ORDINANCE NO. 2025-42
VILLAGE OF BUCKEYE LAKE, OHIO
SECOND READING

AN ORDINANCE AMENDING ORDINANCE 81-6 AND UPDATING THE VILLAGE BED TAX REQUIREMENTS AND PENALTIES AND THE DECLARATION OF AN EMERGENCY.

WHEREAS, the Village of Buckeye Lake, Ohio, is organized under the laws of the State of Ohio and Home Rule of the Ohio Constitution, pursuant to the Village Charter; and

WHEREAS, Council passed Ordinance 81-6 in 1981 providing for the imposition of a tax upon transient lodging; and

WHEREAS, since the passage of the initial lodging tax in 1981, many changes to the tax and lodging practices have occurred, including the adoption of the Village's short-term rental regulations; and

WHEREAS, the Village is in the process of codifying and updating older ordinances; and

WHEREAS, Ordinance 81-6 imposes penalties that may include imprisonment, even for minor non-compliance with the ordinance, which may deter potential development in the Village;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF BUCKEYE LAKE, AT LEAST TWO-THIRDS (2/3) OF ITS MEMBERS CONCURRING TO DISPENSE WITH THE REQUIREMENTS OF CHARTER SECTION 4.04 REQUIRING THREE READINGS ON THREE SEPARATE DAYS WITH AT LEAST ONE WEEK BETWEEN THE READINGS,

Section 1: Definitions: As used in this Ordinance:

(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 (5) or more rooms are used for the accommodation of such guests, whether such rooms are in one (1) or several structures.
(b) "Transient accommodation" 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 (4) or less rooms are used for the accommodation of such guests, whether such rooms are in one (1) or several structures.
(c) "Transient guest" means any person occupying a room or rooms for sleeping accommodations for less than thirty (30) consecutive days.
(d) "Short-term rental guests" means any persons renting temporary lodging from a short-term rental host, or through a hosting platform on behalf of the short-term rental host, for less than thirty (30) consecutive days.
(e) "Vendor" means the owner or operator of the hotel or transient accommodation or hosting platform or short-term rental host.
(f) "Short-Term Rental" means any dwelling that is rented wholly or partly for a fee for less than thirty (30) consecutive days by persons other than permanent occupants from which permanent occupants receive monetary compensation.
(g) "Permanent occupants" means any persons who reside in a dwelling more than 51% of the time during a calendar year, and the dwelling in which the persons resides shall be referred to as their primary residence.

(h) "Short-term rental host" means the owner(s) or permanent occupant(s) of a short-term rental who offer the short-term rental for temporary lodging.

"Hosting Platform" means a person or entity in whatever form or format that facilitates, brokers, coordinates or otherwise arranges through advertising or any other means, a short-term rental booking transaction for accommodations between a short-term rental host and short-term rental guest, including, but not limited to, reservations and/or collection of payment for such accommodations on behalf of the short-term rental host.

Section 2: Imposition of Tax.

(a) For the purpose of providing revenue with which to meet the needs of the Village of Buckeye Lake, Ohio for the use of the general revenue fund of the Village an excise tax is hereby levied on transactions by which lodging by a hotel or transient accommodations, including short-term rentals, is or is to be furnished to transient guests or short-term rental guests, pursuant to former Ohio Revised Code Section 5739.02(C)(1) (currently Ohio Revised Code Section 5739.08(A)).

(b) The tax imposed herein 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, when such charitable organization pays the hotel or transient accommodation, including short-term rentals, for such lodging.

(c) For the purpose of the proper administration of this ordinance, and to prevent the evasion of the tax it is presumed that all lodging furnished by hotels or short-term rentals in this Village to transient guests is subject to the tax until the contrary is established.

(d) The tax imposed is 3% of the amount paid or to be paid by the transient guest for the lodging. This Ordinance shall be construed 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.

Section 3: Transient Guest to Pay Tax

(a) The tax imposed by this ordinance shall be paid by the transient guest or short-term rental guest to the vendor, and each vendor shall collect from the transient or short-term rental guest the full and exact amount of the tax payable on each taxable lodging. Should a hosting platform collect the full and exact amount of the tax payable for each separate transaction, the short-term rental host shall be relieved of the requirements of this provision. If the transaction is claimed to be exempt, the transient guest or short-term rental guest must furnish to the vendor, and the vendor must obtain from the transient guest or short-term rental guest, a certificate or other written proof of exempt status. If no certificate or written proof is obtained, it shall be presumed the tax applies.

(b) The excise tax imposed on any short-term rental guest shall be paid by the short-term rental guest to either (1) the hosting platform that facilitates booking services for short-term rental accommodations between a short-term rental host and short-term rental guest(s), or (2) the short-term rental host that offers accommodations without the use of a hosting platform or uses a hosting platform that does not collect short-term rental excise taxes from a short-term rental guest.

Section 4: Refund of Erroneous Payments

The Fiscal Officer of the Village of Buckeye Lake, Ohio shall refund to vendors the amount of taxes paid erroneously where the vendor has not reimbursed himself from the transient guest or short-term rental guest. When such erroneous payment or assessment was not paid to a vendor but was paid by the transient guest or short-term rental guest directly to the Fiscal Officer of Buckeye Lake, or his agent, it shall be refunded to the transient guest or short-term rental guest. Applications shall be filed with the Fiscal Officer, on the form prescribed, within ninety (90) days from the date it is ascertained that the assessment or payment was erroneous; provided, however, that in any event such application for refund must be filed with the Fiscal Officer within four (4) years from the date of the erroneous payment of the tax. On filing of such application, the Fiscal Officer shall determine the amount of refund due and to certify such amount. The Fiscal Officer shall draw a warrant for such certified amount to the person claiming such refund. The Treasurer shall make such payments from a tax refund as established by ordinance.

Section 5: Records, Inspection, Destruction

(a) Each vendor shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this ordinance, 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 or short-term rental 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 Fiscal Officer of the Village of Buckeye Lake, and shall be preserved for a period of four (4) years, unless the Fiscal Officer, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

(b) Returns Required. Each vendor shall on or before the last day of the month, whether or not lodging has been furnished, make and file a return for the preceding month, on forms prescribed by the Fiscal Officer, showing the receipts from lodging furnished, the amount of tax due from the vendor to the Village for the period covered by the return and such other information as the Fiscal Officer deems necessary for the proper administration of the ordinance. Regardless of whether a short-term rental has been rented, such vendor or short-term rental host shall comply with the requirements of this section. The Fiscal Officer may extend the time for making and filing returns.

Returns shall be signed by the vendor or an authorized agent and shall be filed by mailing the same to the Fiscal Officer of the Village of Buckeye Lake, Ohio, or if available, electronic submission, together with payment of the amount of tax shown to be due thereon. The Clerk may authorize vendors whose tax liability is not such as to merit monthly returns, as determined by the Clerk upon the basis of administration costs to the Village, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

The Treasurer shall stamp or otherwise mark on all returns the date received by him and shall also show thereon by stamp of otherwise the amount of payment received with the return. Thereafter, the Treasurer shall immediately transmit all returns filed under this ordinance to the Clerk. Any vendor who fails to timely file and pay a return under this chapter shall forfeit and pay to the city treasurer a penalty of ten (10) percent of the tax owed r.

The Fiscal Officer, if deemed necessary in order to insure the payment of the tax imposed by this ordinance may require returns and payments to be made for other than monthly periods.

Section 6: Liability; Assessment of Tax and Petition for Reassessment of Tax.

(a) The vendor or authorized agent having control of or charged with the responsibility of making and filing the return and making payment is personally liable for failure to file the return or pay the tax due as required by this chapter.

If any vendor corporation required to file returns and to remit tax due to the city under the provisions of this chapter, fails for any reason to make such filing or payment, any of its officers or employees having control or supervision of or 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.

If any vendor fails to collect the tax or any transient guest or short-term rental guest fails to pay the tax imposed by or pursuant to this chapter on any transaction subject to the tax, such vendor, transient guest or short-term rental guest shall be personally liable for the amount of the tax applicable to the transaction. The Fiscal Officer may make an assessment against either the vendor or transient guest or short-term rental guest, as the facts may require, based upon any information in the Fiscal Officer's 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. In each case, the Fiscal Officer shall give to the vendor or transient guest or short-term rental guest assessed written notice of such assessment. Such notice may be served upon the vendor or transient guest or short-term rental guest assessed personally or by registered or certified mail. An assessment issued against any responsible party, pursuant to the provisions of this ordinance 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 shall be issued against any vendor or transient guest or short-term rental guest for the tax due on a particular transaction if said tax has actually been paid by another.

(b) The Fiscal Officer may make an assessment of tax against any vendor who fails to file a return required by this ordinance or fails to remit the proper amount of tax in accordance with this ordinance. When information in the possession of the Fiscal Officer indicates that the amount required to be collected is, or should be, greater than the amount remitted by the vendor, the Fiscal Officer 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 ordinance bears to the hotel's, transient accommodation's lodging, or short-term rental which determination shall be the basis of an assessment as herein provided in this chapter. Notice of such assessment of tax shall be made in the manner prescribed in this chapter. Unless the vendor or transient guest or short-term rental guest, to whom said notice of assessment of tax is directed, files within thirty (30) days after service thereof, either personally or by registered or certified mail a petition in writing, verified under oath by said vendor, transient guest, short-term rental guest, or an authorized agent thereof, having knowledge of the facts, setting forth with particularity the items of said tax assessment objected to, together with the reasons for such objections, said assessment shall become conclusive and the amount thereof shall be due and payable, from the vendor of transient guests or short-term rental guests so assessed, to the Fiscal

Officer of the Village of Buckeye Lake, Ohio. When a petition for reassessment of tax is filed, the Fiscal shall assign a time and place for the hearing of same and shall notify the petitioner thereof by registered or certified mail, but the auditor may continue the hearings from time to time if necessary. A penalty of fifteen percent shall be added to the amount of every assessment of tax made under this chapter. The Fiscal Officer may adopt and promulgate rules and regulations providing for the remission of penalties added to such tax assessments made under this chapter. When any vendor or transient guest or short-term rental guest files a petition for reassessment of tax as provided in this ordinance, the tax assessment made by the Fiscal Officer, 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 certified mail, upon the party assessed.

Section 7: Four Year Limitation for Assessments; Exceptions

No assessment shall be made or issued against a vendor or transient guest or short-term rental guest for any tax imposed by or pursuant to this Ordinance 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 division does not bar an assessment:

(1) when the Fiscal Officer has substantial evidence of amounts of taxes collected by a vendor from transient guest's or short-term rental guests lodging which were not returned by the Village.
(2) When the vendor assessed failed to file a return as required.

Section 8: Tax Paid by Transient Guest; Prohibition Against False Evidence of Tax-Exempt Status

(a) No transient guest or short-term rental guest shall refuse to pay the full and exact tax as required by this Ordinance or present to the vendor false evidence indicating that the lodging as furnished is not subject to the tax.
(b) No vendor shall fail to collect the full and exact tax as required by this Ordinance. No vendor shall refund, remit, or rebate to a transient guest or short-term rental guest, either directly or indirectly, any of the tax levied pursuant to this Ordinance, or make in any form of advertising, verbal or otherwise, any statements which might imply that the vendor is absorbing the tax, or paying the tax, for the transient guest or short-term rental guest by an adjustment of prices, or furnishing lodging at a price including the tax, or rebating the tax in any other manner.

Section 9: Reports must be filed; Prohibition Against 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 Ordinance or file or cause to be filed any incomplete, false, or fraudulent return, report, or statement, or aid or abet another in the filing of any false, or fraudulent return, report, or statement.

(b) If any vendor required to file monthly returns under this Ordinance fails, on two consecutive months or on three or more months within a twelve-month period, to file such returns when due or to pay the tax thereon, or if any vendor authorized by the Clerk to file returns at less frequent intervals, fails on two or more occasions within a twenty-four month period, to file such returns when due or to pay the tax due thereon, the Clerk 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 Clerk from a review of returns or other information pertaining to such vendor, which amount shall in no event be less

than one hundred dollars. The security may be in the form of an advance tax payment to be applied to pay the tax due on subsequent returns, or a corporate surety bond, satisfactory to the Clerk, conditioned upon payment of the tax due with the returns from the vendor. The security must be filed within ten days following the vendor's receipt of the notice from the Clerk of its requirements.

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 payments therewith within the time prescribed in this ordinance.

(c) Personal Liability of Corporate Officers or Employees.
If any vendor corporation required to file returns and to remit tax due to the Village under the provisions of this Ordinance fails for any reason to make such filing or payment, any of its officers, or employees having control or supervision of or charged with the responsibility of filing returns and making payment, 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 ordinance.

Section 10: Collection of Unpaid Tax

(a) All excise taxes imposed by this ordinance, shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.
(b) The Fiscal Officer is authorized to institute civil law suits to collect delinquent taxes due and owing the Village by virtue of the provisions of this ordinance. The Fiscal Officer is authorized to waive penalties, compromise tax liability and the right to accept waiver of State statutes of limitations.

Section 11: Interest Applied to All Penalties

Should a vendor be imposed any penalty under the provisions of this chapter, such imposition shall carry a daily interest rate of one percent (1%) of the total penalty to be compounded and assessed each day the penalty is not paid to the Village. Such interest rate stops accruing once all penalties and interest payments are remitted, collected, and deemed as satisfactory

Section 12: Penalties

(a) Whoever violates any section of this chapter shall be guilty of a minor misdemeanor. Upon subsequent conviction, such individual shall be deemed guilty of a misdemeanor of the third degree.
(b) In addition to assessments and other penalties herein, should a vendor fail to file returns, fail to maintain documents, or fail to remit payment, the Village may revoke, rescind, or decline to renew any Village permit issued or required for operation until said documents or payments are satisfied, in full.

Section 13: That 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 R.C. §121.22.

Section 14: For the reasons in the preamble, this Ordinance is deemed an emergency measure necessary for the immediate preservation of the public peace, health, safety, and general welfare of the citizens of Buckeye Lake and therefore this Ordinance shall become effective immediately upon it passage by Council.

Attest: August 11, 2025
Samantha Torres
Council Clerk, Samantha Torres

Council President, John Lemmon

Date Filed with Mayor 8-13-25
Date Approved by Mayor 8-13-25

Mayor, Linda Goodman