

**CITY OF YACHATS
ORDINANCE NO. 335**

**AN ORDINANCE AMENDING THE YACHATS MUNICIPAL CODE CHAPTER 3.12
PREPARED FOOD AND BEVERAGE TAX, SECTIONS SECTION 3.12.050 REPORTING
AND REMITTING AND SECTION 3.12.060 PENALTIES**

WHEREAS, City Council wishes to make the penalties consistent for all types of taxes charged; and

WHEREAS, the City has changed tax reporting from a paper based system to an online system, and the reporting forms have changed; and

WHEREAS, City Council discussed the changes in the penalties at their April 6, 2014 Work Session; and

WHEREAS, at the April 8, 2014 City Council directed staff to draft an Ordinance for adoption to amend the current Yachats Municipal Code;

NOW THEREFORE, the City of Yachats ordains as follows:

Section 3.12.050 Reporting and remitting.

A. On or after July 1, 2007 (fiscal year 2007-2008) every operator shall, ~~on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January);~~ make a return to the recorder on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) Returns are delinquent on the first day of the month following (in the months of May, August, November and February). ~~The returns shall be~~ on forms provided by the city, specifying the total sales ~~subject to this chapter for each month in the quarter on a separate line, with a total for the quarter. and the amount of tax collected under this chapter.~~

B. The person required to file the return shall remit the amount of the tax due, to the tax administrator at his or her office, either by personal delivery or by mail before the last day of the month following each quarter of collection. ~~At the time the return is filed, the full amount of the tax collected shall be remitted to the recorder.~~

C. A return shall not be considered filed until it is actually received by the recorder. Payments received by the recorder for application against existing liabilities will be credited toward the period designated by the taxpayer under conditions which are not prejudicial to the interest of the city. A condition which is considered prejudicial is the imminent expiration of the statute of limitations for a period or periods. Non-designated payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax.

D. The recorder, when in the recorder's discretion determines that it will be in the best interest of the city, may specify that a different order of payment credit should be followed with regard to a particular tax or factual situation. The recorder may establish shorter reporting periods for any operator if the recorder deems it necessary in order to insure collection of the tax and the recorder may require further information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason.

E. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the city until payment is made to the recorder. A separate trust bank account is not required in order to comply with this provision. (Ord. 262, 2006)

Section 3.12.060 Penalties ~~and interest.~~

A. Any operator who fails to remit any portion of any tax imposed by this chapter within the time required, shall pay a penalty of 10% of the amount of the tax and a delinquency fee of \$100, in addition to the amount of the tax.

B. Any operator who fails to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay an additional ten percent (10%) for each thirty (30) day period the tax remains delinquent. ~~Any operator who fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of 10% of the amount of the tax in addition to the amount of the tax and the penalty first imposed.~~

C. If the recorder determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25% percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

~~D. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.~~

~~D.~~ Every penalty imposed ~~and such interest as accrues~~ under the provisions of this section shall become a part of the tax required to be paid.

~~F.~~ Notwithstanding Section 3.12.020.C, all sums collected pursuant to the penalty provisions in subsections A, B and C of this section shall be used for financing of improvements to the sanitary or storm sewer systems or the water system. (Ord. 262, 2006)

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 _____.

Attest:

Ronald L Brean, Mayor

Nancy Batchelder, City Recorder