

Ordinance No. 84-05 Passed March 6, 19 84

AN ORDINANCE TO AMEND ORDINANCE 84-01 TO PROVIDE FOR TWO PERCENT (2%) LEVY ON INCOME COMMENCING AUGUST 1, 1984, FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATIONS, CAPITAL IMPROVEMENTS, MAINTENANCE AND REPAIR OF EQUIPMENT, STREETS AND OTHER PHYSICAL PROPERTIES AND PURCHASE OF NEW EQUIPMENT AND TO DECLARE AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF URBANCREST, OHIO:

SECTION 1; Subject of the passage of the two percent (2%) levy on income by a majority of the Electors of Urbancrest, Ohio, on November 6, 1984, effective January 1, 1985, Section III: LEVY OF TAX of Village Ordinance 84-01 shall be and the same is enacted to read as follows:

III. LEVY OF TAX

- A. The income tax at the rate of one (1) percent shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after March 1, 1984.
- B. Effective January 1, 1985, in addition to the tax imposed by Section A, above, there is levied an additional tax of one percent (1%) upon salaries, wages, commissions and other compensation earned on and after January 1, 1985 for the purpose of general municipal operations, capital improvements maintenance and repair of equipment, streets and other physical properties and purchase of new equipment.

SECTION 2. Effective January 1, 1985, existing Section III Levy of tax of the ordinances of the Village of Urbancrest shall be and the same is repealed.

SECTION 3. This Ordinance is hereby declared an emergency measure necessary for the immediate preservation of the public peace, health and safety for the reason that the revenues from the tax are required to provide for daily operation of essential municipal services; WHEREFORE, this Ordinance shall take effect and be in force from and after its passage.

DUE TO AN EMERGENCY, THIS MEASURE IS TO BECOME EFFECTIVE IMMEDIATELY UPON PASSAGE, Passed this 6, day of March, 1984.

APPROVED AS TO FORM:

Frederick L. Ransier
 Frederick L. Ransier
 Law Director

Glenn Seabury Sr.
 Glenn Seabury Sr.
 Mayor

Phyllis M. Mitchell
 Phyllis M Mitchell
 Clerk of Council

CLERK'S CERTIFICATION

I, Phyllis M. Mitchell, Clerk of Council, Village of Urbancrest, Ohio do hereby certify the foregoing is a true copy of Ordinance No. 84-05 adopted by council of the Village of Urbancrest, Ohio, on March 6, 1984, and now on file in the office of the Clerk of the Village of Urbancrest, Ohio.

Phyllis M. Mitchell
 Phyllis Mitchell-Clerk-of Council
 Urbancrest

RECORD OF ORDINANCES

Form No. 2806-A

National Graphics Corp., Col., O.

Ordinance No. 84-01

Passed 2-7-

1984

AN ORDINANCE IMPOSING A TAX ON RATE OF ONE (1) PERCENT AND TO DECLARE AN EMERGENCY.

WHEREAS, the Village is in need of income for general municipal operations, maintenance, new equipment and capital improvements; and,

WHEREAS, the Village presently has no tax on income; and,

WHEREAS, a tax on income will assist in meeting the Village's stated needs

NOW THEREFOR, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF URBANCREST the following measure with respect to current income tax:

- I. DEFINITIONS: As used herein, the following words shall have the meanings ascribed to them herein, except as and if the context clearly indicated or requires a different meaning. The singular shall include the plural. The masculine gender shall include the female and neuter genders.
- A. Association.
"Association" means a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.
- B. Business.
"Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity.
- C. 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.
- D. Employer.
"Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity whether or not organized for profit, that employs one or more persons on a salary, wage, commission, or other compensation basis.
- E. Employee.
"Employee" means one who works for wages, salary, commissions or other type of compensation in the service of an employer.
- F. Gross Receipts.
"Gross Receipts" means the total income from any source whatsoever.
- G. Net Profits.
"Net Profits" means the net gain from the operation of a business, profession, or enterprise or other activity (whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit) 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 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; and otherwise adjusted to the requirements of this ordinance.

Urbancrest

Ordinance No. _____

Passed _____

19 _____

- H. Persons.
"Persons" 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 shall mean the parties or members thereof, and as applied to corporations, the officers thereof.
- I. Resident Individual.
"Resident Individual" means any individual who is domiciled in the Village of Urbancrest on whose usual place of abode is in the Village.
- J. Nonresident Individual.
"Nonresident Individual" means an individual who is not domiciled in the Village and whose usual place of abode is outside the Village.
- K. Resident unincorporated business entity.
"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
- L. Nonresident unincorporated business entity.
"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- M. Place of Business.
"Place of Business" means any bona fide office (other than a mere statutory office), factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance.
- N. Taxable Income.
"Taxable Income" means 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 enterprises or activity adjusted in accordance with the provisions of the ordinance.
- O. 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.
- P. Fiscal Year.
"Fiscal Year" means an accounting period of twelve (12) months or less ending on any day other than December 31.

III. Imposition of Tax.

To provide for the purposes of general municipal operations, maintenance, new equipment, and capital improvements of the Village, there is hereby levied a tax at the rate of one (1) percent per annum upon the following:

- A. On all salaries, wages, commissions, and other compensation earned by residents of the Village.
- B. 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.

RECORD OF ORDINANCES

143

National Graphics Corp., Col. O.

Form No. 2806-A

Ordinance No. 84-01

Passed 2-7-

1984

C. Net Profits:

1. On the net profits earned of all unincorporated businesses, professions, or other activities conducted by residents of the Village.
2. On the net profits earned of all unincorporated businesses, professions, or other activities conducted in the Village by nonresidents.
3. For the purposes of paragraphs C. 1. and C. 2. above, an association shall not be taxable as an entity, but any member thereof who is a resident of the Village shall be taxed individually on his entire share whether distributed or not, of the annual net profits of the association, and any nonresident member thereof shall be taxed individually only on that portion of his share, whether distributed or not of the annual net profits of the association as are derived from work done, services performed or rendered, and business or other activities conducted in the Village.

- D. On the net profits of all corporations, estates, and trusts, derived from work done or services performed or rendered and business or other activities conducted in the Village whether or not such corporations, estates, and trusts have their principal or any place of business located in the Village.

III. Levy of Tax.

The income tax at the rate of one (1) percent shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after March 1, 1984.

IV. Return and Payment of Tax.

- A. Each taxpayer who engages in business, or whose salaries, wages, commissions, and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax be due thereof, make and file a return on or before April 15th of each year with the Village Clerk-Treasurer on a form furnished by or obtainable from the Village Clerk-Treasurer, setting forth the aggregate amount of salaries, wages, commissions and other compensation earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax together with such other pertinent information as the Village Clerk-Treasurer may require. Provided, however, that when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the 15th day of the fourth month after the close of said fiscal year or other period.

- B. Each taxpayer whose salaries, wages, commissions and other compensation are subject to the tax imposed by this ordinance may offset losses from any business or professional activity when conducted in this Village or in any municipality that does not levy an income tax on net profits therefrom.

A husband and wife, in any taxable year, may elect to file separate or joint returns. If joint returns are filed, a husband or wife may offset losses from any business or professional activity when conducted in this Village or in any municipality that does not levy an income tax on net profits therefrom.

- C. If a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other taxable year.

Ordinance No. _____

Passed _____ 19 _____

- D. The taxpayer making a return shall, at the time of the filing thereof, pay to the Village Clerk-Treasurer 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, or where any portion of said tax has been paid by the taxpayer, or where an income tax has been paid to another municipality, credit for the amount so paid hereof, shall be deducted from the amount shown to be due and payable at the time of filing said return.
- E. A taxpayer who has overpaid his income tax in any taxable year may request a refund provided, however, there is no other tax liability and provided, further, that no amount of less than one dollar (\$1.00) will be refunded or collected.
- F. The Clerk-Treasurer shall have the authority to extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Clerk-Treasurer 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.

V. Amended return and refunds for overpayment.

Where 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, such amended return shall be on a form obtainable on request from the Clerk-Treasurer. A taxpayer may not change the method of accounting of apportionment of net profits after the due date for filing the original return.

Within three (3) months from the final determinations 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 of Federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment.

No refund shall be allowed unless a written request be presented to the Clerk-Treasurer within three (3) years of the date the taxes were due.

VI. Collection at source.

Each employer within or doing business within the Village, shall deduct at the time of payment of such salaries, wages, commissions or other compensation, the tax of one (1) percent of the gross salaries, wages, commissions or other compensation due by the said employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return showing the amount of taxes so deducted and a record of payments showing that all taxes deducted during the quarter have been paid to the Village. 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. Every employer or officer of a corporation is deemed to be a trustee for this municipality in collecting and holding the tax required under the ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds.

VII. Duties of Village Clerk-Treasurer.

It shall be the duty of the Village Clerk-Treasurer to collect and receive the tax imposed by this Ordinance; to keep an accurate record showing the payment received from each taxpayer and the date of such payment; and, to administer and enforce the provisions of this Ordinance. The Village Clerk-Treasurer is hereby empowered to adopt, promulgate and to enforce such rules and regulations as she may develop that are adopted by the Village Council, relating to any matter

RECORD OF ORDINANCES

140

National Graphics Corp., Col., O.

Form No. 2808-A

Ordinance No. 84-01

Passed 2-7- 1984

or thing pertaining to the administration and enforcement of this Ordinance.

In any case where a taxpayer has failed to file a return or failed to pay the tax due on a return or has filed a return which does not show the proper 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.

VIII. Investigative powers of the Village Clerk-Treasurer:

The Village Clerk-Treasurer, 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 the provisions of this Ordinance, for the purposes 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 Village Clerk-Treasurer, or her duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

The Village Clerk-Treasurer is hereby authorized to order any person presumed to have knowledge of the facts to appear before her and may examine such person, under oath, concerning any income which was or would 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 her, whether as parties or witnesses, whenever she believes such persons have knowledge of such income or information pertinent to such inquiry.

IX. Tax information confidential; penalty.

Any information gained as the result of any returns, investigations, required or authorized by this Ordinance, shall be confidential, except for official purposes, or except in accordance with proper judicial order. The Village Clerk-Treasurer may furnish the Bureau of Internal Revenue, Treasury Department of the United States with copies of the returns filed.

X. Collection of unpaid taxes.

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.

The Village Clerk-Treasurer is authorized, in addition to her other duties, to institute civil law suits to collect delinquent taxes due and owing the Village by virtue of the provisions of this Ordinance. The Village Council is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of State statutes of limitations.

XI. Violations; general penalty.

Any person subject to the provisions of this ordinance, who shall fail, neglect, or refuse to make any return or declaration, or any employer who shall fail, neglect, or refuse to deduct and withhold the taxes or pay the taxes imposed by this Ordinance, or any taxpayer who shall fail, neglect or refuse to pay the tax, interest and penalties imposed by this Ordinance or any person who shall refuse to permit the Village Clerk-Treasurer or her duly authorized agent or employee to examine the books, records, and papers of a taxpayer, or any person who shall knowingly make an incomplete, false, or fraudulent return, or who shall attempt to do anything whatever to avoid the payment of the whole or any part of the tax, under this chapter, shall be deemed guilty of a misdemeanor and first offense, and shall be fined not more than one hundred dollars (\$100.00) for the first offense, and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more

Ordinance No.

Passed

19

than sixty (60) days or both, for a second or subsequent offense. The failure of an employer or taxpayer to receive or procure a return or declararion form, shall not excuse him from making a return or declar- ation or paying the tax levied under this chapter.

XIII. Credit for tax paid to another municipality.

Every individual taxpayer who resides in the Village but who received net profits; salaries, wages, commissions or other compensation for work done or services performed or rendered outside of the Village, if it be made to appear that he has paid a municipal income tax or excise tax based on income, on such net profits, salaries, wages, commissions or compensation in another municipality, shall be allowed a credit for the amount so paid by him or in his behalf in such other municipality, this credit to be applied only to the extent of the law assessed by this Ordinance, by reason of such net profits, salaries, wages, commissions or compensation earned in such other municilpality where such tax is paid.

XIII.. Exceptions.

The provisions of this ordinance shall not be construed to tax the military pay or allowances of mangers 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 tang- ible or intangible property or tax-exempt activities.

The tax provided for herein shall not be levied on the personal earn- ings of any natural person under eighteen (18) years of age.

Mentally retarded and developmentally disabled employees earning less than the minimum hourly wage shile employed at government-sponsored sheltered work-shops shall be exempt from the levy of the tax provided herein.

XIV. Contract provisions.

No contract on behalf of the Village for works or improvements of the Village shall be binding or valid unless such contact contains the following provisions:

"Said.....hereby further agrees to withhold all Village income taxes due or payable under the provisions of Ordinance No. 84-01, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such Village income taxes due under said chapter for services per- formed under this contract."

XV. Interest and Penalties.

All taxes imposed by this Ordinance, and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of eight (8) percent per annum, and the taxpayers upon whom such taxes are imposed by this Ordinance shall be liable, in addition thereto, to a penalty of ten (10) percent of the amount of the unpaid tax.

A penalty shall not be assessed on an additional tax assessment when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Clerk-Treasurer; 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, provid- ing an amended return is filed and the additional tax is paid within three (3) months after final determination of the Federal tax liability.

XVI. Allocation of funds.

The funds collected under the provisions of this Ordinance shall be applied for the following purpose and in the following order, to-wit:

A. Such part thereof as shall be necessary to defray all costs of

Ordinance No. 84-01

Passed 2-7-1984

collecting the taxes levied by the Ordinance, and enforcing the provisions hereof.

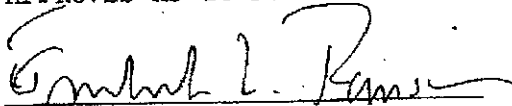
- B. Such part thereof as Vouncil may appropriate to the General Fund for the purpose of paying the cost of general municipal operations.
- C. Such part thereof as Council may appropriate for the purpose of paying the cost of maintenance of; and the purchase of new equipment, motorized or other.
- D. Such part there of as the Council may appropriate for the purpose of paying the cost of the repair and maintenance of streets.

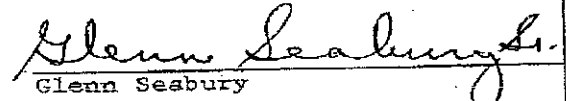
XVII. Interest on unpaid withheld taxes.

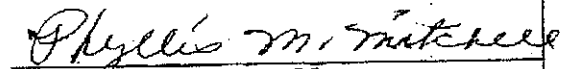
All taxes deducted by an employer or required to be deducted and withheld by an employer and remaining unpaid after they become due, shall bear interest on the amount of such unpaid taxes at the rate of eight (8) percent per annum and in addition a penalty of ten (10) percent of the amount of the unpaid taxes.

DUE TO AN EMERGENCY, THIS MEASURE IS TO BECOME EFFECTIVE IMMEDIATELY UPON PASSAGE. Passed this 3rd day of January, 1984.

APPROVED AS TO FORM:

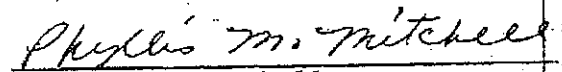

 Frederick L. Ransier
 Law Director


 Glenn Seabury
 Mayor


 Phyllis M. Mitchell
 Clerk of Council

CLERK'S CERTIFICATION

I, Phyllis M. Mitchell, Clerk of Council, Village of Urbancrest, Ohio, do hereby certify the foregiong is a true copy of Ordinance #84-01 1984 adopted by the Council of the Village of Urbancrest, Ohio, on January 3, 1984, and now on file in the office of the Clerk of the Village of Urbancrest, Ohio.


 Phyllis M. Mitchell
 Clerk of Council