

Bellville, OH Code of Ordinances

CHAPTER 35: TAXATION, FUNDS, AND FINANCES

Section

Miscellaneous Provisions

- 35.001 Safekeeping and deposit of monies received
- 35.002 Safe deposit boxes; use; access
- 35.003 Negotiability of checks
- 35.004 Official depository of funds

Funds

- 35.015 Interest or other income on investments shall accrue only to the benefit of the entity that generated the investment funds
- 35.016 Computer Fund
- 35.017 Enforcement and Education Fund
- 35.018 Law Enforcement Trust Fund
- 35.019 Municipal Swimming Pool Fund
- 35.020 Cemetery Land Acquisition Fund
- 35.021 Cemetery Endowment Fund
- 35.022 Federal General Revenue Sharing Trust Fund
- 35.023 Fire Insurance Trust Fund

Hotel/Motel Tax

- 35.035 Imposition of tax
- 35.036 Transient guest to pay tax
- 35.037 Refund of illegal or erroneous payments
- 35.038 Required records; inspection and destruction
- 35.039 Returns required
- 35.040 Liability, assessment, and petition for reassessment; penalties
- 35.041 Four-year limitation for assessments; exceptions
- 35.042 Tax paid by transient guest; false evidence of tax-exempt status

- 35.043 Vendor to collect tax; prohibition against rebates
- 35.044 Reports filed; fraudulent reports
- 35.045 Personal liability of corporate officers or employees
- 35.046 Definitions

Community Reinvestment Area

- 35.060 Community reinvestment area (CRA) designated
- 35.061 Identification of CRA
- 35.062 All properties in CRA eligible
- 35.063 Tax exemption
- 35.064 Application fee, monitoring fee for commercial and industrial projects
- 35.065 Housing Officer designated
- 35.066 CRA Housing Council; Tax Incentive Review Council
- 35.067 Reevaluation of CRA
- 35.068 Annual inspections

Road and Water Impact Fees

- 35.080 Establishment; title
- 35.081 Purpose and authority
- 35.082 Definitions
- 35.083 Interpretation
- 35.084 Development required to pay impact fee
- 35.085 Site impact analysis
- 35.086 Payment of the impact fee
- 35.087 Recapture and other agreements authorized
- 35.088 Impact fee schedule
- 35.089 Individual assessment of impact fees
- 35.090 Credits
- 35.091 Establishment of impact fee use districts
- 35.092 Use of funds collected
- 35.093 Refunds

35.094 Formula factors to be reassessed every two years

Income Tax

35.125 Title and citations

35.126 Construction of language; definitions

35.127 Income tax levy

35.128 Collection at source

35.129 Tax filing provisions

35.130 Declarations

35.131 Administration and enforcement

35.132 Department of Taxation

35.133 Board of Income Tax Appeal; representation

35.134 Penalties and violations

35.135 Confidentiality

35.136 Effective date

35.137 Rules and Regulations for income tax, under authority of Ordinance 32-72, adopted

35.999 Penalty

Appendix A: CRA Map

Editor's note:

Ordinance 33-01, the income tax ordinance, codified hereinbelow in §§ 35.125 through 35.136, references and amends Ordinance 37-68 and Ordinance 32-72. The following ordinances, enacted prior to Ordinance 33-01 that amended Ordinance 37-68 and Ordinance 32-72, are: Ord. 47-71, passed 11-15-1971 Ord. 24-80, passed 5-20-1980; Ord. 47-80, passed 12-2-1980; Ord. 33-81, passed 8-18-1981; Ord. 57-81, passed 12-29-1981; Ord. 4-82, passed 2-16-1982; Ord. 85-24, passed 11-19-1985; Ord. 24-87, passed 6-16-1987; Ord. 32-87, passed 7-7-1987; Ord. 41-87, passed 9-1-1987; Ord. 88-2, passed 2-2-1988; Ord. 3-91, passed 2-5-1991; Ord. 23-95, passed 8-21-1995; Ord. 39-95, passed 12-4-1995; Ord. 11-97, passed 2-17-1997; Ord. 33-97, passed - [1997]; Ord. 08-99, passed 4-19-1999; Ord. 34-00, passed 12-18-2000.

MISCELLANEOUS PROVISIONS

§ 35.001 SAFEKEEPING AND DEPOSIT OF MONIES RECEIVED.

Cash payments to or other monies payable to and received by the village shall be deposited in the village's depository bank by the Fiscal Officer according to the following schedule:

(A) Monies greater than \$1,000 shall be deposited the next business day; and

(B) Monies less than \$1,000 shall be so deposited within three business days.

(Ord. 02-00, passed 1-17-2000)

§ 35.002 SAFE DEPOSIT BOXES; USE; ACCESS.

(A) Village safe deposit boxes shall not be accessed without the presence of two authorized village employees. A written activity report shall be made and signed after each transaction. The report shall be kept on file with the Assistant Fiscal Officer.

(B) Council shall by motion designate the authorized employees who shall have access to the safe deposit boxes.

(Res. 15-08, passed 4-21-2008)

§ 35.003 NEGOTIABILITY OF CHECKS.

(A) Checks issued by the village shall be negotiable for a period of 90 days from the date of the check and thereafter shall be considered void and nonnegotiable.

(B) Any person being the payor of a voided check may present the check for payment to the Village Fiscal Officer or his or her designee.

(C) This section shall apply to checks printed with the notice of negotiability limited to 90 days.

(Ord. 08-34, passed 10-6-2008)

§ 35.004 OFFICIAL DEPOSITORY OF FUNDS.

(A) The Fiscal Officer is directed and authorized to solicit applications from eligible institutions to be depositories of the village's interim and active funds for five-year terms, as required by law.

(B) (1) On estimate duly made, funds of the village aggregating a maximum amount as determined by Council shall be awarded as inactive deposits as determined by Council.

(2) The inactive funds of the village shall be deposited in a financial institution as required by law.

(3) The financial institutions offering the highest rate of interest per annum on inactive deposits shall be made the depository or depositories of funds of the village for a period of five-year terms, as required by law.

(4) Bids will be received, and notice to all financial institutions in the village and such other financial institutions as may be necessary, as provided by law. The Council reserves the right to reject any and all bids.

(5) The funds of the village shall not be deposited in any financial institution until a bond or securities have been deposited with the Fiscal Officer of the village as provided by law.

(C) Any and all endorsements for or on behalf of this village upon checks, drafts, notes, or instruments for deposit or collection made with the bank may be written or stamped endorsements of the village without any designation of the person making the endorsements.

(D) The bank shall be promptly notified in writing by the Fiscal Officer or any other officer of this village of any change in these resolutions or village bylaws and that, until it has actually received this notice in writing, the bank is authorized to act in pursuance of this section.

(Res. 42-72, passed 12-15-1972; Res. 01-2012, passed 1-3-2012; Res. 02-2012, passed 1-3-2012)

FUNDS

§ 35.015 INTEREST OR OTHER INCOME ON INVESTMENTS SHALL ACCRUE ONLY TO THE BENEFIT OF THE ENTITY THAT GENERATED THE INVESTMENT FUNDS.

(A) It is hereby determined that monies earned on the investment of funds generated by any entity of the village, and regardless of the nature of the investment or the return, shall accrue and be payable only to the entity which generated the investment funds. Whenever practical, the funds shall be separated into individual accounts by the Fiscal Officer for investment or deposit purposes. When the funds are not separated for investment or deposit purposes, a proration of any income received on the joint investments or deposits shall be made between the various contributors to the fund, which proration shall be based upon the percentage of monies contributed by each village entity.

(B) This section shall prevent the operation of state law which provides that returns on investment of municipal funds not otherwise designated shall accrue to the General Fund of the municipal corporation.

(Ord. 35-78, passed 9-1-1978)

§ 35.016 COMPUTER FUND.

The Fiscal Officer is authorized and directed to establish a separate Computer Fund, which shall be Fund # 2907.

(Ord. 10-66, passed 5-17-2010)

§ 35.017 ENFORCEMENT AND EDUCATION FUND.

The Fiscal Officer is authorized and directed to establish an Enforcement and Education Fund and to make the required distributions therefrom pursuant to R.C. § 4511.19.

(Ord. 14-06, passed 4-3-2006)

§ 35.018 LAW ENFORCEMENT TRUST FUND.

- (A) A Law Enforcement Trust Fund is established.
- (B) Money recoveries awarded by the Common Pleas Court shall be deposited into the Trust Fund.
- (C) The Trust Fund shall be used only for the Village Police Department.
- (D) No monies shall be used by the Village Police Department until the Department has adopted a written internal control policy that addresses the uses of the monies. The policy shall comply with the requirements of R.C. § 2981.13.
- (E) The Trust Fund shall not be used to meet the operating costs of the Police Department.
- (F) The Department shall file with Council each year an annual report by no later than January 31 verifying that the Trust Fund proceeds were expended only for the purposes authorized by R.C. § 2981.13 and specifying the amount expended for each authorized purpose.
- (G) The Department shall file with the Ohio Attorney General each year an annual report by no later than March 1 stating the receipt of Trust Funds and the uses of any proceeds or forfeited monies made in the prior calendar year.

(Ord. 30-05, passed 8-1-2005)

§ 35.019 MUNICIPAL SWIMMING POOL FUND.

- (A) A special fund known as the Municipal Swimming Pool Fund is established subject to approval of the Auditor of State.
- (B) The Fiscal Officer is directed to deposit into this Fund gifts, grants, and other appropriations designated specifically for the construction, renovation, maintenance, and operation of the municipal swimming pool.

(Ord. 27-02, passed 9-16-2002)

§ 35.020 CEMETERY LAND ACQUISITION FUND.

Commencing January 1, 2011, all monies received from the sale of cemetery lots shall be set aside and deposited into a separate fund for cemetery land acquisition.

(Ord. 2010-94, passed 12-6-2010)

§ 35.021 CEMETERY ENDOWMENT FUND.

- (A) The Trustees of the Village Cemetery are authorized and directed to expend the income from the Village Cemetery Endowment Fund for perpetual care of the lot or lots designated by the owner(s) or donor(s) in accordance with law.

(B) The Trustees of the Village Cemetery may accept donations, gifts, and bequests for which the principal and interest may be used for the enlargement, improvement, embellishment, or care of the cemetery grounds generally.

(Ord. 3-94, passed 4-4-1994)

§ 35.022 FEDERAL GENERAL REVENUE SHARING TRUST FUND.

(A) There is hereby established a special fund to be known as the Federal Revenue Sharing Trust Fund under the provisions of R.C. § 5705.12.

(B) All monies paid to the village under the Local Government Fiscal Assistance Fund, being 31 U.S.C. §§ 6701 to 6720, shall be credited to this Fund and expended in accordance with the terms and provisions of that federal Act.

(Ord. 40-72, passed 12-1-1972)

§ 35.023 FIRE INSURANCE TRUST FUND.

(A) There is hereby created a Fire Insurance Trust Fund which shall be maintained separately from all other village funds as a trust fund for the purposes hereinafter enumerated.

(B) For the purposes specified in R.C. § 3929.86, the Fiscal Officer of the village is hereby designated as the officer to administer this Fire Insurance Trust Fund.

(C) In the event of any loss by fire within the village occurring after the effective date of this section, when the amount of the loss agreed to between the named insured or insureds and the company or companies insuring the loss equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or structure insured, the insurance company or companies, in accordance with R.C. § 715.26(F), shall transfer from the insurance proceeds to the Fiscal Officer of the village in the aggregate \$1,000 for each \$20,000, and each fraction of that amount, of a claim, or if, at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies, the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure, shall transfer from the insurance proceeds the amount specified in the estimate.

(1) This transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure.

(2) The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure after the transfer, and the Fiscal Officer of the village shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the village has not commenced to remove, repair, or secure the building or other structure.

(D) Upon receipt of proceeds by the village as authorized by this section and R.C. § 3929.86, the Fiscal Officer of the village shall place the proceeds in the Fire Insurance Trust Fund to be used solely as security against the total cost of removing, repairing, or securing incurred by the village pursuant to R.C. § 715.261.

(1) When transferring the funds as required by this section, an insurance company shall provide the Fiscal Officer of the village with the name and address of the named insured or insureds, whereupon the Fiscal Officer of the village or his or her designee shall contact the named insured or insureds, certify that the proceeds have been received by the village, and notify them that the following procedures will be followed.

(2) The fund shall be returned to the named insured or insureds when repairs or removal, or securing of the building or other structure have been completed and the required proof received by the designated officer, if the village has not incurred any costs for the repairs, removal, or securing. If the village has incurred any costs for repairs, removal, or securing of the building or other structure, the costs shall be paid from the Fund and if excess funds remain, the village shall transfer the remaining funds to the named insured or insureds. Nothing in this section shall be construed to limit the ability of the village to recover any deficiency under R.C. § 715.261.

(3) Nothing in this section shall be construed to prohibit the village and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.

(Ord. 23-87, passed 5-5-1987)

HOTEL/MOTEL TAX

§ 35.035 IMPOSITION OF TAX.

(A) Effective September 1, 1995, for the purpose of providing revenue with which to meet the needs of the village for use of the General Fund of the village, including providing revenue to pay current expenses and to provide for police and fire protection, an excise tax of 3% shall be and is levied on transactions by which lodging by a hotel or transient accommodation is or is to be furnished to transient guests pursuant to R.C. § 5739.02(C)(1).

(B) The tax applies and is collectible at the time the lodging is furnished regardless of the time when the price is paid. The tax does not apply to lodging furnished to the state, to any of the state's political subdivisions, or to any charitable organization for the lodging of transient indigent individuals.

(C) For the purpose of the proper administration of this subchapter and to prevent the evasion of the tax, it is presumed that all lodging furnished by hotels or transient accommodations in this village to transient guests is subject to tax until the contrary is established.

(D) Revenues generated by the provisions of this subchapter shall be disbursed from the General Fund at the discretion of Council.

(Ord. 21-95, passed 8-21-1995)

§ 35.036 TRANSIENT GUEST TO PAY TAX.

(A) The tax imposed by this subchapter shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

(B) If the transaction is claimed to be exempt, the transient guest shall furnish to the vendor, and the vendor shall obtain from the transient guest, a statement specifying the reason that the sale is not legally subject to the tax. If no statement is obtained, it shall be presumed the tax applies.

(Ord. 21-95, passed 8-21-1995)

§ 35.037 REFUND OF ILLEGAL OR ERRONEOUS PAYMENTS.

The Fiscal Officer shall refund to vendors the amount of taxes paid illegally or erroneously or paid on any illegal or erroneous assessment where the vendor has not reimbursed himself or herself from the transient guest. When an illegal or erroneous payment or assessment was not paid to a vendor but was paid by the transient guest directly to the Finance Director, he or she shall refund the appropriate amount to the transient guest. Applications shall be filed with the Finance Director on the form prescribed by him or her, within 90 days from the date it is ascertained that the assessment or payment was illegal or erroneous. However, in any event the application for refund shall be filed with the Finance Director within four years from the date of the illegal or erroneous payment of the tax. On filing of the application, the Finance Director shall determine the amount of refund due and draw a warrant for that amount to the person claiming the refund. The Finance Director shall make these payments from a tax refund account as established by this subchapter and the same is hereby established.

(Ord. 21-95, passed 8-21-1995)

§ 35.038 REQUIRED RECORDS; INSPECTION AND DESTRUCTION.

Each vendor shall keep complete and accurate records of lodgings furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and any other pertinent documents. If the vendor furnishes lodging not subject to the tax, the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of identity, or the nature of the transaction if exempted for any other reason. These records and other documents shall be open during business hours to the inspection of the Finance Director and shall be preserved for a period of not less than four years, unless the Finance Director, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

(Ord. 21-95, passed 8-21-1995)

§ 35.039 RETURNS REQUIRED.

Each vendor shall file a monthly return on forms prescribed by the Finance Director showing receipts from furnishing lodging, the amount of tax due from the vendor to village for the period covered by the return, and other information as the Finance Director deems necessary for the proper administration of this subchapter. The monthly return is due on or before the fifteenth day of each month during a calendar year. The Finance Director may extend the time for making and filing returns. Returns shall be filed by mailing the same to the Finance Director, together with payment of the amount of tax shown to be due thereon. The Finance Director shall stamp or otherwise mark on all returns the date received by him or her and shall also show thereon by

stamp or otherwise the amount of payment received with the return. Any vendor who fails to file a return under this chapter shall forfeit and pay into village treasury the sum of 1% of the tax due. The Finance Director, if he or she deems it necessary in order to ensure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the vendor or his or her authorized agent.

(Ord. 21-95, passed 8-21-1995)

§ 35.040 LIABILITY, ASSESSMENT, AND PETITION FOR REASSESSMENT; PENALTIES.

(A) If any vendor collects the tax imposed by or pursuant to this subchapter and fails to remit the same to village as prescribed, he or she shall be personally liable for any amount collected which he or she failed to remit. The Finance Director may make an assessment against the vendor based upon any information in the Finance Director's possession. If any vendor fails to collect the tax or any transient guest fails to pay the tax imposed by or pursuant to this chapter on any transaction subject to the tax, the vendor or transient guest shall be personally liable for the amount of the tax applicable to the transaction. The Finance Director may make an assessment against either the vendor or transient guest, as the facts may require, based upon any information in his or her possession. An assessment against a vendor, in cases where the tax imposed by or pursuant to this subchapter has not been collected or paid, shall not discharge the transient guest's liability to reimburse the vendor for the tax applicable to that transaction.

(B) In each case the Finance Director shall give to the vendor or transient guest assessed written notice of the assessment. The notice may be served upon the vendor or transient guest personally or by registered or certified mail. An assessment issued against either, pursuant to the provisions of this subchapter, shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any vendor or transient guest for the tax due on a particular transaction if the tax has actually been paid by another.

(C) The Finance Director may make an assessment against any vendor who fails to file a return required by this subchapter or fails to remit the proper amount of tax in accordance with this subchapter. When information in the possession of the Finance Director indicates that the amount required to be collected is, or should be, greater than the amount remitted by the vendor, the Finance Director may, upon the basis of test checks of a vendor's business for a representative period which are hereby authorized, determine the ratio which the tax required to be collected under this subchapter bears to the hotel's or transient accommodation's lodgings which determination shall be the basis of an assessment as herein provided in this subchapter. Notice of the assessment shall be made in the manner prescribed in this subchapter.

(D) Unless the vendor or transient guest, to whom the notice of assessment is directed, files within 30 days after service thereof, either personally or by registered or certified mail, a petition in writing, verified under oath by the vendor, transient guest, or his or her authorized agent, having knowledge of the facts, setting forth with particularity the items of the assessment objected to, together with the reasons for the objections, the assessment shall become conclusive and the amount thereof shall be due and payable, from the vendor or transient guests so assessed, to the Finance Director. When a petition for reassessment is filed, the Finance Director shall assign a time and place for the hearing of same and shall notify the petitioner thereof by

registered or certified mail, but the Finance Director may continue the hearings from time to time if necessary.

(E) A penalty of 18% shall be added to the amount of every assessment made under this subchapter. The Finance Director may adopt and promulgate rules and regulations providing for the remission of penalties added to assessments made under this chapter.

(F) When any vendor or transient guest files a petition for reassessment as provided in this subchapter, the assessment made by the Finance Director, together with penalties thereon, shall become due and payable within three days after notice of the findings made at the hearing has been served, either personally or by registered or certified mail, upon the party assessed.

(Ord. 21-95, passed 8-21-1995)

§ 35.041 FOUR-YEAR LIMITATION FOR ASSESSMENTS; EXCEPTIONS.

(A) No assessment shall be made or issued against a vendor or transient guest for any tax imposed by or pursuant to this subchapter more than four years after the return date for the period in which the lodging was furnished, or more than four years after the return for the period is filed, whichever is later.

(B) This section does not bar an assessment:

(1) When the Finance Director has substantial evidence of amounts of taxes collected by a vendor from a transient guest's lodging which were not returned to the village;

(2) When the vendor assessed failed to file a return as required; or

(3) When the Finance Director and the vendor or guest waive the limitation in writing.

(Ord. 21-95, passed 8-21-1995)

§ 35.042 TAX PAID BY TRANSIENT GUEST; FALSE EVIDENCE OF TAX-EXEMPT STATUS.

No transient guest shall refuse to pay the full and exact tax as required by this subchapter or shall present to the vendor false evidence indicating that the lodging as furnished is not subject to the tax.

(Ord. 21-95, passed 8-21-1995) Penalty, see § 35.999

§ 35.043 VENDOR TO COLLECT TAX; PROHIBITION AGAINST REBATES.

No vendor shall fail to collect the full and exact tax as required by this subchapter. No vendor shall refund, remit, or rebate to a transient guest, either directly or indirectly, any of the tax levied pursuant to this subchapter or make in any form of advertising, verbal or otherwise, any statements which might imply that he or she is absorbing the tax, or paying the tax for the transient guest by an adjustment of prices, or furnishing lodging at a price including the tax, or rebating the tax in any other manner.

(Ord. 21-95, passed 8-21-1995) Penalty, see § 35.999

§ 35.044 REPORTS FILED; FRAUDULENT REPORTS.

(A) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this subchapter or file or cause to be filed any incomplete, false, or fraudulent return, report, or statement.

(B) If any vendor required to file monthly returns under this subchapter fails, on two consecutive months or on three or more months within a 12-month period, to file the returns when due or to pay the tax thereon, or if any other vendor authorized by the Finance Director to file returns at less frequent intervals fails, on two or more occasions within a 24-month period, to file the returns when due or to pay the tax due thereon, the Finance Director may require the vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one year, as determined by the Finance Director from a review of returns or other information pertaining to the vendor, which amount shall in no event be less than \$1,000. The security may be in the form of a payment to be applied to pay the tax due on subsequent returns, or a corporate surety bond, satisfactory to the Finance Director, conditioned upon payment of the tax due with the returns from the vendor. The security shall be filed within ten days following the vendor's receipt of the notice from the Finance Director of its requirements.

(C) A corporate surety bond filed under this section shall be returned to the vendor if, for a period of 12 consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this subchapter.

(Ord. 21-95, passed 8-21-1995)

§ 35.045 PERSONAL LIABILITY OF CORPORATE OFFICERS OR EMPLOYEES.

If any vendor corporation required to file returns and remit tax due to the village under the provisions of this subchapter fails for any reason to make the filing or payment, any of its officers or employees charged with the responsibility of filing returns and making payments shall be personally liable for that failure. The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit tax due. The sum due for this liability may be collected by assessment in the manner provided in this subchapter.

(Ord. 21-95, passed 8-21-1995)

§ 35.046 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FINANCE DIRECTOR. The person designated by Council to collect and administer the tax.

HOTEL. Every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms

are used for the accommodation of the guests, whether the rooms are in one or several structures. ***HOTEL*** includes ***MOTEL***.

TRANSIENT ACCOMMODATIONS. Every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests in which four or less rooms are used for the accommodation of the guests, whether the rooms are in one or several structures.

TRANSIENT GUESTS. Persons occupying a room or rooms for sleeping accommodations for less than 30 consecutive days.

VENDOR. The person who is the owner or operator of the hotel or transient accommodation and who furnishes the lodging.

(Ord. 21-95, passed 8-21-1995)

COMMUNITY REINVESTMENT AREA

§ 35.060 COMMUNITY REINVESTMENT AREA (CRA) DESIGNATED.

The area designated as the Village Historic District Community Reinvestment Area constitutes an area in which housing facilities or structures of historical significance are located, and in which new construction or repair of existing facilities has been discouraged.

(Ord. 09-33, passed 7-6-2009)

§ 35.061 IDENTIFICATION OF CRA.

(A) Pursuant to R.C. § 3735.66, the Village Historic District Community Reinvestment Area is hereby established in the following described area: See map in Appendix A to this chapter that adopted by reference and made a part hereof as if appearing in total.

(B) The Community Reinvestment Area is approximately depicted as the crosshatched area on the map attached to Ordinance 09-33 (see Appendix A to this chapter) and by this reference incorporated herein. Only residential, commercial, and/or industrial properties consistent with the applicable zoning regulations within the designated Community Reinvestment Area will be eligible for exemptions under this program.

(Ord. 09-33, passed 7-6-2009)

§ 35.062 ALL PROPERTIES IN CRA ELIGIBLE.

All properties identified in Appendix A to this chapter as being within the designated Community Reinvestment Area are eligible for this incentive (the village may determine that all or any combination of project types, residential, commercial, and industrial, are eligible). This proposal is a public/private partnership intended to promote and expand conforming uses in the designated area. As part of the project, the village intends to undertake supporting public improvements in the designated area.

(Ord. 09-33, passed 7-6-2009)

§ 35.063 TAX EXEMPTION.

(A) Within the Community Reinvestment Area, the percentage of the tax exemption on the increase in the assessed valuation resulting from improvements to commercial and industrial real property and the term of those exemptions shall be negotiated on a case-by-case basis in advance of construction or remodeling occurring according to the rules outlined in R.C. § 3735.67. The results of the negotiation as approved by this Council will be set in writing in a Community Reinvestment Area Agreement as outlined in R.C. § 3735.671. For residential property, a tax exemption on the increase in the assessed valuation resulting from the improvements as described in R.C. § 3735.67 shall be granted upon application by the property owner and certification thereof by the designated Housing Officer for the following periods:

(1) Ten years, for the remodeling of every residential dwelling unit containing not more than two housing units and upon which the cost of remodeling is at least \$2,500, as described in R.C. § 3735.67, and with the exemption being 100% for each of the ten years;

(2) Ten years, for the remodeling of every residential dwelling unit containing more than two housing units and upon which the cost of remodeling is at least \$5,000, as described in R.C. § 3735.67, and with the exemption being 100% for each of the ten years;

(3) Fifteen years, for the construction of dwellings containing not more than two housing units, as described in R.C. § 3735.67, with the exemption being 100% for each of the 15 years;

(4) Up to and including ten years, and up to and including 100% for the remodeling of existing commercial and industrial facilities and upon which the cost of remodeling is at least \$5,000, as described in R.C. § 3735.67, the term and percentage of which shall be negotiated on a case-by-case basis in advance of remodeling occurring; and

(5) Up to and including 15 years, and up to and including 100% for the construction of new commercial or industrial facilities, the term and percentage of which shall be negotiated on a case-by-case basis in advance of construction occurring.

(B) For the purposes of the above-described Community Reinvestment Area, structures exclusively used for residential purposes and composed of four and fewer units shall be classified as residential structures.

(C) If remodeling qualifies for an exemption, during the period of the exemption, the exempted percentage of the dollar amount of the increase in market value of the structure shall be exempt from real property taxation. If new construction qualifies for an exemption, during the period of the exemption, the exempted percentage of the structure shall not be considered to be an improvement on the land on which it is located for the purpose of real property taxation.

(Ord. 09-33, passed 7-6-2009)

§ 35.064 APPLICATION FEE, MONITORING FEE FOR COMMERCIAL AND INDUSTRIAL PROJECTS.

All commercial and industrial projects are required to comply with the state application fee requirements of R.C. § 3735.672(C) and the local annual monitoring fee of 1% of the amount of taxes exempted under the agreement, a minimum of \$500 up to a maximum of \$2,500 annually unless waived.

(Ord. 09-33, passed 7-6-2009)

§ 35.065 HOUSING OFFICER DESIGNATED.

To administer and implement the provisions of this subchapter, the Village Administrator is designated as the Housing Officer as described in R.C. §§ 3735.65 through 3735.70.

(Ord. 09-33, passed 7-6-2009)

§ 35.066 CRA HOUSING COUNCIL; TAX INCENTIVE REVIEW COUNCIL.

(A) A Community Reinvestment Area Housing Council shall be created, consisting of two members appointed by the Mayor of the village, two members appointed by the Council of the village, and one member appointed by the Planning Commission of the village. The majority of the members shall then appoint two additional members who shall be residents within the area. Terms of the members of the Council shall be for three years. An unexpired term resulting from a vacancy in the Council shall be filled in the same manner as the initial appointment was made. The Community Reinvestment Area Housing Council shall make an annual inspection of the properties within the district for which an exemption has been granted under R.C. § 3735.67. The Council shall also hear appeals under R.C. § 3735.70.

(B) A Tax Incentive Review Council shall be established pursuant to R.C. § 5709.85 and shall consist of three representatives appointed by the Board of County Commissioners, two representatives of the municipal corporation appointed by the Municipal CEO with Council concurrence, the County Auditor or designee, and a representative of each affected Board of Education. At least two members must be residents of the village. The Tax Incentive Review Council shall review annually the compliance of all agreements involving the granting of exemptions for commercial or industrial real property improvements under R.C. § 3735.671 and make written recommendations to the Council as to continuing, modifying, or terminating the agreement based upon the performance of the agreement.

(Ord. 09-33, passed 7-6-2009)

§ 35.067 REEVALUATION OF CRA.

The Council reserves the right to reevaluate the designation of the Village Historic District Community Reinvestment Area after December 31, 2012 (ODOD suggests an annual review) at which time the Council may direct the Housing Officer not to accept any new applications for exemptions as described in R.C. § 3735.67.

(Ord. 09-33, passed 7-6-2009)

§ 35.068 ANNUAL INSPECTIONS.

The Community Reinvestment Area Housing Council shall make an annual inspection of the properties within the district for which an exemption has been granted under R.C. § 3735.67. The Council shall also hear appeals under R.C. § 3735.70.

(Ord. 09-33, passed 7-6-2009)

ROAD AND WATER IMPACT FEES

§ 35.080 ESTABLISHMENT; TITLE.

This subchapter shall be known and may be referred to as the "Road and Water Impact Fees" Ordinance.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

§ 35.081 PURPOSE AND AUTHORITY.

(A) The Village Council recognizes that new growth and development in the village requires that the capacity of the village's infrastructure be expanded if existing levels of service are to be maintained and that in the absence of a funded program of roadway and water improvements, new growth and development would have to be restricted in order to protect the health, safety, and welfare of the citizens of the village.

(B) The purpose of this subchapter is to ensure that new growth mitigates the impact of new growth and development on the quality of life in the village by paying a fair share of the costs of improvements needed to serve new growth and development thereby ensuring that needed improvements are constructed.

(C) All fair share impact fees collected pursuant to this subchapter shall be used for the construction of road and water improvements, both past and future, that benefit and serve new growth and development.

(D) The village has the authority to implement a fair share road impact fee program under the Ohio Constitution's home rule provisions, Ohio Constitution Article XVIII, and subdivision regulations. R.C. Chapter 711 *et seq.*

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

§ 35.082 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AVERAGE DAILY DEMAND. The average of the total amount of water used by a particular amount of land use per 24-hour day during a one-year period. For purposes of this subchapter, the **AVERAGE DAILY DEMAND** of water may be assumed to equal the amount of sanitary sewer discharged from a development except as otherwise stated herein.

AVERAGE WEEKDAY TRIPS. The average number of vehicle trips generated by a particular amount of land use per 24-hour day, excluding Saturdays, Sundays, and holidays.

DEVELOPER. A person, corporation, organization, or other legal entity undertaking development.

DEVELOPMENT. Any construction or expansion of building(s) or structure(s), or any changes in the use of any building(s) or structure(s) or land use that will generate new or additional traffic in terms of average daily trips, peak hour trips, or longer trip lengths, and/or will generate new or additional water or sewer demand.

EASEMENT. A quantity of land over which a liberty, privilege, or advantage is granted by the owner to the public, a corporation, or particular person for a specific use or purpose.

ENCUMBERED. Legally obligated or otherwise committed to use by appropriation or contract.

ENGINEER, PROFESSIONAL. A person registered to practice professional engineering by the State Board of Registration as specified in R.C. Chapter 4733.

FAIR SHARE. The share or portion of the cost of improvements which is reasonably attributable to or needed to serve a particular development.

FEE PAYER. A person undertaking development who pays a fair share impact fee in accordance with the terms of this subchapter.

GROSS FLOOR AREA. The total floor area of a building. For purposes of this subchapter, the gross leasable area may be assumed to equal the **GROSS FLOOR AREA**.

IMPACT FEE. The fair share regulatory fee imposed upon new growth and development by this subchapter.

IMPACT FEE USE DISTRICT. The area designed as an improvement benefit district in § 35.091 in which collected fair share impact fees must be expended.

IMPROVEMENTS. Grading, street surfacing, curbs and gutters, sidewalks, crosswalks, water mains, sanitary sewers, storm sewers, drainage facilities and structures, street lights, street trees, and the appropriate appurtenances required to render land suitable for the use proposed.

LEVEL OF SERVICE. A measure of roadway capacity in terms of traffic flow, in which operating speeds are assessed, and in which changes in operating conditions, fluctuations in volume, and temporary restrictions to flow are evaluated.

LEVEL OF SERVICE D. A measure of roadway or signal capacity in terms of traffic flow which describes a condition approaching unstable traffic flow. Tolerable operating speeds are maintained, although considerably affected by changes in operating conditions. Fluctuations in volume and temporary restrictions to flow may cause substantial increases in delay and hence decreases in operating speeds. Drivers have little freedom to maneuver, and comfort and convenience are low, but conditions can be tolerated for short periods of time. **LEVEL OF SERVICE D** is generally calculated as a volume-to-capacity ratio of about 80% which represents average travel speeds of about 40% of free-flow speed and delays at signals of 25 to 40 seconds per vehicle.

NON-COMMENCEMENT. The cancellation or abandonment of authorized development and the expiration or forfeiture of development approval.

OFF-SITE IMPROVEMENTS. Roadway, water, and/or sewer facilities that are planned and designed to provide traffic, water, and/or sewer service to the general public in contrast to on-site improvements, which are necessary to provide access, water, and/or sewer to a particular development. The fact that either type of improvement may have incidental benefits of special or general character shall not be considered in determining which improvements are on- or off-site. The character of the improvement shall control a determination of whether an improvement is on- or off-site, and the physical location of the improvement on- or off-site shall not be considered determinative.

PASS-BY TRIPS. Those trips to a development attracted from the passing traffic on adjacent streets. (Trip generation rates are based on volumes of traffic at a driveway of a site being studied. Therefore, impacts on adjacent public streets can be based on a reduction factor to account for **PASS-BY TRIPS**.)

PEAK HOUR. A two-hour period from 7:00 and 9:00 a.m. and 4:00 and 6:00 p.m.

PERSON. An individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having joint or common interest, or any other legal entity.

RIGHT-OF-WAY. An area or strip of land on which an irrevocable right of passage is taken or dedicated and accepted for public use.

ROAD CAPACITY. The maximum number of vehicles which have a reasonable expectation of passing over a given section of a lane or a roadway in one direction, or in both directions for a two-lane, three-lane, or four-lane highway, during a given time period under prevailing traffic conditions at an identified level of service.

STREET OR ROAD, PUBLIC. A right-of-way, which has been properly dedicated, improved, and accepted for public use. and which provides for vehicular, pedestrian, and utility access to abutting properties.

TRIPS. A single or one-direction movement with either origin or the destination (exiting or entering) inside a development. For traffic generation purposes, total **TRIPS** (or trip ends) for a land use over a given period of time are the total of all **TRIPS** entering plus all **TRIPS** exiting a development during that designated time.

VILLAGE. The Village of Bellville, Ohio.

VILLAGE ADMINISTRATOR. The person designated by the Village Mayor to manage, conduct, and control village utilities and improvements pursuant to R.C. § 735.273.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

§ 35.083 INTERPRETATION.

Interpretation of the provisions of this subchapter shall be made by the Village Administrator.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

§ 35.084 DEVELOPMENT REQUIRED TO PAY IMPACT FEE.

(A) Except as provided in division (B) of this section, all development within the village shall pay, as a condition of development approval, an impact fee according to the terms and conditions of this subchapter.

(B) The following development shall not be required to pay to the impact fee imposed by this subchapter:

(1) Alterations or expansion of an existing dwelling unit where no additional units are created and the use is not changed;

(2) The construction of accessory buildings or structures which are not dwelling units and which do not constitute an increase in intensity of use under the zoning ordinance and do not generate additional traffic, water demand, and sewer flow;

(3) The replacement of a destroyed or partially destroyed building or structure, with a new building or structure of the same size and use;

(4) Publicly owned governmental buildings, except for those used for permanent or temporary housing;

(5) Development waived by the Mayor where the additional traffic generated by the development has an insignificant impact on the level of service of the street and traffic control systems, and no water and no sewer services are provided to the development. In the event a previously exempted development undergoes a change in use as defined in § 35.082, the appropriate fee shall be paid prior to the issuance of a zoning permit or certificate of occupancy; and

(6) Development not located in an Impact Fee Use District established in § 35.091.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

§ 35.085 SITE IMPACT ANALYSIS.

(A) Any proposed development required to pay an impact fee shall be required to provide the village a site impact analysis unless waived by the Village Administrator. For those developments required to pay an impact fee, the analysis will be used to help verify the amount of the fee.

(B) The analysis shall include but not be limited to:

(1) *Traffic impact analysis.*

(a) Trip generation rates for the development in terms of average weekday trips and peak hour trips based on empirical surveys for similar land uses and/or data presented by the Institute of Transportation Engineers, Trip Generation, latest edition;

(b) Where required by the Village Administrator, a traffic analysis of the existing public street(s) and signal(s) impacted by the site;

(c) Recommendations of ingress/egress improvements, and where required, improvements to existing public streets and/or traffic signals; and

(d) Description of any proposed traffic management systems to reduce impact or traffic generated by the site.

(2) *Water impact analysis.*

(a) Gross floor area of the building and number of demand units (i.e., motel rooms, restaurant seats, pump islands, employees) as appropriate to estimate water demand and, where available, average daily demand rates for the development based on empirical surveys for similar land uses;

(b) Size of water service line and service meter; and

(c) Description of special circumstances such as lawn irrigation system, fire suppression system, deduct meters, and the like.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

§ 35.086 PAYMENT OF THE IMPACT FEE.

Impact fees imposed pursuant to this subchapter shall be paid in full prior to the issuance of a zoning permit or other final action authorizing the intended use of land or structure.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

§ 35.087 RECAPTURE AND OTHER AGREEMENTS AUTHORIZED.

Notwithstanding any provision of this subchapter, any person may, at any time, enter into a recapture or other financing agreement with the village providing for financing and construction of road or water improvements, the repayment of monies expended by the person to construct the improvements in excess of the impact fee due and owing for development proposed by that person out of impact fees collected. As a part of this agreement, the village may agree to any approach to payment of impact fees provided that the individual amounts of road and water improvements is not less than each amount that could be constructed with the impact fees calculated according to the fee schedule in §§ 35.088 and 35.089.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017; 32-2017, passed 6-20-2017)

§ 35.088 IMPACT FEE SCHEDULE.

Any person who initiates any development for which an impact fee is required to be paid by § 35.084, except for persons who apply for a determination of an individual impact fee assessment pursuant to § 35.089, shall pay an impact fee according to the following fee schedule:

<i>Table 1</i>
<i>Impact Fee Schedule</i>
<i>Impact Fee District</i>

<i>Land-Use Type</i>	<i>Unit</i>	<i>Water</i>	<i>Traffic</i>	<i>Total</i>
1. Residential unit	Each unit	\$875	\$180	\$1,055
2. Hotel/motel	Room	\$175	\$180	\$355
3. Restaurants				
a. Fast food	Seat	\$210	\$216	\$426
b. Quality sit-down	Seat	\$122.50	\$54	\$177
4. Gas station	Fueling station	\$1,750	\$2,016	\$3,766
5. Office	Employee	\$70	\$144	\$214
6. Retail				
a. Less than 50,000 sf	1,000 sf GFA	\$700	\$1,800	\$2,500
b. 50,000 to 100,000 sf	1,000 sf GFA	\$700	\$1,260	\$1,960
NOTES:				
1. Each apartment or condominium intended for single occupancy is considered as one residential unit.				
2. Retail areas greater than 100,000 sf will require engineering analysis to determine water and sewer usage rates and traffic volume.				
3. "GFA" is the gross floor area of the building.				

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017; Ord. 32-2017, passed 6-20-2017)

§ 35.089 INDIVIDUAL ASSESSMENT OF IMPACT FEES.

(A) Any person who initiates development which is required to pay an impact fee but is not listed in the fee schedule in § 35.088 or whose development warrants a new traffic signal control not included in division (B) below shall apply for a determination of an individual impact fee assessment for the proposed development. Also, any person who believes that the actual traffic generation and water and sewer demand from a proposed project will be less than the projected traffic and water and sewer demand on which the fee schedule was based, may apply for a determination of an individual impact fee assessment for the proposed development. The individual impact fee assessment shall be calculated according to the following formula:

<i>Use District 1 - I-71 and S.R. 97</i>	
Road Fee = \$36.00/trip X Average Weekday Trips + C x (Signal Cost) - Road Credit	
Water Fee = \$3.50/gpd X Average Daily Demand - Water Credit	

where:

Average Daily Demand	=	
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		The average of the total amount of water used by a particular amount of land use per 24-hour day during a one-year period. For purposes of this subchapter the average daily demand of water may be assumed to equal the amount of sanitary sewer discharged from a development except as otherwise stated herein
Average Weekday Trip	=	The average number of vehicle trips generated by a particular amount of land use per 24-hour day, excluding Saturdays, Sundays, and holidays
C	=	Proportionate share cost factor for traffic signal(s) according to Table 2
Signal Cost	=	Actual or estimated cost to install, modify, or improve traffic signal(s) directly affected by the development, including associated turn lanes. Costs to install certain signals are exempt as provided for by division (B) below
Credit	=	Estimated or actual cost of facilities provided by the developer which benefit the general public as provided for by § 35.084

Table 2		
Proportionate Share Cost Factor, “C”, For Traffic Signals		
Condition	“C” Factor	Description
I	1.0	Major development by itself at a “T” intersection to form new signal
II	0.75	Development opposite existing road, no existing signal
III	1.0	Development at existing signal requiring improvements/modifications
IV	0.5	Two developments opposite each other to form new signal
V	Ci	One or more developments impacting existing signal or requiring new signal, where C shall be determined for each development by an approved traffic impact study

(B) Costs to install signals that are already included in the trip fee shall be exempted from the “signal cost.” Signalized intersections already included in the trip fee are listed below:

Impact Fee District
S.R. 97 and Alexander Road
S.R. 97 and Comfort Plaza
S.R. 97 and Kochheiser Road

(C) Within 15 working days of receipt of an application for an individual impact fee assessment, the Village Administrator shall determine if the application is complete. If the Village Administrator determines the application is not complete, he or she shall send a written statement specifying the deficiencies by mail to the person submitting the application. Until the deficiencies are corrected, the Village Administrator shall take no further action on the application.

(D) When the Village Administrator determines the application for an individual impact fee assessment is complete, the Village Administrator shall, within 15 working days, review the application, and if the Village Administrator determines that the traffic information, traffic factors and water demands, or methodology support an individual impact fee assessment that is acceptable and fairly assesses the fair share of cost of improvements needed to serve the proposed development, he or she shall issue a determination of individual impact fee assessment. If the Village Administrator determines the traffic information, traffic factors, and water demands or methodology are not appropriate, the application for individual impact fee assessment shall be denied, and the developer shall pay the fair share impact fee according to the schedule established in this section and § 35.088.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017; Ord. 32-2017, passed 6-20-2017)

§ 35.090 CREDITS.

(A) Any person who initiates any development may apply for a credit against the fair share impact fee imposed by this subchapter for any contribution, payment, construction, or dedication of land accepted and received by the village for capital improvements within the same Impact Fee Use District as the proposed development. No credit shall exceed the impact fee imposed by this subchapter for the proposed development. Any approved credit shall be assigned to the proper road or water impact fee.

(B) An applicant shall be entitled to a credit equal to the dollar value of the cost of off-site improvements previously contributed, paid for or legally obligated to by the applicant or his or her predecessor in interest. The cost of the improvements shall be based on the following criteria:

(1) The actual cost or estimated cost of improvements based on recent bid sheet information of the village or other local government agencies; and/or

(2) A qualified appraisal of the fair market value of any land at the date the impact fee is payable.

(C) The property owner may apply for a determination of entitlement to credit by submitting an application for a determination of credit to the Village Administrator. The application shall include the following information:

(1) A proposed plan of specific improvements, prepared and certified by a duly qualified and licensed state professional engineer; and

(2) The projected costs for the suggested improvements, which shall be based on local information for similar improvements, along with the construction timetable for the completion of the improvements. These estimated costs may include the costs of all labor and materials, the

cost of all lands, property, rights, easements, and franchises acquired, financing charges, interest prior to and during construction and for one year after completion of construction, cost of plans and specifications, surveys of estimated costs and of revenues, costs of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of the construction or reconstruction.

(D) Within 15 working days of receipt of an application for a determination of credit, the Village Administrator shall determine if the proposal is complete. If it is determined that the proposed credit agreement is not complete, the Village Administrator shall send a written statement to the applicant outlining the deficiencies. The Village Administrator shall take no further action on the proposed credit agreement until all deficiencies have been corrected.

(E) Once the Village Administrator determines the credit agreement is complete, the Village Administrator shall, within 15 working days, review the application and shall recommend the proposed credit agreement for approval by the Village Council if it is determined that the proposed capital improvement is consistent with the capital improvements in the Comprehensive Plan for the village's infrastructure system and the proposed costs for the suggested improvements are professionally acceptable and fairly assess the cost for the capital improvement.

(F) Any person may appeal the Village Administrator decision on any credit agreement he or she submits by filing a petition with the Village Council within ten days of a decision by the Village Administrator.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

§ 35.091 ESTABLISHMENT OF IMPACT FEE USE DISTRICTS.

There is hereby established an Impact Fee Use District as improvement benefit district for the village in accordance with the boundaries set forth for Impact Fee Use District on Exhibit A attached to Ord. 17-2017, which map is hereby adopted by reference as if set out in full herein. The funds collected pursuant to this subchapter shall be expended in the appropriate road and water Impact Fee Use District from which they were collected in accordance with the provisions of § 35.092.

(Ord. 5-97, passed 1-7-1997; Ord. 21-97, passed 5-19-1997; Ord. 21-02, passed 7-15-2002; Ord. 17-2017, passed 2-21-2017)

§ 35.092 USE OF FUNDS COLLECTED.

(A) The funds collected pursuant to this subchapter shall be used solely for the purpose of acquisition, expansion, and development of the public facilities both past and future determined to be needed to serve new growth and development, including but not limited to:

- (1) Design and construction plan preparation;
- (2) Right-of-way and easement acquisition;
- (3) Construction of through lanes and turn lanes;
- (4) Construction of bridges;

- (5) Construction of drainage facilities in conjunction with roadway construction;
- (6) Purchase and installation of traffic signalization;
- (7) Construction of curbs, sidewalks, medians, and shoulders.
- (8) Construction of water mains, storage tanks, and appurtenances; and

(B) Each of the road and water impact fees collected by the village shall be kept in individual funds and separate from other funds of the village.

(C) A Road Impact Fee Fund shall be established to ensure that the fees collected pursuant to this subchapter are appropriately earmarked and spent for the capital expansion of the village's road system in the Impact Fee Use Districts established in § 35.091.

(D) The fees collected for the water system and past fees collected for the sewer system under prior versions of this subchapter shall be placed in the Village Water Account to reimburse said account for past expenditures on the water infrastructure including the distribution lines and water reservoir(s).

(E) Any funds in each of the accounts on deposit not immediately necessary for expenditure shall be invested in interest bearing accounts. All income derived from these investments shall be retained in the appropriate trust account.

(F) Funds withdrawn from these accounts must be used solely in accordance with the provisions of this section.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

§ 35.093 REFUNDS.

(A) Any impact fee collected may be returned to the fee payer if the approved development is cancelled due to non-commencement of construction before the funds have been spent or encumbered. Refunds may be made in accordance with this section, provided the present owner files a petition for a refund within six months from the date of non-commencement.

(B) Impact fees collected shall be encumbered for the construction of facilities within ten years of the date of collection.

(C) (1) In the absence of a fee agreement and in the event impact fees are not encumbered within ten years from the date of collection, the village shall refund the amount of the fee along with accrued interest at a rate of 3% to the owner of the land for which the fee was collected. For purposes of refunds, the owner of the land on which an impact fee was paid shall be the owner of record at the time that the refund is paid.

(2) The owner of the property on which an impact fee has been paid shall have standing to sue for a refund under the provision of this section; however, no action shall be commenced after one year after the date of expiration of the required encumbrance date.

(D) (1) The present owner of land may apply for a refund of previously paid impact fees.

(2) The application for a refund shall include the following information:

(a) A notarized sworn statement that the fee payer or his or her predecessor in interest paid the impact fee for the property and the amount paid;

(b) A copy of the dated receipt issued by the village for payment of the fee;

(c) A certified copy of the latest recorded deed for the property; and

(d) A copy of the most recent ad valorem tax bill.

(E) Within 15 working days of receipt of the application, the Village Administrator shall determine if the application is complete. If the Village Administrator determines the refund application is not complete, he or she shall send a written statement specifying the deficiencies by mail to the person submitting the refund application. Unless the deficiencies are corrected, the Village Administrator shall take no further action on the refund application.

(F) When the Village Administrator determines the refund application is complete, the Village Administrator shall, within 15 working days, review the application and shall recommend the proposed refund for approval by the Village Council if her or she determines the fee payer has paid an impact fee which the village has not spent or encumbered within ten years from the date the fees were paid.

(G) Any fee payer may appeal the Village Administrator's decision on a refund application by filing a petition with the Village Council within ten days of a decision by the Village Administrator.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

§ 35.094 FORMULA FACTORS TO BE REASSESSED EVERY TWO YEARS.

Every two years the village shall undertake a review of the factors used to calculate the impact fee schedule in § 35.088 and shall revise the schedule to accurately reflect current factors in the village at the time of the reassessment.

(Ord. 5-97, passed 1-7-1997; Ord. 17-2017, passed 2-21-2017)

INCOME TAX

***Editor's Note:** The income tax regulations contained in §§ 35.125 through 35.136 are effective through December 31, 2015. For regulations effective beginning January 1, 2016, see Chapter 39.*

§ 35.125 TITLE AND CITATIONS.

An ordinance, codified herein, to amend and revise the Income Tax Ordinance for the Village of Bellville, Ohio, originally adopted under Ordinance 37-68 and revised by Ordinance 32-72 and to amend §§ 35.126(B), 35.127(D), 35.128(A), 35.129(A) and 35.133 in keeping with Ohio House Bill 477, to provide for the continued levy of the income tax on salaries, wages, commissions and other compensation, and on net profits; new definitions, requirements for return and payment of tax; exceptions to the income tax; declarations of income tax due; credit for tax paid to other municipalities; extension requests; allocation of net profits; requirements for

consolidated returns; amending an income tax return; collection of unpaid taxes; provisions for refunds and overpayment of income taxes; provide for a Department of Taxation; the establishment of interest and penalty assessments; the establishment of penalties and violations of the income tax ordinance; request for reports and informational returns by landlords; allocation of funds; duties of the Fiscal Officer; the confidentiality of tax records; establishing a Board of Review; and declaring an emergency.

(Ord. 33-01, Art. 1, passed 12-3-2001)

§ 35.126 CONSTRUCTION OF LANGUAGE; DEFINITIONS.

(A) *Construction of language.* The following rules of construction apply to the text of this subchapter:

- (1) The particular shall control the general.
- (2) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- (3) Words used in the present tense shall include the future; and used in the singular number shall include the plural, and the plural the singular, unless this subchapter clearly indicates the contrary.
- (4) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” “either...or,” the conjunction shall be interpreted as follows:
 - (1) “And” indicates that all connected items, conditions, provisions, or events shall apply.
 - (2) “Or” indicates that the connected items, conditions, provisions, or events may apply singularly or in combination.
 - (3) “Either.. .or” indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- (5) The masculine shall include the feminine and the neuter.
- (6) Terms not herein defined shall have the meaning customarily assigned to them.
- (7) The Village of Bellville Income Tax Ordinance Number 33-01, enacted on December 3, 2001 and any amendments or supplements thereto shall hereinafter be referred to as “this subchapter.”

(B) *Definitions.* For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASSOCIATION. A partnership, limited partnership, limited liability partnership and limited liability corporation, subchapter S corporation, or any other form of unincorporated business or enterprise, owned by two or more persons. The term **ASSOCIATION** and **UNINCORPORATED BUSINESS** are interchangeable terms.

BOARD OF INCOME TAX APPEAL. The board created by and constituted as provided in § 35.133 below.

BUSINESS. Any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit; including but not limited to the renting or leasing of property, real or personal; whether by an individual, partnership, fiduciary, proprietorship, limited partnership, corporation, trust, association or any other entity.

BUSINESS ALLOCATION PERCENTAGE FORMULA. The average percentage arrived at by applying the formula set forth in § 35.127(C) below. The **BUSINESS ALLOCATION PERCENTAGE FORMULA**, is the percentage that may be applied to determine the portion of the total net profits of a taxpayer to be allocated as having been made within the meaning of the provisions of this subchapter.

BUSINESS DEDUCTIONS. The ordinary and necessary expenses actually incurred in the operation of the business to the same extent allowed under federal guidelines unless specifically allowed or disallowed in this subchapter.

CALENDAR YEAR. An accounting period of 12 months or less ending on December 31.

CORPORATION. A corporation that has made an election under Subchapter S of Chapter 1, of Subtitle A, of the Internal Revenue Code for its taxable year.

DISHONORED CHECKS. Any check received in payment of taxes, penalty, interest or service charge that is returned unpaid by the bank or other financial institution.

DOMICILE.

(a) The place where a person lives, or a permanent legal home a person intends to use for an indefinite or unlimited period, and to which, when absent, intends to return.

(b) The word “residence” does not necessarily mean the domicile of a taxpayer. A taxpayer may have more than one residence but not more than one domicile. In the event of a business or association, the **DOMICILE** is that place declared to be the center where the principal affairs or primary functions of the business are conducted.

EMPLOYEE. One who works for wages, salary, commission or other type of compensation in the service and under the control of an employer. The word **EMPLOYEE** shall not be construed to mean any subcontractor or independent contractor.

EMPLOYEES IN THE VILLAGE OF BELLVILLE All employees regularly connected with or working out of a place of business maintained by the taxpayer in Bellville.

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

FISCAL OFFICER. The individual charged with the responsibility of managing the fiscal affairs of the village, including the collection of all tax imposed by this subchapter.

FISCAL YEAR. The accounting period of 12 months or less ending on any day other than December 31.

GENERIC FORM. An electronic or paper form designed for reporting estimated village income taxes and annual income tax liability that is not prescribed by the village for the reporting of the village's tax on income.

GROSS RECEIPTS. The total income from any source whatsoever before any deductions, exceptions or credits are claimed, and which are required to be included in the tax return.

INCOME FROM A PASS-THROUGH ENTITY. Partnership income of partners, distributive shares of shareholders of an S corporation, membership interests of members of a limited liability company, or other distributive or proportionate ownership shares of other pass-through entities.

LIMITED LIABILITY COMPANY. A limited liability company formed under R.C. Chapter 1705 or under the laws of another state.

NET PROFITS. The 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 subchapter, federal, state or other taxes based on income; and in the case of an association, without deduction of compensation paid to partners, and other owners; and otherwise adjusted to the requirements of this subchapter. Ordinary income resulting from the gain on sale of property used in a trade or business shall be included in the calculation of **NET PROFITS**.

NON-RESIDENT. A person domiciled outside the village.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY. An unincorporated business entity not having an office or place of business within the village.

ORDINANCE. Ordinance 33-01 enacted by the Council of the village on December 3, 2001, and any amendments or supplements thereto.

OTHER PAYER. Any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

OWNER. A partner of a partnership, a shareholder of an S corporation, a member of a limited liability company, or other person with an ownership interest in a pass-through entity.

PASS-THROUGH ENTITY. A partnership, S corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

PENSIONS. Either qualified or non-qualified retirement plans, as defined under federal tax regulations, designed to provide primarily for the retirement income of an employee, in which contributions to the plan are made by the employee, the employer or both during the period of employment.

PERSON.

(a) Any natural person, corporation, partnership, association or fiduciary.

(b) Whenever used in any clause prescribing and imposing a penalty, the term **PERSON** when applied to any unincorporated entity shall mean the parties or members thereof, and as applied to corporations, the officer thereof; and any employee having control, supervision or charged with the responsibility of tax law compliance on the part of a natural person, corporation, partnership, association or fiduciary.

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 regular employees regularly in attendance.

PROFESSIONAL ATHLETE. A person who is paid for participation in an individual or team sport and also for a single or multiple appearances at an event.

PROFESSIONAL ENTERTAINER. A person who is paid for performing song, dance, music, comedy, drama and other arts either as an individual or as a member of a group for a single or multiple performances or appearances.

PROMOTERS OF PROFESSIONAL ENTERTAINMENT OR SPORTS EVENTS AND THEIR EMPLOYEES. A person or persons who are responsible for planning, making arrangements, or providing services to a professional entertainer or professional athlete.

REAL PROPERTY. Farm, residential, commercial or industrial property and any and all other types of real estate.

RENTAL INCOME. Payments received from the use or occupancy of property.

RENTED UNITS. Any unit of real property which is subject to a rental agreement, whether oral or written, for residential, commercial or industrial purposes.

RESIDENT INDIVIDUAL. Any individual as defined by this subchapter domiciled inside the village or whose usual place of abode is located in the village.

RESIDENT UNINCORPORATED BUSINESS ENTITY. An unincorporated business entity having an office or place of business located inside the village.

RETURN PREPARER. Any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

SALES MADE IN THE VILLAGE. Means the following;

(a) All sales of tangible personal property delivered inside the village regardless of where title passes if shipped from a stock of goods within the village;

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

(c) All sales of tangible personal property shipped from a place inside the village to purchasers outside 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.

SUBCHAPTER. Ordinance 33-01 enacted by the Council of the village on December 3, 2001, and any amendments or supplements thereto.

TAX ADMINISTRATOR. The person executing the duties of the Fiscal Officer in regards to the collection and enforcement of the village income tax.

TAXABLE INCOME. Salaries, wages, commissions and other compensation, bonuses, incentive payments, fees and tips or other income paid, accrued or deferred, paid by an employer

or employers, including sick, vacation and personal leave pay and before deduction, including income from lottery winnings and prize money in the amount of more than \$500 won on or after January 1, 2001, distributions from associations and/or net profits from the operation of a business, profession or other enterprise or activity including rental income.

TAXABLE YEAR. The calendar year or fiscal year, used as the basis on which the net profits or other taxable income are to be computed under this subchapter and, in the case of a return for a fractional part of a year, the period for which the return is required to be made. In the case of an individual, the taxable year shall be a calendar year.

TAXPAYER. Any person as defined in division (B) from to **ASSOCIATION** to **OWNER**, defined above, required to file a return or pay a tax pursuant to this subchapter.

VILLAGE. the Village of Bellville, Ohio.

(Ord. 33-01, Art. 2, passed 12-3-2001)

§ 35.127 INCOME TAX LEVY.

(A) Mandatory registration.

(1) Each new resident of the village shall register with the Department of Taxation of the village to become subject to the village income tax within 30 days of residence in the village.

(2) All employers, contractors or subcontractors who do work in the village shall register with the Fiscal Officer when work begins and shall present him or her with a list of all employees, subcontractors or others who may do work for them that are not already registered with the village or whose profits, wages or earnings are not presently subject to withholding of the village income tax.

(3) On January 1, 2002 and on every year thereafter, all landlords who rent property or dwellings in the village must submit an up-to-date list of their tenants to the Fiscal Officer. This list is not required if the tenants are responsible for their own water utility payments.

(4) Any person who violates this division shall be subject to the provision of §§ 35.134 and 35.999 below.

(B) Authorization of income tax levy. To provide funds for the purpose of general municipal operations, a municipal income tax at the rate of 1% is hereby levied upon the following:

(1) Resident and non-resident employees.

(a) On the taxable income earned by resident individuals.

(b) On the net taxable income earned by nonresident individuals for work done or services performed or rendered in the village.

(2) Resident business entities.

(a) 1. On the portion attributable to operations inside the village of the net business profits of all resident associations, unincorporated businesses, professions or other entities, conducted by resident individuals in the village.

2. The tax imposed on resident associations or other unincorporated entities owned by two or more individuals is upon the entities rather than the individual owners or members thereof. Losses from the operation of such activities required filing, as a separate entity may not be used to offset wages, salaries, or other types of employee's earnings or other compensation.

(b) On a resident partner or owner share of the taxable income earned during the effective period of this subchapter, of a resident association or other unincorporated entity not attributable to operations within the village and not levied against such associations or other unincorporated entity.

(3) *Non-resident business entities.*

(a) 1. On the portion attributable to operations inside the village of the net business profits earned by all non-resident associations, unincorporated businesses, professions or other entities, conducted by non-resident individuals, whether or not the association or other unincorporated entity has a place of business in the village.

2. The tax imposed on non-resident associations or other non-resident unincorporated entities owned by two or more persons is upon the entities rather than the individual owners or members thereof. Losses from the operation of such activities, required to file as a separate entity, may not be used to offset wages, salaries, or other types of employee's earnings or other compensation.

(b) On a resident partner or owner share of the net business profits during the effective period of this subchapter, of a non-resident association or other unincorporated entity not attributable to operations within the village and not levied against such association or other unincorporated entity.

(C) *Business allocation percentage formula.*

(1) A non-resident business entity doing business both inside and outside the village may at its option use and apply one of the following business allocation percentage formulas for the purpose of computing village income taxes:

(a) *Records of net profits are known.* Where the books and records of a taxpayer conducting a business or profession both inside and outside the boundaries of the village discloses with reasonable accuracy the percentage of its net profit attributable to that part of the business or profession conducted inside the boundaries of the village, then only that portion shall be considered as having taxable sites in the village for purposes of village income taxes.

(b) *Records of net profit are unknown.*

1. In the absence of such books and records, the following formula may be used to compute the share of the total net profits earned by a business or profession from activities conducted both inside and outside the boundaries of the village that is taxable under this subchapter:

$$\frac{\text{RTP} + \text{P} + \text{S}}{\text{(number of business locations)}} = \text{percentage to be applied to the total net profits of non-resident business}$$

2. The steps described below should be followed to reach a determination of the income tax owed by a company using the business allocation percentage method.

a. Step 1: (RTP) = real and tangible personal property.

i. Compute the average net book value of the real and tangible personal property owned or used during the taxable period to the average net book value of all of the real and tangible personal property owned or used during the same period, wherever situated.

ii. Real property also includes property rented or leased by the taxpayer and the value of the property shall be determined by multiplying the annual rental by eight.

iii. Example 1: (RTP) Real and tangible property.

Corporation having a place of business in Bellville, Paduca and Honolulu:

Total real and tangible personal property:

Bellville, Paduca and Honolulu:	\$500,000	
Bellville only		
Rented property	\$4,160*	
Owned property	\$195,840	
Subtotal	\$200,000	\$200,000 or 40%
*Rental payments in Bellville	\$520 annually	
520 x 8 equals \$4,160		

b. Step 2: P = payroll.

i. Compute the percentage of the wages, salaries and other compensation paid during the taxable period to employees for services performed in the village are of the total wages, salaries and other compensation paid during the same period to employed persons, wherever their services are performed.

ii. Example 2: (P) Payroll.

Same corporation having a place of business in Bellville, Paduca and Honolulu:

Total payroll:

Bellville, Paduca and Honolulu:	\$200,000
Bellville only:	\$60,000 or 30%

c. Step 3: (SR) = sales receipts.

i. Compute the percentage of the gross receipts from sales made and services performed during the taxable period in the village are of the total gross receipts during the same period from sales and services, wherever made or performed.

ii. Example 3 (SR) sales receipts.

Same corporation having a place of business in Bellville, Paduca and Honolulu:

Total sales receipts:

Bellville, Paduca and Honolulu	\$400,000
Belville only	\$100,000 or 25%

The business allocation of 31.6% was arrived at as shown below:

$$\frac{(\text{RTP}) 40\% + (\text{P}) 30\% + (\text{SR}) 25\%}{3} = 31.6\%$$

d. Step 4: Taxable net profit. The total net profit derived from business activities conducted inside and outside the village is then multiplied by the business allocation percentage figure to arrive at taxable net profit.

Total net profit at all three locations	\$45,000
Business allocation percentage	.316
Taxable net profit	\$14,220

e. Step 5: Income tax to be paid. The total tax to be paid is determined by multiplying the taxable net profits by the village tax rate of 1%.

Taxable net profit	\$14,220
Village income tax rage	.01
Village tax to be paid by corporation	\$142.20

(2) In the event the foregoing business allocation formula does not produce an equitable result, another basis may, be substituted, under uniform regulations, so as to produce an equitable result.

(D) Exemptions.

(1) The following tax imposed by this subchapter shall not be levied on:

(a) Military pay or allowance of the Armed Forces of the United States.

(b) The income of tax-exempt 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.

(c) Social security benefits, unemployment, insurance benefits, welfare benefits and qualified pensions (as defined by the Internal Revenue Service) paid as a result of retirements.

(d) Earnings and income in the village of all persons under 18 years of age, whether residents or non-residents.

(e) Compensation paid to an individual for personal services performed within the village, if the individual does not reside in the village, performs such personal services in the village on 12 or fewer days in the calendar year, and, if the individual is an employee, the principal place of business of the individual's employer is located outside the village. This division does not apply to professional entertainers or professional athletes or to promoters of professional entertainment or sports events and their employees, as reasonably defined by the village.

(2) An exemption form shall be filed annually with the Fiscal Officer on a form prescribed by the Fiscal Officer. In the case of a retired person this exemption form shall be filed once every three years. This exemption form shall be made a part of the annual tax return of the village.

(Ord. 33-01, Art. 3, passed 12-3-2001)

§ 35.128 COLLECTION AT SOURCE.

(A) *Collection of tax.*

(1) Each employer doing business inside the village who employs one or more individuals on a salary, wage, commission or other compensation basis, shall deduct at the time of payment of such salary, wage, commission or other compensation, the tax at the rate of 1% per annum on the gross salaries, wages commissions, or other compensation due by the employer to the employee and shall, following the schedules as specified in this section, make a return showing the amount of taxes so deducted and a record of payment showing that all taxes deducted during the periods required have been paid to the village according to the payment schedule prescribed in division (C), below.

(2) It is the duty of each resident employer (as defined in § 35.126) who employs one or more persons on a salary, wage, commission, or other compensation basis, to deduct from compensation paid to any employee subject to this subchapter, the tax of 1% of the salary, wage, bonus, incentive payment, commission or other compensation due by the employer to the employee. The tax shall be deducted by the employer from:

(a) All compensation paid to employees who are non-residents of the village for services rendered, work performed, or other activities engaged in, to earn such compensation within the village; and

(b) From the gross amount of all salaries, wages, bonuses, incentive payments, commissions or other form of compensation paid to employees who are residents of the village, regardless of the place where the services are rendered.

(3) All employers who or which maintain an office or other place of business in the village are required to make the collections and deductions specified in this section, regardless of the fact that the services on account of which any particular deduction is required as to residents of the village, were performed at a place of business of any such employer situated outside the village.

(4) The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation received.

(5) Commissions and fees paid to professional people, brokers, and others that are independent contractors and not employees of the payer are not subject to withholding or collection of the tax at the source. The taxpayers must in all instances file returns and pay the tax pursuant to the provisions of this division (A).

(6) (a) In the case of employees who are non-residents of this village, the amount to be deducted is 1% of the compensation paid with respect to personal services rendered in this village.

(b) Where a non-resident receives compensation for personal services rendered or performed partly within and partly outside this village, the withholding employer shall deduct, withhold and remit that portion of the compensation, which is earned within this village in accordance with the following rules of apportionment.

1. If the non-resident is a salesman, agent or other employee whose compensation on the basis of commissions depends directly on the volume of business transacted by him or her, the deducting and withholding shall attach to the portion of the entire compensation the volume of business transacted by the employee within the village bears to the volume of business transacted by him or her within and outside the village.

2. The deducting and withholding of personal service compensation of all other employees (including officers of corporations) shall attach to the portion of the personal service compensation of the employee which the total number of working days employed within the village bears to the total number of working days employed within and outside the village.

3. If it is impossible to apportion the earnings as provided above, because of the peculiar nature of the service of the employee; or the unusual basis of compensation; apportionment shall be based on the facts and the tax deducted and withheld accordingly.

4. The occasional entry into the village of a non-resident employee who performs the duties for which he or she is employed entirely outside the village, but enters the village for the purpose of reporting, receiving instructions, accounting, etc., incidental to his or her duties outside the village, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the village.

(7) An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions (whether by the way of drawing account or otherwise, see division (A)(8) below, where the advances are in excess of commissions earned.

(8) An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid by the employer to the employee for expense necessarily and actually incurred by the employee in the actual performance of his or her services, provided, that the expense must be of the kind and in the amount recognized and allowed as deductible expense for federal income tax purposes.

(9) The employer shall be liable for the payment of the required tax to be deducted and withheld, whether or not the taxes have in fact been withheld.

(10) This section shall not require any nonresident employer, agent of such an employer, or other payer that is not situated in the village to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for

the village on account of all the employer's employees or all of the other payer's payees exceeds \$150 for a calendar year beginning on or after that date.

(11) If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's employees or all of the other payer's payees exceeds \$150 for a calendar year beginning on or after January 1, 2001, the village may require the employer, agent, or other payer to deduct and withhold taxes in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is \$150 or less, except as otherwise provided in division (B) of this section.

(12) If a nonresident employer, agent of such an employer, or other payer that is not situated in the village is required to deduct and withhold taxes for an ensuing year under division (A) of this section, and the total amount of tax required to be deducted and withheld under that subsection in each of three consecutive ensuing years is \$150 or less, the village shall not require the employer, agent, or other payer to deduct and withhold taxes in any year following the last of those consecutive years unless the amount required to be deducted and withheld in any such following year exceeds \$150.

(B) *Employer responsible for collecting and holding the tax.* Every employer or officer of a corporation is deemed to be a trustee for the village in collecting and holding the tax required under this subchapter to be withheld and the funds so collected by the withholdings are deemed to be trust funds. The officer or employee having control or supervision or charged with the responsibility of filing the return and making payment is personally liable for failure to file the return or pay the tax due as required by this division. The officer or employee shall also be personally liable for the failure to return or pay the tax as well as any related interest and penalties. The dissolution of a corporation does not discharge the officer or employee's liability for a prior failure of the corporation to pay the tax due.

(C) *Payment schedule.*

(1) The deduction from salaries, wages and other compensation required to be made by employers are to begin with compensation earned on and after October 1, 1968. The first return and payment required to be made on account of such deductions shall be made, filed and paid to the Fiscal Officer between January 1, 1969 and January 31, 1969.

(2) Each employer within the village who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct monthly, or more often than monthly, and at the time of the payment of such salary, wage, commission, or other compensation due by the employer to the employee and shall make a return and pay to the Fiscal Officer the amount of taxes so deducted as follows if the total monthly withholding tax is less than \$100:

- (a) For the three months ending March 31, on or before April 30;
- (b) For the three months ending June 30, on or before July 31;
- (c) For the three months ending September 30, on or before October 31;
- (d) For the three months ending December 31, on or before the following January 31.

(3) The reporting periods referred to in division (C)(2) are elastic to this extent: The employer will use the same quarterly accounting period for reporting taxes withheld under the

Bellville Income Tax Ordinance as he or she uses in reporting quarterly taxes withheld to the federal government.

(4) Effective January 1, 2002 all employers withholding more than \$100 per month shall make a return and pay to the Fiscal Officer the amount of tax so deducted on a monthly basis by the last day of the month following the month the moneys were withheld.

(5) The return shall be on a form prescribed by and obtainable from the Fiscal Officer and shall be subject to the rules and regulations prescribed therefor by the Fiscal Officer.

(6) In addition to the provisions set forth in this division any person making compensation to an individual or independent contractor shall report the compensation to the Income Tax Administrator.

(7) Every employer doing business inside the village on a temporary basis shall pay to the village all income taxes withheld or required to be deducted and withheld on a monthly basis, regardless of the amount of taxes involved. The payment shall be made to the village on or before the last day of the month following the month subject to withholding. An employer is ***DOING BUSINESS WITHIN THE VILLAGE ON A TEMPORARY BASIS*** when the employer maintains a place of business in the village or does business within the village for a period during which the employer does not expect to exceed one year.

(8) For adjustment of errors in returns of tax withheld by employers, see division (D) of this section and § 35.130(B) below.

(D) *Reconciliation of tax withheld.*

(1) Each employer, on or before February 28, shall file with the Department of Taxation of the village an information return (Village of Bellville Reconciliation of Tax Withheld) for each employee from whom income tax has been or should have been withheld showing:

- (a) Name and address of each employee;
- (b) Total amount of salary, wages, commissions, tips and their compensation paid to the employee during the year; and
- (c) W-2 Form showing the amount of municipal income tax withheld from each employee.

(2) In lieu of submitting form W-2s, an alternative method of reporting must be approved by the Fiscal Officer or his or her delegate.

(3) If an error has been made for or against the employer, the error may be corrected in the next withholding period. If the error occurred in the last withholding period the correction may be made when the employer files a reconciliation of tax withheld form.

(E) *Reports and informational returns by landlords.* The Fiscal Officer may request a roster of the names, addresses and social security numbers of persons residing in rental units or mobile home parks. Every owner of three or more rental units and every owner or operator of a mobile home park may be requested to submit the listing. The listing is to include any changes during the year. The Department of Taxation shall file the roster of persons residing in rental units or mobile home parks upon request.

(F) *Payments by self-employed individual, contractor or sub-contractor.* Any person who compensates a self-employed individual, contractor or subcontractor shall report the payment. The information required shall include the name, address and social security number (or Federal Identification Number), and the amount of compensation. Federal Form 1099 may be submitted in lieu of the above reporting requirements. The information must be filed annually with the Department of Taxation of the village on or before February 28.

(G) *Monthly and quarterly remittance reports required.* All withholding payment remittances shall be monthly and quarterly as determined by the criteria set forth in this section, until such time that monthly payments will be required as determined by the Fiscal Officer.

(Ord. 33-01, Art. 4, passed 12-3-2001)

§ 35.129 TAX FILING PROVISIONS.

(A) *Filing of return and payment of tax.*

(1) *Filing requirements.*

(a) Each taxpayer whose earnings or profits are subject to the Bellville Municipal Income Tax, shall on or before April 15 of each year, make and file a return to the Tax Commissioner on a form provided for that purpose. The completed form shall set forth the aggregate amount of taxable income earned together with such other information as may be required by the Tax Commissioner.

(b) Notwithstanding any other provisions of this section, any taxpayer may file a generic income tax return, report or other document in lieu of the forms prescribed by this section provided the return, report or other document when completed and filed contains all of the information required to be submitted on the prescribed forms and the taxpayer or return preparer filing the generic form otherwise complies with this section and the rules and regulations of the Tax Administrator.

(c) 1. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a village income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Fiscal Officer. The request for an extension shall be filed no later than the last day for filing the income tax return as prescribed by this subchapter. The village shall grant such request for extension for a period not less than the period of the federal extension request.

2. The village may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes the village any delinquent income tax or any penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing the village income tax return does not extend the last date for paying the tax without penalty unless the village grants an extension of that date.

(d) 1. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with the first fiscal year in which any part of the year falls within the effective period of this subchapter, file a return within 120 days from the end of the fiscal year, or period.

2. When the due date of a return falls on a weekend, or observed holiday, the due date for filing the return shall fall on the next business day following the original due date of the return.

(e) Every taxpayer shall retain all records necessary to compute tax liability for a period of five years from the date the return is filed or the taxes required to be withheld are paid.

(2) *Payment of tax.* The taxpayer shall, at the time of filing, pay to the Tax Commissioner, the amount of taxes shown as due thereon. No payment will be required for a tax due less than \$1. However, a taxpayer shall be entitled to a credit under the following circumstances:

(a) *Deduction at the source.* Where any portion of the tax so due shall have been deducted at the source according to the provisions of § 35.128(A) above; or where an income tax has been paid to another municipality according to the provisions set forth in this division, the credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, and if \$1 or greater, shall be due and payable at the time of filing the return.

(b) *Credit for tax paid to another municipality.* Every individual taxpayer who resides in the village who receives net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered outside the village and has paid a municipal income tax or Joint Economic Development District tax on the net profits, salaries, wages, commissions or other compensation in another municipality, shall be allowed to receive a credit upon the income tax imposed by the village equal to 50% of the tax actually paid to the other municipality or 50% of the taxes owed to the village, whichever is less.

(c) *Form of credit.* The credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, and if \$1 or greater, shall be due and payable at the time of filing the return.

(3) *Net loss considerations.*

(a) The net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation for any given taxable year prior to December 31, 2000.

(b) A profit or loss from any entity required by this subchapter filed as a separate entity cannot be offset in any manner.

(c) A taxpayer engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity may be used to offset the profits of another for purposes of arriving at overall net profits. Where offsets of profit appear on such return, the net loss shown on the return shall be deducted in the year incurred.

(d) A net operating loss sustained in any taxable year may not be carried forward or backward to any other taxable year.

(e) Business expenses and/or losses may not be deducted from W-2 wages.

(4) *Refunds; overpayments.*

(a) A taxpayer who has overpaid the amount of tax to which the village is entitled under the provisions of this subchapter may have the overpayment applied against any liability hereunder, or at the taxpayer's election indicated on the return, the overpayment, or part thereof, shall be refunded, if \$1 and over, provided that no additional unpaid liability exists, and the

claim for refund is within three years after payment was made or the return was due, whichever is later.

(b) When a taxpayer's return indicates that a refund is due and a refund is not issued within 90 days after the Department of Taxation has received proper verification and substantiation as to the validity of the refund claim, interest shall be paid at the rate prescribed by R.C. § 5703.47. A return, which indicates a claim for refund, is not deemed to be filed until all proper verification and the Department of Taxation receives substantiation as to the validity of the refund claim.

(c) 1. If, as a result of investigation conducted by the Fiscal Officer, a return is found to be incorrect, the Fiscal Officer is authorized to assess and collect any underpayment of tax withheld at the source or any underpayment of tax owing by any taxpayer with respect to earnings or net profits, or both. If no return has been filed and a tax is found to be owed, the tax actually owing may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer.

2. Should the Fiscal Officer disclose it, either as a result of an investigation or through the medium of the filing of a claim or petition for refund or credit, that an overpayment has been made, the Fiscal Officer will refund such overpayment.

3. The employer will in every instance be required to pay the full tax that should have been withheld, even though he or she may fail to withhold from the employee. If too much has been withheld the excess shall be refunded by the employer to the employee. While the employer will be expected to maintain complete records of such adjustments with the employee, any such adjustment made during any month will not need to be reflected in the withholding return or disclosed by schedules or statements attached thereto.

4. In those cases in which too much has been withheld by an employer from an employee and remitted to the Fiscal Officer and there has been a termination of the employee-employer relationship, the employee may obtain an adjustment by application to the Fiscal Officer.

(5) *Consolidated returns.*

(a) The Tax Administrator will accept a consolidated income tax return from any affiliated group of corporations subject to the village tax if that affiliated group filed for the same tax-reporting period a consolidated return for federal income tax purposes.

(b) The Fiscal Officer may require additional information to determine whether or not net profits are properly allocated to the village:

1. Where a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates;

2. Where any person operates a division, branch, factory, office, laboratory or other activity inside the village constituting only a portion of its total business; or

3. By some other method.

(c) If the Fiscal Officer finds that net profits are not properly allocated to the village by reasons 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 or she shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of net profits to the village.

(B) *Late filing fee.* Failure to file any required documentation in a timely manner as prescribed in this section will be subject to a late filing fee as prescribed in § 35.134(A) below.

(Ord. 33-01, Art. 5, passed 12-3-2001)

§ 35.130 DECLARATIONS.

(A) *Filing a declaration.*

(1) Every person who anticipates any taxable income which is not subject to § 35.129, shall file a declaration setting forth the estimated income or the estimated profit or loss from the business activity together with the estimated tax due thereon, the declaration shall be filed on or before April 30, 1968 and thereafter a similar declaration shall be filed for each calendar year on or before April 30 of each ensuing year by all such taxpayers.

(2) The declaration shall be filed on a form furnished or obtainable from the Department of Taxation. Credit shall be taken for village tax withheld, if any, from any portion of the income. In addition, credit may be taken for tax paid or to be withheld and remitted to other taxing municipalities in accordance with § 35.129(A)(2)(b), above.

(3) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided herein. A declaration may be amended at any time, provided, however, that the unpaid balance due shall be paid in equal installments on or before the remaining payment dates.

(B) *Payment accompanying declaration.*

(1) For individuals, the declaration to be filed on or before April 30, 2003, and the declaration to be filed on or before April 30 of each ensuing year shall be accompanied by payment of at least 22-1/2% of the estimated annual village income tax, and at least a similar amount shall be paid on or before July 31, October 31, and January 31 of the taxable year. For calendar year taxpayers that are not individuals, 22-1/2% by the taxpayer's federal return filing date, 45% by June 15, 67-1/2% by September 15, and 90% by December 15, and for fiscal year taxpayers that are not individuals, 22-1/2% by the fifteenth day of the sixth month, 67-1/2% by the fifteenth day of the ninth month, and 90% by the fifteenth day of the twelfth month, any amount deducted and withheld for taxes from an individual's compensation is considered as estimated taxes paid in equal amounts on the prescribed payment dates.

(2) Should it appear that the taxpayer has paid more than the amount of the tax to which the village would be entitled, a refund of the amount so overpaid could be made, or the same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Income Tax Office.

(3) A declaration of estimated tax that is less than 90% of the tax due as shown on the annual return shall not be considered as filed in good faith. The difference shall be subject to interest payment as provided for in § 35.134(A) below. An exception will be made if 100% of the prior year tax liability has been paid in equal quarterly installments in the current year.

(Ord. 33-01, Art. 6, passed 12-3-2001; Ord. 34-02, passed 10-7-2002)

§ 35.131 ADMINISTRATION AND ENFORCEMENT.**(A) Authority of Fiscal Officer.****(1) Delegation of authority.**

(a) The Fiscal Officer or his or her delegate or any designated 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 Fiscal Officer believes is subject to the provisions of this subchapter, for the purpose of verifying the accuracy of any return made, or, if any return was made to determine the tax due under this subchapter.

(b) Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Fiscal Officer or his or her delegate, or his or her duly authorized agent or employee, the means, facilities and opportunity for making the examinations and investigations as are hereby authorized.

(2) *Order appearances to investigate a persons income.* The Fiscal Officer or his or her delegate is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her and may examine the person, under oath, concerning any income which was or would have been returned for taxation or any transaction tending to effect the 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 or her, whether as parties or witnesses, whether he or she believes the persons have knowledge of the income or information pertinent to the inquiry.

(3) *Institute proceedings to enforce violations.* The Fiscal Officer or his or her delegate or any authorized employee is hereby authorized to institute procedures to determine the associations, businesses, corporations, persons, employers and employees subject to the provisions of this subchapter, require that all persons provide in writing to the Fiscal Officer or his or her delegate such information as deemed necessary to provide for the enforcement of this subchapter. The refusal to provide information requested by the Fiscal Officer shall be deemed a violation of this subchapter, punishable as provided in §§ 35.134(B) and 35.999 below.

(B) Duties of Fiscal Officer. The Fiscal Officer has the following powers and duties:

(1) To collect and receive the tax levied by this subchapter in the manner prescribed by this subchapter;

(2) To keep accurate records showing the payment received by the him or her from each taxpayer and the date of payment;

(3) To administer and enforce the provisions of this subchapter;

(4) To enforce the rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this subchapter, including provisions for the re-examination and correction of tax returns and tax payments;

(5) To determine the amount of tax appearing to be due the village from a taxpayer that has failed, neglected or refused to file a return or has failed, neglected or refused to pay the tax due on a return or has filed a return which does not show the proper amount of tax due, based on any information in his or her possession and shall send to the taxpayer a written statement showing the amount of tax so determined together with interest and penalties, if any.

(6) To arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments when the taxpayer has proved to the Fiscal Officer that, due to certain hardship conditions he or she is unable to pay the full amount of the tax due. The authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him or her under this subchapter. Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand.

(Ord. 33-01, Art. 7, passed 12-3-2001)

§ 35.132 DEPARTMENT OF TAXATION.

(A) *Authorization.* A division is hereby created within the office of the Fiscal Officer of the village, hereafter referred to as the Department of Taxation. The Fiscal Officer shall appoint an Income Tax Administrator. The Income Tax Administrator shall be charged with the administration and operation of the Department of Taxation and this subchapter, under the direction of the Fiscal Officer.

(B) *Allocation of income tax funds.* The funds collected under § 35.128 above shall be temporarily deposited 86% to the Income Tax Fund and 14% to the Street Funds until \$6,500 is collected and applied to the Income Tax Fund after which the Fiscal Officer shall regularly allocate and disburse the total amount of the net available income tax receipts received as follows:

- (1) Seventy-six percent shall be placed in the General Fund.
- (2) Fourteen percent shall be placed in the Street Fund.
- (3) Ten percent shall be placed in the Income Tax Fund.

(Ord. 33-01, Art. 8, passed 12-3-2001; Ord. 08-02, passed 2-18-2002; Ord. 04-03, passed 3-17-2003; Ord. 44-07, passed 12-17-2007; Ord. 03-08, passed 1-7-2008; Ord. 29-08, passed 9-2-2008; Ord. 08-51, passed 12-29-2008; Ord. 09-43, passed 10-19-2009)

§ 35.133 BOARD OF INCOME TAX APPEAL; REPRESENTATION.

(A) (1) A Board of Income Tax Appeal is hereby created consisting of three citizens of the village appointed as follows:

- (a) One citizen appointed by the Mayor.
- (b) One citizen appointed by the Fiscal Officer.
- (c) One citizen appointed by the other two members first appointed by the Mayor and Fiscal Officer.

(2) No member shall be appointed to the Board of Income Tax Appeal who holds other public office or appointment. The members of the Board shall serve without pay.

(B) A majority of the members of the Board of Income Tax Appeal shall constitute a quorum. The Board of Income Tax Appeal shall adopt its own procedural rules and shall keep a record of its transactions. The Board of Income Tax Appeal may adopt, promulgate and enforce rules and

regulations relating to any matter or thing pertaining to the administration, operation and enforcement of the provisions of this subchapter.

(C) All hearings by the Board of Income Tax Appeal shall be conducted privately and the provisions of § 35.135 with reference to the confidential character of information required to be disclosed by this subchapter shall apply to all such matters as may be heard before the Board of Income Tax Appeal, on appeal.

(D) Whenever the Fiscal Officer issues a decision regarding the village income tax obligation that is subject to appeal as provided in this section, the Fiscal Officer shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(E) Any person who is aggrieved by a decision by the Fiscal Officer and who has filed with the village the required returns or other documents pertaining to the village income tax obligation at issue in the decision may appeal the decision to the Board of Income Tax Appeal by filing a request with the Board. The request shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within 30 days after the Fiscal Officer issues the decision complained of.

(F) The Board of Income Tax Appeal shall schedule a hearing within 45 days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative.

(G) The Board may affirm, reverse, or modify the Fiscal Officer's decision or any part of that decision. The Board shall issue a decision of the appeal, and send notice of its decision by ordinary mail to the petitioner within 15 days after issuing the decision.

(H) The Board of Income Tax Appeal shall adopt rules governing its procedures and shall keep a record of its transactions. The records are not public records available for inspection under R.C. § 149.43. Hearings requested by a taxpayer before the Board of Income Tax Appeal are not meetings of a public body subject to R.C. § 122.22.

(Ord. 33-01, Art. 9, passed 12-3-2001)

§ 35.134 PENALTIES AND VIOLATIONS.

(A) *Interest and penalties.*

(1) *Collection of unpaid taxes.* All taxes imposed by this subchapter shall be collectable, together with any interest and penalties, by suit, as other debts of like amount are recoverable. All additional assessments shall be made and all legal actions to recover municipal income taxes and penalties and interest on municipal taxes shall be brought within three years after the tax was due or the return filed, whichever is later.

(2) *Interest on unpaid taxes.* All taxes imposed by this subchapter, including taxes withheld or required to be withheld from wages by an employer and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of 12% per annum computed monthly, and the taxpayers upon whom the taxes are imposed, and the employers required by this subchapter to deduct, withhold and pay taxes imposed by this subchapter shall

be liable, in addition thereto, to a penalty of 1% of the amount of the unpaid tax for each month or fraction of a month or \$25, or whichever is greater. Upon recommendation of the Fiscal Officer, the Board of Review may abate interest or penalties, or both, and upon appeal from the refusal of the Fiscal Officer to so recommend, the Board of Review may nevertheless abate interest or penalty or both.

(3) (a) In addition to interest payments as provided in division (A)(2) above, filings shall be deemed to be timely filed if postmarked by the due date. Postage meter imprints are not considered to be postmarked dates.

(b) If the only marking on the return is the postage meter marking then the return must be received on the first business day after the due date of the return, otherwise penalty and interest charges shall be imposed.

(4) A penalty shall not be assessed on any additional tax assessment made by the Department of Taxation when a return has been filed in good faith and the tax paid within the time prescribed by the Department of Taxation, and provided further that in 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 months after the final determination of the federal tax liability.

(5) A fee as determined by the Fiscal Officer will be charged for each check returned to the Department of Taxation by a financial institution as unpaid, for any reason whatsoever.

(B) *Violations.* Any person who shall:

(1) Fail, neglect or refuse to make any return, report or declaration required by this subchapter; 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 subchapter; or

(4) Fail, neglect or refuse to withhold the tax from his or her employees or remit the withholdings to the village; or

(5) Refuse to permit the Fiscal Officer or his or her delegate or any duly authorized agent or employee to examine his or her books, records, papers, state and federal income tax returns relating to the income or net profits or payroll of a taxpayer; or

(6) Refuse to disclose to the Department of Taxation any information with respect to the income or net profits of a taxpayer; or

(7) Fail to comply with the provisions of this subchapter or answer a subpoena of the Department of Taxation; or

(8) Fail, as an individual charged with the responsibility to withhold and remit from the wages of employees the tax to be paid to the village in accordance with the provisions of this subchapter; or

(9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this subchapter.

(Ord. 33-01, § 10.01 and § 10.02 (part), passed 12-3-2001) Penalty, see § 35.999

§ 35.135 CONFIDENTIALITY.

(A) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this subchapter shall be confidential and no disclosure thereof shall be made except to municipal, county, state or federal taxing agencies, or, except for official purposes, or except in accordance with proper judicial order. No person shall otherwise divulge the information.

(B) Each disclosure shall constitute a separate offense. In addition to the penalty's provided for in § 35.134(A), any employee of the village who violates the provisions of § 35.133(C) or (D) relative to disclosure of confidential information shall be guilty of an offense which may be punishable by immediate dismissal.

(Ord. 33-01, Art. 11, passed 12-3-2001)

§ 35.136 EFFECTIVE DATE.

The tax provided for in this subchapter 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 and other activities, earned from the effective date of the ordinance codified herein, and shall apply to all taxes, filings and assessments effective and beginning with tax year 2002 and ending with tax year 2015, at which time this subchapter shall be no longer in effect for new tax liabilities but shall remain enforceable until such time as all actions to enforce these provisions have been completed or the maximum time for enforcement has passed. For tax years beginning in 2016, Chapter 39 shall govern the imposition of income taxes.

(Ord. 33-01, Art. 12, passed 12-3-2001; Ord. 33-2015, passed 11-3-2015)

§ 35.137 RULES AND REGULATIONS FOR INCOME TAX, UNDER AUTHORITY OF ORDINANCE 32-72, ADOPTED.

The village's rules and regulations under authority of Ordinance 32-72 are hereby adopted by reference as if set out in full herein. Copies are available through village offices.

(Res. 33-72, passed 10-2-1972; Res. 28-87, passed 6-16-1987; Res. 37-87, passed 7-21-1987; Res. 46-87, passed 9-15-1987; Res. 33-00, passed 12-18-2000; Res. 12-01, passed 7-2-2001; Ord. 2012-13, passed 4-3-2012)

Editor's note:

Certain amending ordinances referred to Resolution 38-68 instead of Ordinance 33-72; since Resolution 33-72 has the same relationship to Ordinance 32-72 as Resolution 38-68 does to Ordinance 37-68, those amendments have been included here as well.

§ 35.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) Whoever violates any provision of §§ 35.035 through 35.046 shall be fined not less than \$25 nor more than \$100 for a first offense. For each subsequent offense the person shall, if a corporation, be fined not less than \$250 nor more than \$500, or if an individual, or a member of a partnership, firm, or association, be fined not less than \$250 nor more than \$500, or imprisoned not more than 60 days, or both, in addition to any other penalties as imposed by this subchapter.

(C) (1) Whoever violates any provisions of §§ 35.125 through 35.136 shall be guilty of a misdemeanor in the first degree and may be assessed penalties, including fines and/or imprisonment as set forth in the Ohio Revised Code.

(2) All prosecutions under § 35.134 and this division shall begin within the time specified in R.C. § 718.06, except in the case of fraud, omission of 25% or more of taxable income, or failure to file a return, prosecution may begin within six years after commission of such an offense.

(3) Whoever fails, neglects or refuses to make any return, questionnaire or declaration required by § 35.125 through 35.136, or who refuses to pay village income tax, or the penalties and interest thereon imposed by § 35.134 and this division, or who refuses to permit the Fiscal Officer, or any duly authorized agent, to examine the books, records and papers, or who knowingly makes any incomplete, false or fraudulent return or who attempts to do anything whatever to avoid the payment of the whole or any part of the village income tax, shall be fined not less than \$100 nor more than \$500 or imprisoned not more than 60 days, or both on a first offense. Upon any subsequent offense, the offender shall be imprisoned for a period of not less than two days but not more than 60 days. The court shall also impose a fine of not less than \$100 but not more than \$500 on any subsequent offense. The failure of any employer or taxpayer to receive or procure a return, questionnaire or declaration form shall not excuse such person from making a return, questionnaire or declaration or from paying the tax.

(Ord. 21-95, passed 8-21-1995; Ord. 33-01, § 10.02 (part), passed 12-3-2001)

APPENDIX A: CRA MAP

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