

Levying a 1% 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 this municipality; on all salaries, wages, commissions and other compensation earned by nonresidents of the municipality; for work done or services performed or rendered in this municipality; on the net profits earned on all businesses, professions or other activities conducted by residents of this municipality; on the net profits earned on all businesses, professions or other activities conducted in this municipality by nonresidents, and on the net profits earned by all corporations doing business in this municipality as the result of work done or services performed or rendered in this municipality; requiring the filing of returns and furnishing of information by employers and all those subject to said tax, imposing on employers the duty of collecting the tax at the source and paying the same to this municipality; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefor.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF MALVERN 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 there shall be, and is hereby levied a tax on salaries, wages, commissions, and other compensation, and on the net profits as hereinafter provided.

SECTION 2. DEFINITIONS.

(a) As used in this ordinance, the following words have the meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

- (1) "Association" means a partnership, limited partnership, or any other unincorporated enterprise, owned by two or more persons.
- (2) "Board of Review" means the Board created by and constituted as provided in Section 13.
- (3) "Business" means 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.
- (4) "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.
- (5) "Employee" means one who works for wages, salaries, commission or other type of compensation in the service of an employer.

- (6) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (7) "Fiscal Year" means an accounting period of twelve months or less ending on any day other than December 31.
- (8) "Gross receipts" means the total income from any source whatsoever.
- (9) "Income Tax Administrator" means the individual designated by ordinance, whether appointed or elected to administrate and enforce the provisions of this ordinance.
- (10) "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; and otherwise adjusted to the requirements of this ordinance.
- (11) "Nonresident" means an individual domiciled outside the Village.
- (12) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (13) "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, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.
- (14) "Place of Business" means any bona fide office, other than a mere statutory office, factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees in attendance.
- (15) "Resident" means an individual domiciled in the Village.
- (16) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
- (17) "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 other enterprise or activity adjusted in accordance with the provisions of this ordinance.

Taxable income includes sums contributed by a taxpayer, directly or indirectly, to an Individual Retirement Account (IRA) or self-employed pension plan (Keogh) as defined by the United States Internal Revenue Code.

- (18) "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.
- (19) "Taxpayer" means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

SECTION 3. IMPOSITION OF TAX.

(a) Subject to the provisions of Section 16, an annual tax for the purposes specified in Section 1 shall be imposed on and after, at the rate of one percent (1%) per annum upon the following:

- (1) On all salaries, wages, commission, and other compensation earned during the effective period of this ordinance by residents of the Village.
- (2) On all salaries, wages, commission, and other compensation earned during the effective period of this ordinance by nonresidents for work done or services performed or rendered in the Village. In the event that a taxpayer is unable to provide sufficient documentary evidence as to the portion of work done or services performed or rendered outside the Village, to the satisfaction of the Income Tax Administrator, then the taxpayer may take a maximum credit of forty percent (40%) of such salaries, wages, commissions or other compensation as having been earned outside of the Village.
- (3) A. On the portion attributable to the Village of the net profits earned during the effective period of this ordinance of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village.
B. On the portion of the distributive share of the net profits earned during the effective period of this ordinance of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business activity.
- (4) A. On the portion attributed to the Village of the net profits earned during the effective period of this ordinance of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village, whether or not such unincorporated business entity has an office or place of business in the Village.

B. On the portion of the distributive share of the net profits earned during the effective period of this ordinance of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.

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

(b) The portion of the net profits attributed to the Village of a taxpayer conducting a business, profession or other activity both within the boundaries of the Village shall be determined as provided in Ohio R. C. 718.02 in accordance with the rules and regulations adopted by Council.

(c) Consolidated Returns.

(1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by Council.

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory, or activity within the Village constituting a portion only of its total business the Income Tax Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Income Tax Administrator finds 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 Village.

(d) Rentals

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

(2) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of two hundred dollars (\$200.00) 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 the tax; provided that in 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 dollars (\$200.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net income exceeding two hundred dollars (\$200.00) 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 two hundred dollars (\$200.00).

(e) Exception. The tax provided for herein shall not be levied upon the military pay or allowance of members of the armed forces of the United States, or any person under the age of eighteen years, or upon the net profits of any civic, charitable, religious, fraternal, or other organization, specified in Ohio R. C. 718.01 to the extent that such net profits are exempted from municipal taxes under such section.

The tax provided for herein shall be levied on sums contributed by a taxpayer, whether directly or indirectly, to an Individual Retirement Account (IRA) or self-employed pension plan (Keogh) even though such sums may be excluded from gross income pursuant to the provisions of the United States Internal Revenue Code and Ohio R. C. Chapter 5747.

SECTION 4. EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions, and other compensations and with respect to net profits of businesses, professions or other activities earned on and after January 1, 1991.

SECTION 5. RETURN AND PAYMENT

(a) Each taxpayer, except as herein provided, shall whether or not a tax be due thereon, make and file a return on or before April 15 of the year following the effective date of this ordinance, and on or before April 15 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 105 days from the end of such fiscal year or period. The Income Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commission or other compensation of an employee, and paid by him or them to the Income Tax Administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this ordinance, is such salary, wages, commission, or other compensation.

(b) The return shall be filed with the Income Tax Administrator on a form or forms furnished by or obtainable upon request from such Income Tax Administrator setting forth:

- (1) The aggregate amounts of salaries, wages, commissions and other compensations earned and gross income from business, profession

or other activity, less allowable expense incurred in the acquisition of such gross income earned during the preceding year and subject to such tax.

- (2) The amount of the tax imposed by this ordinance on such earnings and profits; and
- (3) Such other pertinent statements, information returns or other information as the Income Administrator may require.

(c) The Income Tax Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for filing of the Federal Income Tax Return. The Income Tax 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 interests 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 hereof, pay to the Income Tax Administrator the amount of taxes shown as due thereon; provided, however, that whereby any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6, or where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section 7, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 12, 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 such return.
 - (2) 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 part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(e) Amended Returns.

- (1) Where necessary an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 11 and 15. Such amended return shall be on a form obtainable on request from the Income Tax Administrator. A taxpayer may not change the method of accounting or appointment of net profits after the due date for filing the original return.
- (2) Within three months from the final determination of any Federal tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return

showing income subject to the Village tax based upon such final determination of Federal tax liability, and any additional tax shown due thereon or make claim for refund of any overpayment.

SECTION 6. COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by Council, each employer within or doing business with ~~the~~^{ix} the Village shall deduct at the time of the payment of such salary, wage, commission or other compensation the tax of one percent (1%) of the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the last day of the month following the close of the calendar quarter make a return and pay to the Income Tax Administrator the amount of taxes so deducted. Such returns shall be on a form or forms prescribed by or acceptable to the Income Tax Administrator and shall be subject to the rules and regulations prescribed by or acceptable to the Income Tax Administrator and shall be subject to the rules and regulations prescribed therefor by Council. 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 such tax shall be deemed to hold the same until payment is made by such employer to the Village, as trustee for the benefit of the Village, and any such tax collected by such employer from his employees shall, until the same is paid to the village, be deemed a trust fund in the hands of such employer.

(c) Such employer who deducts the tax in the amount of two hundred dollars (\$200.00) or more in the first or second months of a calendar quarter shall, on or before the last day of the following month, pay to the Income Tax Administrator the amount of the taxes so deducted. Such employer who deducts the tax in the amount of two hundred dollars (\$200.00) or more in the third month of a calendar quarter may, at his option, on or before the last day of the following month, pay to the Income Tax Administrator the amount of taxes so deducted.

(d) Such employer who makes such payment on a monthly basis only for the first two months of a calendar quarter shall pay such tax deducted for the third month of a calendar quarter at the regular time for filing the employer's quarterly return of income tax withheld. Such employer who, at his option, makes such payment for the third month of a calendar quarter on or before the last day of the following month, shall have until the last day of the first month following the close of each calendar quarter to file such employer's quarterly return of income tax withheld.

(e) The payments shall be on form or forms furnished by or obtainable upon request from the Income Tax Administrator, setting forth the amount of tax deducted for the month. A receipted copy of such form shall be returned to the employer to be attached to and filed with the employer's quarterly return of income tax withheld.

SECTION 7. DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 6, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3 shall file a declaration setting for

such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village in accordance with Section 6, such person need not file a declaration. Every person who files an estimate pursuant to this ordinance, shall make payment in the amount of eighty percent (80%) of the regular tax which would be due on the basis of the final return or tax for the year.

(b) (1) Such declaration shall be filed on or before April 15 of each year during the life of this ordinance, or within 105 days of the date the taxpayer becomes subject to the tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within 105 days after the beginning of each fiscal year or period.

(c) (1) Such declaration shall be filed upon a form furnished by or obtainable from the Income Tax Administrator, provided however, credit shall be taken for the Village tax to be held from any portion of such income. In accordance with the provisions of Section 15, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

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

(d) Such declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth and twelfth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(e) On or before the fifteenth 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 Section 5.

SECTION 8. DUTIES OF INCOME TAX ADMINISTRATOR.

(a) (1) It shall be the duty of the Income Tax 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 moneys so received.

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

(b) The Income Tax 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 to promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administrations and enforcement of the provisions of this ordinance, including provisions for the reexamination and correction of returns.

The Income Tax Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has provided to the Income Tax 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 upon demand and the provisions of Sections 11 and 12 shall apply.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Income Tax Administrator may determine the amount of the 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 therein, if any.

(d) Subject to the consent of the Board of Review or pursuant to regulations approved by such Board, the Income Tax Administrator shall have the power to compromise any interest or penalty or both, imposed by Section 10.

SECTION 9. INVESTIGATIVE POWERS; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Income Tax 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 Income Tax Administrator believes is subject to the provisions of this ordinance, for the purpose of verifying 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 Income Tax 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 Income Tax Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by an employer or person subject and presumed to be subject to the tax or by any officer, agent or

employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Income Tax Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 12.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this ordinance, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500.00) or six months in jail or both. Each disclosure shall constitute a separate offense.

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

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

SECTION 10. INTEREST AND PENALTIES.

(a) All taxes imposed and all moneys 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 percent (1%) per month or fraction thereof.

(b) In addition to interest as provided in subsection (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 percent (1%) per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees; Three percent (3%) per month or fraction thereof, or ten dollars (\$10.00) whichever is greater.

(c) Exceptions. A penalty shall be assessed on an additional tax assessment made by the Income Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Income Tax Administrator; and provided further, that in the absence of fraud, neither penalty nor interest shall be assessed or any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

(d) Upon recommendation of the Income Tax Administrator, the Board of Review may abate penalty or interest or both, or upon appeal from the refusal of the Income Tax Administrator, to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

SECTION 11. COLLECTION OF UNPAID TAXES; REFUNDS OF OVERPAYMENT.

(a) All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.

Except in the case of fraud, omission of a substantial portion of income subject to this tax, or 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 limitation, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of Federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such payment is made or the return was due, or within three months after final determination of the Federal tax liability, whichever is later.

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

SECTION 12. VIOLATIONS; PENALTIES.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this ordinance; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Income Tax Administrator; or
- (5) Refuse to permit the Income Tax 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
- (6) Fail to appear before the Income Tax Administrator and to produce the books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Income Tax Administrator; or
- (7) Refuse to disclose to the Income Tax 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 Income Tax 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 employee's residence address, total wages paid and Village tax withheld, or knowingly give the Income Tax Administrator false information; or
- (11) Attempt to do anything whatever to void 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 dollars (\$500.00) or imprisoned not more than six months.

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

(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 from paying the tax.

SECTION 13. BOARD OF REVIEW.

(a) A Board of Review, consisting of three electors of the Village, to be appointed by the Mayor and confirmed by Council, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 with reference to the confidential character of information required to be disclosed by the ordinance shall apply to such matters as may be heard before the Board on appeal.

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

(c) Any person dissatisfied with any ruling or decision of the Income Tax 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 Income Tax Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any such ruling, or decision or any part thereof.

SECTION 14. ALLOCATION OF FUNDS.

The funds collected under the provision of this ordinance, or such part thereof, as may be appropriated by Council, shall be paid into the General Fund and shall be applied as Council shall direct.

SECTION 15. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

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

(b) Every individual taxpayer who resides in the Village who receive net profits, salaries, wages, commission or other personal service compensation for work done or services performed or rendered outside the Village, 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 so paid by him or in his behalf to such other municipality. The credit shall not exceed the sum of one percent (1%) per employer per individual of the amount so paid by the taxpayer or in his behalf to such other municipality.

(c) A claim for refund or credit under this section shall be made in such manner as the Income Tax Administrator may provide.

SECTION 16 SAVING CLAUSE.

In any sentence, clause, section or part of this ordinance or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared to be the intention of Council that this ordinance would have been adopted has 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 of proceeding for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Section 11 and 12.

(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 Section 5 and 6 as though the same were continuing.

PASSED this 21st day of Jan, 1991.

Michael D. Penick
MICHAEL PENICK
President of Council

Approved:

Dale Lewis
DALE LEWIS, Mayor

Attest:

Edna L. Trussell
Edna L. Trussell, Clerk