

ORDINANCE NO. 04-95**TO AMEND VILLAGE ORDINANCE NO. 3-94 LEVYING AN INCOME TAX TO PROVIDE FUNDS FOR THE PURPOSES OF GENERAL VILLAGE OPERATIONS, MAINTENANCE, NEW EQUIPMENT, CAPITAL IMPROVEMENTS, AND REDUCTION OF DEBT.**

WHEREAS, the funds to be raised by the tax imposed by this ordinance are necessary for the operation of the daily activities of the Village of Harrisburg; and

WHEREAS, the Village of Harrisburg, without said funds, would have to immediately curtail the activities of its several departments to such an extent that the public peace, property, health, and safety would be greatly and seriously jeopardized; and

WHEREAS, it is necessary to raise revenues for the operation of several departments of government of the Village of Harrisburg and to carry on the purposes and affairs of the Village; and due to the current extreme financial condition of the Village and the necessity to have the Village Tax Code in place and in effect for the collections of taxes to begin no later than the second half of the current year (beginning July 1, 1995), this ordinance is hereby declared and passed as emergency legislation, to take effect immediately for the continued preservation of the public peace, property, and health and safety, as provided by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF HARRISBURG, STATE OF OHIO, THAT THE VILLAGE TAX CODE BE AMENDED AS FOLLOWS:

TO LEVY AN INCOME TAX TO PROVIDE FUNDS FOR THE PURPOSE OF GENERAL VILLAGE OPERATIONS, MAINTENANCE, NEW EQUIPMENT, CAPITAL IMPROVEMENTS, AND REDUCTION OF DEBT, UPON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY RESIDENTS OF THE VILLAGE OF HARRISBURG; UPON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY NON-RESIDENTS OF THE VILLAGE OF HARRISBURG FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE OF HARRISBURG; UPON THE NET PROFITS EARNED ON ALL BUSINESS, PROFESSIONS, OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF THE VILLAGE OR CONDUCTED IN THE VILLAGE OF HARRISBURG BY NON-RESIDENTS, AND ON THE NET PROFITS EARNED BY ALL CORPORATIONS OR BUSINESSES AS A RESULT OF WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE OF HARRISBURG; 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 THE VILLAGE OF HARRISBURG; PROVIDING FOR THE AUDIT, COLLECTION AND ENFORCEMENT OF SAID TAX; DECLARING VIOLATION THEREOF TO BE A MISDEMEANOR AND IMPOSING PENALTIES THEREFOR.

INCOME TAX

SECTION 1: The following words shall have the meanings ascribed to them in this ordinance, except as and if the context clearly indicates or requires a different meaning;

A. **Singular and Plural; Gender.** The singular shall include the plural herein. The masculine gender shall include the feminine and the neuter genders herein.

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

C. 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.

D. Village means the Village of Harrisburg.

E. Commissioner of Taxation is the person who has been designated to act as administrative head of the Department of Income Taxation or the person executing the duties of the aforesaid Commissioner on behalf of the Village.

F. Corporation. "Corporation" means a corporation or joint stock association organized under the laws of the United States, State of Ohio, or any other state, territory or foreign country or dependency.

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

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

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

J. 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.

K. Non-Resident Individual. "Non-Resident Individual" means an individual who is not domiciled in the Village of Harrisburg and whose usual place of abode is outside of the Village of Harrisburg.

L. Non-Resident Unincorporated Business Entity. "Non-Resident Unincorporated Business Entity" means an unincorporated business entity not having an office or place of business within the Village of Harrisburg.

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

O. Resident Individual. "Resident Individual" means any individual who is domiciled in the Village of Harrisburg or whose usual place of abode is in the Village of Harrisburg.

P. Resident Unincorporated Business Entity. "Resident Unincorporated Business Entity" means an unincorporated business entity having an office or place of business within the Village of Harrisburg.

Q. Taxable Income. "Taxable income" means wages, salaries, commissions 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 chapter.

R. 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.

S. Taxpayer. A person, whether an individual, co-partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

T. Fiscal Year. Fiscal year means an accounting period of twelve (12) months or less ending on any day other than December 31.

SECTION 2: Imposition of Tax.

To provide for the purposes of general municipal operations, maintenance, new equipment capital improvements, and/or reduction of debt of the Village, there be and 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 on and after July 1, 1995, by residents of the Village.

(b) On all salaries, wages, commissions, and other compensation earned on and after July 1, 1995, by non-residents of the Village for work done or services performed or rendered in the Village.

(c) (1) On the net profits earned on or after July 1, 1995, of all unincorporated businesses, professions or other activities conducted by residents of the Village.

(2) On the net profits earned on or after July 1, 1995, of all unincorporated businesses, professions, or other activities conducted in the Village by non-residents.

(3) For 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 non-resident members 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 is derived from work done, services performed or rendered, and business or other activities conducted in the Village pay on behalf of its members, tax on the net profits of the association derived by each member, whether distributed or not, from work done or services performed or rendered and business or other activities conducted in the Village, whether or not such association has its principal or any place of business located in the Village, effective for all accounting periods commencing, or involving net profits earned, on or after July 1, 1995.~~

(4) For purposes of paragraph (c)(1) above, a resident of the Village who is a member of an association is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to payment by the association under paragraph (c)(3) above, effective for all accounting periods commencing, or involving net profits earned, on or after July 1, 1995.

(d) On the net profits on and after July 1, 1995, of all corporations, estates, trust and limited partnerships, derived from work done, or services performed or rendered and business or other activities conducted in the Village, whether or not such corporation, estate, trust, and limited partnership has its principal or any place of business located in the Village.

(e) Payments made to employees by an employer as vacation wages are taxable and payments made to any employee by an employer under a wage continuation plan during periods of disability or sickness, are taxable.

(f) Rentals from Real Property.

(1) Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed, or operated by the 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 real properties, regardless of number and value, aggregate in excess of \$100.00 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 properties shall be subject to 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 \$100.00 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 receipts derived from the farm, whether or not the gross income exceeds \$100.00 per month; and provided further that the person who operated a rooming house of five or more rooms rented shall be considered in business whether or not the gross income exceeds \$100.00 per month.

(3) In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.

(4) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

(5) Real property, as the term is used in this ~~regulation~~ ordinance, shall include commercial property, residential property, farm property, and any and all other types of real estate.

(6) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for federal income tax purposes.

(7) Residents of the Village of Harrisburg are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned.

(8) Non-residents of the Village of Harrisburg are subject to such taxation only if the real property is situated in within the Village. Non-residents, in determining whether gross monthly rentals exceed \$100.00, shall take into consideration only real estate situated within the Village of Harrisburg.

(9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the Village of Harrisburg.

SECTION 3. Allocation of Net Profits.

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

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

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

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

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

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

(c) As used in this ordinance, "sales made in the Village" means:

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

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

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

SECTION 4. Levy of Tax.

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions, rents, and other compensation earned on and after July 1, 1995, and with respect to the net profits of business, professions, or other activities earned on or after July 1, 1995. ~~Provided, however, that where the fiscal year of business, profession or other activity differs from the calendar year the tax shall be applied to that part of the net profits for the fiscal year as shall be earned on and after July 1, 1995, to close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis.~~

Where the fiscal year of a business, profession or other activity is other than a calendar year, in computing the tax, the profits of such taxpayer shall be determined by dividing the annual profits by twelve (12) and multiplying the quotient by the number of months of the fiscal year between January 1 through December 31.

Where the fiscal year of a business, profession or other activity is other than a calendar year, in computing initial tax, the profits of such taxpayer shall be determined by dividing the annual profits by twelve (12) and multiplying the quotient by the number of months within the period commencing July 1, 1995 and ending ~~at the conclusion of said fiscal year~~ through December 31, 1995.

SECTION 5. Return and Payment of Tax.

(a) Each taxpayer who engages in business, or whose salaries, wages, commissions, rents and other compensation are subject to the tax imposed by this ordinance, shall, whether or not a tax be due thereon, make and file a return on or before April 15, of each year with the ~~Director of Finance~~ **Commissioner of Taxation** on a form furnished by or obtained from the ~~Director of Finance~~ **Commissioner of Taxation**, setting forth the aggregate amount of salaries, wages, commissions, rents 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 ~~Director of Finance~~

Commissioner of Taxation 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 ~~last~~ 15th day of the fourth month after the close of said fiscal year or other period.

(b) ~~Each taxpayer whose salaries, wages, commissions, rents 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. The net losses from an unincorporated business activity may not be used to offset salaries, wages, commissions, or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits.~~

A husband and wife, in any taxable year, may elect to file separate or joint returns. ~~If joint returns are filed, a husband and 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.

(d) Affiliated corporation may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing the net profits or the Business Allocation Percentage Formula of another.

~~(d)~~ (e) The taxpayer making a return shall, at the time of the filing thereof, pay to the Village 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

Commissioner of Taxation 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 ~~last~~ 15th day of the fourth month after the close of said fiscal year or other period.

~~(b) Each taxpayer whose salaries, wages, commissions, rents 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. The net losses from an unincorporated business activity may not be used to offset salaries, wages, commissions, or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits.~~

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(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.

(d) Affiliated corporation may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing the net profits or the Business Allocation Percentage Formula of another.

~~(e)~~ (e) The taxpayer making a return shall, at the time of the filing thereof, pay to the Village 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 Section 7 of this ordinance chapter, or where any portion of said tax has been paid by the taxpayer pursuant to the provisions of Section 8 of this ordinance chapter ~~or where an income tax has been paid to another municipality~~, credit for the amount so paid in accordance with Section 16 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

~~(e)~~ (f) 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)~~ (g) The ~~Director of Finance~~ Commissioner of Taxation 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 Federal Income Tax Return~~ provided the request of the taxpayer for extension is made in writing and received on or before the original due date of the return. ~~The Director of Finance may require a tentative return.~~ The request for such extension must be accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally or may be, due. Interest shall be assessed if the tax due is not paid on or before the original due date of the return. No penalty ~~or interest~~ shall be assessed in those cases in which the

return is filed and the final tax paid within the period as extended.

(h) When the last day for filing a return falls upon a Saturday, Sunday or federal holiday, the taxpayer shall be permitted to file on or before the first business day following said Saturday, Sunday, or federal holiday without penalty.

SECTION 6. 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 subject to the requirement and/or limitations contained in Section 5, such amended return shall be on a form obtainable on request from the ~~Director of Finance~~ Commissioner of Taxation. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

Within three (3) 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 pay any additional tax shown due thereon or make a claim for refund of any overpayments.

No refund shall be allowed unless a written request be presented to the ~~Director of Finance~~ Commissioner of Taxation within three (3) years of the date of the taxes which were due.

SECTION 7. 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 1% of the gross salaries, wages, commissions or other compensation due by the said employer to said employee and shall, on or before the last day of the month following the close of such 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 in accordance with the payment schedule prescribed by subsections (a), (b) and (c) hereof. 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 this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds. ~~make a return and pay to the Village the amount of taxes so deducted and withheld, whether or not such taxes have in fact been withheld.~~

Employers shall pay to the Village all income taxes withheld or required to be deducted and withheld on either a semimonthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:

(a) Semimonthly payments of the taxes deducted are to be made by an employer if (1) the total taxes deducted in the prior calendar year were \$12,000.00 or more, or (2) the amount of taxes deducted for any month in the preceding quarter exceeded \$1,000.00. Such payment shall be paid to the Commissioner of Taxation within five banking days after the fifteenth and the last day of each month.

(b) Monthly payments of taxes withheld shall be made by an employer if the

taxes withheld in the prior calendar year were less than \$12,000.00 but more than \$1,199 or if the taxes withheld during any month for the preceding quarter exceeded \$100.00. Such payments shall be paid to the Village within fifteen days after the close of each calendar month. However, those taxes accumulated for the third month of a calendar quarter by employers making monthly payments pursuant to this paragraph need not be paid until the last day of the month following such quarter.

(c) All employers not required to make semimonthly or monthly payments of taxes withheld under (a) and (b) of this section shall make quarterly payments no later than the last day of the month following the end of each quarter.

The employer shall make and file a return on a form furnished by the ~~Director of Finance Commissioner of Taxation~~, showing the amount of tax deducted by said employer from the salaries, wages, commissions or other compensation of any employee and paid by the employer to the Village Commissioner of Taxation. ~~Such employer's return shall be accepted as the return required of an employee whose sole income subject to the tax under this ordinance is the salaries, wages, commissions, and other compensation returned by said employer.~~

Each employer on or before the 31st day of January, unless written request for thirty (30) days extension is made to and granted by the ~~Director of Finance Commissioner of Taxation~~ following any calendar year in which such deductions have been made, or should have been made by any employer, shall file with the ~~Director of Finance Commissioner of Taxation~~ an information return (Village withholding statement of wages paid and Village Income tax withheld) for each employee from whom income tax have been or should have been withheld showing the name and address of the employee, the total amount of salaries, wages, commissions and other compensation paid said employee during the year, and the amount of Village Income tax withheld from each employee.

~~Where a resident of the Village performs service for his employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the Village to the extent of the tax liability in the other municipality.~~

The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this chapter. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due.

SECTION 8. Declarations.

Every person who anticipates any taxable income which is not subject to Section 7 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 2 hereof, shall file a declaration setting forth such 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, salaries, commissions or other compensation from which the tax will be withheld and remitted to the Village in accordance with Section 7 hereof, such person need not file a declaration.

Such declaration shall be filed on or before April ~~30th~~ 15th of each year during the life of this ~~ordinance~~ chapter or on or before the ~~last~~

fifteenth day of the fourth month the taxpayer becomes subject to tax for the first time.

Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the ~~last~~ fifteenth day of the fourth month after the beginning of such fiscal year or period.

Such declaration shall be filed upon a form furnished by, or obtainable from the ~~Director of Finance Commissioner of Taxation~~, provided, however, credit shall be taken for the Village tax to be withheld from any portion of such income. ~~In accordance with the provisions of Section 7 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.~~

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

Such declarations of estimated tax to be paid the Village shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax and at least a similar amount shall be paid on or before the ~~last~~ fifteenth day of the ~~seventh~~ 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.

On or before the ~~last~~ 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 ~~4~~ 5 hereof.

A declaration of estimated tax which is less than 80% of the tax shown on the final return and less than 100% of the total tax obligation of the preceding taxable year, shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 13 hereof. A taxpayer whose total annual tax obligation is Fifty Dollars (\$50.00) or less, shall not be required to file or pay such declarations of estimated tax.

SECTION 9. Duties of ~~Finance Director~~ Commissioner of Taxation.

(a) It shall be the duty of the ~~Finance Director~~ Commissioner of Taxation to collect and receive the tax imposed by this Title chapter in the manner prescribed by ~~law~~, or herein, and it shall also be his duty to keep an accurate record showing the payment received by him from each taxpayer and the date of said payment.

The ~~Finance Director~~ Commissioner of Taxation may delegate the duties and responsibilities to collect, receive, account for, and enforce the taxes imposed by this ~~ordinance~~ chapter, to another person or entity charged with such duties for other municipalities, or to be charged with such duties for the Village.

(b) The ~~Finance Director~~ Commissioner of Taxation, or his delegate, is hereby charged with the administration and enforcement of the provisions of this Title and they are hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of said chapter, including provisions for the

re-examination and correction of returns and payments.

In any case where a taxpayer has failed to file a return to pay the tax due on a return or has filed a return which does not show the proper amount of tax due, the ~~Finance Director~~ Commissioner of Taxation or his delegate may determine the amount of tax appearing to be due the Village from the taxpayer based on any information in his possession and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

SECTION 10. Investigative Powers of the ~~Finance Director~~ Commissioner of Taxation.

The ~~Finance Director~~ Commissioner of Taxation or his delegate, 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 who the ~~Finance Director~~ Commissioner of Taxation or his delegate believes is subject to the provisions of this ~~Title (ordinance)~~ chapter for the purposes of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this ~~Title (ordinance)~~ chapter, and every such employer supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the ~~Finance Director~~ Commissioner of Taxation or his delegate, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

The ~~Finance Director~~ Commissioner of Taxation and his delegate are each 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 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 him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

SECTION 11. Tax Information Confidential.

Any information gained as a result of any returns, investigations, hearing, or verification required or authorized by this ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. The Commissioner of Taxation may furnish the Bureau of Internal Revenue, Treasury Department of the United States with copies of the returns filed. Any person divulging such information in violation of this ~~ordinance~~ chapter, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine ~~or penalty~~ of not more than Fifty Dollars ~~(\$50.00)~~ Five Hundred Dollars ~~(\$500.00)~~ and/or imprisoned for not more than six (6) months, or both. Each disclosure in violation hereof shall constitute a separate offense and may be cause for termination of office.

SECTION 12. Collection of Unpaid Taxes.

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. The ~~Director of Finance~~ Commissioner of Taxation is authorized, in addition to his other duties, to institute civil lawsuits to collect delinquent taxes due and owing to the Village by virtue of the provisions of this ordinance.

The ~~Director of Finance~~ Commissioner of Taxation is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of State Statutes of Limitations.

SECTION 13. 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 _____ percent per annum, and the taxpayers upon whom said taxes are imposed by this ordinance shall be liable, in addition thereto, to a penalty of ten percent (10%) of the amount of the unpaid tax result in the assessment of a~~ penalty of ten percent (10%) of the amount of unpaid tax.

A penalty shall not be assessed on an additional tax assessment made by the ~~Director of Finance~~ Commissioner of Taxation when a return has been filed in good faith and the tax paid thereon within the time prescribed by the ~~Director of Finance~~ Commissioner of Taxation; 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.

(b) In the event that a taxpayer has a duty as imposed by this chapter to file a return and does not do so, a penalty of twenty-five dollars (\$25.00) per month shall be assessed the day after the due date of the filing and for each month thereafter, not to exceed One Hundred Fifty Dollars (\$150.00). This penalty shall not apply to taxpayers required to file an individual separate or individual joint return.

(c) In the event that the taxpayer has properly requested an extension of filing time, no penalty shall be assessed in those cases in which the return is filed and the final tax, if any, is paid within the period as extended.

(d) All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax. Such interest shall be computed by using the federal short-term rate, rounded to the nearest whole number percent plus three (3) percent for interest that accrues during the following calendar year.

(1) Such interest rate shall be made public on the thirtieth day of October of each year.

(2) Such interest rate computation shall be utilized for all taxes due on or after July 1, 1995.

(3) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of three (3) years or less, as determined under Section 1274 of the "Internal Revenue Code of 1966" 100 Stat. 2085, 26 USC 1274.

SECTION 14. Violations - Penalties.

~~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 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 Director of Finance, his 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 ordinance shall be deemed guilty of a misdemeanor 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 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 declaration form, shall not excuse him from making a return or declaration or paying the tax levied under this ordinance.~~

(a) No person subject to the provisions of this chapter shall do any of the following:

- (1) Fail, neglect, or refuse to make and file any return or declaration.
- (2) Fail, neglect, or refuse to pay the tax, interest, or penalty imposed by this chapter.
- (3) Being a corporation or business association, fail, neglect or refuse to permit the Commissioner of Taxation or his duly authorized agent or employee the opportunity to examine their books, records, and papers by failing to produce such information at the reasonable time and place designated pursuant to this chapter.
- (4) Knowingly make and file an incomplete, false, or fraudulent return.

(b) No employer shall fail, neglect, or refuse to deduct and withhold the taxes or pay the taxes imposed by this chapter.

(c) The failure of an employer or taxpayer to receive or procure a return or declaration form, shall not excuse either one from making a return or declaration or paying the tax levied under this chapter.

(d) Except as otherwise provided in this chapter, whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree and upon conviction thereof, shall be fined in a sum not to exceed Two Hundred Fifty Dollars (\$250.00) or imprisoned for a period not to exceed Thirty (30) days or both for a first offense, and shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than six (6) months for a second or subsequent conviction.

SECTION 15. Exemptions.

The provisions of this ordinance chapter shall not be construed to tax the military pay or allowances of members of the armed forces of the United States, or the income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt

activities.

The tax provided herein shall not be levied on the personal earning of any natural person under 18 years of age.

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

SECTION 16. No Credit for Tax Paid Another Municipality.

~~No individual taxpayer who resides in the Village and who received net profits, salaries, wages, commissions, rents 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, rents 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. The tax imposed hereunder shall be due to the Village in addition to any income taxes which may have been paid and collected by another municipality. There shall be no credit allowed for tax paid to another municipality.~~

SECTION 17. Contract Provisions.

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

"Said _____ hereby further agrees to withhold all Village income taxes due or payable under ~~the provisions of Income Tax Ordinance~~ provisions of the Village Code for wages, salaries, and commissions paid to its employees and further agrees that any of its sub-contractors shall be required to agree to withhold any such Village income taxes due under such ~~ordinance chapter~~ for services performed under this contract."

SECTION 18. Allocation of Funds.

The funds collected under the provisions of this ordinance shall be ~~deposited applied in the General Fund and said fund shall be disbursed~~ for the following purposes and in the following order, to wit:

(a) Such part thereof as shall be necessary to defray the costs of collecting the taxes levied by this ~~ordinance chapter~~ and the cost of ~~establishing the Department of Taxation and administering and enforcing the provisions thereof.~~

(b) The balance of such fund, ~~after providing for the requirements in paragraph 1 of this section,~~ shall be transferred to deposited in the General Fund of the Village for the purpose of paying the costs of general Village operations, plus maintenance, equipment, capital improvements, and reduction of debt, or for the purpose of transfer to the appropriate funds for such purposes as authorized by law.

SECTION 19. Penalty and Interest on unpaid, withheld taxes.

(a) All taxes deducted by an employer or required to be deducted and withheld by an employer pursuant to this chapter remaining unpaid after they become due shall result in the assessment of a penalty of fifty percent (50%) of the amount of the unpaid tax.

(b) All taxes deducted by an employer or required to be deducted and withheld by an employer and remaining unpaid after they become due pursuant to this chapter, shall bear interest on the amount of unpaid tax. Such interest shall be computed using the federal short-term rate, rounded to the nearest whole number percent plus three (3) percent for interest that accrues during the following calendar year.

- (1) Such interest shall be made public on the thirtieth day of October of each year.
- (2) Such interest rate computation shall be utilized for all taxes imposed under this chapter.
- (3) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of three (3) years or less, as determined under Section 1274 of the "Internal Revenue Code of 1966" 100 Stat. 2085, 26 USC 1274.

SECTION 20: Saving Clause.

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

SECTION 21: This ordinance shall take effect at the earliest opportunity allowed by law.

Upon roll call on the adoption of the above ordinance, the vote was as follows:

Fred Eiginger Yea Anice Parrett Yea
Jackie Miller Yea Keith Goldhardt Yea
Don Gibson Yea _____ Yea

Adopted 6/6/95
Date

Alvin L. Coy
Mayor

Attest: Mildred L. Miller
Clerk

Donald A. Gibson
President of Council

APPROVED AS TO FORM:

J. J. Bruchon
Village Solicitor
