

ORDINANCE NO.: 22-1198

AN ORDINANCE AMENDING AND RESTATING SECTION CHAPTER 183 OF THE
VILLAGE OF RUSSELLS POINT CODIFIED ORDINANCES

WHEREAS, Chapter 5739 of the Ohio Revised Code grants municipal corporations the authority to levy lodging excise taxes; and

WHEREAS, the Village of Russells Point enacted Codified Ordinance, Chapter 183, Hotel Excise Tax through Ordinance 04-956, passed February 16, 2004, to implement a lodging excise tax on persons engaged in the business of owning, operating, or managing a hotel equal to three percent (3%) of the transactions by which hotel accommodations are furnished to transient guests; and

WHEREAS, Village of Russells Point Codified Ordinance, Chapter 183, Hotel Excise Tax, enacted by Ordinance 04-956, passed February 16, 2004, implements a lodging excise tax on a hotel, then defined by Ohio law as sleeping accommodations offered to transient guests in which five or more rooms are used for the accommodation of such transient guests; and

WHEREAS, Ohio Revised Code § 5739.091 now allows municipal corporations to define "hotel" to include "establishments in which fewer than five rooms are used for the accommodations of guests" for the purpose of levying a lodging excise tax; and

WHEREAS, Village of Russells Point Council has determined it wishes to levy a lodging excise tax in the amount of three percent (3%) on establishments at which fewer than five rooms are used for the accommodation of guests, defined as "short-term rentals;" and

WHEREAS, Village of Russells Point Council has determined it is in the best interest of the Village to amend and restate Chapter 183 now titled Hotel, Short-Term Rental and Convention Tax" of the Codified Ordinances of the Village of Russells Point, Ohio in order to levy a lodging excise tax of three percent (3%) on hotels and short-term rentals, and to otherwise update the ordinance, in order to provide additional general fund revenue for the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF RUSSELLS POINT, LOGAN COUNTY, OHIO THAT:

SECTION 1: Chapter 183, Hotel Excise Tax, is re-titled and otherwise amended to comport with current state law, with amended sections reflected in strikethrough and new sections reflected in bold, as attached in Exhibit A.

SECTION 2: It is 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 all deliberations of this 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 of the Ohio Revised Code.

SECTION 5: This Ordinance shall take effect at the earliest time allowed by law.

Passed in Council this 6th day of June, 2022.

Robin Reames
Robin Reames, Mayor

ATTEST: Jeff Weidner
Jeff Weidner, Fiscal Officer

APPROVED:

Approved as to form this 7th day of June, 2022.

Lynette Dinkler

Lynette Dinkler, Esq.
Village Solicitor

EXHIBIT A
ORDINANCE 22-1198
AMENDED HOTEL, SHORT-TERM RENTAL AND CONVENTION TAX

CHAPTER 183

~~Hotel Excise Tax~~

~~183.01 Levy.~~

~~183.02 Effective date.~~

~~183.03 Allocation of funds.~~

~~183.01 LEVY.~~

~~—Pursuant to Ohio R.C. 5739.02(C)1, there is hereby levied a Municipal excise tax of three percent (3%) on all transactions within the Village of Russells Point where lodging by a hotel is or is to be furnished to a transient guest.~~

~~{Ord. 04-956. Passed 2-16-04.}~~

~~183.02 EFFECTIVE DATE.~~

~~—The tax shall be in full force and effect from and after thirty (30) days from the date of its passage. {Ord. 04-956. Passed 2-16-04.}~~

~~183.03 ALLOCATION OF FUNDS.~~

~~—The tax collected, less the real and actual costs of administering said tax, shall be deposited in the Municipal General Fund.~~

~~{Ord. 04-956. Passed 2-16-04.}~~

CHAPTER 183

Hotel, Short-Term Rental and Convention Tax

183.01 Definitions.

183.02 Purpose.

183.03 Amount of convention tax.

183.04 Disposition of convention tax funds.

183.05 Amount of hotel and short-term rental tax.

183.06 Tax is Village property.

183.07 Disposition of hotel and short-term rental tax funds.

183.08 Tax to be separately stated and charged.

183.09 Reports and records required and assessment.

183.10 Payment by guests and transient guests.

183.11 Examination of books, record and auditing procedures.

183.12 Unlawful to prohibit inspection.

183.13 Civil and Criminal penalties for nonpayment.

183.14 Registration of hotels and short-term rentals.

- 183.15 Additional rules and regulations.**
- 183.16 Determination of contributions.**
- 183.17 Exemption.**
- 183.18 Statute of limitations.**
- 183.19 Appeal.**

CROSS REFERENCES

See Ohio R.C. Sections 5739.08-09.

183.01 DEFINITIONS.

For the purpose of this Chapter the following definitions for certain terms or words used herein shall be used in the interpretation of the provisions of this Chapter. Words used in the present tense shall include the future tense, the singular number shall include the plural and the plural shall include the singular. The word "shall" or "will" is mandatory and the word "may" is permissive. Any other words used and not defined herein shall be construed as having the commonly-accepted meaning defined in a standard dictionary.

(a) "Guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(b) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests and transient guests in which five or more rooms are used for the accommodation of such guests and transient guests, whether such rooms are in one or several structures.

(c) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations and combinations of individuals in any form.

(d) "Transient guests" means the same as guests defined herein.

(e) "Short-term rental" means any establishment offering at least one but less than five rooms for the accommodation of guests and transient guests, which is rented for a fee for less than thirty consecutive days, whether such rooms are in one or several structures.

(Ord. 22-___. Passed _____.)

183.02. PURPOSE.

The purpose of this Chapter is to supplement the revenue in the Village's General Fund to meet Village needs by levying an excise tax as authorized by Ohio R.C. Sections 5739.08-09. The purpose of this Chapter is also to supplement the revenue of convention and visitors' bureaus of Logan County to fiscally empower them, as enabled by state law, to provide robust services to positively impact financial growth and stability of the Village of Russells Point and its business establishments.

Additionally, the financial growth and stability of the Indian Lake Community and Logan County will benefit from this Chapter. For the proper administration of this Chapter, and to prevent the evasion of the tax, it is presumed that all transactions by which hotel or short-term rental accommodations are furnished to guests and transient guests made in this Village are subject to the tax until the contrary is established.

(Ord. 22-____. Passed _____.)

183.03 AMOUNT OF CONVENTION TAX.

Every person engaged in the business of owning, operating or managing a hotel or short-term rental as defined in this Chapter shall pay to the Village an excise tax equal to three percent (3%) of the transactions by which hotel or short-term rental accommodations are furnished to guests and transient guests.

(Ord. 22-____. Passed _____.)

183.04 DISPOSITION OF CONVENTION TAX FUNDS.

(a) Calculation of Disposition of Funds:

(1) The Fiscal Officer shall prepare a yearly estimate, used in the preparation of the annual budget, of three percent (3%) convention tax funds to be received by the Village pursuant to Russells Point Codified Ordinance Section 183.03.

(2) The Village shall distribute one hundred percent (100%) of the convention tax funds received in a calendar year to the Logan County Convention & Tourism Bureau.

(b) Council may authorize the Mayor to enter into a written contract, on behalf of the Village, with one or more convention and visitors' bureaus operating within Logan County, Ohio, that provides for the Village's contribution of funds to such bureaus subject to the conditions contained within the contract.

(c) All interest earned on the convention tax funds collected pursuant to Section 183.03 shall be retained by the Village and deposited in the General Fund.

(d) Notwithstanding any other provision of this section, the Village shall fully comply with the minimum State of Ohio convention tax requirements.

(Ord. 22-____. Passed _____.)

183.05 AMOUNT OF HOTEL AND SHORT-TERM RENTAL TAX.

(a) Every person engaged in the business of owning, operating, or managing a hotel or short-term rental as defined in this Chapter shall pay to the Village a tax equal to three percent (3%) of the transactions by which hotel or short-term rental accommodations are furnished to guests and transient guests.

(b) The tax imposed in this section shall be in addition to the tax imposed in Section 183.03 (Convention Tax).

(Ord. 22-____. Passed _____.)

183.06 TAX IS VILLAGE PROPERTY.

(a) All tax imposed, levied, and collectible under this Chapter is declared to be in the constructive possession of and is the property of the Village of Russells Point when the guest or transient guest is charged.

(b) The owner, operator or manager of the hotel or short-term rental as defined in this Chapter shall not, in any manner, convert, disburse, use or hold out hotel excise tax money as the assets of the hotel or short-term rental, its owner, operator or manager.

(c) The intent of this section is to insure against the misuse of public tax moneys, for any private purpose whatsoever, and to prevent fraud upon the Village.

(Ord. 22-____. Passed _____.)

183.07 DISPOSITION OF HOTEL AND SHORT-TERM RENTAL TAX FUNDS.

All of the hotel and short-term rental tax funds received from hotels and short-term rentals by the Village pursuant to Section 183.05 shall be deposited in the Village's General Fund.

(Ord. 22-____. Passed _____.)

183.08 TAX TO BE SEPARATELY STATED AND CHARGED.

(a) Every person engaged in the business of owning, operating or managing a hotel or short-term rental as defined in this Chapter shall cause the taxes to be charged and collected in this Chapter to be a separately stated item from the charge for occupancy rent on each bill, statement, and all other similar documents issued to the guest or transient guest at the time when occupancy is initially arranged or contracted, when the guest or transient guest is charged, and at all other times on all such documents. Every person engaged in the business of owning, operating or managing a hotel or short-term rental as defined in this Chapter shall cause the taxes to be charged and collected in this Chapter to be a separately stated item from the charge for occupancy rent on all records maintained by the hotel or short-term rental business evidencing occupancy rental taxes and occupancy rental charges.

(b) The taxes to be charged and collected in this Chapter shall be paid by the guest or transient guest to every person engaged in the business of owning, operating or managing a hotel or short-term rental as defined in this Chapter, all of whom shall serve as a trustee for the Village and all of whom shall be liable for the collection and remittance of taxes to be charged and collected in this Chapter.

at the time when the occupancy is arranged or contracted and charged for,

(b) No person engaged in the business of owning, operating or managing a hotel or short-term rental as defined in this Chapter advertise, promote, state or caused to

be published in any manner, whether directly or indirectly, that the taxes to be charged and collected in this Chapter or any part thereof will be assumed or absorbed by the owner, operator or manager of the hotel or short-term rental as defined in this Chapter, or that it will not be added to the occupancy rent, or that, if added, any part will be refunded unless otherwise permitted in this Chapter.
(Ord. 22-___. Passed _____.)

183.09 REPORTS AND RECORDS REQUIRED AND ASSESSMENT.

(a) The owner, operator or manager of a hotel or short-term rental shall make true and accurate reports to the Fiscal Officer on forms prescribed by the Fiscal Officer, including but not limited to the "Hotel, Short-Term Rental and Convention Tax Return Form," giving such information as may be necessary to determine the amounts to which the tax applies for all gross daily rental receipts for each one-month period.

(b) The owner, operator or manager of a hotel or short-term rental shall create and maintain complete and accurate records of the transactions by which hotel or short-term rental accommodations are furnished to guests and transient guests. All claimed exemptions shall be identified with particularity.

(c) Failure to create and maintain complete and accurate records of the transactions by which hotel or short-term rental accommodations are furnished to guests and transient guests shall constitute cause for the Fiscal Officer to make an assessment based upon available, credible information as determined by the Fiscal Officer. If no information or no credible information is available the assessment of tax due shall not be less than one hundred percent (100%) of the most recently received remittance. The assessment shall be immediately assessed to and paid by the owner, operator or manager of a hotel or short-term rental and shall further be subject to penalty for nonpayment as provided in Section 183.13.

(Ord. 22-___. Passed _____.)

183.10 PAYMENT BY GUESTS AND TRANSIENT GUESTS.

The taxes imposed hereby shall be collected by the owner, operator or manager of the hotel or short-term rental from the paying guests and transient guests and shown as a tax charge on the bill for occupancy of the rooms. The owner, operator or manager is liable to the Village for such taxes whether or not they are actually collected from the paying guest. Such taxes shall be paid to the Village of Russells Point on or before the fifteenth day of the month following the month in which the taxes accrued and the report required by Section 183.09 hereof shall accompany such payment.

(Ord. 22-___. Passed _____.)

183.11 EXAMINATION OF BOOKS, RECORDS AND AUDITING PROCEDURES.

(a) The Fiscal Officer or authorized representative shall have the right at all reasonable times during business hours to make such examinations and inspections of books and records of the hotel or short-term rental as may be necessary to determine the correctness of the required reports and the taxes paid. The right of the Fiscal Officer or authorized representative to inspect, audit and make copies of books and records of the hotel or short-term rental shall include, but not be limited to, the following: books of accounts, daily cash receipt records and hotel or short-term rental registration forms in any form (i.e. print, electronic, mirror image).

(b) The Fiscal Officer shall further have the right to order a special purpose audit of the hotel or short-term rental books and records upon determining there exists the lesser of a three percent (3%) or one hundred dollars (\$100.00) underpayment of the hotel or short-term rental tax. The cost of the special purpose audit shall be assessed and paid for by the owner, operator or manager of a hotel or short-term rental. Any deficiency in payment shall be deemed a nonpayment and shall be immediately assessed to and paid by the owner, operator or manager of a hotel or short-term rental and shall further be subject to penalty for nonpayment as provided in Section 183.13.

(Ord. 22-____. Passed _____.)

183.12 UNLAWFUL TO PROHIBIT INSPECTION.

It shall be unlawful for any hotel or short-term rental through its owner, operator or manager to prohibit or hinder the Fiscal Officer or authorized representative from making any examination or audit as authorized by Section 183.11 hereof.

(Ord. 22-____. Passed _____.)

183.13 CIVIL AND CRIMINAL PENALTIES FOR NONPAYMENT.

(a) For each and every month, or part thereof, any tax provided for under this Chapter shall remain unpaid after the fifteenth or next business day of the month during which the same becomes payable, there shall be added to such tax as a penalty ten percent (10%) of the amount of such tax for the first month, or part thereof, that the amount is unpaid, and for each and every month thereafter one percent (1%) of the amount of such tax shall be added until the same is paid in full. In no case shall the total penalty provided herein exceed one hundred percent (100%) of the tax due and these penalties shall not preclude criminal prosecution for violation of this Chapter.

(b) Any person violating any provision of this Chapter shall be guilty of a misdemeanor of the first degree.

(c) Criminal prosecution for violation of any of the provisions of this Chapter shall not release or discharge the owner, operator or manager of a hotel or short-term rental from civil liability for full payment of any and all tax or penalties due.

(Ord. 22-____. Passed _____.)

183.14 REGISTRATION OF HOTELS AND SHORT-TERM RENTALS.

(a) Every person engaged in the business of owning, operating or managing a hotel or short-term rental as defined in this Chapter shall, within thirty days after the effective date of this Chapter, or within thirty days after commencing such business, whichever is later, shall register the hotel or short-term rental with the fiscal officer and obtain from the fiscal officer a "Transient Occupancy Registration Certificate" to be posted at all times in a conspicuous place on the hotel or short-term rental premises.

(b) No fee shall be charged for the registration process or issuance of a "Transient Occupancy Registration Certificate."

(c) The "Transient Occupancy Registration Certificate" shall state, among other things, the following:

(1) The name of the person engaged in the business of owning the hotel or short-term rental as defined in this Chapter;

(2) The address of the hotel or short-term rental;

(3) The date upon which the certificate was issued; and

(4) "This Transient Occupancy Registration Certificate signifies that the person named on the face of this certificate has fulfilled the registration requirement of the Village pursuant to Russells Point Codified Ordinance Section 183.14 by registering with the Fiscal Officer for the Village of Russells Point for the purpose of collecting from guests and transient guests the Hotel, Short-Term Rental and Convention Tax and remitting the tax to the Fiscal Officer of the Village of Russells Point, Ohio. This certificate does not constitute a permit and no fee was charged for its issuance."

(Ord. 22-___. Passed _____.)

183.15 ADDITIONAL RULES AND REGULATIONS.

The Fiscal Officer is authorized to issue and promulgate additional written rules and regulations to administer, to obtain compliance and to enforce this Chapter. Such additional written rules issued and promulgated by the Fiscal Officer shall be posted on the Village website at least thirty days before the effective date of such rules.

(Ord. 22-___. Passed _____.)

183.16 DETERMINATION OF CONTRIBUTIONS.

Council shall have the sole power, authority and discretion to determine the extent and nature of contributions to convention and visitors bureaus and to determine which convention and visitors bureaus shall receive contributions and these determinations shall thereafter be administered by and through the Fiscal Officer.

The Village may elect to maintain and operate a convention and visitors bureau as part of Village government. The tax funds so collected in Section 183.05 shall be placed in the General Fund.

(Ord. 22-____. Passed _____.)

183.17 PRESUMPTION AND EXEMPTION.

(a) The owner, operator or manager of a hotel or short-term rental shall be exempt from collections of the taxes imposed by this Chapter, provided the payor of the hotel room charge or short-term rental room charge is an exempt organization under Section 501(C) of the Internal Revenue Code and the payor provides proof of exemption by providing either an IRS ruling or determination letter under Internal Revenue Regulation Section 1.508-1(a)(4), proof of exemption as a subordinate organization exempted under a group exemption notice of the parent organization as provided by Internal Revenue Regulation Section 1.508-1(a)(3), or a letter from an authorized official of the payor which attests to the organization's exempt status under Internal Revenue Regulation Section 1.508-1(a)(4).

(b) The owner, operator or manager of a hotel or short-term rental shall make true and accurate reports to the Fiscal Officer on forms prescribed by the Fiscal Officer providing proof of exemption and such other information as requested by the Fiscal Officer for each one month period.

(Ord. 22-____. Passed _____.)

183.18 STATUTE OF LIMITATIONS.

No assessment shall be made or issued under this Chapter for any tax imposed pursuant to this Chapter more than four years after the "Hotel, Short-Term Rental and Convention Tax Return Form" due date for the period in which the lodging was furnished, or more than four years after the "Hotel, Short-Term Rental and Convention Tax Return Form" for such period is filed, whichever is later. This section does not bar an assessment:

(a) When the Fiscal Officer has substantial evidence of amounts of taxes collected by an owner, operator or manager of a hotel or short-term rental from guests or transient guests' lodging which were not returned to the Village.

(b) When an owner, operator or manager of a hotel or short-term rental assessed failed to file a return as required.

(Ord. 22-____. Passed _____.)

183.19 APPEAL.

(a) After receiving a notice of an assessment, an owner, operator or manager of a hotel or short-term rental may file a notice of appeal in writing with Village Clerk of

Council no later than fourteen calendar days, (not including holidays recognized by the Village) after the day upon which Fiscal Officer either placed the notice in the U.S. mail, faxed the notice or electronically delivered the notice via email. The written notice of appeal must state the general factual and legal grounds forming the basis of appeal. Failure of an assessed person to timely file an appeal will be considered a conclusive presumption that the assessment is due at the date of the expiration of the time for filing an appeal.

(b) If an appeal is filed by an assessed person, the Village Clerk of Council will, within five business days of receipt of the notice of appeal, notify such party in writing of a hearing date, time and location. The hearing date shall be set at a time not to exceed thirty days after the date of filing the notice of appeal. The assessed party will be given an opportunity to be heard, to call witnesses and cross-exam any witnesses called by the Village (if any) to protest the assessment before the Fiscal Officer if impartial, or the Fiscal Officer's authorized and impartial representative. The findings and order of the Fiscal Officer will be submitted to the assessed person in writing, and such order shall be final for purposes of Chapters 2505 and 2506 of the Revised Code governing administrative appeals.

(Ord. 22-____. Passed _____.)