

**CITY OF YACHATS  
ORDINANCE NO. 293**

**AN ORDINANCE**

**AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE - CHAPTER 3.12  
PREPARED FOOD AND BEVERAGE TAX - SECTIONS 3.12.010 - DEFINITIONS,  
3.12.020 - TAX IMPOSED, AND 3.12.030 - EXEMPTIONS**

**NOW THEREFORE**, the City of Yachats ordains as follows:

**Section 1. Section 3.12.010 is hereby amended to read as follows**

**3.12.010 Definitions**

The following words and phrases whenever used in this chapter shall be construed as defined in this section unless from the context a different meaning is intended.

A. "Caterer" means a person who prepares food at a business site, for compensation, for consumption off the business premises but within the corporate limits of the city.

B. "Combination facility" has the same meaning as defined in Oregon Administrative Rule 333-150-000(8) which the State of Oregon Department of Agriculture licenses or inspects under Oregon Administrative Rule 333-158-000.

C. "Recorder" means the City Recorder of the City of Yachats, or designee.

D. "Food" includes all meals and beverages, excluding alcoholic beverages, served in a restaurant including "takeout", "to go" or delivered orders. Also includes all food available in a grocery store, market, convenience store or deli section of any store that is prepared for immediate consumption such as hot foods, pre-made sandwiches, pre-made salads and fountain drinks whether prepared on-site or brought in or delivered from another location.

E. "Operator" means the person who is proprietor of the restaurant, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator is a corporation, the term operator shall also include each and every member of the Board of Directors of such corporation for the time involved.

F. "Restaurant" means any establishment required to be licensed as a restaurant, mobile unit or pushcart by the State of Oregon Health Division and includes any establishment where food or beverage is prepared or available for consumption by the public or any establishment such as a grocery store, market, convenience store or deli section of any store where the public obtains food or beverage ~~so~~ prepared on or off premises in form or quantity consumable then and there, whether or not it is consumed within the confines of the premises where ~~prepared~~ served or purchased, and also includes establishments which prepare food or beverage in consumable form for service outside the premises where prepared. The term restaurant also includes establishments where such food or beverage is prepared in a combination facility. The term restaurant does not include a restaurant licensed by the State of Oregon Health Division as a limited service restaurant.

**Section 2. Section 3.12.020 is hereby amended to read as follows**

**3.12.020 Tax Imposed**

A. The city imposes and levies, in addition to all other taxes, fees and charges of every kind, a tax upon:

1. Unless specifically exempt under Section 3.12.030 below, all food and beverages sold by restaurants located within the city to the public, except for whole cakes, pies, and loaves of bread if purchased for consumption off premises, and for alcoholic beverages;

2. All food and beverages, except alcoholic beverages, sold by a caterer for an event located within the city; and

3. The following items sold by combination facilities:

a. Salads from salad bars;

b. Dispensed soft drinks and coffee; and

c. Sandwiches or hot prepared foods ready for immediate consumption.

d. The following items, including toppings or additions, scooped or otherwise placed into a cone, bowl or other container for immediate consumption whether or not they are consumed within the confines of the premises where scooped or placed: Any frozen dessert regulated by the Oregon State Department of Agriculture under ORS 621.311 and any ice cream, ice milk, sherbet or frozen yogurt. No tax shall be imposed under this subsection, however, on any item whose volume exceeds one-half gallon.

e. Any other food mixed, cooked or processed on the premises in form or quantity for immediate consumption whether or not it is consumed within the confines of the premises where prepared.

4. The following items sold by combination facilities that are bakeries:

a. All those items listed in Section 3.12.020.A.3.a-d;

b. All bakery products sold for consumption on the premises; and

c. All "takeout" or "to go" orders of bakery products prepared on the premises except for whole cakes, pies, and loaves of bread and any order consisting of six or more bakery products.

B. Such tax shall be imposed at a rate of five percent (5%) on the total amount charged by the seller for the food and beverages, or for the meal. In the computation of this tax any fraction of one-half cent or more shall be treated as one cent.

C. All taxes collected by the city under this chapter shall be used for financing of improvements to the Sanitary or Storm Sewer Systems or the Water System.

D. The council may increase the rate of the tax described in subsection 3.12.020.A after a public hearing. Notice of the hearing shall be given by publication in a newspaper of general circulation in the City at least 10 days prior to the date of the public hearing.

**Section 3. Section 3.12.030 is hereby amended to read as follows**

**3.12.030 Exemptions**

The tax levied by Section 3.12.020 shall not be collected or assessed on food or beverages:

A. Sold by public or private schools or colleges, except that food sold by independent contractor operators at such schools or colleges shall be subject to the tax imposed by this chapter;

B. Provided by hospitals;

C. Provided by bed and breakfast establishments and motels to their guests, if the package is

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taxed in its entirety through the transient room tax code in Chapter 3.08.

D. Sold in vending machines;

E. Sold in temporary restaurants including food stands, booths, street concessions and similar type operations, operated by Yachats community based non-profit organizations or service clubs.

F. Served in connection with overnight or residential facilities--including, but not limited to, convalescent homes, nursing homes, retirement homes--if the food and beverage are provided as part of the cost of sleeping accommodations.

G. Provided by Yachats community based nonprofit tax-exempt organizations.

H. Sold for resale to the public.

I. Sold in bulk to the public for non-immediate consumption off the premises such as ice cream packed in a container that exceeds one-half gallon.

J. Which are candy, popcorn, nuts, chips, gum or other confections but not including ice cream, frozen yogurt, cakes, pies or other desserts.

K. Food or beverages in grocery stores, markets and the like which is not defined under Section 3.12.010 (D) or (F) as prepared food or beverage.

**PASSED AND ADOPTED** by the City Council of the City of Yachats on this \_\_\_\_day of \_\_\_\_\_.

Ayes: \_\_\_\_\_Nays: \_\_\_\_\_Abstentions: \_\_\_\_\_Absent: \_\_\_\_\_

**APPROVED** by the Mayor this \_\_\_\_day of \_\_\_\_\_.

\_\_\_\_\_  
Ronald L. Brean, Mayor

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Nancy Batchelder, City Recorder