

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**APRIL 7, 2020 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
AMEND THE RESTAURANTS AND DRINKING PLACES OCCUPATION TAX	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	KEVIN POKORNY DIRECTOR OF ADMINISTRATIVE SERVICES

**SYNOPSIS**

This ordinance comes before Council to amend the Restaurants and Drinking Places Occupation Tax (known as the Restaurant Tax) by adopting a new section 113.10.4.1 providing for a quarterly return and payment of the tax.

**FISCAL IMPACT**

This amendment poses no impact to the financial requirements of this occupation tax.

**RECOMMENDATION**

Approval.

**BACKGROUND**

The Restaurants tax came before Council for the second reading and adoption on September 3, 2019 and went into effect on October 1, 2019.

With the recent developments of the COVID-19, the Nebraska Governor's executive orders on no gatherings of more than 10 persons and the City's wish to work with its business partners in the City, staff is recommending to permit restaurants and drinking places to prepare and file returns and pay taxes on a quarterly basis, rather than monthly, by filing such election with the City Administrator or designee.

Restaurant and Drinking Places are still be required to file and pay the occupation tax monthly in absence of any election filed and approved by the City Administrator or designee.

## ORDINANCE NO.

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA ADOPTING SECTION 113.10.4.1 OF THE LA VISTA MUNICIPAL CODE TO PROVIDE FOR QUARTERLY RETURN AND PAYMENT OF RESTAURANTS AND DRINKING PLACES OCCUPATION TAX; REPEALING CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, as follows:

Section 1. The Mayor and City Council of the City of La Vista desire to adopt Section 113.10.4.1 of the La Vista Municipal Code to permit quarterly return and payment of Restaurants and Drinking Places Occupation Tax.

Section 2. Section 113.10.4.1 of the La Vista Municipal Code is hereby adopted and approved as follows:

**“§ 113.10.4.1 Quarterly Return & Payment Election.** Notwithstanding anything in the Code to the contrary, on and after April 8, 2020, any taxpayer engaged in a restaurant or drinking place within the City may prepare and file returns and pay taxes under this section on a quarterly basis, rather than monthly, by filing an election with the City Administrator in accordance with such rules or regulations as the City Administrator from time to time may specify, including without limitation any such rules or regulations specifying the form, content, or timing within which any such election shall be made (“Quarterly Return and Payment Election”) Any such Quarterly Return and Payment Election shall be subject to approval of the City Administrator, and further shall be subject to the following conditions:

- (a) A Quarterly Return and Payment Election shall be effective with respect to returns and taxes of a taxpayer that are due and payable on or after the day the Quarterly Return and Payment Election is filed with the City, as determined by the City Administrator, unless the City Administrator and taxpayer agree to a later effective date;
- (b) Taxpayers making a Quarterly Return and Payment Election shall prepare and file returns and pay taxes under this section no later than the last day of the month immediately after the end of each calendar quarter during which any gross receipts are received that are included for purposes of calculating the tax. For this purpose, the calendar quarters are March, June, September, and December. All gross receipts for the quarter shall be included, except for any gross receipts that were included for purposes of any prior return and tax payment to the City;
- (c) A Quarterly Return and Payment Election shall be irrevocable and the taxpayer shall make all future payments on a quarterly basis. Provided, however, in the event circumstances arise that were not reasonably foreseeable to the taxpayer when making a Quarterly Return and Payment Election, the taxpayer may file with the City Administrator a written request to revoke a Quarterly Return and Payment Election and begin preparing and filing returns and paying taxes on a monthly basis. Any such request shall be subject to approval of the City Administrator in her or his sole discretion; and
- (d) Any other requirements specified by the City Administrator from time to time.”

Section 3. Repeal of Conflicting Provisions. Any conflicting provision of any previously enacted ordinance is hereby repealed.

Section 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this Ordinance. The Mayor and City Council of the City of La Vista hereby declare that it would have passed this Ordinance and each section, subsection, sentence, clause or phrase

hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 5. Publication and Effective Date of Ordinance. This Ordinance shall be published and in force and effect in accordance with applicable law.

PASSED AND APPROVED THIS 7TH DAY OF APRIL, 2020.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk