposed by the City. A credit shall be granted against the sales tax imposed by the City with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule city and county, city or town. The amount of the credit shall not exceed the sales tax imposed by the City.
- (14) Sales of security system services, but not equipment or devices sold or used in connection therewith.
- (15) Sales of sound system services.

- (16) Wholesale sales.
- (17) Sales to and purchases of tangible personal property by a person engaged in the business of manufacturing or compounding for use, profit or sale shall be deemed wholesale sales and shall be deemed exempt from taxation under this article if said tangible personal property meets all of the following conditions: (1) it is actually and factually transformed by the process of manufacture; (2) it becomes by the manufacturing or compounding process a necessary ingredient, component and constituent part of the finished product; and (3) its physical presence in the finished product is essential to the use thereof in the hands of the ultimate consumer.
- (18) Sales to and purchases of tangible personal property for use as commercial packaging materials and commercial shipping materials shall be exempt from taxation under this Article.

#### **ARTICLE 5 – SEVERABILITY**

If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance which can be given effect without the invalid provision, part or application, and to this end the provisions and parts of this Ordinance are declared to be severable.

#### **ARTICLE 6 – CAUSES OF ACTION RETAINED**

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

#### **ARTICLE 7 - CODIFICATION AMENDMENTS**

The codifier of the City's Municipal Code is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Lone Tree Municipal Code.

#### **ARTICLE 8 –EFFECTIVE DATE**

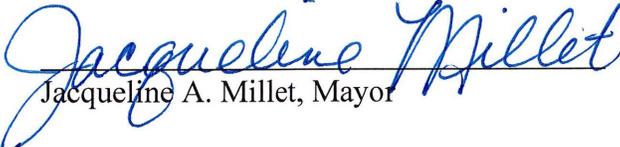
This Ordinance shall take effective thirty (30) days following publication after the first reading if no changes are made on second reading, or twenty (20) days following publication after the second reading if changes are made upon second reading.

**INTRODUCED, READ AND ORDERED PUBLISHED ON JULY 2, 2019.**

**PUBLISHED IN THE DOUGLAS COUNTY NEWS PRESS ON JULY 11, 2019.  
LEGAL NOTICE NO. 935467.**

**APPROVED AND ADOPTED WITH NO CHANGES ON SECOND READING ON JULY  
16, 2019 TO BECOME EFFECTIVE ON AUGUST 10, 2019.**

**CITY OF LONE TREE:**

  
Jacqueline A. Millet, Mayor

**ATTEST:**

  
Jay Robb, City Clerk

