

VILLAGE OF MIDVALE, OHIO

ORDINANCE # 2004-9

AN ORDINANCE AMENDING ORDINANCE # 7-01 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF MIDVALE, OHIO CONCERNING FILING OF VILLAGE INCOME TAX AND RECOGNIZING THE CHANGES TO O.R.C. ORDINANCE # 718 -RE: MUNICIPAL INCOME TAXES-AND DECLARING AN EMERGENCY.

Levying a tax to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all salaries, wages, commissions and other compensations earned by residents of the Village of Midvale; on all salaries, wages, commissions and other commissions earned by non-residents of the Village of Midvale; on the net profits earned on all businesses, professions or other activities conducted by residents of this municipality; on the net profits earned on all businesses, professions or other activities conducted in the Village of Midvale by nonresidents, and on the net profits earned by all corporations doing business in the Village of Midvale as the result of work done or services performed or rendered in the Village of Midvale; requiring the filing of returns and furnishing or 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 the Village of Midvale; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefore.

BE IT ORDAINED by the Council of the Village of Midvale that:

Section 1. Purpose

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the Village of Midvale there shall be, and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

Section 2: Definitions

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

Administrator - The individual designated by the ordinance to administer and enforce the provisions of the ordinance.

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

Board of Review - The board created by and constituted as provided in section 13 of this ordinance.

Business - An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real personal or mixed.

Corporation - 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.

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

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

Fiscal year - An accounting period of twelve (12) months or less ending on any day other than December 31st.

Gross receipts - The total income from any source whatsoever.

Net profits - A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and

necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this ordinance, federal, state and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to this ordinance.

Nonresident - An individual domiciled outside the Village of Midvale.

Nonresident unincorporated business entity - An unincorporated business entity not having an office or place of business within the Village of Midvale.

Person - Every natural person, partnership, fiduciary, association, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

Place of business - Any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

Resident - An individual eighteen (18) years of age or older domiciled in the Village of Midvale.

Resident unincorporated business entity - An unincorporated business entity having an office or place of business within the Village of Midvale.

Taxable income - Wages, salaries, and other compensations paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance.

Taxable year - The calendar year, or the fiscal year upon the basis of which net profits are to be computed under the 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.

Taxpayer—A person, whether an individual eighteen (18) years of age or older, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

Forms of words—The singular shall include the plural, and the masculine shall include the feminine and the neuter.

Section 3. Imposition of Tax

A. Subject to the provisions of Section 16 of this ordinance, an annual tax for the purpose specified in section 1 hereof shall be imposed on and after January 1, 1977 at the rate of one percent (1%) per annum upon the following:

1. On all salaries, wages, commissions and other compensation earned by residents of the Village of Midvale.

2. On all salaries, wages, commissions and other compensation earned by nonresidents for work done for services performed or rendered in the Village of Midvale.

3.(a) On the portion attributable to the Village of Midvale of the net profits earned by all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Midvale.

(b) On the portion of the distributive share of the net profits earned by a resident partner or owner of a resident unincorporated business entity not attributable to the Village of Midvale and not levied against such unincorporated business entity by the Village of Midvale.

4.(a) On the portion attributable to the Village of Midvale of the net profits earned by all nonresident unincorporated business, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in the Village of Midvale, whether or not such unincorporated business entity has an office or place of business in the Village of Midvale.

(b) On the portion of the distributive share of the net profits earned by a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village of Midvale and no levied against such unincorporated business entity by the Village of Midvale.

~~X~~ 5. On the portion attributable to the Village of Midvale, of the net profits earned by all corporation derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Midvale, whether or not such corporations have an office or place of business in the Village of Midvale.

B. The portion of the net profits attributable to the Village of Midvale of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village of Midvale shall be determined as provided in O.R.C.#718 and in accordance with the rules and regulations adopted by the Administrator pursuant to this ordinance.

C. Operating loss carry forward

1. The portion of a net operating loss sustained subsequent to January 1, 1977, allocable to the Village of Midvale may be applied against the portion of the profit of succeeding year (s) allocable to the Village of Midvale, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

2. The portion of a net operating loss sustained shall be allocated to the Village of Midvale in the same manner as provided for allocating net profits to the Village of Midvale.

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

D. Consolidated returns

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

2. In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory of activity with the Village of Midvale 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 of Midvale. If the Administrator finds net profits

are not properly allocated to the Village of Midvale by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directories, 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 of Midvale.

E. Exception

The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in O.R.C. #718.01.1 to the extent that such net profits are exempted from municipal income taxes under said section.

F. Business Allocation Formula

The business allocation percentage is computed by determining the percentages (a) which Midvale real and tangible personal property bears to all real and tangible personal property (including that situated in Midvale) of taxpayer wheresoever situated; (b) which Midvale business sales bear to taxpayer's entire business sales wheresoever derived (including those derived in Midvale); and (c) which payrolls paid by taxpayer within Midvale bear to taxpayer's entire payroll wheresoever paid (including Midvale payrolls); adding together three (3) percentages so arrived at, and dividing by 3 (three).

However, if one (1) of the factors (property, sales or payrolls) is missing, the other two (2) percentages are added and the sum divided by 2 (two), and if two (2) of the factors are missing, the remaining percentage is the business allocation factor.

Section 4. Effective period

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

Section 5. Return and payment of tax.

1. All residents of the Village of Midvale, age 18 years of age and older, shall make and file with the Village Tax Administrator, a return on a form prescribed by and obtainable on the request from the Village Tax Administrator, whether or not a tax be due. In addition, every taxpayer, resident or nonresident, engaged in any business in the Village of Midvale, the net profits of which are subject in whole or part to the tax imposed by the provisions of this chapter, shall make and file with the village of Midvale Department of Taxation, a final return on a form furnished by or obtainable by the Department of Taxation on or before the 15th of April of the year following the effective date of this chapter and on or before the 15th of April of each year thereafter. When the return is made for a fiscal year of other period different than calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period. Like return shall be filed at the same time and in the same manner by all persons whose wages, salaries, bonuses, incentive payments, commission, fees and other compensation received during the preceding taxable year are subject to the tax imposed by this chapter. However, where a nonresident is employed within the Village of Midvale and has his or her full tax liability withheld by his or her employer, the Department of Taxation may accept the annual wage statement submitted by his or her employer in lieu of annual return.

2. Each resident, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before 15th of April of the year following the effective date of this chapter and on or before the 15th of April of each year thereafter with the Department of Taxation. When the return is made for a fiscal year or other period difference from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period.

3. Any person who receives both compensation for services performed for an employer, in whatever form, and in addition receives income from any business activity or occupation not subject to withholding under the Ordinance, must file a declaration and a final return.

4. Every individual taxpayer who resides in the municipality but receives net profits, salaries, wages, commissions or other personal service compensation for work done, or service performed or rendered outside of the municipality, shall, whether or not a tax is due thereon to the municipality, make and file a return on or before the 15th of April of the year following the effective date of this chapter and on or before the 15th day of April of each year thereafter,

however, if it be made to appear that the taxpayer has paid a municipal income tax on such net profits, salaries, wages, commissions or other compensation to another municipality, the taxpayer shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him on his behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such net profits, salaries, wages, commissions or compensation earned in such other municipality or municipalities or such taxes paid.

5. Every employer engaged in any business in the Village of Midvale for which salaries, bonuses, incentive payments, commissions, fees, or other compensation for services paid to any employees, in whatever form, whether or not such employees are residents of the Village of Midvale, shall report any and all such payments to the Village of Midvale Department of Taxation in the same manner and form and at the same time as such payments are reported to the Internal Revenue Service.

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

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

2. The amount of the tax imposed by this ordinance on such earnings and profits; and

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

C. The Administrator may extend the time for filing of the annual return upon request of the taxpayer or a period not to exceed six (6) months, or one (9) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The amount of tax shown to be due thereon by the date the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

D. 1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of S 6 of this ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of S 7 of this ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with S15 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable time of filing said return.

2. A taxpayer who has overpaid the amount of this ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than two dollars (\$ 2.00) shall be collected or refunded.

E. 1. Amended returns: Where necessary an amended return must be filed in order to report additional income and pay any additional income and pay any additional tax due, or claim a refund of tax overpaid subject to the requirements and/or limitations contained in S 11 and 15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing original return.

2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's tax liability to the Village of Midvale, such taxpayer shall make and file an amended return showing income subject to the income tax of the Village of Midvale based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund or any overpayment.

Section 6. Collection at source

In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Village of Midvale shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent (1%) per annum of the gross salaries, wages, commissions or other compensation taxable under the provisions of Section 3 of this ordinance and due by the employer to the employee or the tips of

Gratuities reported to the employer by each employee for social security of federal income tax purposes and shall on or before the last day of the month following the close of each calendar quarter make a return and pay the Administrator the amount of taxes so deducted. The returns shall be a form or forms prescribed by 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.

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

C. On or before January 31, of each year beginning with the year 1978, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

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

Section 7. Declarations

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

B. 1. Such declaration shall be filed on or before April 15th of each year, or within four (4) months of the date of the taxpayer becomes subject to tax for the first time.

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

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

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

D. Such declaration of estimated tax to be paid to the Village of Midvale shall be accompanied by payment of such portion of the estimated annual tax as follows:

- (1) Twenty-two and one-half percent (22 1/2%) of the estimated tax liability shall be remitted on or before April 15 of the taxable year.
- (2) Forty-five percent (45%) of the estimated tax liability for the current year shall be required to be remitted on or before the 31st day of July of the tax year.
- (3) Sixty-seven and one-half percent (67 1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 31st day of October of the current tax year.
- (4) Ninety percent (90%) of the taxpayer's estimated tax liability for the year referred to in Section D 1, 2, 3 shall be required to be remitted on or before the 31st day of January of the following calendar year.

E. On or before the 15th day of the fourth (4th) month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance due the Village of Midvale shall be paid therewith in accordance with the provisions of Section 5 hereof.

Section 8. Duties of the Administrator

A. 1. It shall be the duty of the Administrator to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.

2. It shall be the duty of the Administrator to enforce payment of all taxes owing the Village of Midvale, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

B. Said 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 provisions of this ordinance, including provisions for the re-examination and correction of returns.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule or 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 the ordinance.

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 Section 11 and 12 of the ordinance shall apply.

C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the property amount of tax due, the Administrator may determine the amount of tax appearing to be due the Village of Midvale 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.

D. Subject to consent of the Board of Review or pursuant to regulation approved by the Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 10 of this ordinance.

Section 9.

A. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or persons 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 such return was made, to ascertain the tax due under this ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

B. The Administrator is hereby authorizes 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 reported 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.

C. The refusal to produce books, papers, records, and federal income tax returns, or refusal to submit to such examination by any employer or person subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section nor with any order or subpoena of the Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 12 hereof.

D. Any information gained as a result of any returns, investigations or hearings before the Administrator, required by the ordinance or authorized by these rules and regulations shall be confidential and no disclosure thereof shall be made except for the official purposes or as ordered by a Court of competent Jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of one thousand (\$ 1000.00) or imprisonment for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

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

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

Section 10. Interest and penalties

A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of one-half of one percent (1 1/2%) per month or fraction thereof.

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

1. For failure to pay taxes due —other than taxes withheld; one and one-half percent (1 1/2%) per month or fraction thereof.

2. For failure to remit taxes withheld from employees; five percent (5 %) per month or fraction thereof.

3. Any person failing to file an income tax return as required by Section 5 shall be subject to a fine of fifty dollars (\$ 50.00) as assessed by the Village Tax Administrator. **FAILURE TO RECEIVE A RETURN DOES NOT EXCUSE FAILURE TO FILE AN INCOME TAX RETURN.**

C. Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; 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 (3) months after final determination of the federal tax liability.

D. Upon recommendation of the Administrator, the Board of Re-

View may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both.

Section 11. Collection of unpaid taxes and refunds of overpayments.

A. All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

B. Taxes erroneously paid shall be refunded when a claim for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitation provided in Division A of this section.

C. Amounts of less than two dollars (\$2.00) shall not be refunded.

Section 12. Violations; penalties

A. Any person who shall;

1. Fail, neglect or refuse to make any return or declaration required by this ordinance; or

2. Make any incomplete, false or fraudulent return; or

3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or

4. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or

5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, record, papers and federal income tax returns relating to the income or net profits of a taxpayer; or

6. Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net

profits of a taxpayer upon order or subpoena of the Administrator; or

7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or

8. Fail to comply with the provisions of this ordinance or any order or subpoena of the Administrator authorized hereby; or

9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or

10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and the Village of Midvale's income tax withheld, or to knowingly give the Administrator false information; or,

11. Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance shall be guilty of a misdemeanor and shall be fined not more than one thousand (\$1000.00) dollars or imprisoned not more than six (6) months or both for each offense.

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

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

Section 13. Board of Review

A. A board of Review, consisting of a chairman and two other individuals to be appointed by the Mayor with the concurrence of a majority of the members of Council is hereby created. A majority of the members of the

Shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 hereof with reference to the confidential character of information required to be disclosed by the ordinance shall apply to such matter as may be heard before the Board on appeal.

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

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

Section 14. Allocation of funds.

All sums collected by this ordinance shall be allocated to the general fund of the Village of Midvale.

Section 15. Credit for tax paid to another municipality.

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

B. Every individual taxpayer who resides in the Village of Midvale who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Village of Midvale if it be made to appear that he has paid a municipal income tax on the same income taxable under this ordinance to another municipality, shall be allowed a credit against the tax imposed by this ordinance of the amount paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this ordinance on such income earned in such other municipality or

Municipalities where such tax is paid.

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

Section 16. Saving clause.

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


Section 17. Collection of tax after termination of ordinance.

A. This ordinance shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of said taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Sections 11 and 12 hereof.

B. Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in sections 5 and 6 of this ordinance as though the same was continuing.

This document supercedes and replaces Ordinance # 7-01

This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety and it shall go into effect forthwith. The reason for the said emergency is the immediate need of the Village of Midvale to acquire additional revenue.


Vera Wilson, Mayor