

VILLAGE OF PEMBERVILLE, OHIO
RECORD OF ORDINANCE

Ordinance Levying Municipal Income Tax

Ordinance No. 630, Passed September 21, 1976

TABLE OF CONTENTS

[SECTION 1: PURPOSE OF TAX](#)

[SECTION 2: DEFINITIONS](#)

[SECTION 3. IMPOSITION OF TAX](#)

[SECTION 4.EFFECTIVE PERIOD](#)

[SECTION 5. RETURN AND PAYMENT OF TAX](#)

[SECTION 6. COLLECTION AT SOURCE](#)

[SECTION 7. DECLARATIONS](#)

[SECTION 8. DUTIES OF ADMINISTRATOR](#)

[SECTION 9. INVESTIGATIVE POWERS OF ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION](#)

[SECTION 10. INTEREST AND PENALTIES](#)

[SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS](#)

[SECTION 12. BOARD OF REVIEW](#)

[SECTION 13. ALLOCATION OF FUNDS](#)

[SECTION 14. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY](#)

[SECTION 15. SAVINGS CLAUSE](#)

[SECTION 16. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE](#)

[SECTION 17. VIOLATIONS AND PENALTIES.](#)

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF PEMBERVILLE, COUNTY OF WOOD AND STATE OF OHIO:

SECTION 1. PURPOSE OF TAX.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the village, including the payment of interest and principal on notes and bonds which may be lawfully issued for such purposes, there shall be and is hereby levied a tax on salaries, wages, commissions, and other compensation, and on net profits as hereinafter provided.

SECTION 2. DEFINITIONS.

As used in this ordinance, the following words shall have the meaning ascribed to them in this section, except if the context clearly indicates or requires a different meaning.

- (a) "Administrator" means the individual designated by this ordinance, whether appointed or elected, to administer and enforce the provisions of this ordinance.
- (b) "Assignment" means the assignment made by a resident of the village of a claim for refund due from another taxing municipality granting credit to nonresidents thereof.
- (c) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.
- (d) "Board of Review" means the board created by and constituted as provided in Section 12 of this ordinance.
- (e) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but limited to the renting or leasing of property, real, personal or mixed.
- (f) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency.
- (g) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (h) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, who or what employs one or more persons on a salary, wage, commission or other compensation Basis.
- (i) "Fiscal Year" means an accounting period of twelve months or less ending on any day other than December 31st.
- (j) "Cross receipts" means the total income from any source whatsoever.
- (k) "Net Profits" means the net gain from the operation of a business, profession or enterprise after provision for all ordinary and necessary expenses, either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes.
- (l) "Nonresident" means an individual domiciled outside the village.
- (m) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the village.
- (n) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.
- (o) "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (p) "Credit for tax paid to another municipality" means the credit granted by this municipality to its residents for municipal income tax paid to another municipality for income earned in such municipality. Such credit shall not exceed the tax assessed by this ordinance on such other income earned in such other municipality for such taxes paid.
- (q) "Resident" means an individual domiciled in the village.

{r} "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the village.

(s) "Taxable income" means wages, salaries, and other compensation paid by an employer or employers before any deductions; and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this ordinance; and/or any other income described elsewhere in the ordinance.

(t) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this ordinance and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

(u) "Taxing municipality" means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business, profession or other activity.

(v) "Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax

(w) The singular shall include the plural, and the masculine shall include the feminine and the neuter.

[back to top](#)

SECTION 3. IMPOSITION OF TAX

(a) Taxable incomes. Subject to the provisions of Section 14, an annual tax for purposes specified in Section I shall be imposed on and after January I, 1977, at the rate of one percent per annum, upon the following:

(1) On all salaries, wages, commissions and other compensation earned during the effective period of this ordinance by residents of the village.

(2) On all salaries, wages, commissions and other compensation earned during the effective period of this ordinance by nonresidents for work done or services performed or rendered in the village.

(3) A. On the portion attributable to the village of the net profits earned during the effective period of this ordinance of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the village.

(b). On the portion of the net profits attributable to the village of a taxpayer conducting a business, profession, or other activity both within and without the boundaries of the village, to be determined as provided in Ohio R. C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this ordinance.

All individuals, businesses, employers, brokers and others doing business who engage persons, either on a commission basis, or as independent contractors, and are not subject to withholding, shall indicate the, total amount of earnings, payments, commissions and bonuses to such as are residents of the Village of Pemberville, Ohio, or who do business in the Village of Pemberville, on the appropriate line of Schedule C of the Pemberville Income Tax Return(s), supported by Pemberville forms 1099B attached, providing the same information is required on Federal Form 1099.

All contractors shall indicate the total amount of payments to any subcontractor or contract employee who did business in, or is a resident of the Village of Pemberville on the appropriate line of Schedule C of their Pemberville Income Tax Return(s), and shall attach a list which shall indicate names, addresses and amounts paid.

(4) A. On the portion attributable to the village of~ the net profits earned during the effective period of this ordinance of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the

village, whether or not such unincorporated business entity has an office or place of business in the village.

B. On the portion of the distributive share of the net profits earned during the effective period of this ordinance of a resident partner or owner of a nonresident unincorporated business entity not attributable to the village, and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable on income attributable to another taxing municipality shall be subject to the credit provisions of Section 14.

(5) On the portion attributable to the village of the net profits earned during the effective period of this ordinance of all corporations, derived from sales made, work done, services performed or rendered and business or other activities conducted in the village, whether or not such corporations have an office or place of business in the village.

(b) **Businesses Conducted Within and Without Village.** The portion of the net profits attributable to the village of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the village, shall be determined as provided in Ohio R. C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this ordinance.

(c) **Operating Loss Carry Forward.**

(1) The portion of a net operating loss sustained in any taxable year subsequent to January I, 1977, allocable to the village, may be applied against the portion of the profit of succeeding years allocable to the village until exhausted but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operating loss sustained shall be allocated to the village in the same manner as provided herein for allocating net profits to the village.

(3) The Administrator shall provide rules and regulations for the manner in which such net operating loss carry forward shall be determined.

(d) **Consolidated Returns**

(1) Filing of consolidated returns may be permitted or required in accordance with the rules and regulations prescribed by the Administrator.

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch factory, office, laboratory or activity within the village constituting only a portion of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the village. If the administrator finds net profits are not properly allocated to the village by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity, or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the village.

(e) **Exception.**

The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R. C. 718.01 to the extent that such net profits are exempted from municipal income taxes under such section.

[back to top](#)

SECTION 4.EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1977.

SECTION 5. RETURN AND PAYMENT OF TAX

(a) Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30 of the year following the effective date of this ordinance, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator, shall be accepted as the return required of any employee whose sole income subject to tax under this ordinance is such salary, wages, commissions, or other compensation.

(b) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator setting forth:

(1) A. The aggregate amount of salaries, wages, commissions and other compensation earned, and

B. The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income.

C. Such income shall include only income earned during the year, or portion thereof, covered by the return and subject to the tax imposed by this ordinance.

(2) A. The amount of tax imposed by this ordinance on income reported;

B. Any credits to which the taxpayer may be entitled under the provisions of Sections, 6, 7 and 14, and

(3) Such other pertinent statements, information returns, or other information as the Administrator may require.

(c) The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(d) (1) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the balance of tax due, if any, after deducting:

A. The amount of village income tax deducted or withheld at the source pursuant to Section 6 hereof;

B. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 7 hereof;

C. Any credit allowable under the provisions of Section 14 hereof.

(2) Should the return or the records of the Administrator indicate an overpayment of the tax to which the village is entitled under the provisions of this ordinance, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or, transferred against any subsequent liability. However, overpayments of less than One Dollar (\$1.00) shall not be refunded.

(e) (1) Amended Returns

Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections II and 14. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three months from the final determination of any federal tax liability the taxpayer's village tax liability, such taxpayer shall make and file an amended village return showing income subject to the village tax based upon such final determination of federal tax liability, and pay any additional tax shown thereon to be due or make claim for refund of any overpayment.

[back to top](#)

SECTION 6. COLLECTION AT SOURCE.

(a) (1) Each employer within or doing business within the village who employs one or more persons on a salary, wage, commission or other compensation basis, shall, at the time of payment thereof, deduct the tax at the rate specified in Section 3 from the gross salaries, wages, commissions, or other compensation, including tips and Supplemental Unemployment Benefits, earned by village residents, regardless of where such compensation was earned, and shall deduct the tax at the rate specified in Section 3 from the salaries, wages, commissions or other compensation earned within the village by nonresidents.

(2) Notwithstanding the provisions of subsection (a) (1) of this section, where such employer employs a village resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for and remit to the village only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this ordinance;

(3) Each such employer shall, on or before the last day of the month following each calendar quarter, make a return and remit to the village the tax hereby required to be withheld. Such return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld.

(4) On or before January 31 following any calendar year, such employer shall file with the Administrator an information return for each employee from whom the village income tax has been or should have been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year and the amount of village income tax withheld from such employee.

(b) Each employer in collecting the tax shall be deemed to hold the same until payment is made by such employer to the village, as a trustee for the benefit of the village. Any such tax collected by such employer from his employees shall, until the same is paid to the village, be deemed a trust fund in the hands of such employer.

(c) The Administrator for good cause may require immediate returns and payments to be submitted to his office.

[back to top](#)

SECTION 7. DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 6, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village in accordance with Section 6, such person need not file a declaration.

(b) (1) Such declaration shall be filed on or before April 30 of each year during the life of this ordinance, or within four months of the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(c) (1) Such declaration shall be filed upon a form furnished by or obtainable from the Administrator. Credit shall be taken for village income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of Section 14.

(2) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(d) The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least one-fourth of the estimated annual tax due after deducting:

(1) Any portion of such tax to be deducted or withheld at the source pursuant to Section 6.

(2) Any credits allowable under the provisions of Section 14.

(3) Any overpayment of the previous year's tax liability which taxpayer has not elected to have refunded.

At least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth month after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(e) On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the village shall be paid therewith in accordance with the provisions of Section 5.

SECTION 8. DUTIES OF ADMINISTRATOR

(a) (1) It shall be the duty of the Village Clerk/Treasurer to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers, to keep an accurate record thereof, and to report all monies so received.

(2) It shall be the duty of the Administrator to enforce payment of all taxes owing the village, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(b) The Administrator is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this ordinance, including provisions for the re-examination and correction of returns.

(c) The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this ordinance.

(d) Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections II and 17 shall apply.

(e) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the village from the

taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(f) Subject to consent of the Board of Review, or pursuant to regulations approved by the Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 10.

[back to top](#)

SECTION 9. INVESTIGATIVE POWERS OF ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator or any authorized employee is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to, the provisions of this ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person under oath concerning any income which was or should have been returned for taxation or any transaction tending to affect such income. For this purpose, he may compel the production of books, papers, records, and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with the order or subpoena of the Administrator authorized hereby shall be deemed a violation of this ordinance punishable as provided in Section 17.

(d) Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by this ordinance or authorized by the applicable rules and regulations, shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction.

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the withholding taxes are paid.

[back to top](#)

SECTION 10. INTEREST AND PENALTIES.

(a) All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of one-half percent per month, or fraction thereof.

(b) In addition to interest as provided in paragraph (a) hereof, penalties are hereby imposed as follows:..

(1) For failure to pay taxes when due—other than taxes withheld: the greater of one-half percent (1/2%) of the unpaid tax or two dollars (\$2.00) per month or fraction thereof.

(2) For failure to remit taxes withheld from employees when due: The greater of three per cent (3%) of the unpaid tax or two dollars (\$2.00) per month or fraction thereof.

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator. Provided further, that in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, provided an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability.

(d) Upon recommendation of the Administrator, the Board of Review may abate the penalty or interest, or both, or upon the appeal from the refusal of the Administrator to recommend abatement of the penalty and interest, the Board may nevertheless abate the penalty or interest, or both.

SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All 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. Except in the case of fraud, omission of a substantial portion of income subject to this tax or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later; provided, however, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which the additional assessment may be made by the Administrator shall be one year from the time of the final determination of the federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such payment was made or the return was due, or within three months after final determination of the federal tax liability, whichever is later.

(c) Amounts of less than One Dollar (\$1.00) shall not be collected or refunded.

[back to top](#)

SECTION 12. BOARD OF REVIEW.

(a) A Board of Review, consisting of the Village Solicitor as chairman, or two other persons appointed by the Mayor of the village and approved by council who are electors of the Village, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 with reference to the confidential character of information required to be disclosed by this ordinance shall apply to such matters as may be heard before the Board of appeal.

(b) All rules and regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by this ordinance, must be approved by the Board of Review before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this ordinance, may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof.

SECTION 13. ALLOCATION OF FUNDS

The funds collected under the provisions of this ordinance shall be deposited in the General Fund Income Tax Account. Such funds shall be disbursed in the following order annually.

(a) Such part thereof as shall be necessary to defray all cost of collecting the taxes and the costs of administrating and enforcing the provisions thereof.

(b) The balance of funds collected shall be disbursed as follows: Fifty percent(50%) for General Fund; Fifty percent (50%) for the Capital Improvements Fund.

Monies credited to such funds may, pursuant to authorization by council, be used for the purpose of paying interest and principal on the notes and bonds which may lawfully be issued for such purposes.

SECTION 14. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

(a) Every individual taxpayer who resides in this Village who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of this Village, if it be made to appear that he had paid a municipal income tax on the same income taxable under this ordinance to another municipality, shall be allowed a credit of 50% of that part of the tax paid which represents 1% of the taxable income taxable in such other municipality and paid by him or in his behalf to such municipality.

(b) A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide.

[back to top](#)

SECTION 15. SAVINGS CLAUSE.

In any sentence, clause, section or part of this ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this ordinance. It is hereby declared to be the intention of council that this ordinance would have adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

SECTION 16. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE.

(a) This ordinance shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collections of such taxes or for the punishment of violations of this ordinance have been fully terminated, subject to the limitations contained in Section 11 and 17.

(b) Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 5 and 6 of this ordinance as though the same were continuing.

SECTION 17. VIOLATIONS AND PENALTIES.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this ordinance; or,
- (2) Make any incomplete, false, or fraudulent return; or,
- (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or
- (4) Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or,
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books,

records, papers, and federal income tax returns relating to the income or net profits of a taxpayer; or

- (6) Fail to appear before the Administrator and to produce his books, records, paper or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this ordinance or any order or subpoena of the Administrator authorized hereby; or
- (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and this municipality's income tax withheld, or to knowingly give the Administrator false information; or
- (11) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance,

shall be guilty of a misdemeanor in the first degree and shall be fined not more than One Thousand Dollars(\$1,000.00) or imprisoned not more than six (6) months, or both, for each offense.

(b) Prosecutions for an offense made punishable under this section or any other provision of this ordinance shall be commenced within three (3) years, after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

(d) Any person divulging information in violation of Section 9 of this ordinance shall, upon conviction thereof, be deemed guilty of a misdemeanor in the first degree and shall be subject to a fine or penalty of not more than One Thousand Dollars (\$1,000.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

(e) In addition to the above penalty, any employee of the village who violates the provisions of Section 9 of this ordinance relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

SECTION 18. This ordinance shall be effective from and after its passage at the earliest period allowed by law.

Passed: September 21, 1976

Jay E Parker

Mayor

Attest: Paul Westerhaus

Clerk

Reddin, Reddin, & Reddin, Village Solicitors.

[Back to Home](#)

[back to top](#)