185.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) **"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, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures. **"Hotel"** includes **"motel"**.

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

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

(d) "Vendor" means the person who is the owner or operator of the **hotel** or transient accommodation and who furnishes the lodging.

(1980 Code 99.01)

185.02 IMPOSITION OF TAX.

(a) For the purpose of providing revenue with which to meet the needs of the City for use of the General Fund of the City, and for the further purpose of providing revenues to promote and publicize the City, an excise **tax** of three percent (3%) is levied on transactions by which lodging by a **hotel** or transient accommodations is or is to be furnished to transient guests, pursuant to Section 5739.08(A) of the Ohio Revised Code; and furthermore, an additional excise **tax** of three percent (3%) is levied on transactions by which lodging by a **hotel** or transient accommodations is or is to be furnished to transient guests pursuant to Sections 5739.08(B) and 5739.09(B) of the Ohio Revised Code.

(b) Although the above levies are separate and distinct for purposes of determining distribution, the combined amount of six percent (6%) is hereby referred to as the "**Hotel/Motel** Excise **Taxes**."

(c) The **tax** applies and is collectible at the time the lodging is furnished regardless of the time when the price is paid. The **tax** does not apply to lodging furnished to the State, or any of its political subdivisions, or any charitable organization for the lodging of transient indigent individuals.

(d) 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 **hotels** or transient accommodations in this City to transient guests is subject to **tax** until the contrary is established.
(Ord. 09-71. Passed 1-11-09.)

(e) All revenues generated by the provisions of this chapter shall be disbursed as follows:

(1) 100% of the revenues levied pursuant to Section 5739.08(A) of the Ohio Revised Code shall be placed into the General Fund to be reappropriated by Council for any lawful purpose.

(2) 100% of the revenues levied pursuant to Sections 5739.08(B) and 5739.09(B) of the Ohio Revised Code shall be placed into a holding account, which is hereby established, in which revenues payable to Destination Hilliard will accrue through the last day of each month and forwarded to Destination Hilliard within 30 days thereafter in accordance with Section 5739.09(B)(1) of the Ohio Revised Code.

(Ord. 10-40. Passed 2-14-11.)

185.03 TRANSIENT GUEST TO PAY TAX.

(a) The **tax** imposed by this chapter shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the **tax** payable on each taxable lodging.

(b) If the transaction is claimed to be exempt, the transient guest shall furnish to the vendor, and the vendor shall obtain from the transient guest, a statement specifying the reason that the sale is not legally subject to the **tax**. If no statement is obtained, it shall be presumed the **tax** applies.
(1980 Code 99.03)

185.04 REFUND OF ILLEGAL OR ERRONEOUS PAYMENTS.

The Finance Director shall refund to vendors the amount of **taxes** paid illegally or erroneously or paid on any illegal or erroneous assessment where the vendor has not reimbursed himself from the transient guest. When such illegal or erroneous payment or assessment was not paid to a vendor but was paid by the transient guest directly to the City Finance Director, he shall refund to the transient guest. Applications shall be filed with the Finance Director on the form prescribed by him, within ninety days from the date it is ascertained that the assessment or payment was illegal or erroneous. However, in any event such application for refund shall be filed with the Finance Director within four years from the date of the illegal or erroneous payment of the **tax**. On filing of such application, the Finance Director shall determine the amount of refund due and draw a warrant for such amount to the person claiming such refund. The Finance Director shall make such payments from a **Tax** Refund Fund as established by this chapter and the same is hereby established.
(1980 Code 99.04)

185.05 REQUIRED RECORDS; INSPECTION AND DESTRUCTION.

Each vendor shall keep complete and accurate records of lodgings furnished, together with a record of the **tax** collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and such other pertinent documents. If the vendor furnishes lodging not subject to the **tax**, the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours to the inspection of the Finance Director and shall be preserved for a period of four years, unless the Finance Director, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

(1980 Code 99.05)

185.06 RETURNS REQUIRED.

Each vendor shall file a quarterly return on forms prescribed by the Finance Director showing receipts from furnishing lodging, the amount of **tax** due from the vendor to the City for the period covered by the return, and such other information as the Finance Director deems necessary for the proper administration of this chapter. The quarterly return is due on or before the twentieth day of the month following the end of the quarter. The quarters shall end on March 31, June 30, September 30 and December 31. The Finance Director may extend the time for making and filing returns. Returns shall be filed by mailing the same to the Finance Director, together with payment of the amount of **tax** shown to be due thereon. The Finance Director shall stamp or otherwise mark on all returns the date received by him and shall also show thereon by stamp or otherwise the amount of payment received with the return. Any vendor who fails to file a return under this chapter shall, for each day he fails to do so, forfeit and pay into the City Treasury the sum of one percent of the amount then owing. If a vendor fails to file a return more than once in a twelve month period, the vendor shall, for each day he fails to do so, forfeit and pay into the City Treasury the sum of five percent of the amount owing. The Finance Director, if deemed necessary in order to insure the payment of the **tax** imposed by this chapter, may require returns and payments to be made on a monthly basis for one or more vendors. Each return shall be signed and dated by the vendor or his authorized agent.

(1980 Code 99.06; Ord. 05-69. Passed 11-28-05.)

185.07 LIABILITY; ASSESSMENT AND PETITION FOR REASSESSMENT; PENALTIES.

(a) If any vendor collects the **tax** imposed by or pursuant to this chapter and fails to remit the same to the City as prescribed, he shall be personally liable for any amount collected which he failed to remit. The Finance Director may make an assessment against such vendor based upon any information in the Finance Director's possession. If any vendor fails to collect the **tax** or any transient guest fails to pay the **tax** imposed by or pursuant to this chapter on any transaction subject to the **tax**, such vendor or transient guest shall be personally liable for the amount of the **tax** applicable to the transaction. The Finance Director may make an assessment against either the vendor or transient guest, as the facts may require, based upon any information in his possession. An assessment against a vendor in cases where the **tax** imposed by or pursuant to this chapter has not been collected or paid, shall not discharge the transient guest's liability to reimburse the vendor for the **tax** applicable to such transaction.

(b) In each case the Finance Director shall give to the vendor or transient guest assessed written notice of such assessment. Such notice may be served upon the vendor or transient guest assessed personally or by registered or certified mail. An assessment issued against either, pursuant to the provisions of this chapter, shall not be considered an election of remedies, nor a bar to an assessment against the other for the **tax** applicable to the same transaction, provided that no assessment is issued against any vendor or transient guest for the **tax** due on a particular transaction if **tax** has actually been paid by another.

(c) The Finance Director may make an assessment against any vendor who fails to file a return required by this chapter or fails to remit the proper amount of **tax** in accordance with this chapter. When information in the possession of the Finance Director indicates that the amount required to be collected is, or should be, greater than the amount remitted by the vendor, the Finance Director may upon the basis of test checks of a vendor's business for a representative period which are hereby authorized, determine the ratio which the **tax** required to be collected under this chapter bears to the hotel's or transient accommodation's lodgings which determination shall be the basis of an assessment as herein provided in this chapter. Notice of such assessment shall be made in the manner prescribed in this chapter.

(d) Unless the vendor or transient guest, to whom such notice of assessment is directed, files within thirty days after service thereof, either personally or by registered or certified mail, a petition in writing, verified under oath by such vendor, transient guest or his authorized agent, having knowledge of the facts, setting forth with particularity the items of the assessment objected to, together with the reasons for such objections, the assessment shall become conclusive and the amount thereof shall be due and payable, from the vendor or transient guest so assessed, to the Finance Director. When a petition for reassessment is filed, the Finance Director shall assign a time and place for the hearing of same and shall notify the petitioner thereof by registered or certified mail, but the Finance Director may continue the hearings from time to time if necessary.
(1980 Code 99.07)

(e) A penalty of eighteen percent (18%) shall be added to the amount of every assessment made under this chapter. The Finance Director may adopt and promulgate rules and regulations providing for the remission of penalties added to assessments made under this chapter.
(1980 Code 99.07; Ord. 05-69. Passed 11-28-05.)

(f) When any vendor or transient guest files a petition for reassessment as provided in this chapter, the assessment made by the Finance Director, together with penalties thereon, shall become due and payable within three days after notice of the finding made at the hearing has been served, either personally or by registered or certified mail, upon the party assessed.
(1980 Code 99.07)

(g) The Finance Director or designee is authorized to institute civil law suits to collect delinquent **taxes** due and owing the Municipality by virtue of the provisions of this chapter. The Finance Director or designee is authorized to waive penalties and interest and compromise **tax** liability and the right to accept waiver of state statute of limitations.
(Ord. 05-69. Passed 11-28-05.)

185.08 FOUR-YEAR LIMITATION FOR ASSESSMENTS; EXCEPTIONS.

No assessment shall be made or issued against a vendor or transient guest for any **tax** imposed by or pursuant to this chapter more than four years after the return date for the period in which the lodging was furnished, or more than four years after the return for such period is filed, whichever is later. This section does not bar an assessment:

(a) When the Finance Director has substantial evidence of amounts of **taxes** collected by a vendor from transient guest's lodging which were not returned to the City;

(b) When the vendor assessed failed to file a return as required.

(1980 Code 99.08)

185.09 TAX PAID TRANSIENT GUEST; FALSE EVIDENCE OF TAX-EXEMPT STATUS.

No transient guest shall refuse to pay the full and exact **tax** as required by this chapter, or present to the vendor false evidence indicating that the lodging as furnished is not subject to the **tax**.

(1980 Code 99.09)

185.10 VENDOR TO COLLECT TAX; PROHIBITION AGAINST REBATES.

No vendor shall fail to collect the full and exact **tax** as required by this chapter. No vendor shall refund, remit or rebate to a transient guest, either directly or indirectly, any of the **tax** levied pursuant to this chapter, or make in any form of advertising, verbal or otherwise, any statements which might imply that he is absorbing the **tax**, or paying the **tax** for the transient guest by an adjustment of prices, or furnishing lodging at a price including the **tax**, or rebating the **tax** in any other manner.
(1980 Code 99.10)

185.11 REPORTS FILED; FRAUDULENT REPORTS.

(a) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false or fraudulent return, report or statement.
(1980 Code 99.11)

(b) If any vendor required to file returns under this chapter fails on two consecutive occasions or on three or more occasions within a twelve-month period, to file such returns when due or to pay the **tax** thereon, the Finance Director may require such vendor to furnish security in an amount equal to the average **tax** liability of the vendor for a period of one year, as determined by the Finance Director from a review of returns or other information pertaining to such vendor, which amount shall in no event be less than one thousand dollars ($1,000). The security may be in the form of a payment to be applied to pay the **tax** due on subsequent returns, or a corporate surety bond, satisfactory to the Finance Director, conditioned upon payment of the **tax** due with the returns from the vendor. The security shall be filed within ten days following the vendor's receipt of the notice from the Finance Director of its requirements.
(1980 Code 99.11; Ord. 05-69. Passed 11-28-05.)

(c) A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this chapter.
(1980 Code 99.11)

185.12 PERSONAL LIABILITY OF CORPORATE OFFICERS OR EMPLOYEES.

If any vendor corporation required to file returns and to remit **tax** due to the City under the provisions of the chapter, fails for any reason to make such filing or payment, any of its officers charged with the responsibility of filing returns and making payments shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit **tax** due. The sum due for such liability may be collected by assessment in the manner provided in this chapter.
(1980 Code 99.12)

185.13 INTENT OF CHAPTER.

It is the intent of this chapter to levy the excise **tax** of six percent (6%) on transactions by which lodging by a **hotel** is or is to be furnished to transient guests as referred to authorized by Ohio R.C. 5739.02(C). Accordingly, this chapter shall be construed to effectuate those purposes and so as to be consistent with any requirement of law compliance with which is a prerequisite to the validity of the **tax** intended to be levied hereby.

(1980 Code 99.13)

185.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a second degree misdemeanor and fined not less than three hundred fifty dollars ($350.00) nor more than seven hundred fifty dollars ($750.00) for the first offense. For each subsequent offense such person shall, if a corporation, be guilty of a misdemeanor of the first degree and shall be fined not less than two thousand dollars ($2,000) nor more than five thousand dollars ($5,000), or if an individual, or a member of a partnership, firm or association, be guilty of a first degree misdemeanor and fined not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000) or imprisoned not more than sixty days or both.

(Ord. 05-69. Passed 11-28-05.)