

ORDINANCE 2023-04

AN ORDINANCE ENACTING CHAPTER 191 OF THE HIRAM CODIFIED ORDINANCES TO IMPOSE AN EXCISE TAX ON LODGING WITHIN THE VILLAGE.

WHEREAS, the Council of the Village of Hiram has determined additional revenue is needed to address the financial costs of providing services to the citizens in the Village; and

WHEREAS, the State of Ohio has enacted Chapter 5739 of the Ohio Revised Code under which municipal corporations such as the Village of Hiram are permitted to impose an excise tax on lodgings geographically within the Village; and

WHEREAS, the Council of the Village of Hiram has decided to impose an excise tax on lodging as permitted by the Ohio Revised Code.

NOW THEREFORE, BE IT ORDAINED, by the Council of the Village of Hiram, Portage County, Ohio, a majority of the members thereto concurring that:


SECTION 1: Chapter 191 of the Hiram Codified Ordinances, entitled Excise Tax on Lodgings, in substantial conformity with the attached Exhibit "A" is enacted.

SECTION 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that the deliberations of the Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Revised Code of the State of Ohio.

First Reading: February 14, 2023  
Second Reading: March 14, 2023  
Third Reading and Passage: April 11, 2023


  
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Mayor Lou Bertrand

ATTEST:

  
Fiscal Officer Susan J. Skrovan DeYoung

Approved as to form:

  
\_\_\_\_\_  
Village Solicitor Thomas Reitz

I SUSAN, Fiscal Officer of the Village of Hiram, Ohio, hereby certify that the foregoing ~~Resolution or Ordinance~~ No. 2023-04 has been duly posted in the required 5 places.  
4/13/2023   
Date Fiscal Officer, Village of Hiram

## **Ordinance 2023-04, Exhibit "A"**

### **CHAPTER 191**

#### **Excise Tax on Lodgings**

- 191.01 Levy of tax.
- 191.02 Exemptions; certificate.
- 191.03 Applicability.
- 191.04 Authority for tax.
- 191.05 Payment.
- 191.06 Filing of return.
- 191.07 Deposit of moneys collected.
- 191.08 Rules and regulations.
- 191.09 Compliance.
- 191.10 Penalty on late returns and late remitted taxes.
- 191.11 Assessments by Fiscal Officer; hearing.
- 191.12 Appeals.
- 191.13 Inspection of documents and persons.
- 191.14 Imposition of a tax lien.
- 191.99 Penalty.

#### **CROSS REFERENCE**

##### **Ohio Revised Code Chap 5739**

###### **191.01 LEVY OF TAX.**

To provide funds to finance the General Fund of the Village and for operating expenses, there is hereby levied a tax of three percent (3%) of the amounts received for lodging and for rooms by a hotel or motel or other online market place that rents lodging within the corporate limits of the Village.

###### **191.02 EXEMPTIONS; CERTIFICATE.**

(a) No excise tax shall be imposed under this chapter as to the following:

(1) Upon rents not within the taxing power of the Village under the constitution or laws of Ohio or the United States;

(2) Upon rents paid by the Federal or State government or any other political subdivision;

(3) Upon rents paid for the use or possession of, or right to use or possess, any room or suite of connecting rooms as office space, banquet or private dining rooms, or exhibit, sample, or display space unless the person exercising occupancy uses or possesses, or has the right to use or possess, all or any portion of such room, or suite of rooms for dwelling, lodging or sleeping purposes.

(b) If the transaction is claimed to be exempt under subsection (a) hereof, the transient guest shall furnish to vendor, and the vendor shall obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed the tax applies.

#### 191.03 APPLICABILITY.

For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all lodging furnished by motels or transient accommodations in the Village to transient guests is subject to the tax until the contrary is established.

#### 191.04 AUTHORITY FOR TAX.

The three percent (3%) tax on lodgings levied under Section 191.01 is levied under authority of Ohio R. C. Chapter 5739.

#### 191.05 PAYMENT.

Every person, individual, partnership, association or corporation receiving such payments for lodging and room as taxed under this chapter shall file a monthly return with the Fiscal Officer of the Village, showing the gross amount received for lodging and rooms collected during the preceding month and with such return shall pay the amount of tax shown thereon to be due at the rate of three percent (3%) thereof to the Village.

#### 191.06 FILING OF RETURN.

Such return shall be filed with the Fiscal Officer on or before the last day of the next month following the month in which the tax is collected or received. All claims for exemption from the tax filed by the transient guests with the vendor during the reporting period shall be filed with the report. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by vendor pursuant to this chapter shall be held in trust for the account of the Village until payment hereof is made to the Fiscal Officer. All returns and payments submitted by each vendor shall be treated as confidential by the Fiscal Officer and shall not be released by the Fiscal Officer except upon

order of a court of competent jurisdiction or to an officer or agent of the United States, the State, the County, or the Village for official use only.

#### 191.07 DEPOSIT OF MONEYS COLLECTED.

The moneys received by the Fiscal Officer under the provisions of this chapter shall be deposited in the General Fund.

#### 191.08 RULES AND REGULATIONS.

The Fiscal Officer is authorized to prescribe such rules, regulations and forms for the administration of this chapter and the collection of the tax thereunder as may be required.

#### 191.09 COMPLIANCE.

No person, individual, partnership, association or corporation shall continue to furnish lodging and hotel or motel rooms for which a charge is made and received unless compliance is made with this chapter by filing a return as provided and paying the tax as levied.

#### 191.10 PENALTY ON LATE RETURNS AND LATE REMITTED TAXES.

(a) Any vendor who fails to file a return by the timeline specified in Section 191.06 of this chapter shall pay a one-time penalty of five hundred dollars (\$500.00), to be paid with the remittance of the tax.

(b) Any vendor who fails to remit any tax imposed by this chapter by the timeline specified in Section 191.06 of this chapter shall pay a penalty equal to ten percent (10%) of the amount of the tax, in addition to the tax.

(c) In addition to such penalty, any vendor who fails to remit any tax imposed by this chapter within such time line shall pay interest at the rate of ten percent (10%) per annum, or fraction thereof, on the amount of tax, exclusive of penalties, from the date on which the remittance first became delinquent until fully paid.

(d) No penalty provided under the terms of this chapter shall be imposed during the pendency of any hearing provided for in Section 191.11 of this chapter.

#### 191.11 ASSESSMENTS BY FISCAL OFFICER; HEARING.

(a) If any vendor fails or refuses to collect such tax and to make, within the time line provided in this chapter, any report and remittance of such tax or any portion thereof

required by this chapter, the Fiscal Officer shall proceed in such manner as he/she may deem best to obtain facts and information on which to base an estimate of the tax due.

(b) As soon as the Fiscal Officer procures such facts and information as can be obtained upon which to base the assessment of any tax imposed by this chapter and payable by any vendor who has failed or refused to collect the same and to make such report and remittance, the Fiscal Officer shall proceed to determine and assess against such vendor the tax, interest and penalties provided for by this chapter.

(c) In case such determination is made, the Fiscal Officer shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the vendor so assessed at vendor's last known place of address.

(d) Such vendor may, within ten (10) days after the serving or mailing of such notice, make application in writing to the Fiscal Officer for a hearing on the amount assessed. If application by the vendor for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Fiscal Officer, shall become final and conclusive and immediately due and payable.

(e) If such application is made, the Fiscal Officer shall give not less than five (5) days written notice in the manner prescribed herein to the vendor to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest and penalties.

(f) At such hearing, the vendor may appear and offer evidence why such specified tax, interest and penalties should not be so fixed.

(g) After such hearing, the Fiscal Officer shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as provided in Section 191.12.

#### 191.12 APPEALS.

(a) Any vendor aggrieved by any decision of the Fiscal Officer with respect to the amount of such tax, interest and penalties, if any, may appeal to the Mayor by filing a notice of appeal with the Mayor within fifteen (15) days of the serving or mailing of the determination of tax due.

(b) The Mayor shall fix a time and place for hearing such appeal, and shall give notice in writing to such vendor at the last known place of address.

(c) The findings of the Mayor 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.

#### 191.13 INSPECTION OF DOCUMENTS AND PERSONS.

The Fiscal Officer may order any person presumed to have information or custody of any documents pertaining to the amounts received for lodging and for rooms by any hotel or motel within the Village, to appear before him with relevant documents for the purpose of determining the amount of excise tax due under this chapter.

#### 191.14 IMPOSITION OF A TAX LIEN.

In the event any vendor fails to pay the required tax imposed by this chapter, after exhaustion of any and all appeals allowed by this chapter, the amount due in accordance with Section 191.06, including penalties and interest, shall be certified to the County Auditor for placement upon the tax duplicate as a lien against the real property upon which the motel, hotel or other facility is situated and the personal property located therein.

#### 191.99 PENALTY.

(a) Whoever violates any provision of this chapter by failing to file a return, pay the tax thereunder, or appear pursuant to an order of the Fiscal Officer issued under Section 191.13, may be charged with a misdemeanor of the first degree.

(b) Any vendor or other person who fails or refuses to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the Fiscal Officer, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor of the first degree, and is punishable as aforesaid.

(c) Any person required to make, render, sign, or verify any report or claim who makes a false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made, is guilty of a misdemeanor of the first degree and is punishable as aforesaid.