

## ORDINANCE NO. 1210

**AN ORDINANCE AMENDING SECTION 1700 OF ARTICLE 17 OF CHAPTER 10 OF THE RALSTON MUNICIPAL CODE DEALING WITH DEFINITIONS IN THE APPLICATION OF THE RESTAURANT AND DRINKING PLACES OCCUPATION TAX; TO REPEAL ALL PROVISIONS IN CONFLICT THEREOF THEREWITH AND TO PROVIDE AN EFFECTIVE DATE.**

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF RALSTON, NEBRASKA.

That on the 20th day of June, 2017, the Ralston City Council conducted a regularly scheduled public hearing at which it considered amending Section 10-202.01 of the Ralston Municipal Code pertaining to the regulation of itinerant sales. Upon consideration of such amendment, the Ralston City Council approved said to Article 2 of Section 10 so that after passage of this ordinance said section shall read:

### **Sec. 10-1700. - Definitions.**

As used in this article, the following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

*City* shall mean the City of Ralston and the area within the corporate limits of the City of Ralston.

*Treasurer* shall mean the Treasurer of the City of Ralston.

*Drinking place* shall mean any establishment or business offering the public on-premises consumption of alcoholic and/or nonalcoholic beverages including, but not limited to, bars, taverns, night clubs, and dance halls and concession stands at race tracks, golf courses, sports and meeting facilities, arenas, or stadiums. A drinking place may also be a restaurant.

- (1) The term does not include any business offering beverages free of charge. The term "free of charge" means without any consideration, donation, contributions, or monetary charges of any nature paid for access to the beverages and, without limitation, requires the absence of any admission charge, cover charge, table reservation fee, gate charges, seat charges, entertainment fee, green fees, or required minimum purchase of beverages or merchandise.
- (2) The term does not include a place offering beverages on premises owned or operated by a civic, charitable, educational, religious, governmental, or political organization exempt from income taxes under the United States Internal Revenue Code.

*Engaged in* shall mean to offer to the public, carry on, or take part in the operation of a business as owner, operator, or agent. A person renting or using a facility for a taxable activity or service, either as a one-time event or otherwise, shall be considered to be engaged in the business.

*Food* shall mean all edible refreshment or nourishment, whether solid semi-solid, or liquid. The term shall not include:

- (1) Any food that is not subject to the sales and use tax imposed by the Nebraska Revenue Act of 1967, as it is amended from time to time; and
- (2) Snack foods, which shall mean unopened bottles or cans of soft drinks, chewing gum, candy, popcorn, peanuts and other nuts, unopened packages of cookies, donuts, crackers, and potato chips, and unopened packages of other items of essentially the same nature which are consumed for essentially the same purpose and which are packaged for home consumption.

*Gross receipts* shall mean the total amount of consideration, donation, contributions, or monetary charges of any nature paid to obtain or for access to food or beverage without any deduction on account of expenses, taxes, or other costs.

- (1) The term includes, without limitation:
  - (i) The price charged for food or beverages;
  - (ii) Any admission charge, cover charge, membership fee, table reservation fee, gate charges, seat charges, or entertainment fee or similar payment if the payment gives the payee a right to obtain food or beverage which is otherwise subject to this tax;
  - (iii) The amount paid to a person engaged in a business or activity by vendors or contractors who provide food or beverages to that person's customers on the premises and which are within the scope of this tax; and
  - (iv) Receipts from the sale of beverages or food in a restaurant or drinking place even if it is not actually consumed on the premises, including the receipts from prepared "take out," "drive-through," or "to go" food.

(2) The term does not include:

- (i) The value of food or beverages furnished by restaurants or drinking places to employees as part of their compensation when no charge is made to the employee.
- (ii) Tips to an employee when the amount of the tip is wholly in the discretion of the purchaser and the full amount of the tip is turned over to the employee, whether or not the tip is paid to the employee or added to the bill.
- (iii) The amount of any tax levied and paid upon food or beverage sales pursuant to R.R.S. §77-2703 and R.R.S. §77-27,142.

- (iv) Payments made to a caterer by a civic, charitable, educational, religious, governmental, or political organization exempt from income taxes under the United States Internal Revenue Code for food or beverage delivered to the premises of the organization.

*Person* shall mean any natural person, individual, partnership, association, organization or corporation of any kind or character engaging in a restaurant business.

*Restaurant* shall mean any place that is kept, used, maintained, advertised, or held out to the public as a place where food is prepared and sold for immediate consumption either on the premises or elsewhere.

- (1) The term includes, but is not limited to, cafes, grills, bistros, delicatessens, coffee shops, bakeries, lunch counters, mobile food vendors, sandwich stands, and concession stands at race tracks, sports and meeting facilities, arenas, or stadiums and includes a space or area within a hotel, motel, bed and breakfast, boarding house, hospital, grocery store, convenience store, supermarket, or office building where food is obtained or consumed if a separate charge is made for the food. A restaurant may also be a drinking place.
- (2) The term does not include:
  - (i) A place operated by a religious, civic, educational, charitable, governmental, or political organization exempt from income taxes under the United States Internal Revenue Code where food is offered solely to its members or students;
  - (ii) A public or private daycare center that offers food solely to its employees or the children staying at the center;
  - (iii) A convalescent home, nursing home, home for the aged or infirmed, or substance abuse facility that offers food solely to its residents;
  - (iv) Premises where food is obtained solely from vending machines operated by coin, cards, or other per-purchase operation regardless of whether the food may be consumed on the premises;
  - (vi) Temporary stands at festivals or other similar events from which food ready for consumption is sold unless entrance to the place at which the food is sold is subject to an admission charge; or
  - (vii) Any business offering food free of charge. The term "free of charge" means without any consideration, donation, contributions, or monetary charges of any nature paid for access to the food and, without limitation, requires the absence of any admission charge, cover charge, table reservation fee, gate charges, seat charges, entertainment fee, green fees, or required minimum purchase of food or merchandise.

(viii) A place offering food on premises owned or operated by a civic, charitable, educational, religious, governmental, or political organization exempt from income taxes under the United States Internal Revenue Code.


*Taxpayer* shall mean any person engaged in the business of a restaurant or drinking place who is required to pay the tax herein imposed.

Any and all Ordinances or portions thereof, which are in conflict herewith are hereby repealed.

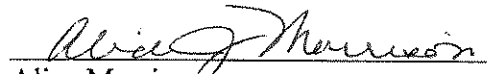
This Ordinance becomes effective upon passage by the Mayor and City Council of the City Council of the City of Ralston, Nebraska and upon its publication as provided by law.

DATED this 20<sup>th</sup> day of June, 2017.

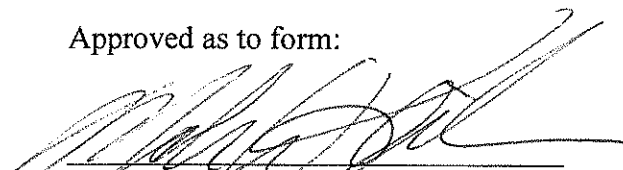
CITY OF RALSTON, NEBRASKA

  
Donald A. Groesser  
Mayor

ATTEST:

  
Alice Morrison  
Acting City Clerk

Approved as to form:

  
Mark A. Klinker, City Attorney