

AN ORDINANCE ESTABLISHING AN EARNING TAX FOR THE VILLAGE OF SABINA, AND PROVIDING FOR THE IMPOSITION THEREOF

Whereas, it appearing that the imposition of property taxes may bear an inequitable burden upon the citizens of Sabina, and in order to distribute the income and revenue requirements more equitably upon the citizens of Sabina, Council has decided to impose an income and earnings tax upon the citizens in order meet the revenue needs and requirements of the Village of Sabina, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF SABINA, CLINTON COUNTY, OHIO:

SECTION ONE:

**DEFINITIONS**

50.1 DEFINITIONS GENERALLY

For the purpose of this Ordinance, 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.

50.2 ADMINISTRATOR

"Administrator" means the individual designated by the Mayor to administer and enforce the provisions of the municipal tax along with the Administrator of the Regional Income Tax Agency.

50.3 ASSOCIATION

"Association" means any partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

50.4 BOARD OF REVIEW

"Board of Review" means the Board created by and constituted as provided in this Ordinance.

50.5 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.

50.6 CORPORATION

"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.

50.7 EMPLOYEE

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

50.8 EMPLOYER

"Employer" means an individual, partnership, association, corporation, government 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.

50.9 FISCAL YEAR

"Fiscal Year" means an account period of twelve months or less ending on any day other than December 31st.

50.10 GROSS RECEIPTS

"Gross Receipts" means the total income from any source whatsoever.

50.11 NET PROFITS

"Net Profits" means a net gain from the operation of a business, profession, enterprise, or other activity 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 without deduction of taxes imposed by this Ordinance; 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.

50.12 NONRESIDENT

"Nonresident" means an individual domiciled outside the municipality.

50.13 NONRESIDENT UNINCORPORATED BUSINESS ENTITY

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

50.14 PERSON

"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 of/or members thereof, and as applied to corporations, the officers thereof.

50.15 PLACE OF BUSINESS

"Place of Business" means any bonafide office (other than a mere statutory office), factory warehouse, or other space which is occupied and used by the tax payer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

50.16 RESIDENT

"Resident" means an individual domiciled in the municipality.

50.17 RESIDENT UNINCORPORATED BUSINESS ENTITY

"Resident Unincorporated Business Entity" means an unincorporated business

entity having an office or place of business within the municipality.

50.18 TAXABLE INCOME

"Taxable Income" means wages, salaries, and other compensation paid by an employer or employers before any deduction; and/or the net profits from the operation of a business, profession, or to her enterprise or activity adjusted in accordance with the provisions of the ordinance.

50.19 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 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.

50.20 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.

IMPOSITION OF INCOME TAX

50.30 RATE AND INCOME TAX TABLE

An annual tax for the purposes specified in this Ordinance shall be imposed on and after the effective period, at the rate of 1% per annum upon the following:

- (a) On all salaries, wages, commissions, and other compensation earned on and after the effective period, by residents of the Village of Sabina;
- (b) On all salaries, wages, commissions, and other compensations earned on and after the effective period, by nonresidents of the Village for work done or services performed or rendered within the Village;
- (c)
  - (1) On the portion attributable to the Village on the net profits earned on and after the effective period, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Village;
  - (2) On the portion of the distributive share of the net profits earned on and after the effective period, of a resident, partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity by the Village;
- (d)
  - (1) On the portion attributable to the Village of the net profits earned on or after the effective period, of all nonresident unincorporated business entities, 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 unincorporated business entity 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 after the effective period, 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 by the Village;

(e) On the portion attributable to the Village of the net profits earned on and after the effective period, of all corporations derived from sales made, work done, services performed or rendered, and business or to her activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.

#### 50.31 EFFECTIVE PERIOD

Such tax shall be levied, collected, and paid with respect to the salary, wages, commissions, and other compensation, and with respect to the net profits of businesses, professions, or other activities earned on and after the effective period.

#### DETERMINATION OF ALLOCATION OF TAX

#### 50.32 METHOD OF DETERMINATION

In the taxation of income which is subject to municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the municipality shall 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 municipality, then only such portion shall be considered as having taxable situs in the municipality 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 municipality, 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:

(a) 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 municipality 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 the preceding paragraph "real property" includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.

(b) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the municipality to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.

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

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.

#### 50.33 SALES MADE IN MUNICIPALITY

As used in Subsection (c) above, "sales made in the municipality" 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 is shipped from a place within the Village to the 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.

#### 50.34 TOTAL ALLOCATION

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

A factor is applicable even though it may be allocable entirely in or outside the municipality.

#### 50.35 RENTALS

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Subparagraphs (c), (d), and (e) of the section pertaining to "Rate and Income Taxable", only if and to the extent that the rental, ownership, management, or operation 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. Where the gross monthly rental of any and all real properties, regardless of number and value, aggregate in excess of Two Hundred Fifty and 00/100 Dollars (\$250.00) per month, it shall be prima 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; provided that 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 Two Hundred Fifty and 00/100 Dollars (\$250.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in business activity when he shares in crops or when the rental is based on percentage of the gross or net receipts derived from the farm whether or not the gross income exceeds said \$250.00 per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds \$250.00 per month.

#### 50.36 OPERATING LOSS CARRY-FORWARD

(a) The portion of a net operation loss sustained in any taxable year subsequent to \_\_\_\_\_, allocable to the municipality may be applied against the portion of the profit of succeeding tax years allocable to the municipality, 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 the net operating loss sustained shall be allocated to the municipality in the same manner as provided herein for allocation net profits the municipality.

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

#### EXEMPTIONS

#### 50.37 SOURCES OF INCOME

The tax provided from herein shall not be levied on the following:

(a) Pay or allowances 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, unemployed 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, amusements, sport events, and health and welfare activities when any such are conducted by bonafide 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.

(i) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio from which the municipality 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 on income derived from interstate commerce.

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

## RETURNS

### 50.38 WHEN RETURN REQUIRED TO BE MADE

Each taxpayer 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 different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period.

### 50.39 FORM AND CONTENTS OF RETURN

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

- (a) The aggregate amounts of salaries, wages, commissions, and other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;
- (b) The amount of the tax imposed by this Ordinance on such earnings and profits; and
- (c) Such other pertinent statements, information returns, or other information as the Administrator may require.

### 50.40 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 not to exceed six months, or one month beyond any extension requested of 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 or interest shall be assessed in those cases in which the return is filed and the final tax paid with the period as extended.

### 50.41 CONSOLIDATED RETURNS

- (a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.
- (b) 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 the case any person operates a division, branch, factory, office, laboratory, or activity with the activity 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 the Village. If the Administrator finds that 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 municipality.
- (c) 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 appropriate sections of this Ordinance. 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 of net profits after the due date for filing the original

return.

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

#### PAYMENT OF TAX

##### 50.42 PAYMENT OF TAX ON FILING OF RETURNS

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that:

(1) Where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of this Ordinance; or

(2) Where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of this Ordinance; or

(3) Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in this Ordinance, 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.

(b) A taxpayer who has overpaid the amount of tax to which the Village 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 any part thereof) shall be refunded, provided that no additional taxes or refunds of less than One and 00/100 Dollar (\$1.00) shall be collected or refunded.

##### 50.43 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, wages, commission, or other compensation, the tax of (rate) per annum of the gross salaries, wages, commissions, or other compensation due by the said employer to said employee and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month; provided, however, that if the amount of the tax so deducted by any employer in any one month is less than \$10.00, the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Said returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefore 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.

(c) Such employer in collecting said 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.



(d) No person shall be required to withhold the tax on wages or 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 the Ordinance.

#### 50.44 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE

Any person whose income tax is not fully withheld in the Village or in another municipality in which taxes are withheld at a rate the same as or higher than the rate provided in this Ordinance hereof shall file a declaration setting forth estimated taxable income, including distributive shares of net profits or unincorporated business entities estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon less:

- (a) Tax withheld within the Village or municipality;
- (b) The tax credit allowed in the appropriate section of this Ordinance.

#### 50.45 FILING OF DECLARATION

(a) The declaration required by this Ordinance shall be filed on or before April 30th of each year during the effective period set forth in this Ordinance 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.

#### 50.46 FORM OF DECLARATION

(a) The declaration required by this Ordinance shall be filed upon a form furnished by or obtainable from the Administrator. As provided for in this Ordinance, credit shall be taken for the earnings tax to be withheld from any portion of such income and credit shall be taken for tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of this Ordinance.

(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.

#### 50.47 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 (.25) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following 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 date or dates.

#### 50.48 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, 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 this Ordinance. Provided, however, that a taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or any amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

#### 50.49 EXTENSIONS

The Administrator may extend the time of filing any return required, or making any payment or performing any other act required by this Ordinance for a period not to exceed six months beyond the original required date.

### INTEREST AND PENALTIES

#### 50.50 INTEREST ON UNPAID TAX

All taxes imposed and all monies withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this Ordinance of the Village and remaining unpaid after they become due, shall bear interest at the rate of six percent (6%) per annum.

#### 50.51 PENALTIES ON UNPAID TAX

In addition to interest as provided in this Ordinance, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

(a) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent (10%) per annum, but not less than \$5.00.

(b) For failure to remit taxes withheld from employees: ten percent (10%) per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than \$5.00.

#### 50.52 EXCEPTIONS

A penalty shall not be assessed on any 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 against a taxpayer by the Administrator 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.

#### 50.53 ABATEMENT OF INTEREST AND PENALTY

Either the Administrator hereunder or the Board of Review may abate penalty or interest, or both, for good cause shown.

#### 50.54 VIOLATIONS

Any person who shall:

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

- (b) Make any incomplete, false, or fraudulent return; or
- (c) Fail, neglect, or refuse to pay the tax, penalties, or interest imposed by this Ordinance;
- (d) Fail, neglect, or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (e) 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
- (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 of subpoena of the Administrator; or
- (g) Refuse to disclose the Administrator any information with respect to the income or net profits of a taxpayer; or
- (h) Fail to comply with the provisions of this Ordinance or any order or subpoena of the Administrator authorized hereby; or
- (i) Give to any employer false information as to his true name, correct social security number and resident address, or fail to promptly notify an employer of any change in resident address and date thereof; or
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residential addresses, total wages paid and municipal tax withheld or knowingly give the Administrator false information; or
- (k) 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 Five Hundred and 00/100 Dollars (\$500.00) or imprisoned not more than six months or both, for each offense.

#### 50.55 LIMITATIONS ON PROSECUTION

All prosecutions under this section must be commenced within five 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 ten years from the date the return was due or the date the false or fraudulent return was filed.

#### 50.56 FAILURE TO PROCURE FORMS NOT EXCUSE

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.

### COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

#### 50.57 UNPAID TAXES RECOVERABLE AS OTHER DEBTS

All taxes imposed by this Ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts of the like amount are recoverable. Except in the case of fraud, of 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, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal Statute of Limitations, 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.

50.58 REFUNDS 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.

50.59 AMOUNTS OF LESS THAN ONE DOLLAR

Amounts of less than One and 00/100 Dollar (\$1.00) shall not be collected or refunded.

TAXPAYER RELIEF

50.60 CLAIM FOR REFUND

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date of which such payment was made or the return was due.

50.61 DUTY TO RECEIVE TAX IMPOSED

It shall be the duty of the Administrator 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 received.

50.62 DUTY TO ENFORCE COLLECTION

It shall be the duty of the Administrator to enforce payment of all taxes owing to the municipality, to 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 to show the dates and amount of payment thereof.

50.63 AUTHORITY TO MAKE AND ENFORCE REGULATIONS

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 provisions for the re-examination and correction of returns.

50.64 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS

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.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand.

50.65 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE

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 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 thereon, if any.

50.66 AUTHORITY TO MAKE INVESTIGATION

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.

50.67 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, and failure to comply with such order or to conceal the true nature of the income or facts involved shall be prosecuted under this Ordinance, and upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than One Thousand and 00/100 Dollars (\$1,000.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the 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.

50.68 TAXPAYER REQUIRED TO RETAIN RECORDS

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

50.69 AUTHORITY TO CONTRACT FROM CENTRAL COLLECTION FACILITIES

The Village having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance Number \_\_\_\_\_, which Council has organized a municipal tax collection agency known as "Regional Income Tax Agency", the Board of Trustees of said Regional Income Tax Agency is authorized to administer and enforce the provisions of this Ordinance as the agent of the Village, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of said agency through the Administrator of said agency. Provided, however, the Administrator of said agency shall have no authority to abate penalties or interest provided for in this Ordinance.

BOARD OF REVIEW

50.70 BOARD OF REVIEW

A Board of Review, consisting of the Director of Law and a member of Council to be elected by that body, and a member appointed by the Mayor of the Village, 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 this Ordinance 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.

50.71 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS

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.

50.72 RIGHT OF APPEAL

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 days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any such ruling or decision, or any part thereof.

OTHER PROVISIONS

50.73 DECLARATION OF LEGISLATIVE INTENT

If any sentence, clause, section, or part of this Ordinance, or any tax agent, 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 been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part hereof not been included herein.

50.80 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

- (A) Limitation on amount paid. Every individual taxpayer who resides in the Village and who receives salaries, wages, commissions, or other compensation or net profits from sale made, work done, or services performed or rendered outside of the Village, if it be made to appeal that he has paid a municipal income tax on the income tax on the income/earnings tax under this ordinance to another municipality, shall be allowed a credit for the tax paid against the tax imposed by this ordinance in an amount not to exceed the tax due the Village under this subchapter.
- (B) Credits and Limitations. Notwithstanding the provisions contained in 50.57 and 50.58, or any other provision inconsistent herewith, a claim for refund or credit under this Section shall be made in a manner as the Tax Commissioner may by regulation provide. No claim for refund or credit shall be allowed

unless made on or before the date of filing the taxpayer's final return, unless the taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from the taxpayers wages, salaries, or commissions for other municipalities.

SECTION TWO: This Ordinance is declared to be an emergency measure, necessary for the immediate preservation of the public peace, health and safety, in that the Village is in dire financial straits, and that it stands in danger of losing its police force and street lighting due to a lack of funding, and this Ordinance go into full force and effect immediately upon passage.

Passed this 27th day of December, 2004.

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Charles Hargrave, Mayor

Attest:

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Karma J Henson, Fiscal Officer

Approved as to form:

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Jon C. Hapner, Law Director