1. 10:00 A.M. Agenda

   Documents:

   2024-02-06 Finance Agenda.docx (1).Pdf

2. Meeting Material

   Documents:

   CIP Spending YTD General Fund 2024-02-05.Pdf
   CIP Spending YTD Public Works 2024-02-05.Pdf
   Water CIP Carry Forward And New CIP.pdf
   Wastewater 23-24 This Fiscal Year.pdf
   Wastewater Fiscal Years Projection.pdf
   Streets CIP Projection For 24-25.Pdf
   BUSINESS LICENSES GENERALLY.pdf
   VACATION RENTAL LICENSES (1).Pdf
   OCCUPANCY TAX.pdf
   PREPARED FOOD AND BEVERAGE TAX.pdf

CITY OF YACHATS
FINANCE COMMITTEE
441 Hwy 101 N. Commons Civic Meeting Room 1
Yachats, OR 97498
Tuesday February 6, 2024, at 10:00Am
To Be Held In-Person & Zoom

Join Zoom Meeting
https://us02web.zoom.us/j/86120535365

Meeting ID: 861 2053 5365

I. Meeting Called to Order

II. Announcements and Correspondence

III. Citizens' Concerns (limited to items not on the agenda, 5-minute limitation per person)

VI. New Business
- a. Special Presentation- OSU Database Overview
- b. CIP projects from Commissions

VII. Ongoing Business
- a. Vacation rental license
- b. 3rd party payments
- c. Food and beverage tax
- d. TLT

IX. Other Business
a. From Commission
b. From Staff

CIP Report
July-Dec, Jan FY 23-24
General Fund

Department	Project Description	23-24 CIP	Revised 23-24 Spending	Change Number 1	Change Number 2	Proposed Change Number 3	Spending Jul-Dec 23-24	Spending Jan 23-24
City Hall	Conex Installation	20,000	20,000					
City Hall	501 Gutters/Facia/Building Repairs	20,000	20,000					
City Hall	Security Upgrades	10,000	18,734				5,064.00	
		50,000	58,734				5,064.00	0.00
Commons	Gutters/Facia/Roof	35,000	35,000		67,000		28,000.00	14,000.00
Commons	M/E/P Updates	25,000	25,000					
Commons	Fire, Safety, Egress, Hardware, Lighting	25,000	25,000					
Commons	Security Updates	10,000	10,000				1,000.00	4,987.00
Commons	Sound & Lighting Updates	25,000	25,000					
Commons	Generator Relo, Resiliency	15,000	15,000					
Commons	Interior Remodel	80,000	80,000	60,000				
Commons	Park Master Plan	30,000	55,000					
Commons	Masterplan Project Implementation	0	0					
	Brush Box Fence and Gate	0	0	20,000			14,530.60	
Commons	Commons Park Development	0	0					
Commons	Commons Engineering	0	18,713					
Commons	Viewing Platform (now Parks & Trails)	0	0					
Commons		245,000	288,713				43,530.60	18,987.00
LLCM	LLCM Engineering Study	0	152					
LLCM	LLCM Rehabilitation	154,000	153,579				3,650.38	
LLCM		154,000	154,269				3,650.38	
Library	Interior Design	0	754				6,226.25	
Library	Grant Writer	6,000	3,000					
Library	Preparation/Storage	3,000	3,000				400.00	
Library	Architectural Design	6,000	17,962				17,873.74	
Library	PreConstruction, Permits, Fees	7,000	7,000					
Library	Rehabilitation and Addition	236,000	236,000		204,000	190,510		
Library		258,000	267,716				24,499.99	0.00
Parks & Trails	Boardwalk Engineering	50,000	50,000				850.15	
Parks & Trails	Boardwalk Construction		0					
Parks & Trails	Underground Utilities		0					
Parks & Trails	Skate park Improvements	10,000	17,500			30,990	44,932.15	8,400.00
Parks & Trails	Pocket Parks		0				5,365.98	
Parks & Trails	Wetlands Viewing Platform		0				2,214.46	
Parks & Trails	Archeological Testing		0					
Parks & Trails		60,000	67,500				53,362.74	8,400.00
	Civic Departments Totals	767,000	836,931				130,108	27,387
	Streets	220,281	322,413				285,610.04	0
	Storm Drains	59,371	79,449				15,145.00	0
	General Fund Totals	1,046,652	1,238,793				430,863	

CIP Report
July-Dec, Jan FY 23-24
Public Works

Department	Project Description	23-24 CIP	Revised 23-24 Spending	Spending Jul-Dec 23-24	Spending Jan 23-24
Waste Water	WWTP Airvalve Actuator	0	43		
Waste Water	Spare Actuator Valve	8,000	8,000		
Waste Water	SBR Waste Pump	12,000	12,000	5,639.00	
Waste Water	Multi VFD Upgrades	25,000	25,000		
Waste Water	UV Disinfection Control Upgrades	30,000	30,000		
Waste Water	Wastewater Collection System Design Standards	5,000	5,000	1,016.25	
Waste Water	PW Rehab - Rollup Doors	140,000	140,000		
Waste Water	Shop Lighting Upgrade	10,000	10,000	16,290.00	
Waste Water	Man Doors PW Building #2	15,000	15,000		
Waste Water	GIS Mapping and Geolocation Utility Line Hardware	25,000	25,000		
Waste Water	Wastewater Unplanned Contingency	25,000	25,000		
Waste Water	Bypass Connectors	0	930		
Waste Water	Submersible pump elec plugs (Engineering)	0	30,893	25,823.95	
Waste Water	Submersible pump elec plugs (Installation)	265,000	242,336		
Waste Water	Public Works Slide Gate	20,000	20,000		
Waste Water	Integrator of Record	0	2,070	2,374.50	
Waste Water	AED Shop	0	6,000		
Waste Water	Main Pump Station Improve	50,000	73,000		
Waste Water	Inflow & Infiltration	40,000	71,384		
Waste Water	Hanley Drive Sewer Manholes	20,000	20,000		
Waste Water	Total	690,000	761,656	51,143.70	0.00
WW Equipment	Tractor	0	0		
WW Equipment	Platform Lift	0	0		
WW Equipment	Portable Generator	0	0		44,121.60
	Total	0	0	0.00	44,121.60
Water	E 2nd Street Waterline Engineering	0	0		
Water	E 2nd Street Waterline Construction	154,375	154,375	160,775.23	
Water	#2. Water Source Plan	0	0		
Water	South Tank Earthquake Valve	0	36,247		
Water	Backwash Recycle System	140,000	117,798	89,467.00	
Water	SCADA Upgrade	49,044	46,428		
Water	WTP Upgrade CIP Annually	30,000	54,978	15,044.78	
Water	Water Tank Design Development	10,000	10,000		
Water	Water Plant Clarifier	150,000	150,000		
Water	Service Truck with Lift	80,000	80,000	79,142.44	
Water	Service Truck Ranger	30,000	30,000	28,945.44	
Water	Public Works Slide Gate	20,000	20,000		
Water	Integrator of Record	0	2,043	1,899.60	
Water	Annual Hydrant Replacements	8,000	8,000		
Water	Seismic Retrofit Engineering	60,000	60,000	5,986.75	
Water	SWLPUD Linkup Engineering	75,000	75,000		
Water	Unplanned Contingency	25,000	25,000		
Water	Property Acquisition, surveys, geotech	250,000	250,000		
Water	Total	1,081,419	1,119,870	381,261.24	0.00
Storm Drains	Prospect to Loma Drains	30,349	30,349	12,395.00	
Storm Drains	Stormwater Master Plan	29,022	49,100	2,750.00	
	Total	59,371	79,449	15,145.00	0.00
Streets	East 2nd St - phase 2 Street Proj Engineering	0	5,132		
Streets	East 2nd St - phase 2 Street Proj Construction	132,281	229,281	283,819.12	
Streets	East 2nd Street Phase 3 Engineering	13,000	13,000		
Streets	Gimlet Gates	35,000	35,000		
Streets	Highway 101 Dilineators	40,000	40,000	1,790.92	
Streets	Total	220,281	322,413	285,610.04	0.00

WATER		Carry Forward to 24/25	
Water tank Design Development	10,000	**10,000**	Wait on property & SWLLCWPUD
Water Tank Seismic Engineering	60,000		Gather original tank drawings from HGE
Water Plant Clarifier - Rehabilitation	150,000	**150,000**	Analysis complete working on RFP
Annual Hydrant Replacements	8,000		Spring 2024
E.2nd Waterline Construction	154,375		100% Complete
Analysis / Engineering SWLCWPUD	75,000	**75,000**	On going
Plant Backwash Recycle System	140,000		All done except for electrical
WTP Upgrade CIP Annually	30,000	**30,000**	On going
SCADA Upgrade	49,044	**49,044**	On going
Service Truck w/Lift	80,000		100% Complete
Service Truck - Ranger	30,000		100% Complete
Public Works Slide Gate	20,000	**20,000**	Getting quotes
Property Acquisition	250,000	**250,000**	Geotech could take a few months after property closing
Contingency	25,000		
TOTAL	**1,081,419**	**584,044**	

New for 24/25

WTP fencing rehab	**20,000**
Water Booster Station Aux Power Prj.	**70,000**
New fencing around Blackstone Res.	**25,000**
	115,000

PM Code	WASTEWATER	Budgeted 23.24	Prior Balance	Currenty Activity	Actual to Date	% of Budget	Comment	Postpone to 2024-25	Completed	In Progress	Proposed for 2023-24		
HANLEYMH	Hanley Drive Sewer Manholes	20,000						20,000					
PWDESNST	Collection Design Standards	5,000	619	0	619		Received rough draft for review.			19,000			
I.&.IWWR	Annual Inflow and Infiltration Rehab	40,000						40,000					
VFDWWTP0	Multi-VFD Upgrades	25,000					Ordered 30-34 weeks out.			15,000			
PUMPPLGS	Submersible Pump Plug Install & Engineering	265,000	22,070	0	22,070		Westech $18456.70+$3612.63				372,000	$319k+$30k+$22k	Bid+Engineering+What has been spent.
MLSUPGRD	Main Pump Station Improve	50,000								50,000			
UVDISUPG	UV Disinfection Control Upgrades	30,000		0	0					30,000			
MNDRPWBD	Man Doors PW Bldg. #2	15,000						15,000					
WWELECGT	Public Works Slide Gate	20,000						20,000			5000		
PWRLUPDR	PW Rehab - Rollup Doors	140,000									140,000		
PWLITUPG	Shop Lighting Update	10,000	16,290	0	16,290		Complete		16,290				
GISMAPTL	GIS Mapping Hardware	25,000						25,000					
AIRVALVE	Actuator Air Valve (Spare)	8,000	5,072	0	5,072		Complete		5,072				
WWBUPGEN	WWTP Portable Generator						After Budget Addition		44,123				
SBRWPUMP	SBR Waste Pump	12,000	5,639	0	5,639		Complete		5,639				
	Fuel Trailer #1										15000		
	Contingency	25,000	1,900	0	1,900		Integrater-Civil West						
	TOTAL	**690,000**	**51,590**	**0**	**51,590**	**7%**	Report $47,977 Correct Requested	120,000	71,124	114,000	532,000		

532,000 + 114,000 + 71,124 = 717,124

\- 23,000 Contingency

694,124

Wastewater

Priority	Year	Projects	Original Estimated Cost	23-24	Unexpected 2023-24	24-25	25-26	26-27	27-28	
						Fiscal Year				
	24	Hanley Drive Sewer Manholes	20,000			20,000	20,000			
	24	Collection Design Standards	5,000	5,000	14,000					
	24	Annual Inflow and Infiltration Rehab	40,000			40,000	40,000	40,000	40,000	
	24	Multi-VFD Upgrades	25,000	25,000	(9,000)	25,000				
	24	Submersible Pump Plug Install & Engineering	265,000	265,000	93,000					
	24	Main Pump Station Improve	50,000	50,000		166,000	166,000			
	24	UV Disinfection Control Upgrades	30,000	30,000		55,000	120,000			
	24	Man Doors PW Bldg. #2	15,000			15,000				
	24	Public Works Slide Gate	20,000			25,000				
	24	PW Rehab - Rollup Doors	140,000	140,000						
	24	Shop Lighting Update	10,000	10,000	7,000					
	24	GIS Mapping Hardware	25,000			25,000				
	24	Actuator Air Valve (Spare)	8,000	8,000	(2,928)					
	24	WWTP Portable Generator			55,000					
	24	SBR Waste Pump	12,000	12,000	(6,361)					
	24	Contingency	25,000			25,000	25,000	25,000	25,000	
	25	Riverside Pump Station Improvements				50,000				
	25	E2PHS3WW				50,000				
	25	WWTP Generator Rehab				105,000				New
	25	WWTP Heat Pump Rehab				30,000				New
	24	Fuel Trailer #1	15,000		15,000					New
	25	Fuel Trailer #2	15,000			15,000				New
		Total before capitalized labor	**720,000**	**545,000**	**165,711**	**646,000**	**371,000**	**65,000**	**65,000**	

Streets

Projects	Original Estimated Cost	Fiscal Year 23-24	24-25
Gimlet Gates	70,000	35,000	0
E 2nd Street (Prospect - Loma) - Eng	15,000	0	0
Loma - River Rd Eng	15,000	13,000	0
Loma - River Rd Construc	187,000		180,000
Hwy 101 Curve Delineators		40,000	
E 2nd Street (Prospect - Loma) Constr	152,000	132,281	0
Upper Radar Rd.			15,742
North Radar Rd.			12,447
Horizon Hill			8,072
Lower Green Hill			17,396
Green Hill & Overlook			4,592
Crest View Hwy 101 to Overlook			30,000
Lower Reeves Circle			6,522
9th St.			32,541
Hanley & 10th			8,484
Contingency			31,580
Total before capitalized labor	**439,000**	**220,281**	**347,375**

CHAPTER 4.04
BUSINESS LICENSES GENERALLY

§ 4.04.010. Purpose.

This chapter is enacted to provide revenue to pay for expenses incurred in issuing licenses, to pay for municipal services to businesses, and to provide for the health, safety and welfare of the citizens of Yachats through the licensing of businesses.
(Ord. 170 § 1, 1995)

§ 4.04.020. Definitions.

For the purpose of licensing businesses in the City, the following definitions apply:

"Amusement device" means any game, device or machine kept, operated or played in any place of business or other place where the public is invited or permitted to attend and which may be played by the insertion of coins.

"Arcade" means any business whose primary purpose is providing entertainment by the playing of amusement devices.

"Business" means any trade, occupation, calling, profession, pursuit or activity which is carried on for the purpose of profit.

"Exhibition" means the display of goods or materials for which an admission fee is charged.

"Flea market" means all general sales, open to the public, conducted in any commercial zone or public facilities zone within the City, for the purpose of disposing of personal property. These general sales include, but are not limited to, sales entitled "flea markets," "bazaars" and "rummage sales." This includes situations where booths, tables or spaces are sold or rented for the purpose of conducting sales of personal property. For this definition "personal property" means property which is owned by the individual conducting the sale, is purchased for resale, or is obtained on consignment.

"Garage sale" includes, but is not limited to, "porch sales," "patio sales" or "yard sales," and consists of any public sale of new or used goods by an individual or group from private property when the group or individual is not in the business of selling goods or is not licensed as a secondhand dealer, and when the property from which the sale is to be conducted is not within a zone permitting commercial business or otherwise permitted under the provisions of this chapter.

"Hotel" and "motel" includes any single structure or multiple combination of two or more structures, operated as a single business venture where one or more units, rooms or apartments are hired out to the public for rent on less than a monthly rental basis, exclusive of any unit, room or apartment that is occupied by the owner, contract vendee or manager.

"Itinerant merchant/peddler" means a person or persons traveling from place to place selling and delivering from stock on hand.

"Nonprofit" means any business or organization which holds a certificate of exemption from taxes from the Internal Revenue Service.

"Person" means any person, firm, partnership, association or corporation.
(Ord. 170 § 2, 1995)

§ 4.04.030. Exemptions.

A. Hobbies. Any pursuit or activity which is carried on in a casual manner, such as a hobby, where no display or advertising is conducted to promote the products or services of the pursuit or activity.

B. Income Based on Wages. No person whose income is based solely on a wage or salary shall, for the purpose of this chapter, be deemed a person transacting or carrying on any business in the City, and it is the intention that license fees will be borne by the employer.

C. Franchise. Any business paying a franchise tax or fee under City ordinances or resolutions now existing.

D. Wholesalers. Wholesalers making deliveries or taking orders from duly licensed retail outlets within the City.

E. Sixteen Years or Younger. Any person 16 years or younger who operates a business on a part-time basis, which business has an annual gross income of less than $500.

F. Nonprofit organizations as defined in this chapter.

G. Rentals. Any person having for rent three or fewer residential or commercial units which rent for a period of 30 days or longer.

H. Vacation Rentals. Any person having a vacation rental license.
(Ord. 170 § 3, 1995)

§ 4.04.040. License required.

It is unlawful for any person who is not exempt from buying a license under the provision of this chapter or expressly exempted by any other State or Federal law to conduct, engage in, carry on or practice any business within the corporate limits of the City of Yachats, without securing a license from the City Recorder and paying the fee prescribed by City Council resolution applicable to the business.

A. Multiple Locations. A person engaged in business in more than one location or in more than one business licensed under this chapter shall make a separate application and pay a separate license fee for each business or location, except as otherwise provided in this chapter.

B. Exceptions. License shall not be required for each separate part or transaction of the business when a separate part or transaction of the business is conducted as a necessary and usual part of the general business for which the license has been issued.

More than one business license shall not be required for the operation of a business which may have, sell, or provide two or more dissimilar products or services, if all parts of the business are owned by the same person and is conducted as the same business upon the same premises. (Examples: retail stores selling two dissimilar products or services, operated as one business, requires only one license; a business selling products and providing unrelated services, operated as one business, requires only one license; a retail store and a professional office, although owned and operated by the same person, would require two licenses if the professional is prohibited from selling the retail items as a part of the professional service.)

C. Advertisement. A person representing him or herself, or exhibiting any sign or advertisement, that he or she is engaged in a business within the City on which a license fee is levied by this chapter, shall be deemed to be actually engaged in such business and shall be liable for the payment of such license fee and subject to the penalties for failure to comply with the requirements of this chapter.

D. Outside Activities. In the event a licensed business contracts to sponsor an outside activity, i.e., rodeo, circus, carnival, etc., a City business license must be obtained for that specific activity and the business license fee must be paid.

E. Carnivals. The granting of a business license to a person intending to conduct a carnival, circus, tent show, or public event of a commercial nature within the City shall be at the discretion of the City Council, and a permit shall be granted only if the following conditions are met:

1. The per day license fee is paid at the time of making of application;
2. Application is made at least 30 days prior to the intended event;
3. No permit shall be granted if obstruction to free and uninterrupted traffic, both vehicular and pedestrian, will result;
4. The applicant shall post a bond or cash in the amount of $500 to secure performance and compliance with the City's nuisance ordinance;
5. Proper sanitary facilities shall be assured;
6. Proper police regulation shall be assured.

(Ord. 170 § 4, 1995)

§ 4.04.050. License application.

A. Application for a business license, or for renewal of a business license shall be made to the office of the City Recorder upon forms furnished by the City. Each application shall contain the following information:

1. The registered business name;
2. The location of the business;
3. The mailing address of the business;

4. The business telephone number;

5. A description of the business;

6. The name and address of the owner;

7. The date of application;

8. The fiscal year for which application is made;

9. The amount of money tendered with the application;

10. The average number of employees regularly employed by the business;

11. Social Security Number or Federal Identification Number;

12. Contractor's construction board number (if any);

13. Signature of owner;

14. For businesses operating within the City limits, evidence that building inspections have been passed for any construction after 1974 requiring a building permit;

15. Number of rental/motel units (if applicable);

16. Number of seats (restaurants, lounges, taverns);

17. Any other information necessary to enable the City to review the application under subsection B of this section and to determine the appropriate fee.

B. The City Recorder shall refer each application to the appropriate departments of the City for review. Upon a favorable recommendation from each department, the City Recorder shall issue the license. If any department determines that the application should be denied, the City Recorder shall notify the applicant of the denial and the reasons for the denial.

C. The City Recorder shall issue a decision on an application within 30 days of the submission of a complete application form, all requested additional information, and annual license fee.

(Ord. 170 § 5, 1995; Ord. 356 § 1, 2018)

§ 4.04.060. License fees.

A. All business license fees shall be determined by resolution of the City Council.

B. When an applicant for a new business license has not engaged in business during the calendar year until after August 1st, the required fee for the license shall be reduced by one-half. The reduced license fee shall only apply to businesses that have not had a Yachats City business license in a previous year.

(Ord. 170 § 6, 1995; Ord. 284, 09/22/2009 ; Ord. 337, 2015)

§ 4.04.070. Specific requirements.

In addition to any other requirements of this chapter, each licensee shall:

A. Notify the City within 10 days of any change in material information contained in the application, related materials, or license;

B. Display a business license upon request to any person with whom he or she is dealing as part of the licensed activity or to an officer or employee of the City.

(Ord. 170 § 7, 1995)

§ 4.04.080. Transfers and relocations.

A. Transfer of License. In the event of the transfer of ownership of any business, the business license may be transferred by application to the City Recorder within 30 days after the transfer, or the license is deemed to automatically expire. The City may approve the transfer upon finding that the new applicant meets the requirements of this chapter.

B. Relocation of an Existing Business. In the event a business relocates, the licensee shall reapply to the City Recorder to transfer the business license. The City may issue the license upon finding that the new location meets the requirements of this chapter.

(Ord. 170 § 8, 1995)

§ 4.04.090. License term.

All business licenses issued under this chapter, except for those licenses issued on a daily basis, are annual and shall expire on January 1st of each year. The required application and license fee are due on January 1st of each year for the calendar year commencing with that date and are delinquent on February 1st.

(Ord. 170 § 9, 1995; Ord. 284, 2009)

§ 4.04.100. Denial, revocation or suspension of license.

A. The City Recorder may deny, suspend or revoke a business license upon finding that:

   1. The licensee fails to meet the requirements of, or is doing business in violation of Federal, State or County laws or City ordinances;

   2. The applicant has provided false or misleading material information;

   3. The applicant's past or present violation of law or ordinance presents a reasonable doubt about his or her ability to perform the licensed activity without endangering property or the public health or safety;

   4. The licensed activity would endanger property or the public health or safety;

   5. The licensed activity is conducted in a structure within the City that does not meet State Building Code standards as determined by the Lincoln County

building official.

B. Notice. The City Recorder shall provide written notice to the applicant or licensee of a denial, suspension or revocation. The notice shall state the reason for the action taken and shall inform the applicant of the right to appeal under Section 4.04.110. The notice shall be given at least 15 days before a revocation becomes effective. If the violation ends within the 15 days, the City Recorder may discontinue the revocation proceedings.

C. Reapplication. A person whose application for a business license has been denied or whose license has been revoked may, after 90 days from the date of denial or revocation, apply for a license upon payment of the application fee and submission of an application form and related documents.

D. Disqualification. A person whose application for any business license has been denied or whose license has been revoked for a total of two times within one year or who has a total of four denials or revocations, shall be disqualified from applying for a license for a period of two years from the date of the last revocation or denial.

E. Summary Suspension. Upon determining that a licensed activity presents an immediate danger to person or property, the City Recorder may summarily suspend the license for the activity. The suspension takes effect immediately upon notice of the suspension being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license being suspended. Such a notice shall state the reason for the suspension and inform the licensee of the provisions for appeal under Section 4.04.110. The City may continue a suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under Section 4.04.110.

(Ord. 170 § 10, 1995; Ord. 356 §§ 1, 2, 2018)

§ 4.04.110. Appeal.

In the event an applicant for a license under this chapter is denied such license, or in the event a license is suspended or revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the Council shall be filed with the City Recorder within 15 days after the denial of license or license suspension or revocation. If a notice of revocation is appealed, the revocation does not take effect until final determination of the appeal. The Council shall hear and make a determination in regard to the appeal at its next regular meeting held not less than 10 days after the filing of the notice of appeal. The decision of the Council on such appeal shall be final and conclusive.

(Ord. 170 § 11, 1995)

§ 4.04.120. Violations—Penalties.

A. Penalties. Any person who violates any provisions of this chapter commits a Class B civil infraction and shall be subject to the procedures and penalties of Chapter 1.12, as now constituted or hereafter amended, revised or repealed.

B. Inspection and Right of Entry. Whenever officials responsible for enforcement or administration of this chapter, or their duly authorized representatives, suspect a violation of any provisions of this chapter, or when necessary to investigate an application for, or revocation of a license under any of the procedures prescribed in this chapter, they may enter on any site, or into any structure, for the purpose of investigation, provided they do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless under authority of a warrant, order from a court of competent jurisdiction or other lawful authority.

C. Alternative Remedies. The City may, as an alternative to other remedies that are legally available for enforcing this chapter, institute injunctive, abatement, including summary abatement, or other appropriate proceedings to prevent, enjoin, abate or remove a business that is operating in violation of this chapter.

(Ord. 170 § 12, 1995; Ord. 185 § 6, 1996)

CHAPTER 4.08
VACATION RENTAL LICENSES

§ 4.08.010. Purpose.

The vacation rental license is in recognition of the desire of many owners to rent their property on a short-term basis and to provide for the orderly use and regulation of such rentals to preserve the health, safety and welfare of the community. This use shall not adversely affect the residential character of the neighborhood. These standards and procedures are in addition to City ordinances and Federal and State laws and regulations. The purpose of an inspection is to ensure the health and welfare of the occupants.
(Ord. 148 § 1, 1992; Ord. 291a, 2010; Ord. 311, 2012; Ord. 328, 2014; Ord. 347 § 1, 2017)

§ 4.08.020. Definitions.

"Dwelling unit" means any building or portion thereof which contains separate living facilities, including provisions for sleeping, eating, cooking and sanitation.

"Incident" means an offensive activity or breach of the standards.

"Local contact person" means a person with the authority to take action or make decisions concerning the management of a licensed vacation rental property.

"Overnight" means anytime between the hours of 10:00 p.m. and 7:00 a.m. on the following day.

"Rental occupant" means a person over the age of four years who occupies a rented dwelling unit.

"Sleeping area" means a bedroom or loft within a dwelling unit which meets the requirements of the building code as adopted by the State of Oregon.

"Surfaced" means a gravel, paved, tile, brick or concrete surface suitable for parking a vehicle.

"Vacation rental" means a single-family dwelling, duplex or triplex which is rented, or held out as available for rent, for periods of less than 30 days, such as by the day or week. The dwelling may consist of individual units or be in a contiguous form to be considered a vacation rental dwelling; however, each individual unit is to be considered separately for licensing and regulation purposes. A dwelling which is listed with an agent as a vacation rental, advertised, available by referral, word of mouth, commendation and reputation are some of, but not limited to, the ways of identifying a vacation rental. It shall be a rebuttable presumption that a dwelling unit is a vacation rental if it is visited overnight by at least four different vehicles over the course of a month, for three consecutive months. The exchange of consideration is not necessary to meet the definition of a vacation rental if the dwelling otherwise is held out as available for occupancy for periods of less than 30 days.
(Ord. 148 § 1, 1992; Ord. 226, 2002; Ord. 291a, 2010; Ord. 311, 2012; Ord. 328, 2014; Ord. 347 § 1, 2017)

§ 4.08.030. Standards.

A vacation rental license shall be issued to the dwelling owner providing the following standards are met:

A. Except for individual units located on the same property, such as a duplex or triplex as defined above in Section 4.08.020, a person holding a vacation rental license or an interest in a property covered by a vacation rental license shall not be eligible to apply for or hold, as a member of a group or any other form of beneficial ownership, a vacation rental license covering any other property. Any change of ownership, in whatever form, shall be reported to the City within 30 days.

B. Vacation rentals in residential zones shall have no more than four bedrooms. (This provision shall be waived for any existing vacation rental as of the effective date of Ordinance No. 328, adopted November 13, 2014.)

C. A vacation rental shall comply with all applicable laws. Basic visitor rules as provided by the City must be prominently displayed on the inside of the primary exit door.

D. Each vacation rental shall have a local contact person who must live within 10 miles of the City of Yachats and be available for response to alleged violations within two hours of notification. The contact information for the local contact person shall be kept current with the City of Yachats; identified on the vacation rental application; and available by phone at all reasonable times (8:00 a.m. to 11:00 p.m.) and respond within two hours if there is a problem during the dwelling's use as a vacation rental. The City license, with the name and phone number of the local contact, shall be posted on the front of the vacation rental building, where the public can easily read it. The license placard furnished by the City will be a specific color matched to property management companies, to further assist the public in identifying the responsible party. The house number for the vacation rental shall be prominently displayed on the exterior of the building, using numbers at least four inches in height, and be readily visible from the street. A copy of the local contact person agreement, in a form approved by the City, which lists the duties and responsibilities of the local contact person, signed by both the property owner and the local contact person, shall be filed with the City, and kept current.

E. One on-property parking space, as defined in Section 9.04.030 for off-street parking, shall be provided for each bedroom in the dwelling, but in no event shall fewer than two spaces be provided for the vacation rental. (This provision shall be waived for any existing vacation rental as of the effective date of Ordinance No. 226, adopted 1/15/2002.) If access to the rental property crosses private property via an easement, right-of-way, or other conveyance, all parking must be contained on the rental property. Owners are required to provide parking that is unimpeded, surfaced, useable and available to renters. The parking shall be mapped and posted in the home, and a copy given to the City with the vacation rental license application, and again whenever the location of designated parking spaces change. The owner shall require renters to use only the parking spaces that are surfaced and marked on the map.

F. The maximum number of overnight vehicles allowed on the property shall not exceed the number of surfaced parking areas on the property or six vehicles, whichever is less. Daytime parking is limited to surfaced parking on the property. If access to the rental property crosses private property via an easement, right-of-way, or conveyance, ingress and egress must be accomplished without encroachment on other properties adjoining the privately maintained access road or driveway. In such situations applicants will provide evidence of their right to use the privately maintained access road or driveway consistent with vacation rental before a vacation rental license is granted.

G. There shall not be any noise, litter or odor noticeable at or beyond the property line resulting from the use of the dwelling as a vacation rental that violates Yachats Municipal Code.

H. The maximum allowable number of overnight occupants shall be two persons per sleeping area plus two additional persons per vacation rental. The rental agent shall match the number of persons and vehicles to the particular property being rented. Advertisements for the rental shall not list a number of occupants that exceeds the number authorized by the City. Recreational vehicles, campers, tents and similar structures shall not be allowed on vacation rental properties. Parking a boat trailer of moderate size, with or without a boat, is permitted as a substitute for one vehicle.

I. Weekly solid waste collection service shall be provided. A sufficient number of suitable garbage receptacles shall be provided and must have bear-proof mechanisms. Except on collection day, these garbage receptacles shall not be readily visible from the street. Renters shall be advised not to place trash outside in plastic bags.

J. Each vacation rental shall provide and maintain a container for the disposal of cooking grease into a solid waste receptacle to prevent the grease from entering the sewer system.

K. All pets must be under control at all times. Methods of control include a leash or demonstrated effective voice command. The person having the control, custody or possession of a dog shall clean up after the dog by using a dog waste bag or other suitable method.

L. Vacation rental licenses are non-transferable.

M. The licensee must comply with the requirements of the occupancy tax ordinance as a condition for issuance or renewal of a vacation rental license.

N. Licensees shall keep all information on the GoYachats website current and notify City Hall of any changes in mailing address, email address or agent or contact person. Email addresses, mailing addresses and phone numbers for the owner, local contact person and person responsible for tax reporting shall be kept current with the City. Failure to keep contact information current shall constitute a violation of this chapter.

O. Licensees may not advertise a vacation rental for a higher occupancy than the maximum allowable number of overnight occupants listed on the license.

P. Vacation rentals shall comply with the standards in this section, whether or not the vacation rental is occupied by a renter, owner, or other person.

(Ord. 148 § 3, 1992; Ord. 191, 1997; Ord. 226, 2002; Ord. 237, 2003; Ord. 291, 2010; Ord. 311, 2012; Ord. 324, 2013; Ord. 328, 2014; Ord. 347 § 1, 2017)

§ 4.08.040. Inspection, license and annual fee.

A. The City shall prepare an application form for a vacation rental license. Prior to issuance of a vacation rental license, the City will inspect the subject property to determine occupancy capacity, parking and access compliance. Upon receipt of the completed application, the annual license fee, inspection and attestation that the licensing standards have been met, the City shall issue a license to the applicant (not the dwelling) for a period of one year. The license may be renewed annually if all standards are met. If a license is renewed annually until at least five consecutive years have elapsed, the City will re-inspect before issuing a license for the sixth (6th) year. The City retains the right to re-inspect the property at any time. Complaints received by the City may trigger a re-inspection. An inspection fee will be assessed for the initial inspection, for additional inspections undertaken due to complaints, and for each five year inspection completed by the City. A vacation rental licensee shall not be required to pay a business occupation license fee in addition to the annual license fee. The annual license and inspection fees shall be set by resolution of the City Council. All fees are non-refundable.

B. All licenses shall be obtained prior to any rental of the property. The required application and license fee are due on January 1 of each year for the fiscal year commencing with that date and are delinquent on February 1. The delinquency fee will be set by resolution.

C. A total of 125 licenses will be available at any one time. For license renewals each year, priority will be given to existing licenses seeking renewal, so long as the renewal application is delivered to the City by December 29, or the next business day if December 29 falls on a day City Hall is closed. After December 29, if existing licenses are below 125 in total number, and there are licenses available after accounting for all license renewal, new applications will be accepted on a first-come first-served basis, with process identified through administrative policy.

(Ord. 148 § 4, 1992; Ord. 199 § 1, 1997; Ord. 284, 2009; Ord. 291, 2010; Ord. 311, 2012; Ord. 328, 2014; Ord. 347 § 1, 2017; Ord. 362 § 1, 2019)

§ 4.08.050. Complaints.

All complaints shall be in writing on a form provided by the City and signed by the complainant. The complainant must show or attest that they have made a timely attempt to resolve the issue with the person representatively responsible for management of the property. The complainant is expected to initiate the process while the out of compliance incident is occurring or when they first become aware that a property is not in compliance with the regulations. All complaints filed with the City shall be verified by the City for validity.

A. When a complaint is filed that is verified by the City to be valid, the owner and local contact person will be notified in writing by mail or email, and provided with a copy of the complaint. Either the owner or the local contact person will be required to meet with a City representative to discuss means by which further complaints may be avoided. If the licensee fails to meet this requirement within a reasonable amount of time, City staff will prepare a report for City Council action.

B. Upon a second complaint that is verified by the City to be valid, the owner and local contact person will again be notified in writing by mail or email and provided with a copy of the complaint. Either the owner or local contact person will again be required to meet with a City representative to further discuss means by which further complaints may be avoided. If the licensee fails to meet this requirement within a reasonable amount of time, the City Recorder will prepare a report for City Council action.

C. Upon a third complaint within a 90 day period that is verified by the City to be valid, the owner and agent, if any, will be notified in writing by mail or email and provided with a copy of the complaint.

   1. City staff may schedule a hearing and prepare a report for City Council action.

   2. The City Council may schedule a hearing.

   3. Either the City Manager or City Council may, without a hearing, revoke the license immediately.

   4. In the event that a license is revoked, the applicant or license holder shall have the right of appeal. The written notice of appeal to the Council shall be filed with the City within 15 days of the notice of revocation.

D. Standards of judging complaints shall include, but are not limited to, the following:

   1. Noncompliance with vacation rental license standards as stated in Section 4.08.030;

   2. Monopoly of on-street parking;

   3. Other offensive activities not in harmony with the residential neighborhood such as trespass, excessive noise or pets running loose.

E. The City Council, upon hearing the evidence, may: (1) approve the license as it exists; (2) revoke the license; (3) impose appropriate restrictions on the operation of the license.

(Ord. 148 § 5, 1992; Ord. 226, 2002; Ord. 311, 2012; Ord. 328, 2014; Ord. 347 § 1, 2017)

§ 4.08.060. Violations—Penalties.

It is unlawful for any person so required to fail or refuse to apply for a license, or operate

without a license as required herein. Any person who violates any provisions of this chapter is subject to a fine of up to $1,000 per violation, with each day of a continuing violation constituting a separate violation. The third violation within any consecutive 12 month period shall result in revocation of the vacation rental license for 12 months, after which time the owner may reapply for a new license, in accordance with Section 4.08.040(C). Violations shall be subject to the procedures and penalties of Chapter 1.12, as now constituted or hereafter amended or revised.
(Ord. 148 § 6, 1992; Ord. 185 § 4, 1996; Ord. 328, 2014; Ord. 347 § 1, 2017)

CHAPTER 3.08
OCCUPANCY TAX

§ 3.08.010. Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

"Accrual accounting" means the lodging tax collector enters the rent due from a registered guest on his or her records when the rent is earned, whether or not it is paid.

"Cash accounting" means the lodging tax collector does not enter the rent due from a registered guest on his or her records until rent is paid.

"City Council" means the City Council of the City of Yachats.

"Lodging facility" means any structure, or any portion of any structure which is occupied or intended or designed for short-term occupancy for dwelling, lodging or sleeping purposes, and includes any hotel, motel, inn, condominium, vacation home or house, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, fraternity, sorority, public or private club, or similar structure or space or portions thereof so occupied, provided such occupancy is for less than a 30 day period.

"Lodging intermediary" means a person other than an operator that facilitates the retail sale of lodging facilities and: (a) charges for occupancy of the lodging facility; (b) collects the consideration charged for occupancy of the lodging facility; or (c) receives a fee or commission and requires the operator to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.

"Lodging tax collector" means an operator or a lodging intermediary.

"Occupancy" means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a lodging facility, or portion thereof.

"Occupancy Tax Review Committee" means the City Council or, if it so elects, a Committee composed of five persons appointed by the City Council and may be owners or operators of a lodging facility.

"Operator" means a person that furnishes lodging in a lodging facility. Where the operator performs his or her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall be considered to be compliance by both.

"Person" means any individual, partnership, joint venture, association, social club, fraternal organization, fraternity, sorority, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other entity, group or combination acting as a unit.

"Registered guest" means any individual who exercised occupancy or is entitled to occupancy in a lodging facility for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. The day a registered guest checks out of the lodging facility shall not be included in determining the 30 day period if the registered guest is not charged rent for that day by the lodging tax collector. Any individual so occupying space in a lodging facility shall be deemed to be a registered guest until the period of 30 days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than 30 consecutive days. In determining whether a person is a registered guest, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a registered guest. An owner of a condominium unit, or any other person residing in the same, who is required to pay any consideration for the use of the unit, shall be deemed a registered guest.

"Rent" means the total consideration charged, including all charges other than taxes, paid by a person, whether or not received by the operator or lodging intermediary, for the occupancy of space in a lodging facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction, but shall not include charges to a condominium unit owner which are solely for cleaning or maintenance of such unit so long as the charges are made in connection therewith for space occupancy.

"Rent package plan" means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of occupancy tax under this chapter shall be the same charge made for rent when consideration is not a part of the package plan. The amount applicable to rent for determination of occupancy tax under this chapter shall be that amount allocated to space rent, taking into consideration a reasonable value of other items in the rent package and taking into consideration the charge for rent when the space is rented separately and not included in a package plan.

"Tax" means either the tax payable by the registered guest or the aggregate amount of taxes due from an operator or lodging intermediary during the period for which he or she is required to report his or her collections.

"Tax Administrator" means the City Recorder of the City of Yachats or designee.

"Visitor amenities" shall include items such as, but not limited to, public restrooms, informative signage, trash receptacles, parks and trails, visitor information center, and any other items that have substantial benefit to visitors, as determined by City Council.
(Ord. 59 § 1, 1976; Ord. 228, 2002; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.020. Tax imposed.

For the privilege of occupancy in any lodging facility, which is in the City of Yachats, on or after November 1, 1976, each registered guest shall pay a tax in the amount of 6% of the rent charged by the lodging tax collector. Effective January 1, 2016 each registered guest shall pay a tax in the amount of 9% of the rent charged by the lodging tax collector. The tax constitutes a debt owed by the registered guest to the City which is extinguished only by payment by the lodging tax collector to the City. The registered guest shall pay the tax to the lodging tax collector of the lodging facility at the time the rent is paid. The

lodging tax collector shall enter the tax on his or her records when rent is collected if the lodging tax collector keeps his or her records on the cash accounting basis and when earned if the lodging tax collector keeps his or her records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the registered guest to the lodging tax collector with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms and accommodations.
(Ord. 59 § 2, 1976; Ord. 145 § 1, 1991; Ord. 228, 2002; Ord. 327, 2014; Ord. 339, 2015; Ord. 351 § 1, 2018)

§ 3.08.030. Collection of tax—Rules for collection.

A. Every lodging tax collector renting lodging facilities in this City, the occupancy of which is not exempted under the terms of this chapter, shall collect a tax from the registered guest. The tax collected or accrued by the lodging tax collector constitutes a debt owing by the lodging tax collector to the City.

B. In all cases of credit or deferred payment of rent, the payment of tax to the lodging tax collector may be deferred until the rent is paid, and the lodging tax collector shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectables.

C. The Tax Administrator shall enforce provisions of this chapter and shall have the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the enforcement.

D. For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.

(Ord. 59 § 3, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.040. Lodging tax collector duties.

Each lodging tax collector shall collect the tax imposed by this chapter at the same time as the rent is collected from every registered guest. The amount of tax shall be separately stated upon the lodging tax collector's records, and any receipt rendered by the lodging tax collector. No lodging tax collector of a lodging facility shall advertise that the tax or any part of the tax will be assumed or absorbed by the lodging tax collector, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by this chapter.
(Ord. 59 § 4, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.050. Exemption.

No tax imposed under this chapter shall be imposed upon:

A. Any occupant for more than 30 successive calendar days with respect to any rent imposed for the period commencing after the first 30 days of such successive occupancy;

B. Any occupant whose rent is of a value less than $2 per day;

C. Any occupant whose rent is paid to a health care facility, including hospitals, medical clinics, convalescent homes, homes for the aged people, and long-term care facilities.

D. Any occupant whose rent is paid to a public institution owned and operated by a unit of the government.

E. Any occupant whose rent is paid to a facility providing treatment for drug or alcohol abuse or providing mental health treatment.

F. Any occupant whose rent is funded through a contract with a government agency and the purpose of such occupancy is to provide emergency or temporary shelter.

G. Any occupant whose rent is paid to a nonprofit youth or church camp, nonprofit conference center or other nonprofit facility.

H. Any occupant whose rents a private home, vacation cabin, or similar residential facility from any lodging operator who rents such facility incidentally to the lodging operator's own personal use thereof, and where the total number of rental days for the facility are less than 30 days per year.

I. Any occupant who is a Federal employee on official Federal government business.
(Ord. 59 § 5, 1976; Ord. 148 § 7, 1992; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.060. Registration of operator—Certification of authority.

Every person engaging or about to engage in business as an operator in this City shall register with the Tax Administrator on a form provided by him or her. Operators engaged in business at the time the ordinance codified in this chapter is adopted must register not later than 30 calendar days after passage of said ordinance. Operators starting business after said ordinance is adopted must register within 15 days after commencing business. The privilege of registration after the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration sets forth the name under which the operator transacts or intends to transact business, the location of his or her place or places of business and such other information to facilitate collection of the tax as the Tax Administrator may require. The registration shall be signed by the operator. The Tax Administrator shall, within 10 days after registration issue without charge a certificate of authority to each registrant to collect the tax from the registered guest, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and non-transferable and shall be surrendered immediately to the Tax Administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

The certificate shall, among other things, state the following:

A. The name of the operator;

B. The address of the lodging facility;

C. The date upon which the certificate was issued;

D. "This Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Occupancy Tax Ordinance of the City of Yachats, Oregon, by registration with the Tax Administrator for the purpose of collection from registered guests, the occupancy tax imposed by said City and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a lodging facility without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department or office of the City of Yachats, Oregon. This certificate does not constitute a permit."

(Ord. 59 § 6, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.070. Due date—Returns and payments.

A. The tax imposed by this chapter shall be paid by the registered guest to the lodging tax collector at the time that rent is paid. All amounts of such taxes collected by any lodging tax collector are due and payable to the Tax Administrator on a quarterly basis 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) and are delinquent on the first day of the month following (in the months of May, August, November and February). Commencing July 1, 2002 and for each three month quarter thereafter, the quarters shall be consistent with the City's fiscal year (e.g., October 1, January 1 and April 1 of each fiscal year). The Tax Administrator has authority to classify and/or district the lodging tax collectors for determination of applicable tax periods, and shall notify each lodging tax collector of the due and delinquent dates for the lodging tax collector's returns.

B. On or before the last day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the Tax Administrator. The return shall be filed in such form as the Tax Administrator may prescribe by every lodging tax collector liable for payment of tax.

C. The returns shall show the total rent and fees for each month in the quarter on a separate line, with a total for the quarter.

D. 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.

E. For good cause, the Tax Administrator may extend for not to exceed one month, the time for making any return or payment of tax. No further extension shall be granted, except by the Occupancy Tax Review Committee. Any lodging tax collector to whom an extension is granted shall pay the delinquent fees unless waived by the

Occupancy Tax Review Committee.

F. The Tax Administrator, if he or she deems it necessary in order to insure payment or facilitate collection by the City of the amount of taxes in any individual case may require returns and payment of the amount of taxes for other than quarterly periods.

(Ord. 59 § 7, 1976; Ord. 228, 2002; Ord. 327, 2014; Ord. 334, 2015; Ord. 351 § 1, 2018)

§ 3.08.080. Penalties.

A. Original Delinquency. Any lodging tax collector who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by this chapter prior to delinquency shall pay 10% of the amount of the tax due and a delinquency fee of $100 in addition to the amount of the tax.

B. Continued Delinquencies. Any lodging tax collector who has not been granted an extension of time for remittance of tax due, and who fails to pay any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay an additional 10% for each 30 day period the tax remains delinquent.

C. Fraud. If the Tax Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions thereof, a penalty of 25% 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. Penalties Merged With Tax. Every penalty imposed under the provisions of this section shall be merged with and become a part of the tax herein required to be paid.

E. Petition for Waiver. Any lodging tax collector who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated, provided, however, the lodging tax collector may petition the Occupancy Tax Review Committee for waiver and refund of the penalty or any portion thereof and the Occupancy Tax Review Committee may, if a good and sufficient reason is shown, waive and direct a refund of the penalty or any portion thereof.

(Ord. 59 § 8, 1976; Ord. 327, 2014; Ord. 334, 2015; Ord. 351 § 1, 2018)

§ 3.08.090. Deficiency determinations—Evasion, lodging tax collector delay.

A. Deficiency Determinations. If the Tax Administrator determines that the returns are incorrect, he or she may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within his or her possession or that may come into his or her possession. One or more deficiency determinations may be made of the amount due for one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 3.08.080.

1. In making a determination the Tax Administrator may offset over-payments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 3.08.080.

2. The Tax Administrator shall give to the lodging tax collector or occupant a written notice of his or her determination. The notice may be served personally or by mail. If by mail the notice shall be addressed to the lodging tax collector at his or her address as it appears on the records of the Tax Administrator. In case of service by mail, any notice required by this chapter shall be served by mailing such notice by registered mail, postage prepaid, return receipt requested.

3. Except in the case of fraud or intent to evade this chapter or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

4. Any determination shall become due and payable immediately upon receipt of notice and shall become final within 20 days after the Tax Administrator has given notice thereof; provided, however, the lodging tax collector may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

B. Fraud—Refusal to Collect—Evasion. If any lodging tax collector shall fail or refuse to collect the tax or to make within the time provided in this chapter any report or remittance of the tax or any portion thereof required by this chapter, or makes a fraudulent return or otherwise willfully attempts to evade this chapter, the Tax Administrator shall proceed in such manner as he or she may deem best to obtain the facts and information on which to base an estimate of the tax due. As soon as the Tax Administrator has determined the tax due that is imposed by this chapter from any lodging tax collector who has failed or refused to collect the same and to report and remit the tax, he or she shall proceed to determine and assess against such lodging tax collector the tax, interest and penalties provided for by this chapter. In case such determination is made, the Tax Administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three years of the discovery by the Tax Administrator of any fraud, intent to evade or failure or refusal to collect the tax, or failure to file return. Any determination shall become due and payable upon receipt of notice and shall become final within 20 days after the Tax Administrator has given notice thereof, provided, however, the lodging tax collector may petition for redemption refund if the petition is filed before the determination becomes final as herein provided.

C. Lodging Tax Collector Delay. If the Tax Administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, he or she shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the lodging tax collector shall immediately pay such determination to the Tax Administrator after service of notice thereof; provided, however, the lodging tax collector may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within 20 days from the date of service of notice by the Tax Administrator.

(Ord. 59 § 9, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.100. Redeterminations.

A. Any person against whom a determination is made under Section 3.08.090 or any person directly interested may petition for a redetermination and redemption and refund within the time required in Section 3.08.090. If a petition for redetermination and refund is not filed within the time required in Section 3.08.090, the determination becomes final at the expiration of the allowable time.

B. If a petition for redetermination and refund is filed within the allowable period, the Tax Administrator shall reconsider the determination, and, if the person has so requested in his or her petition, shall grant the person an oral hearing and shall give him or her 20 days' notice of the time and place of the hearing. The Tax Administrator may continue the hearing from time to time as may be necessary.

C. The Tax Administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined each increase shall be payable immediately after the hearing.

D. The order or decision of the Tax Administrator upon a petition for redetermination of redemption and refund becomes final 20 days after service upon the petitioner of notice thereof, unless appeal of such order or decision is filed with the Occupancy Tax Review Committee within 20 days after the service of such notice.

E. No petition for redetermination of redemption and refund or appeal therefrom shall be effective for any purpose unless the lodging tax collector has first complied with the payment provisions hereof.

(Ord. 59 § 10, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.110. Security for collection of tax.

A. The Tax Administrator, whenever he or she deems it necessary to insure the compliance with this chapter, may require the lodging tax collector subject thereto to deposit with him or her such security in the form of cash, bond or other security as the Tax Administrator may determine. The amount of the security shall be fixed by the Tax Administrator but shall not be greater than twice the lodging tax collector's estimated average quarterly liability for the period for which he or she files returns, determined in such a manner as the Tax Administrator deems proper, or $5,000, whichever amount is lesser. The amount of security may be increased or decreased by the Tax Administrator subject to limitations herein provided. The lodging tax collector has a right to appeal to the Occupancy Tax Review Committee any decision of the Tax Administrator made pursuant to this section. The lodging tax collector's right to appeal is pursuant to Section 3.08.170.

B. At any time within three years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three years after any determination becomes final, the Tax Administrator may bring any action in the courts of this state, or any other state, or of the United States in the name of the City to collect the amount delinquent together with penalties and interest, and reasonable rattorney's fees, to be determined by the court, together with court costs.

(Ord. 59 § 11, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.120. Lien.

Any deficiency for occupancy room taxes identified in a final deficiency determination shall become a lien against the real property used for the lodging facility upon which the occupancy tax has been assessed. The Tax Administrator shall cause a lien to be entered in the lien docket of the City.

In addition to other remedies provided in this chapter, any deficiency for occupancy taxes identified in a final deficiency determination shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Yachats for the recovery of such amount. In lieu of filing an action for the recovery, the City may submit deficiencies to a collection agency. In the event the City turns over a deficient tax account to a collection agency, the City may add to the amount owing an amount equal to the collection agency fees, not to exceed 25% of the outstanding tax owing. The City shall provide notice as may be required by state law.

(Ord. 59 § 12, 1976; Ord. 307, 2011; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.130. Refunds.

A. Refunds by the City to the Lodging Tax Collector. Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the Tax Administrator under this chapter, it may be refunded, provided a verified claim in writing therefor, stating the specific reason upon which the claim is founded, is filed with the Tax Administrator within three years from the date of payment. The claim shall be made on forms provided by the Tax Administrator. If the claim is approved by the Tax Administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the lodging tax collector from whom it was collected or by whom paid and the balance may be refunded to such lodging tax collector, his or her administrators, executors or assignees.

B. Refunds by City to Registered Guest. Whenever the tax required by this chapter has been collected by a lodging tax collector, and deposited by lodging tax collector with the Tax Administrator, and it is later determined that the tax was erroneously or illegally collected or received by the Tax Administrator, it may be refunded by the Tax Administrator to the registered guest, provided a verified claim in writing therefor, stating the specific reason on which the claim is founded, is filed with the Tax Administrator within three years from the date of payment.

C. Refunds by Lodging Tax Collector to Tenant. Whenever the tax required by this chapter has been collected by the lodging tax collector and it is later determined that the tenant occupies the lodging facility for a period exceeding 30 days without interruption, the lodging tax collector shall refund to such tenant the tax previously collected by the lodging tax collector from that tenant as a registered guest. The lodging tax collector shall account for such collection and refund to the Tax Administrator. If the lodging tax collector has remitted the tax prior to the refund or credit to the tenant, he or she shall be entitled to a corresponding refund under this section.

(Ord. 59 § 13, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.140. Collection fee.

Every lodging tax collector liable for collection and remittance of the tax imposed by this chapter may withhold 5% of the net tax herein collected, to cover the lodging tax collector's expense in collection and remittance of the tax.

(Ord. 59 § 14, 1976; Ord. 60 § 1, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.150. Administration.

A. Not less than 30% of the occupancy tax received by the City shall be allocated to visitor amenities each year. No more than 50% of that amount shall be allocated to a visitor information center.

B. Records Required From Lodging Tax Collectors—Form. Every lodging tax collector shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the lodging tax collector for a period of three years and six months after they come into being.

C. Examination of Records—Investigations. The Tax Administrator, or any person authorized in writing by him or her, may examine during normal business hours the books, papers and accounting records relating to room sales of any lodging tax collector, after notification to the lodging tax collector liable for the tax, and may investigate the business of the lodging tax collector in order to verify the accuracy of any return made, or if no return is made by the lodging tax collector, to ascertain and determine the amount required to be paid.

D. Confidential Character of Information Obtained—Disclosure shall follow the Public Records Laws of the State of Oregon.

(Ord. 59 § 15, 1976; Ord. 69 § 1, 1978; Ord. 59A, 1983; Ord. 228, 2002; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.160. Occupancy Tax Review Committee—Appeal rules and procedure.

An Occupancy Tax Review Committee is created to be composed of five persons. The City Council may elect not to provide for the Occupancy Tax Review Committee. The Committee shall select from its members a chair who shall serve at its pleasure. Three members of the Committee shall constitute a quorum. The Committee shall keep a record of its transactions. The Committee shall be deemed to be in the office of the Tax Administrator and shall keep its files in his or her office. The members of the Committee shall not, at any time, receive any compensation as such members or acting members for their services on the committee. The Committee shall be appointed by the City Council and shall serve four year terms.

The Committee shall have power and it shall be its duty:

A. To hear and determine appeals of orders or decisions of the Tax Administrator made upon petitions for redetermination of tax. The Committee may affirm, modify or reverse such orders or decisions or dismiss the appeals therefrom, as may be just, and shall prescribe such forms, rules and regulations relating to appeals as it may deem necessary. In the review of the Tax Administrator decision or order, the Committee may take such evidence and make such investigation as it may deem necessary. It shall give notice of its determinations in the manner prescribed for service of notice of a Tax Administrator's decision and shall file a copy of each such determination with the Tax Administrator with certification thereon of the date of service thereof. Such determination shall become final 20 days thereafter and shall thereupon become due and payable, subject to interest penalties, and enforceable by the Tax Administrator in like manner as an order or decision of the Tax Administrator;

B. To approve, modify or disapprove all forms, rules and regulations prescribed by the Tax Administrator in the administration and enforcement of this chapter and such forms, rules and regulations adopted or promulgated after November 1, 1976;

C. To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested, to any form, rule or regulation approved or prescribed by the Committee;

D. To grant for good cause, applications for extensions of time in excess of one month, for making any return or payment of tax, and to prescribe rules therefor;

E. To make such investigations as it deems advisable regarding the imposition and administration of the occupancy tax and report its findings to the Board of Commissioners; to act in an advisory capacity to the legislative body on matters pertaining to the occupancy tax and enforcement problems and to recommend to the Board of Commissioners the adoption, amendment or repeal of legislation pertaining thereto.

(Ord. 59 § 16, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.170. Appeal to Occupancy Tax Review Committee.

Any person aggrieved by any decision of the Tax Administrator may appeal to the Occupancy Tax Review Committee by filing notice of appeal with the Tax Administrator within 20 days of the serving or mailing of the tax notice of a decision given by the Tax Administrator. The Tax Administrator shall fix a time and place for hearing such appeal as prescribed by the Occupancy Tax Review Committee in its rules and regulations and shall give the appellant 20 days' written notice of the time and place of hearing.
(Ord. 59 § 17, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.180. Appeals to City Council.

Any person aggrieved by any decision of the Occupancy Tax Review Committee may appeal to the City Council by filing notice of appeal with the Tax Administrator within 20 days of the serving or the mailing of the notice of the decision given by the Occupancy Tax Review Committee. The Tax Administrator shall transmit the notice of appeal together with the file of the appealed matter to the City Council, who shall fix a time and place for hearing such appeal from the decision of the Occupancy Tax Review Committee. The City Council shall give the appellant not less than 20 days' written notice of the time and place of hearing of the appealed matter. Action by the City Council on appeals shall be decided by a majority of the members of the City Council present at the meeting where such appeal is considered.
(Ord. 59 § 18, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.190. Violations.

It is unlawful for any person so required to fail or refuse to register as required herein, or to furnish any return required to be made, or fail or refuse to furnish a supplemental return or other data required by the Tax Administrator or to render a false or fraudulent return. No person required to make, render, sign or verify any report shall make any false or fraudulent report, with intent to defeat or evade the determination of any amount due required by this chapter.
(Ord. 59 § 20, 1976; Ord. 327, 2014; Ord. 351 § 1, 2018)

§ 3.08.200. Penalties.

Any person who violates any of the provisions of this chapter commits a Class A civil infraction and shall be subject to the procedures and penalties of Chapter 1.12, as now constituted or hereafter amended, revised or repealed.
(Ord. 59 § 1, 1976; Ord. 185 § 1, 1996; Ord. 327, 2014; Ord. 351 § 1, 2018)

CHAPTER 3.12
PREPARED FOOD AND BEVERAGE TAX

§ 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.

"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.

"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.

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

"Food" includes all meals and beverages, excluding alcoholic beverages, served in a restaurant including "takeout," "to go" or delivered orders. For purposes of a restaurant that is a grocery store, market, convenience store or deli section of any store, food is all prepared food and beverage which has been altered (other than solely by cooling) by preparing, combining, dividing, heating or serving, so that the food or beverage is available and intended for immediate human consumption, such as hot foods, operator prepared sandwiches and salads, and fountain drinks, whether the food is prepared by the operator onsite or at the specific direction of the operator at an off-site location controlled by the operator.

"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.

"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 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 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.
(Ord. 262, 2006; Ord. 293, 2010; Ord. 305, 2011)

§ 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 paragraphs A.3.a through d of this section;

   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 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 A of this section 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.

(Ord. 262, 2006; Ord. 293, 2010)

§ 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 taxed in its entirety through the occupancy 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 foods or beverages.

(Ord. 262, 2006; Ord. 293, 2010)

§ 3.12.040. Operator's duties.

Each operator shall collect the tax imposed by this chapter, to the same extent and at the same time as the amount for the food or beverage is collected from every purchaser. The amount of tax need not be separately stated from the amount of the food or beverage. Every operator required to collect the tax imposed in this chapter shall be entitled to retain 5% of all taxes collected to defray the costs of collections and remittance.
(Ord. 262, 2006; Ord. 329 § 1, 2014)

§ 3.12.050. Reporting and remitting.

A. On or after July 1, 2007 (fiscal year 2007-2008) every operator shall 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 for each month in the quarter on a separate line, with a total for the quarter.

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.

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; Ord. 335, 2015)

§ 3.12.060. Penalties.

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 30 days following the date on which the remittance first became delinquent shall pay an additional 10% for each 30 day period the tax remains delinquent.

C. If the Recorder determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25% 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. Every penalty imposed under the provisions of this section shall become a part of the tax required to be paid.

E. 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; Ord. 335, 2015)

§ 3.12.070. Failure to collect and report tax.

If any operator should fail to make, within the time provided in this chapter, any report of the tax required by this chapter, the Recorder shall proceed in such manner as deemed best to obtain facts and information on which to base the estimate of tax due. As soon as the Recorder shall procure such facts and information as is able to be obtained, upon which to base the assessment of any tax imposed by this chapter and payable by any operator, the Recorder shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Recorder shall give a notice of the amount so assessed by having it served personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at the last known place of address. Such operator may make an appeal of such determination as provided in Section 3.12.080. If no appeal is filed, the Recorder's determination is final and the amount thereby is immediately due and payable.

(Ord. 262, 2006)

§ 3.12.080. Appeal.

Any operator aggrieved by any decision of the Recorder with respect to the amount of such tax, interest and penalties, if any, may appeal to the City Council by filing a notice of appeal with the Recorder within 30 days of the serving or mailing of the determination of tax due. The Council shall fix a time and place for hearing such appeal, and the Recorder shall give five days' written notice of the time and place of hearing to such operator at the last known place of address. The Council shall hear and consider any records and evidence presented bearing upon the Recorder's determination of amount due, and make findings affirming, reversing or modifying the determination. The findings of the Council shall be final and conclusive, and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. 262, 2006)

§ 3.12.090. Records.

It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this chapter to keep and preserve, for a period of three years, all such records as may be necessary to determine the amount of such tax. The Recorder shall have the right to inspect all records at all reasonable times.

(Ord. 262, 2006)

§ 3.12.100. Refunds.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in subsection B of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Recorder within one year of the date of payment. The claim shall be on forms furnished by the Recorder.

B. The Recorder shall have 20 calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The Recorder shall notify the claimant in writing of the Recorder's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the Recorder to be a valid claim, an operator may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously or illegally collected or received in a manner prescribed by the Recorder. The operator shall notify recorder of claimant's choice no later than 15 days following the date recorder mailed the determination. In the event claimant has not notified the Recorder of claimant's choice within the 15-day period and the operator is still in business, a credit will be granted against the tax liability for the next reporting period, if the operator is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

C. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the Recorder acknowledged the validity of the claim.

(Ord. 262, 2006)

§ 3.12.110. Lien and actions to collect.

Any tax required to be paid by any operator under the provisions of this chapter shall be deemed a debt owed by the operator to the City. Any such tax collected by an operator which has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City of Yachats for the recovery of such amount.

If no appeal is filed within 30 days of serving or mailing a tax deficiency notice, the deficiency for taxes identified shall become a lien against the real property used as a restaurant by the operator. The Recorder shall cause a lien to be entered in the lien docket of the City.

In addition to other remedies provided in this chapter, the City may submit deficiencies to a collection agency. In the event the City turns over a deficient tax account to a collection agency, the City may add to the amount owing an amount equal to the collection agency fees, not to exceed 25% of the outstanding tax owing. The City shall provide notice as may be required by state law.

(Ord. 262, 2006; Ord. 306, 2011)

§ 3.12.120. Violations—Infractions.

Any operator or other person who fails or refuses to comply as required herein, or to furnish any return required to be made, or fails or refuses to furnish a supplemental return or other data required by the Recorder, or who renders a false or fraudulent return or claim, or who fails, refuses or neglects to remit the tax to the City by the due date, is guilty of a Class A infraction under Section 1.12.070 of the Yachats Municipal Code.
(Ord. 262, 2006)

§ 3.12.130. Confidentiality.

Except as otherwise required by law, it shall be unlawful for the City, any officer, employee or agent to divulge, release or make known in any manner any financial information submitted or disclosed to the City under the terms of this chapter. Nothing in this section shall prohibit:

A. The disclosure of the names and addresses of any person(s) who are operating a restaurant; or

B. The disclosure of general statistics in a form which would prevent the identification of financial information regarding an individual operator; or

C. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of a claim by the Recorder or an appeal from the Recorder for amount due the City under this chapter.

(Ord. 262, 2006)

§ 3.12.140. Examining books, records, or persons.

The City, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by it for that purpose, any books, papers, records, or memoranda, including copies of operator's State and Federal income tax return, bearing upon the matter of the operator's tax return.
(Ord. 262, 2006)

§ 3.12.150. Effective date—Tax collection.

This chapter shall take effect on the 30th day after adoption, as provided in the 2005 Yachats Charter. Collection of taxes shall not commence, however, until July 1, 2007, the first day of the 2007-2008 fiscal year, payable as set forth in Section 3.12.050 of this chapter.
(Ord. 262, 2006)