

**MUNICIPAL INCOME TAX ORDINANCE OF THE
VILLAGE OF CECIL**

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CECIL THAT;

SECTION 1. LONG TITLE PURPOSE AND ENACTMENT

AN ORDINANCE LEVYING A TAX TO PROVIDE FUNDS FOR THE PURPOSE OF EMERGENCY SERVICES AND DEBT REDUCTION FOR THE VILLAGE OF CECIL, PAULDING, OHIO ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY RESIDENTS OF THIS MUNICIPALITY; ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY NON-RESIDENTS OF THIS MUNICIPALITY; FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THIS MUNICIPALITY ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF THIS MUNICIPALITY; ON THE NET PROFITS, ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED IN THIS MUNICIPALITY BY NON-RESIDENTS, AND ON THE NET PROFITS EARNED BY ALL CORPORATIONS DOING BUSINESS IN THIS MUNICIPALITY AS THE RESULT OF WORK DONE OF SERVICES PERFORMED OR RENDERED IN THIS MUNICIPALITY; REQUIRING THE FILING OF RETURNS AND FURNISHING OF INFORMATION BY EMPLOYERS AND ALL THOSE SUBJECT TO SAID TAX; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT THE SOURCE AND PAYING THE SAME TO THIS MUNICIPALITY; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX; DECLARING VIOLATION THEREOF TO BE A MISDEMEANOR OF THE FIRST DEGREE AND IMPOSING PENALTIES THEREFOR:

This Ordinance is authorized by Chapter 718 of the Ohio Revised Code and shall be known by its short title "MUNICIPAL INCOME TAX ORDINANCE OF THE VILLAGE OF CECIL".

SECTION 2. DEFINITIONS

(a) Definitions Generally

For the purposes of this chapter, the terms, phrases, words and their derivatives shall have the meanings given in the next succeeding sections.

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

(1) Administrator

'Administrator' means the individual designated to administer and enforce the provisions of the Village Income Tax.

(2) Association

'Association' means any unincorporated enterprise or pass-through entity, as defined in Section 718.14 of the Ohio Revised Code, owned by two or more persons.

(3) Board of Review

'Board of Review' means the Board created by, and constituted as provided in Section 14.

(4) Business

'Business' means any 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, excluding however, all nonprofit corporations which are exempt from the payment of Federal Income Tax.

(5) Corporation

'Corporation' means a corporation or joint stock association organized under the laws of the United States, the State or any other state, territory, or foreign country or dependency, but not any entity under the definition of an association.

(6) Employee

'Employee' means one who works for wages, salary, commission or other types of compensation in the service of an employer.

(7) Employer

'Employer' means 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 basis of compensation.

(8) Fiscal Year

'Fiscal Year' means an accounting period of twelve months or less ending on any day other than December 31.

(9) Gross Receipts

'Gross Receipts' means the total income from any source whatever.

(10) Joint Economic Development District

'Joint Economic Development District' means a JEDD created under Ohio Revised Code 715.70, 715.71, and 715.72 as amended from time to time.

(11) Net Profits

'Net Profits' means a net gain from the operation of a business, profession, enterprise or other activity after provisions 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, but subject to adjustment in accordance with the regulations and rules adopted by the Administrator and without deductions of taxes imposed by this chapter, Federal, State and other taxes based on income, and in the case of an association, without deduction of salaries paid to partners and other: owners.

(12) Nonresident

'Nonresident' means an individual domiciled outside the Village of Cecil.

(13) Nonresident Unincorporated Business Entity

"Nonresident Unincorporated Business Entity" means an unincorporated business entity not having an office or place of business within the Village of Cecil.

(14) Person

'Person' means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, 'person' as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.

(15) Place of Business

'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.

(16) Resident

'Resident' means an individual domiciled in the Village of Cecil.

(17) Resident Unincorporated Business Entity

'Resident Unincorporated Business Entity' means an unincorporated business entity having an office or place of business within the Village of Cecil.

(18) Taxable income

'Taxable Income' means wages, salaries and other compensation paid by an employer before any deduction and/or any other income not specifically exempted under this ordinance, the taxation of which is not prohibited by Federal or State Law 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 chapter.

(19) Taxable Year

'Taxable Year' means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, 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.

(20) Taxpayer

'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.

SECTION 3. IMPOSITION OF INCOME TAX

(3.01) For the purposes specified in Section 1 on and after January 1, 2004, an annual tax of one percent (1.0%) per annum shall be imposed upon the hereinafter specified income. Such income tax shall be imposed upon the following income:

(a) All salaries, wages, commissions and other compensation, and other income earned on and after January 1, 2004, by residents of the Village of Cecil;

(b) All salaries, wages, commissions and other compensation and other income earned on and after January 1, 2004, by nonresidents of the Village of Cecil for work done or services performed or rendered or activities conducted within the Village of Cecil;

(c) (1) The portion attributable to the Village of Cecil on the net profits earned on and

after January 1, 2004, of all resident associations or professions or other activities, derived from sales made, work done or other services performed or rendered and business or other activities conducted in the Village of Cecil;

(2) The portion of the distributive share of the net profits earned on or after January 1, 2004 of all nonresident associations, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village of Cecil, whether or not such association, profession or activity has an office or place of business in the Village;

(d) (1) On the portion attributable to the Village of Cecil of the net profits earned on or after January 1, 2004, of all nonresident associations, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village, whether or not such association, profession, or activity has an office or place of business in the Village;

(2) On the portion of the distributive share of the net profits earned on or before January 1, 2004, of a resident partner or owner of a nonresident association not attributable to the Village of Cecil and not levied against such association;

(e) On the portion attributable to the Village of Cecil of the net profits earned on and after January 1, 2004, 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.

(f) Effective Date

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation and other income earned or received, and with respect to the net profits of business, professions or other activities earned on or after January 1, 2004.

SECTION 4. DETERMINATION OF TAX ALLOCATION

(4.01) Method of Determination

(a) In the taxation of income which is subject to Village income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Village disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Village, then only such portion shall be considered as having a taxable situs in the Village for the

purposes of Municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Village, in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight as follows:

(1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in this subsection (a)(1), 'real property' means property rented or leased by the taxpayer. The value of such property shall be determined by multiplying the annual rental thereof by eight.

(2) Wages, salaries and other compensation earned and other income earned or received during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries, and other compensation earned during the same period to persons employed in the business or profession, wherever their services are performed.

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(b) In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

(4.02) Sales Made in the Village

As used in Section 4, 'sales made in the Village' means:

(a) All sales of tangible personal property which is delivered within the Village regardless of where title passes if shipped or delivered from a stock of goods within the Village;

(b) All sales of tangible personal property which is delivered within the Village regardless of where title passes even though transported from a point outside the Village, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village, and the sales result from such solicitation or promotion;

(c) All sales of tangible personal property which are shipped from a place within the Village to purchasers outside of the Village regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(4.03) Total Allocation

(a) Add together the percentages determined in accordance with this section, or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in this section.

(b) A factor is applicable even though it may be allocable entirely in or outside the Village.

(4.04) Rentals

(a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 4, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(b) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred twenty-five dollars (\$125.00) per month, it shall be prime-facie evidence that the rental, ownership, management or operation of such properties, is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax. However, in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits, of the lessee, whether or not such rental exceeds one hundred twenty-five dollar (\$125.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month. It is provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars per month (\$125.00).

(4.05) Operating Loss; Carry Forward

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 2004, allocable to the Village may be applied against the portion of the profit of succeeding tax years allocable to the Village until exhausted, but in no event for more than five

taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated to the Village in the same manner as provided herein for allocation net profits to the Village.

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

SECTION 5. EXEMPTIONS

(5.01) Sources of Income Not Taxed

The tax provided for in this chapter shall not be levied on the following:

(a) Pay or allowance of active members of the armed forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities;

(b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations;

(c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived;

(d) Receipts from seasonal or casual entertainment, amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations;

(e) Alimony received;

(f) Personal earnings of any natural person under eighteen years of age;

(g) Compensation for personal injuries or for damages to property by way of insurance or otherwise;

(h) Interest, dividends and other revenue from intangible property subject to the Ohio Intangible Property Tax or specifically exempted therefrom;

(i) Gains from involuntary conversion, cancellation of indebtedness, interest of Federal obligations, items of income already taxed by the State which the Village is

specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except such income from the operation of a business;

(j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes income derived from interstate commerce;

(k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the Village to impose net income tax.

SECTION 6. RETURNS

(6.01) Date for Filing Returns

Each taxpayer, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following January 1, 2004, 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, showing the amount of tax deducted by the employer from the salaries, wages, commissions or other compensation of a nonresident employee, and paid by him or them to the Administrator shall be accepted as the return required of any nonresident employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.

(6.02) Form and Content of Return

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

(a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;

(b) The amount of the tax imposed by this chapter on such earnings and profits; and

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

(6.03) Extension of Time for Filing Returns

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 months, or one 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.

(6.04) Consolidated Returns

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

(b) In the case of a corporation that carries on transactions with its stockholders or with other corporations 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 constitute 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 the Village. If the Administrator finds that net profits are not properly allocated to the city 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.

(6.05) Amended Returns

(a) 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, limitations or both, contained in Section 6 and Section 9. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment the net profits after the due date for filing the original return.

(b) Within three months from the final determination of any Federal Tax liability affecting 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 for Federal Tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

SECTION 7. PAYMENT OF TAX

(7.01) Payment of Tax on Filing of Return

(a) 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~~. However, where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 7, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 7, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 10, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and only the balance, if any, shall be due and payable at the time of filing the return.

(b) A taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this chapter 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 one dollar (\$1.00) shall be collected or refunded.

(7.02) Collection at Source

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Village shall deduct at the time of the payment of such salary, wage, commission or other compensation, the amount of tax imposed by Section 3 on the gross salaries, wages, commissions, or other compensation due by the employer to the employee and except as otherwise provided in Section 4 and 5 hereof shall, on or before the twentieth 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, subject to the provisions of subsections (c) to (e) hereof. Returns shall be on a form 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 had in fact been withheld.

(b) Such 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 and 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) Such employer who deducts the tax of one hundred dollars (\$100.00) or more per month shall pay to the Administrator before the twentieth of the following month the amount of taxes so deducted on a monthly basis beginning with the first month the employer exceeds one hundred dollars (\$100.00) in taxes withheld.

(d) Payments shall be on a form furnished by or obtainable upon request from the Administrator.

(e) No person shall be required to withhold the tax on wages on other compensation paid domestic servants employed by him exclusively in or about such person's residence, even

though such residence is in the Village, but such employee shall be subject to all of the requirements of this chapter.

(f)(1) Any person who shall employ or contract for the services of any entertainer, entertainment act, sports event, promotional booth, special event, band, orchestra, rock group, theatrical performance, or

(2) Any person who, acting as a promoter, booking agent or employer, engages the services of or arranges the appearance of any entertainer, entertainment act, sports, event, band, orchestra, rock group, theatrical performance in the Village of Cecil, and who makes any payment arising from said appearance shall be deemed to be an employer and shall, for purposes of the collection of the income tax, be required to withhold, report and pay over to the Tax Administrator the tax at the rate provided in Section 3 hereof, on the gross amount so paid on completion of the engagement, said reports to be on forms provided by the Tax Administrator.

(g) Any person, as defined in Section 3, who rent facilities to any entertainer, entertainment act, sport event, promotional booth, special event, band, orchestra, rock group, theatrical performance for use in performing services in the Village of Cecil, and who makes any payment arising from said use of facilities shall be deemed to be an employer and shall, for purposes of the collection of the income tax, be required to withhold, report and pay over to the engagement, said reports to be on forms provided by the Tax Administrator.

(7.03) Declaration of Income Not Collected at Source

Every person who anticipates any taxable income which is not subject to Section 3, 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. 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 3, such person need not file a declaration.

(7.04) Filing of Declaration

(a) The declaration required by Section 7 shall be filed on or before April 30 of each year during the effective period set forth in Section 7 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) 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) Every person engaged in any transient business, profession, enterprise or activity subject to the tax imposed by Section 3 of this chapter may be required to immediately file an estimate and pay the estimated tax due thereon prior to an issuance of any permits or licenses or

the execution of any rental agreement of the use of municipally-owned property of the Village of Cecil for the event giving rise to income tax liability.

(7.05) Form of Declaration

(a) The declaration required by Section 7 shall be filed upon a form furnished by or obtainable from the Administrator. However, credit shall be taken for Village tax to be withheld from any portion of such income. In accordance with the provisions of Section 10, credit with may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

(b) 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.

(7.06) Payment to Accompany Declaration

Such declaration of estimated tax to be paid to the Village shall be accompanied by a payment of at least one-fourth of the estimated annual tax. At least a similar amount shall be paid on or before the last day of the sixth, ninth and thirteenth month after the beginning of the taxable year. However, 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.

(7.07) Annual Return

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, and annual return shall be filed, and any balance which may be due the Village shall be paid therewith in accordance with the provisions in Section 7.

SECTION 8. INTEREST AND PENALTIES

(8.01) Interest on Unpaid Tax

All taxes imposed and all moneys withheld or required to be withheld by employers under the provision of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent per month or fraction thereof.

(8.02) Penalties Unpaid Tax

In addition to interest as provided in Section 8, penalties based on the unpaid tax are hereby imposed as follows:

(a) For failure to pay taxes due other than taxes withheld: one and one-half percent per month or fraction thereof;

(b) For failure to file an annual return: a minimum of twenty-five dollars (\$25.00);
and

(c) For failure to pay taxes withheld from employees: ten percent per month or fraction thereof.

(8.03) Exceptions to Penalties

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; and 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 providing an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability.

(8.04) Abatement of Interest and Penalty

Upon recommendation of the Administrator, the Board of Review may abate penalty or interest or both or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both for good cause shown.

(8.05) Violations

No person shall:

(a) Fail, neglect or refuse to make any return or declaration required by this chapter;

(b) Make any incomplete, false, or fraudulent return;

(c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;

(d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator,

(e) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns in relation to the income or net profits of a taxpayer;

(f) 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 order or subpoena of the Administrator;

(g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;

(h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;

(I) 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;

(J) Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and Village tax withheld, or to knowingly give the Administrator false information; or

(k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(8.06) Limitation of Prosecution

All prosecutions under this section must be commenced within three years from the time of the offense complained of except in the case of failure to file a return, or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed.

(8.07) Failure to Procure Tax Forms

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

SECTION 9. UNPAID TAXES AND REFUNDS

(9.01) Unpaid taxes Recoverable as Other Debts

All taxes imposed by this chapter 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 of 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. However, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one year from the

time of the final determination of the Federal tax liability.

(9.02) Refund of Taxes Erroneously Paid

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 the final determination of the Federal tax liability, whichever is later.

(9.03) Amounts of Less than One Dollar

Amounts of less than one dollar (\$ 1.00) shall not be collected or refunded.

SECTION 10. TAX CREDIT

(10.01) Residents Subject to Income Tax in Other Municipality

There will be a credit of fifty percent (50%) given for municipal income tax paid to other communities for residents of the Village of Cecil.

SECTION 11. ALLOCATION OF FUNDS

All funds collected under this ordinance shall be deposited in the General Fund for the Village of Cecil to be transferred out of the General Fund for emergency services and for debt reduction.

SECTION 12. DUTIES AND AUTHORITY OF ADMINISTRATOR

(12.01) Receipt and Records of Tax

The Administrator and shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, keep an accurate record thereof, and report all moneys so received.

(12.02) Enforcement of Collection

The Administrator shall enforce payment of all taxes owing to the Village, keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld and show the date and amounts of payments thereof

(12.03) Authority to Make and Enforce Regulations

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

(12.04) Authority to Arrange Installment Payments

(a) 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 chapter.

(b) 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 9 and 12 shall apply.

(12.05) Authority to Determine Amount of Tax Due

In any case where a taxpayer has failed to file a return or has filed 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.

(12.06) Investigations

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 chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. 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.

(12.07) Authority to Compel Production of Records

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, and for this purpose 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.

(12.08) Refusal to Produce Records

The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or persons 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 chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter.

(12.09) Confidential Nature of Information; Disclosure of Returns and Return Information

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with a proper judicial order. No person shall divulge such information.

(12.10) Taxpayer Required to Retain Records

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

SECTION 13. AUTHORITY TO CONTRACT FOR COLLECTION OF TAX

The Mayor of the Village of Cecil is hereby authorized and directed to enter into an agreement with the Regional Income Tax Agency for the central collection of the Municipal Income Tax for the Village of Cecil. Upon enacting such an agreement, the Regional Income Tax Agency is authorized to act as an agent for the Village of Cecil for the purpose of administering the income tax laws of the Village and for the collection of the Village Income Tax. The Regional Income Tax Agency may also be assigned all or part of the duties and authority of the Tax Administrator by the Mayor of the Village of Cecil.

SECTION 14. BOARD OF REVIEW

(14.01) Board of Review Established

A Board of Review, consisting of three (3) persons, the Village Solicitor, one to be appointed by the Mayor and one to be appointed by Village Council is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. 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 12 with reference to the confidential character of information required to be disclosed by this chapter shall apply to

such matters as may be heard before the Board on appeal.

(14.02) Board to Approve Regulations and Hear Appeals

All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, 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.

(14.03) Right of Appeal

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty 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 15. INTENT AND TAX CONTINUATION

(15.01) Declaration of Legislative Intent

In any sentence, clause, section or part of this chapter, 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 chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(15.02) Collection of Tax after Termination of Chapter

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting and tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 9 and 12.

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

SECTION 16. PENTALTY

Penalty

(a) Whoever violates Sections 6 or 7 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both.

(b) Whoever violates Section 12 shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. In addition, any employee of the Village who violates Section 7 shall be guilty of an offense punishable by immediate dismissal.

SECTION 17. DATE OF ENACTMENT

This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, safety, health and welfare of the Village of Cecil and shall remain in full force from and immediately after its passage until repealed by the Council of the Village of Cecil.

PASSED DECEMBER 16th, 2003

Gene Sheets
Mayor

ATTEST:

Bryan P. Kula
Clerk-Treasurer

1ST READING NOVEMBER 18th, 2003

2ND READING DECEMBER 6th, 2003

3RD READING DECEMBER 16th, 2003