**Ordinance No.** 893

**An ordinance** adopting as the Andover Village income tax rules and regulations the rules and regulations adopted by Central Collection Agency, effective 1 January 2002, and declaring an emergency.

**Whereas**, the village income tax ordinance allows council to adopt certain procedural rules and regulations governing the collection, administration, and enforcement of the Andover Village Income Tax Ordinance and its amendments; and

**Whereas**, the village has contracted with Central Collection Agency, of Cleveland, Ohio, for the administration and enforcement of the tax ordinance; and

**Whereas**, Central Collection Agency has revised its rules and regulations, effective 1 January 2002; and

**Whereas**, the mayor and council wish to adopt said rules and regulations, so as to make the village's rules and regulations consistent with those adopted by Central Collection Agency, to ease the collection, administration, and enforcement of the village income tax.

**Now, therefore**, be it ordained by the council of the Village of Andover, County of Ashtabula, and State of Ohio, that:

> **Section 1:** The revised rules and regulations of Central Collection Agency, which took effect on 1 January 2002, are hereby adopted for the collection, administration, and enforcement of the Andover Village Income Tax, effective 1 January 2002.
>
> **Section 2:** This ordinance is declared to be an emergency measure necessary for the orderly conduct of village affairs, so as to make the village's income tax rules and regulations consistent with those adopted by Central Collection Agency, to ease the collection, administration, and enforcement of the village income tax.

**Wherefore**, this ordinance shall take effect and be in full force from and immediately after its passage.

Passed:

13 August 2003

Attest:

Cheryl Smith Vinsu

Clerk-Treasurer

Approved:

Dennis M. Baranowski

Mayor

Kenneth Thomson

President of Council

Form No. 127 Prescribed by Secretary of State. Craftsman Printing, Inc.—E127

# CERTIFICATE OF RESULT OF ELECTION ON QUESTION OR ISSUE

Revised Code, Section 3501.11

State of Ohio

County of ASHTABULA

*The Board of Elections of* ASHTABULA *County hereby certifies that at the election held in* ANDOVER VILLAGE (Subdivision) *in said county on* MARCH 19,1996 (Date of election) *the vote cast on the following issue was as follows:*

*Issue* SHALL THE ORDINANCE PROVIDING FOR THE CONTINUATION OF A 1.001% LEVY ON INCOME AND AND INCREASE OF .499% WHICH SHALL TAKE EFFECT ON JANUARY 1, 1997, FOR THE PURPOSE OF PERMANENT CAPITAL IMPROVEMENTS OF THE VILLAGE, INCLUDING LOAN PAYMENTS, AND GENERAL VILLAGE OPERATIONS, INCLUDING BUT NOT NECESSARILY LIMITED TO, MAINTENANCE, NEW EQUIPMENT, AND PROVISION OF MUNICIPAL SERVICES BE PASSED?

(Tax levy, bond issue, local option, etc. — describe fully)

*Votes* FOR THE INCOME TAX (For, yes, etc.—as on ballot) 122 (Number)

*Votes* AGAINST THE INCOME TAX (No, against, etc.—as on ballot) 108 (Number)

*Total vote cast on issue:* 230 (Number)

*Witness our official signatures at* JEFFERSON, *Ohio in said county, this* 9th *day of* APRIL, *19* 96.

Shirley J. Humphrey *Chairman*

[signature]

Richard G. Callahan

[signature]

*Attest:* [signature] *Clerk*

**BOARD OF ELECTIONS**

ASHTABULA *County, Ohio*

Andover

# RECORD OF RESOLUTIONS

National Graphics Corp., Cols., O. national graphics Form No. 6233-A

*Resolution No.* 397 *Passed* 2 January 1996

**A resolution** for the submission to the electors of Andover Village, Ashtabula County, Ohio, on 19 March 1996, in accordance with §718.01 of the Ohio Revised Code, of the question of an income tax of 1.5% to replace the current income tax of 1.001%, which tax shall take effect 1 January 1997, to be used primarily for the purposes of permanent capital improvements of the village, including repayment of the loan for expansion of the wastewater treatment plant and improvements to the Andover Municipal Sewer System, and also for general village operations, including but not necessarily limited to, maintenance, new equipment, and provision of municipal services, and declaring an emergency.

**Whereas,** the mayor and council deem it necessary to submit to the electors of the village the question of an income tax of 1.5% to replace the current income tax of 1.001%; and

**Whereas,** an ordinance levying such a tax was passed by Council on 13 December 1995, as an emergency measure, and the rule requiring three separate readings was waived.

**Now, therefore,** be it resolved by the council of the Village of Andover, County of Ashtabula, and State of Ohio, that:

**Section 1:** In accordance with §718.01 of the Ohio Revised Code, there shall be submitted to the electors of Andover Village, Ashtabula County, Ohio, the question of an income tax of 1.5% to replace the current income tax of 1.001%. which tax shall take effect 1 January 1997; the ballot submitted to the electors shall set forth that the tax shall be a 1.5% levy on income, which tax shall take effect on 1 January 1997,to be used primarily for the purposes of permanent capital improvements of the village, including repayment of the loan for expansion of the wastewater treatment plant and improvements to the Andover Municipal Sewer System, and also for general village operations, including but not necessarily limited to, maintenance, new equipment, and provision of municipal services.

**Section 2:** Said question is to be submitted by the Ashtabula County Board of Elections to the electors of the village on 19 March 1996 in the manner and form as provided in §718.01 of the Ohio Revised Code; the election shall be conducted, convassed, and certified in the same manner as regular elections in the village for the election of village officials.

**Section 3:** The clerk-treasurer of the village is hereby authorized and directed to certify a copy of this resolution to the Ashtabula County Board of Elections, together with a copy of the ordinance amending the income tax ordinance to increase the tax from 1.001% to 1.5%, which tax shall take effect 1 January 1997; the board of elections shall publish notice of the election stating the purpose, the proposed rate to be levied on income, and the time and place of the election, as required by the Ohio Revised Code.

**Section 4:** This resolution is declared to be an emergency measure, necessary for the orderly conduct of village affairs, so as to allow timely submission to the Board of Elections of this request to place on the ballot the question of an income tax of 1.5% to replace the current income tax of 1.001%, which tax shall take effect 1 January 1997.

National Graphics Corp., Cols., O. national graphics Form No. 5233-A

*Resolution No.* 397 *Passed* 2 January 19 96

**Wherefore,** this resolution shall take effect and be in full force from and immediately after its passage.

Passed:

2 January 1996

Attest:

Cheryl Smith Vinroe
Clerk-Treasurer

Approved:

David E. Brown Jr.
Mayor

Bernard M Baranowski
President of Council

| | |
|---|---|
| Vote of Dorothy M. McCombs: | AYE |
| Vote of C. Thomas Harmon: | AYE |
| Vote of Charles E. Hedrick: | AYE |
| Vote of Glenn E. Slusher: | AYE |
| Vote of David L. Botham: | AYE |
| Vote of Bernard M. Baranowski: | AYE |

**CERTIFICATE**

I, Cheryl Smith Vinroe, the clerk-treasurer of Andover Village, Ashtabula County, Ohio, do hereby certify that the foregoing is a true and accurate copy of Resolution No. 397, adopted by the Andover Village Council on 2 January 1996.

Cheryl Smith Vinroe
Cheryl Smith Vinroe
Clerk-Treasurer

National Graphics Corp., Cols., O. Form No. 2806-A

*Ordinance No.* 644 *Passed* August 13, 19 86

AN ORDINANCE PROVIDING FOR A 1.001% LEVY ON INCOME PRIMARILY FOR THE PURPOSES OF PERMANENT CAPITAL IMPROVEMENTS OF THE VILLAGE, AND ALSO FOR GENERAL VILLAGE OPERATIONS, INCLUDING BUT NOT NECESSARILY LIMITED TO MAINTENANCE, NEW EQUIPMENT, AND PROVISION OF MUNICIPAL SERVICES.

WHEREAS, THE MAYOR AND OCUNCIL HAVE DETERMINED A NEED TO LEVY A TAX FOR SAID PURPOSES ON ALL SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION EARNED BY RESIDENTS OF THE VILLAGE; ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY NONRESIDENTS OF THE VILLAGE FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF THE VILLAGE; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED IN THE VILLAGE BY NONRESIDENTS; AND ON THE NET PROFITS EARNED BY ALL CORPORATIONS DOING BUSINESS IN THE VILLAGE AS THE RESULT OF WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE; AND

WHEREAS, THE MAYOR AND COUNCIL HAVE DETERMINED A NEED TO REQUIRE THE FILING OF RETURNS AND FURNISHING OF INFORMATION BY EMPLOYERS AND ALL THOSE SUBJECT TO SAID TAX; TO IMPOSE ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT THE SOURCE AND PAYING THE SAME TO THE VILLAGE; TO PROVIDE FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX; TO DECLARE A VIOLATION OF THIS ORDINANCE TO BE A MISDEAMEANOR; AND TO IMPOSE PENALTIES FOR SUCH VIOLATIONS.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ANDOVER, COUNTY OF ASHTABULA AND STATE OF OHIO THAT:

SECTION 1: PURPOSE

To provide funds primarily for the purposes of permanent capital improvements of the Village, and also for general Village operation, including but not necessarily limited to maintenance, new equipment, and provision of municipal services, 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 as and if the context clearly indicates or requires a different meaning:

A. Administrator - The individual designated by Ordinance, whether appointed or elected, to administer and enforce the provisions of this Ordinance.

B. Association - A partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.

C. Board of Review - The Board created by an constituted as provided in Section 13 of this Ordinance.

D. Business - 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 not limited to, the renting or leasing of property, real, personal or mixed.

E. Corporation - A corporation or joint stock association organized under the laws of the United State, the State of Ohio or any other State, territory, or foreign country or dependency.

F. Employee - One who works for wages, salary, commission or other type of compensation in the service of an employer.

G. Employer - An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

H. Fiscal Year - An accounting period of 12 months or less ending on any day other than December 31st.

I. Gross Receipts - The total income from any source whatsoever.

J. Net Profits - A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this Ordinance, Federal, State and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net

worth basis; and in the case of an association, without deduction of salaries paid to partners and other owners; and otherwise adjusted to the requirements of this Ordinance. In the case of a taxpayer who owns more than one unincorporated business, his net profits shall include the aggregate thereof.

K. Nonresident - An individual domiciled outside this Municipality.

L. Nonresident Unincorporated Business Entity - An unincorporated business entity not having an office or place of business within this Municipality.

M. Person - 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, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

N. Place of Business - 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.

O. Resident - An individual domiciled in this Municipality.

P. Resident Unincorporated Business Entity - An unincorporated business entity having an office or place of business within this Municipality.

Q. Taxable Income - Wages, salaries, commissions 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.

R. Taxable Year - The calendar year, or the fiscal year upon the basis of which 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.

S. Taxpayer - A person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

T. Forms of Words - The singular shall include the plural, and the masculine shall include the feminine and the neuter.

SECTION 3: IMPOSITION OF TAX

A. Subject to the provisions of Section 15 of this Ordinance, an annual tax for the purposes specified in Section 1 hereof shall be imposed on and after January 1, 1987, at the rate of 1.001% 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 this Municipality.

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 this Municipality.

3. a. On the portion attributable to this Municipality 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 this Municipality.

b. On the protion of the distributive share of the net profits earned during the effective period of this Ordinance of a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.

4. a. On the portion attributable to this Municipality 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 this Municipality, whether or not such unincorporated business entity has an office or place of business in this Municipality.

b. On the protion 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 this Municipality and not levied against such unincorporated business entity by this Municipality.

5. On the portion attributable to this Municipality 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 this Municipality, whether or not such corporations have an office or place of business in this Municipality.

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B. The portion of the net profits attributable to this Municipality of a taxpayer conducting a business, profession or other activity, both within and without the boundaries of this Municipality, shall be determined as provided in Ohio Revised Code Section 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this Ordinance.

C. Operating loss carry-forward:

1. If a taxpayer owns more that one unincorporated business(including therein any activity related to rental property, any corporation which has qualified for treatment under Subchapter S of the Internal Revenue Code of 1954, as amended, and any partnership interest) and one of such businesses produces a loss, said taxpayer can apply the loss against the profits of other such unincorporated businesses he owns. If the aggregate result is a loss, it can be carried forward as provided in Section 3.C.2. below.

2. The portion of a net operating loss sustained in any taxable year ending subsequent to January 1, 1986, allocable to this Municipality may be applied against the portion of the profit of succeeding year(s) allocable to this Municipality, until exhausted, but in no event for more than 5 taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

3. The portion of a net operating loss sustained shall be allocated to this Municipality in the same manner as provided herein for allocating net profits to this Municipality.

4. The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

D. Consolidated returns:

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

2. In the case of a corporation that carries 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 this Municipality constituting a portion only 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 this Municipality. If the Administrator finds net profits are not properly allocated to this Municipality 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 this Municipality.

E. Exceptions:

1. 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 organizations specified in Ohio Revised Code Section 718.01 to the extent that such net profits are exempted from municipal income taxes under said Section.

2. The tax provided for herein shall not be levied upon income from any source received by any person under 18 years of age.

3. Social Security receipts, pension benefit receipts, dividend income, interest income, proceeds from capital gains, and disability payment receipts are not subject to the tax imposed by this Ordinance.

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 1,1987.

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 30th of the year following the effective date of this Ordinance, and on or before April 30th of each year thereafter. When the return is made for a fiscal year or other period

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different from the calendar year, the return shall be filed within 4 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 said employer or employers from the salaries, wages, commissions or other compensation of any employee, and paid by him or them to the Administrator shall be accepted, unless otherwise specified, as the return required of an 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 obtaining upon request from, such Administrator setting forth:

1. The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from businesses, professions or other activities, less allowable ordinary, reasonable and necessary expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax:

2. The amount of the tax imposed by this Ordinance on such earnings and profits; 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 6 months, or 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, accompained by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty shall be assissed 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 the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6 of this Ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of this Ordinance, or where an income tax has been paid to another municipality, in accordance with Section 15 hereof, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. A taxpayer who has overpaid the amount of tax to which this Municipality is entitled under the provisions of this Ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than $1.00 shall be collected or refunded.

E. Amended Returns:

1. 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 11 and 15. 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 3 months from the final determination of any Federal tax liability afftecting the taxpayer's tax liability to this Municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this Municipality based upon such final determination of Federal tax liability, and pay any additional tax shown due theron or make claim for refund of any overpayment.

SECTION 6: COLLECTION AT SOURCE

A. In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within this Municipality shall deduct at the time of the payment of such salaries, wages, commissions or other compensation, the tax of 1.001% of the gross salaries, wages, commissions or other compensation due by said employer to said employee or the tips or gratuities reported to said employer by each said emplyee for Social Security or Federal income tax purposes and shall on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted. The returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed

Andover

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therefore by the Administrator. Such employer shall be liable for the payment of the tax required to be didcuted and withheld, whether or not such taxes have in fact been withheld.

B. Such employer, in collecting said tax, shall be deemed to hold the same, until payment is made by such employer to this Municipality, as a trustee for the benefit of this Municipality and any such tax collected by such employer from his employee shall, until the same is paid to this Municipality, be deemed a trust fund in the hands of such employer.

C. On or before the first day of March of each year beginning with the year 1987, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

D. The tax Administrator, for good cause, may require immediate returns and payments to be submitted to his office.

SECTION 7: DECLARATIONS

A. Every person who anticipates any taxable income which is not subject to Section 6 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3 hereof 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 this Municipality in accordance with Section 6 hereof, such person need not file a declaration.

B. 1. Such declaration whall be filed on or before April 30th of each year during the life of this Ordinance, or within 4 months of the date the taxpayer becomes subject to the tax for the first time.

2. Those taxpayers reporting on a fiscal year basis shall file a declaration within 4 months after the beginning of each fiscal year or period.

C. 1. Such delcaration shall be filed upon a form furnished by, or obtainable from, the Administrator; provided, however, that credit shall be taken for this Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 hereof, credit may be taken for tax to be paid to, or to be withheld and remitted to, another taxing municipality.

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

D. Such declaration or estimated tax to be paid to this Municipality shall be accompanied by a payment of at least one-fourth(1/4) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and thirteenth months after the beginning of the taxable year; provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon 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 this Municipality shall be paid therewith in accordance with the provisions of Section 5 hereof.

SECTION 8: DUTIES OF THE ADMINISTRATOR

A. 1. It shall be the duty of the Administrator, assisted by and in conjunction with a collection agency, which shall be chosen by the Village Council by Resolution, 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 nibues si receuved,

2. It shall be the duty of the Administrator, assisted by and in conjunction with a collection agency, which shall be chosen by the Village Council by Resolution, to enforce payment of all taxes owing to this

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Municipality; it shall be the responsibility of the collection agency so chosen to keep accurate records for a minimum of 5 years showing the amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

B. 1. Said Administrator, assisted by and in conjunction with said collection agency, is hereby charged with the enforcement of the provisions of this Ordinance. The Administrator shall be governed by Procedural Rules, 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 reexamination and correction of returns, which Rules shall be adopted by the Village Council.

2. 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.

3. 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 11 and 12 of this Ordinance shall apply.

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

D. Subject to the consent of the Board of Review, or pursuant to regulations approved by the Village Council or said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 10 of this Ordinance.

SECTION 9: INVESTIGATIVE POWERS OF THE ADMINISTRATOR AND COLLECTION AGENCY; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. The collection agency chosen by the Village Council 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 or the collection agency 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 collection agency the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

B. If, the collection agency chosen by the Village Council has reason to believe an employer, taxpayer or person subject to, or whom the Administrator or collection agency believes is subject to, the provisions of this Ordinance, has in some manner violated the terms of this Ordinance, is shall communicate this belief in writing to the Administrator, together with such information as it has in its possession to support its conclusion, for the Administrator to determine whether prosecution under this Ordinance is justified. Only in such event is the Administrator authorized to order, in writing, 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 reported for taxation or any transaction tending to affect such income, and for this purpose may compel, by an order in writing, the production of books, paper, 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 written order or subpoena of said collection agency or the Administrator authorized hereby, shall be deemed a violation of this Ordinance, punishable as provided in Section 12 hereof.

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D. 1. Any information gained as a result of any returns, investigations, verifications or hearings before said collection agency or the Administrator, required or authorized by this Ordinance or by any rules and regulations promulgated hereunder, shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a Court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of $500.00 or imprisonment for not more than 6 months, or both. Each disclosure shall constitute a separate offense.

2. In addition to the above penalty, any employee of this Municipality who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

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

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 1.5% per month or fraction thereof.

B. In addition to interest as provided in Paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due, other than taxes withheld: 1.5% per month or fraction thereof.

2. For failure to remit taxes withheld from employees: 5% per month or fraction thereof.

C. Exceptions - A penalty shall not be assissed 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; further in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assissment resulting from a Federal audit, provided an amended return is filed and the additional tax is paid within 3 months after final determination of the Federal tax liability.

D. Upon recommendation of the Administrator, the Board of Review may abate interest, or penalties, or both, and upon appeal from the refusal of the Administrator to so recommend, the Board of Review may nevertheless abate interest or penalties, 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 a civil action at law. All additional assissments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within 3 years after the tax was due or the return was filed, whichever is later.

B. Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refunds of municipal income taxes must be brought within the time limitation provided in Division A of this Section.

C. Amounts of less than $1.00 shall not be collected or refunded.

SECTION 12: Violations; 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

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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, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon written order of 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 written 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 therof; 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 and shall be fined not more than $500.00 or imprisoned not more than 6 months, or both, for each offense.

B. Prosecution for an offense made punishable under this Section or any other provision of this Ordinance shall be commended within 3 years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of 25% or more of income required to be reported, prosecutions may be commences within 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 hime from making any information, return or declaration, from filing such form, or from paying the tax.

SECTION 13: BOARD OF REVIEW

A. A Board of Review, consisting of a chairman and 2 other individuals to be appointed by the Mayor, subject to confirmation of Council, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall be governed by Procedural rules, which shall be adopted by the Village Council. The Board shall adopt its own procedural rules, not inconsistent with this Ordinance or those Procedural Rules adopted by the Village Council, as are necessary in the conduct of its business and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 hereof with reference to the confidentials character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board on 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 become 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 there from to the Board of Review within 30 days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or madify any such ruling or decision, or any part thereof.

SECTION 14: ALLOCATION OF FUNDS

All funds received from the collection ot taxes under this Ordinance shall be deposited to the Permanent Capital Improvements Fund, to be established by the Village Council by Ordinance, and to the General Fund of the Village; 80% of such receipts shall be deposited to the Permanent Capital Improvements Fund, and 20% shall be deposited to the General Fund. The Village Council must, by Resolution, adopt a Plan outlining how the funds received from this income tax are to be expended from each of said funds. This Plan for the present Council shall be adopted concurrently with this Ordinance, and shall extend to December 31, 1989. The Council that takes office on said date shall then adopt such a Plan for a 4 year period, by the time the Finance Committee submits and seeks approval of its appropriations, as shall each Council every 4 years thereafter until the termination of this Ordinance. Each Resolution adopting such Plan shall not have

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the rule requiring 3 readings waived, nor shall it adopt same on an emergency basis, so as to allow input from the public regarding the expenditures contemplated by the Plans.

SECTION 15: CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

Where a resident of this municipality is subject to a municipal income tax in another municipality he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

SECTION 16: SAVING CLAUSE

If 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 the Council of this Municipality that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 17: COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

A. This Ordinance shall continue effective insofar as the levy of taxes is concerned until otherwise 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 said taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this Ordinance shall have been fully terminated, subject to the limitations contained in Sections 11 and 12 hereof.

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.

WHEREFORE, this Ordinance shall take effect and be in full force from and immediately after the effective date provided for herein.

PASSED: AUGUST 13, 1986 APPROVED: Francis A. Darf
Mayor

ATTEST: Vicki J. Martin
Clerk-Treasurer

C. J. Clarmon
President of Council

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