

Income Tax Ordinance No.2003-11-01
Effective January 1, 2003

VILLAGE OF NEW WATERFORD, OHIO
INCOME TAX ORDINANCE
EFFECTIVE DATE: JANUARY 1, 2003

ORDINANCE NO. 2003-11-01 – AN EMERGENCY ORDINANCE -

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Levying a tax to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all salaries, wages, commissions and other compensations earned by residents of the Village of New Waterford; on all salaries, wages, commissions and other compensations earned by non-residents of the Village of New Waterford for work done or services performed or rendered in the Village of New Waterford; on the net profits earned on all businesses, professions or other activities conducted by residents of the Village of New Waterford; on the net profits earned on all businesses, professions or other activities conducted in the Village of New Waterford by non-residents, and on the net profits earned by all corporations doing business in the Village of New Waterford as the result of work done or services performed or rendered in the Village of New Waterford; requiring the filing of returns and furnishing of information by employers and all those subject to said tax; imposing on employers the duty of collecting the tax at the source and paying the same to the Village of New Waterford; providing for the

administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties thereof.

BE IT ORDAINED By The Council of the Village of New Waterford, State of Ohio, That:

SECTION 1. PURPOSE

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

SECTION 2. DEFINITIONS

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

1. Adjusted Federal Taxable Income: means a C Corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

b. Add an amount equal to five (5%) of intangible income deducted under Division (A)(1)(a) of this Section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code.

c. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly related to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code

d.

(i) Except as provided in Division (A)(1)(d)(ii) of this Section deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code.

(ii) Division (A)(1)(d)(i) of this Section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.

e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to distributions to, or amounts set-aside for or credited to the benefit of investor and allowed as a deduction in the computation of federal taxable income.

g. If the taxpayer is not a C Corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C Corporation except:

(i) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense.

(ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in Division (A)(1) of this Section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this Chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

2. Association: A partnership, limited partnership, S Corporation or any form of unincorporated enterprise, owned by one or more persons.

3. Board of Review: The Board created by and constituted as provided in **SECTION 13** of this ordinance

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

5. Corporation: A corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory, foreign country or dependency.

6. Domicile: The principle residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.

7. Employee: One who works for wages, salaries, commissions, or other type of compensation in the services of an employer.

8. Employer: An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one (1) or more persons on a salary, wage commission or other compensation basis.

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

10. Form 2106: Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

11. Generic Form: An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form once completed and filed contains all of the information required to be submitted with the municipalities prescribed return, report, or documents.

12. Gross Receipts: The total income of taxpayers from whatever source derived.

13. Income from a Pass-through Entity: Partnership, income of partners, membership interest of members of a limited liability company, distributive shares of shareholders of an S Corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

14. Intangible Income: Income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade-names, investments in real estate investment trust investments in regulated investment companies, and appreciation on deferred compensation. Intangible income **does not** include prizes, awards, or other income associated with lottery winnings or other similar games of chance.

15. Internal Revenue Code: The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

16. Internet: The international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical sub network known as the worldwide web.

17. Joint Economic Development District: Districts created under the Ohio Revised Code sections 715.10 through 715.83, as amended from time to time.

18. Limited Liability Company: A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

19. Village: The Village of New Waterford

20. Net Profits: For a taxpayer other than an individual means adjusted federal taxable income and “net profit” for a taxpayer who is an individual means the individual’s profit , other than the amounts described in division (F) of **Section 3** required to be reported on Schedule C, Schedule E, or Schedule F.

21. Nonqualified deferred compensation plan: A compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.

22. Non-Resident: An individual domiciled outside the Village.

23. Non-Resident Incorporated Business Entity: An incorporated business entity not having an office or place of business within the Village.

24. Non-Resident Unincorporated Business Entity: An unincorporated business entity not having an office or place of business within the Village.

25. Other Payer: Any person other than an individual’s employer or the employer’s agent that pays an individual any amount included in federal gross income of the individual.

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

27. Owner’s Proportionate Share: With respect to each owner of a pass-through entity, means the ratio of (a) the owner’s income from a pass-through entity that is subject to taxation by the Village, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by the Village.

28. Pass-Through Entity: A partnership, limited liability company, S Corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

29. Person: Individuals, firms, companies, business trust, estates, trust partnership, limited liability companies, associations, corporations, governmental entities and any other entities.

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

31. Principal Place of Business: In the case of an employer having headquarters activities at a place of business with a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

32. Qualified Plan: A retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.

33. Qualifying Wages: Wages as defined in Section 3121 (a) of the Internal Revenue Code, without regard to any wage limitation, adjusted in accordance with Section 718.03 (A) of the Ohio Revised Code.

34. Resident: An individual domiciled in the Village.

35. Resident Incorporated Business Entity: An incorporated business entity whose office, place of operations or business sites is within the Village.

36. Resident Unincorporated Business Entity: An unincorporated business entity having an office or place of business within the Village.

37. Return Preparer: Any person other than a taxpayer that is authorized by a taxpayer to complete or file income tax return, report, or other document for or on behalf of the taxpayer.

38. Schedule C: Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

39. Schedule E: Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

40. Schedule F: Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

41. S 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.

42. Tax Administrator: The person appointed to administer the Village's Income Tax Ordinance and to direct the operation of the Village Income Tax Department or the person executing the duties of the Tax Administrator.

43. Taxable Income: Qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this ordinance.

44. Taxable Year: The corresponding tax-reporting period as prescribed for the taxpayer under the Internal Revenue Code.

45. Taxing Municipality: A municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

46. Taxpayer: A person subject to a tax on income levied by a municipal corporation. Taxpayer does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but taxpayer includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

SECTION 3. IMPOSITION OF TAX.

A. Subject to the provisions of Section 16 of this ordinance, an annual tax for the purposes specified in Section 1 hereof shall be imposed on and after January 1, 2003 at the rate of **one percent (1%)** per annum upon the following:

1. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by **residents** of the Village of New Waterford.

2. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by **non-residents** for work done or services performed or rendered in the Village of New Waterford.

3. On the portion attributable to the Village of New Waterford of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Village. On the portion of the distributive share of the net profits earned by a resident owner of a

resident unincorporated business entity or pass-through entity not attributable to the Village and not levied against such unincorporated business entity or pass-through entity.

4. On the portion attributable to the Village of New Waterford of the net profits earned by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Village, whether or not such unincorporated business entity has an office or place of business in the Village. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Village and not levied against such unincorporated business entity or pass-through entity.

5. On the portion attributable to the Village of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.

6. On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes, and letter winnings.

B. Businesses both in and outside the Village Boundaries: This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in division (D) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such village for purposes of village income taxation in the same proportion as the average ratio of the following: Multiply the entire net profits of the business by a business apportionment percentage to be determined by:

a. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

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

c. Wages, salaries, and other compensation paid during the taxable period to such persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Ohio Revised Code.

d. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

e. Adding together the percentages determined in accordance with subsections B.a.c. and d. hereof or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.

1. A factor is applicable even though it may be apportioned entirely in or outside the Village.

2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

C. As used in division (B) of this section, "sales made in a municipal corporation" mean:

1. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within the Village.

2. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales with such municipal corporation and the sales result from such solicitation or promotion.

3. All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation 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.

D. Except as otherwise provided in division (E) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only

by the municipal corporation in which the property generating the net profit is located.

E. This section does not apply to individuals who are residents of the Village and, except as otherwise provided in section 718.01 of the Ohio Revised Code, the Village may impose a tax on all income earned by residents of the Village to the extent allowed by the United States Constitution.

F. Net Operating Loss (NOL)

1. The Village does not allow a net operating loss carry-back or carry-forward.

2. Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipality corporation to allow a net operating loss carry-back or carry-forward.

G. Consolidated Return

1. A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.

2. Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years.

H. Rentals

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

2. Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of \$200.00 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts of profits of the lessee, whether or not such rental exceeds \$200.00 per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farms, whether or not the gross income exceeds \$200.00 per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds \$200.00 per month.

TAXABLE INCOME AMPLIFIED

For purposes of this Ordinance, salaries, wages, commissions, and other income or compensation shall be defined to include, but shall not be limited to, the following:

1. Any payments made by an employer to an employee during periods of absence from work regardless of the label attached to the payments by the employee or the employer. By way of illustration only, these payments include sick pay, sub pay, vacation pay, supplemental unemployment pay, short-term disability pay etc. Any such payment shall be taxable when paid at the rate of taxation then in effect.
2. Income from wage continuation plans including retirement incentive plans.
3. Stock options-taxed when exercised on amount indicated on W-2 forms.
4. Cost of group term life insurance over \$50,000.00 tax on entire amount.
5. Severance pay or separation payments.
6. Compensation paid in property or the use thereof at fair market value to the same extent as taxable under the Federal Internal Revenue Act and so indicated on the W-2 form.
7. Tips received by waiters and others, bonuses, gifts, gratuities or other similar payments received in connection with employment
8. Compensation paid to domestic servants.
9. Benefits resulting from an employer assuming a tax.
10. Fellowships, grants or stipends paid to a graduate student in the full amount except that any amount allocated in writing for tuition, books, and laboratory fees shall be excluded.
11. Dismissal pay that is receivable as a matter of right or paid by virtue of an employment contract.
12. Incentive payments.

13. Tax shelter plan contributions by an employee to a retirement system are not deductible by such employee. If such contributions are deducted by an employer from the earnings of the employee, such amounts are subject to withholding

14. Disability pay if an employer pays the premium

15. Director's fees.

16. Jury duty fees.

17. Supplemental unemployment pay if paid by an employer.

18. Union steward fees.

19. Strike benefits if paid by the employer.

20. Profit sharing from a non-qualified plan.

21. Moving expense reimbursement in excess of any federal allowance for the same.

22. Total annual combined winnings over \$5,000.00 earned or derived from gaming, wagering, lotteries, including Ohio or other state lotteries, or games of chance.

I. Exclusions

The provisions of this Chapter shall not be construed as levying a tax upon the following:

1. Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

2. Proceeds of insurance, annuities, workers compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

3. Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

4. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).

- 5.** Alimony
- 6.** Compensation for damage to property by way of insurance or otherwise.
- 7.** Interest and dividends from intangible property.
- 8.** Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
- 9.** Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- 10.** Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
- 11.** In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Village, it shall calculate its income apportioned to the Village under the method or methods provided above.
- 12.** If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Village income tax.
- 13.** The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rent allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
- 14.** Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Municipal income tax from that compensation.
- 15.** The Village shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Village on twelve (12) or fewer days in a calendar year unless one of the following applies:
 - a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio

that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Village.

16. The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.3 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of t

Ohio Revised Code:

- a. The income of an electric company or combined company;
- b. The income of a telephone company.
- c. As used in division (F)(17) of this section, "combined company", "electric company" and "telephone company" have the same meanings as in section 5727.01 of the Ohio Revised Code.

17. An S Corporation shareholder's distributive share of net profits of the S Corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under division (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

SECTION 4. EFFECTIVE PERIOD

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned, and shall be levied with respect to the net profits of businesses, professional or other activities earned from and after the effective date of this ordinance.

SECTION 5. RETURN AND PAYMENT OF TAX

A. On or before April 15th of each year, every resident subject to the Provisions of **Section 3**, of the Ordinance shall, except herein after provided, make and file with the Tax Administrator a municipal tax return on a form prescribed by and acceptable to the Tax Administrator, whether or not a tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the 15th day of the fourth

month following the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of municipal tax deducted by said employer or employers from the qualifying wages, commissions other compensation, and other taxable income of a non-resident employee, and paid by him or them to the Tax Administrator may be accepted as the return required of a non-resident employee whose sole income, subject to tax under this Tax Code, is such qualifying wages, commissions, other compensation, and other taxable income.

B. A husband and a wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the municipal return regardless of whether they are federal and state returns were filed separately or jointly. If a joint village return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

C. The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator or on a generic form, if the generic form, when completed and filed contains all the information required to be submitted with the village's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

D. The return shall set forth:

1. The aggregate amounts of qualifying wages, commissions, other compensations received, allocated, appropriated or set-aside, other income defined by statute as taxable, and gross income from any business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax.
2. The Amount of tax imposed by this Tax Code on such earnings and profits;
3. Such other pertinent statements, information returns, copies of federal or state tax returns and/or Schedules, or other information as the Tax Administrator may require, including a statement that figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the Provision of this chapter

E. Extensions

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 by filing a copy of the taxpayer's federal extension request with the Village Tax division. Any taxpayer not required to file a federal income tax return may request an extension for filing a Village income tax return in writing. The

request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the Village income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

2. The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:
 - a. fails to timely file the request
 - b. fails to file a copy of the federal extension request, (if applicable)
 - c. owes the Village any delinquent income tax, penalty, interest or other charge for the late payment or non-payment of income tax
 - d. has failed to file any required income tax return, report, or other related document for a prior tax period.
3. The granting of an extension for filing a village tax return does not extend the due date as provided in this section for payment of the tax hence, penalties and interest may apply to any unpaid tax during the period of extension at the rate set out by **Section 10**. No penalties shall be assessed in those cases which the return is filed and the final tax paid within the extension period provided all other filing payment requirements of the Tax Code have been met. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled, however, if upon further examination it then becomes evident that the declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

A. Payments with Returns

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:
 - a. any portion of the tax so due which shall have been deducted at the source pursuant to the division of section
 - b. any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of section
 - c. credit to the extension allowed by section for tax paid to another municipality.
2. Subject to the limitations contained in **Section 11** of this Tax Code, any taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this Tax Code may have

such overpayment applied against any subsequent liability here under or, at this election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than \$1.00 shall be collected or refunded.

B. Amended Returns

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in **Sections 10 and 11**. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportioning of net profits after the due date for filing the original return.
2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Village of New Waterford tax liability, such taxpayer shall make and file an amended Village of New Waterford return showing income subject to the Village of New Waterford tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

C. Information Returns

Schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, Schedules and statements shall be a violation of this ordinance. Provided, however, that the tax payer shall have 10 days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.

SECTION 6. COLLECTION AT SOURCE

- A. Withholding by Employer: Each employer within, or doing business within, the Village who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in **Section 3** hereof on the qualifying wages due by such employer to each such employee and shall, on or before the last day of the month following the close of each calendar quarter make a return and pay to the Tax Administrator the amount of taxes so deducted. Said returns shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed therefore by the Village Council. Such

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

- B.** An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.
- C.** An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by the village or by the employer's exemption from the requirements to withhold the tax. The failure of an employer to remit to the village the tax withhold relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.
- D.** Each employer in collecting such tax shall be deemed to hold the same until payment is made by such employer to the Village of New Waterford, as a Trustee for the benefit of Village of New Waterford and any such tax collected by such employer from his employees shall, until the same is paid to Village of New Waterford, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such tax, in fact, has been withheld.
- E.** Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Village in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Village in accordance with the provisions of this section, all officer, members, manager, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Village as well as any related interest and penalties, and are also liable under the provisions of **Section 10** hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.
- F.** Withholding Return – List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Village tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount

of compensation paid during the year and the amount of Village income tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Village concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the each of such calendar year.

- G.** In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Village when the services were performed in the Village. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number) and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.
- H.** Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

SECTION 7. DECLARATIONS

Please click [here](#) to view July 10, 2007 amendment

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

 - 1.** Such declaration shall be filed on or before April 15th of each year during the life of this ordinance, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer

becomes subject to the tax for the first time.

2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

C. Forms – Credit for tax withheld or paid another community.

1. Such declaration shall be filed upon a form furnished by, or obtainable from, the Tax Administrator or an acceptable generic form and credit shall be taken for the Village of New Waterford tax to be withheld from any portion of such income. In accordance with the provisions of **Section 15** hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

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

3. For taxpayers who are individuals, such declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth, and thirteenth months after the beginning of the taxable year.

4. For taxpayers that are not individuals, such declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth, and twelfth months after the beginning of the tax year.

5. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

D. Amended Declaration.

1. A declaration may be amended at any time.
2. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

E. Annual Return Required.

On or before the fifteenth day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of section

SECTION 8. DUTIES OF THE TAX ADMINISTRATOR

- A.** It shall be the duty of the Tax Administrator to receive the tax imposed by this ordinance in the manner prescribed therein from the taxpayers; to keep an accurate record thereof; and to report all monies so received. It shall be the duty of the Tax Administrator to enforce payment of all taxes owing Village of New Waterford, to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amount of payment thereof.
- B.** The Tax Administrator is hereby charged with the enforcement of the provisions of this ordinance, including the interpretation, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and administration and enforcement of the provisions of this ordinance, including provisions for the re-examination and correction of returns.
- C.** In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may determine the amount of tax appearing to be due Village of New Waterford from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- D.** Subject to the consent of a majority of the Board of Review/Adjudication, the Tax Administrator shall have the power to compromise any liability imposed by **Section 10** of this ordinance.
- E.** Upon demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this ordinance, consistent with the Ordinance.

**SECTION 9. INVESTIGATIVE POWERS OF THE PENALTY FOR DIVULGING
CONFIDENTIAL INFORMATION**

- A.** The Tax Administrator, or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or any person subject to, or whom the Tax Administrator believes is subject to, the provisions of this ordinance for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under this ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.
- B.** The Tax Administrator is hereby authorized to order any person presumed to have knowledge of the Income Tax Ordinance the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been reported for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records, and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.
- C.** The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section or with and order or subpoena of the Tax Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in **Section 12** hereof.
- D.** Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that persons official duties or the official business of the village as authorized by this ordinance. The Tax Administrator of the village may furnish copies of returns filed under this ordinance to the Internal Revenue Service and the State Tax Commissioner.
- E.** Any person divulging such information in violation of this ordinance, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

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

- F.** Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date of his return is filed, or the taxes, required to be withheld are paid.

SECTION 10. INTEREST AND PENALTIES

- A.** All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid five (5) days after they become due shall bear interest at the same rate which Section 718.12 of the Ohio Revised Code of Ohio requires to be paid by municipalities of their income tax refunds, i.e., the federal short-term rate as defined in section 5703.47 of the Ohio Revised Code, plus three percent (3%) per year.
- B.** In addition to interest as provided in paragraph A hereof, penalties are hereby imposed as follows based on the tax remaining unpaid after it becomes due:
- 1.** For failure to pay taxes due, other than taxes withheld, one and one-half percent (1½ %) per month or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater.
 - 2.** For failure to remit taxes withheld or required to be withheld from employees; three percent (3%) per month or fraction thereof, or twenty-five dollars (\$25.00) whichever is greater.
 - 3.** Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, twenty-five dollars (\$25.00).
 - 4.** Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a return and paid the total tax on or before the end of the month following the end of the taxable year; ten percent (10%) of the difference between ninety percent (90%) of the actual tax for the year and the amount paid through withholding and declaration.
 - 5.** No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the village but was not domiciled there on the first day of January of the current calendar year.

6. Except in the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax.
- C. EXCEPTIONS. A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Administrator; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing and amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.
- D. Computed penalties of less than five dollars (\$5.00) for a first violation shall not be assessed. However, notification to the taxpayer of a first time violation will be made.
- E. Upon recommendation of the Tax Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest concerning an item of income or expense, the Board may nevertheless abate penalty or interest, or both.

SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

- A. All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations the period within which an additional assessment may be made by the Tax Administrator shall be extended one (1) year from the time of the final determination of the federal tax liability.
- B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the Federal tax liability, whichever is later.

- C.** Interest shall be allowed and paid on any overpayment by a taxpayer of any village income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed in Ohio Revised Code Section 5703.47.
- D.** Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

SECTION 12. VIOLATIONS - PENALTIES

- A.** Any person who shall:
- 1.** Fail, neglect or refuse to make any return or declaration required by this ordinance; or
 - 2.** Make any incomplete, false or fraudulent return; or
 - 3.** Willfully Fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or
 - 4.** Fail neglect or refuse to withhold the tax from his employees and remit such withholding to the Tax Administrator; or
 - 5.** Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
 - 6.** Fail to appear before the Tax Administrator and to produce his or his employer's books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
 - 7.** Refuse to disclose to the Tax Administrator any information with respect to such person's or such person's employer's income or net profits; or
 - 8.** Fail to comply with the provisions of this ordinance or any order or subpoena of the Tax Administrator authorized hereby; or

- 9.** Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
- 10.** Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and village tax withheld or to knowingly give the Tax Administrator false information; or
- 11.** Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by section; or
- 12.** Fail to cause the tax withheld from the qualifying wages of the employees pursuant to this ordinance to be paid to the Village in accordance with the provisions of section; or
- 13.** Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance; for which violation no penalty is otherwise provided, is guilty of a misdemeanor and shall be fined not more than One Hundred Dollars (\$100.00); on a second offense within two years after the first offense, such person is guilty of a misdemeanor of the third degree and shall be fined not more than Five Hundred Dollars (\$500.00), or imprisoned not more than sixty (60) days, or both for each offense; on each subsequent tax code violation within two years after the first offense such person is guilty of a misdemeanor of the third degree, and punishable as provided for herein.

B. All prosecutions under this Section must be commenced within the time specified in Ohio Revised Code section 718.12

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

D. Statute of Limitations.

- 1.** Civil actions to recover Village income taxes and penalties and interest on Village income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

2. Prosecutions for an offense made punishable under this ordinance shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense. Ohio Revised Code Section 718.12.

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

F. The term “person” as used in this section shall, in addition to the meaning prescribed in section include in the case of an association or corporation not having any partner, member or officer within the Village, any employee or agent of such association or corporation who can be found within the corporate limits of the Village.

SECTION 13. BOARD OF REVIEW

A. A Board of Review, consisting of three (3) electors of the Village of New Waterford to be appointed by the Mayor of Village of New Waterford, and approved by Council, is hereby created and shall be maintained to hear appeals. The members of the Board of Review shall be appointed for a term of three years; however, the members of the first Board of Review shall be appointed for (one, two, three years respectively). A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 hereof with references to the confidential character of information required to be disclosed by the ordinance shall apply to such matters as may be heard before the Board on appeal.

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

C. Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Village, the Tax Administrator shall notify the taxpayer in

writing 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.

D. Any person who is aggrieved by a decision by the Tax Administrator 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 Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision.

E. The imposition of penalty and interest as prescribed in the codified ordinance of the Village is not a sole basis for an appeal.

F. The Board of Review shall schedule a hearing within forty-five (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 Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Administrator may appeal the Board's decision as provided in section 5717.011 of the Ohio Revised Code.

Each Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code.

SECTION 14. ALLOCATION OF FUNDS

The funds collected under the provisions of this Ordinance shall be deposited in the General Fund and said funds collected shall be disbursed in the following order, to-wit;

A. Such part thereof as shall be necessary to defray all cost of collecting the taxes and the cost of administering and enforcing the provisions thereof;

B. Not more than **85%** of the net available income tax receipts received annually may be used to defray operating expenses of the Village.

C. At least **15%** of net available income tax receipts received annually shall be set aside and used for capital improvements for the Village including, but not limited to: development and construction of storm sewers and street improvements; for public buildings, parks and playgrounds; and for equipment necessary for the police, fire, street, traffic and safety departments.

SECTION 15. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

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

B. Every individual taxpayer who resides in Village of New Waterford who receives net profits, salaries, wages, commissions, or other personal service compensation for work done or services performed or rendered outside of Village of New Waterford, if it appears that he has paid a municipal income tax on the same income taxable under this ordinance to another municipality, shall be allowed a credit of $\frac{1}{2}\%$ against the tax imposed by this ordinance of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this ordinance on such income earned in such other municipalities where such tax is paid.

C. The Village shall grant a credit against the tax imposed by this Ordinance to every taxpayer who works in joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, 715.72 of the Ohio Revised Code. The credit shall not exceed the tax assessed by this ordinance on such income earned in such joint economic development zone or joint economic development district where such tax is paid.

D. Except as provided in division (e) of this section, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.

E. If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in division (d) of this

section shall be calculated using the tax rate in effect in the second municipal corporation.

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

SECTION 16. SAVING CLAUSE

This ordinance shall not apply to any person, firm or corporation, or to any property at to whom or which, it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this ordinance, or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared to be the intention of the Council of the Village of New Waterford that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 17. INFORMATION TO BE SUPPLIED TO LANDLORDS

A. For each piece or parcel of real property, residential, commercial or otherwise, located within the Village and leased or rented on or after the effective date of this Ordinance, the Owner, Lessor or Landlord thereof shall, within thirty (30) days of the effective date hereof, inform the office of the Tax Administrator in writing, of the name and address of each Lessee, Renter or Tenant thereof.

B. Within thirty (30) days of the termination of any tenancy, the Owner, Lessor or Landlord shall notify the Office of the Village Tax Administrator in writing of the forwarding address of the previous Lessee, Renter or Tenant.

C. Every Owner, Lessor or Landlord subject to the provisions of subsection A of this Section is under a continuing duty to notify the office of the Tax Clerk whenever a piece or parcel of real property, residential, commercial or otherwise, is again rented to any subsequent Lessee, Renter or Tenant. Such notification shall provide the same information to the office of the Tax Administrator as subsection A of this Section.

D. Any person who fails to comply with any provision of this section shall be guilty of a minor misdemeanor.

SECTION 18 EFFECTIVE DATE

That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, welfare, and peace of the Village of New Waterford, State of Ohio, and shall therefore take effect immediately upon passage.

Any portion of any Ordinance in conflict herewith is hereby declared to be null and void. Any provision of any Ordinance not in conflict herewith shall remain in full force and effect.

Passed by the Council of the Village of New Waterford on this day of
, 2003.

MAYOR
Nancy Benson

COUNCIL PRESIDENT
William Mullarkey

CLERK
Rhonda Adams

ORDINANCE NO. 2007 - 07 - 04

**AN ORDINANCE AMENDING ORDINANCE NO. 2003-11-01 SECTION 7
AND DECLARING AN EMERGENCY**

WHEREAS, the Village of New Waterford adopted Ordinance No. 2003-11-01 also referred to as the Village of New Waterford Income Tax Ordinance; and

WHEREAS, the Finance and Legislative Committee recommends amending Section ^{7 made} of the Ordinance to remove the quarterly filing and payment of declarations for income not collected at the source for individuals and sole proprietorships; and

WHEREAS, the Regional Income Tax Agency also recommends such amendment of the Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NEW WATERFORD, COLUMBIANA COUNTY, STATE OF OHIO:

Section 1. That Section 7 of Ordinance No. 2003-11-01 which previously stated:

SECTION 7. DECLARATIONS

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

B. Dates for Filing.

1. Such declaration shall be filed on or before April 15th of each year during the life of this ordinance, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to the tax for the first time.

2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

C. Forms - Credit for tax withheld or paid another community.

1. Such declaration shall be filed upon a form furnished by, or obtainable from, the Tax Administrator or an acceptable generic form and credit shall be taken for the Village of New Waterford tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to

another taxing municipality.

2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
3. For taxpayers who are individuals, such declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth, and thirteenth months after the beginning of the taxable year.
4. For taxpayers that are not individuals, such declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth, and twelfth months after the beginning of the tax year.
5. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

D. Amended Declaration.

1. A declaration may be amended at any time.
2. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

E. Annual Return Required.

On or before the fifteenth day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of section

It shall be the objective of these grading regulations to provide grading which will divert surface water away from buildings and dispose of such water without harmful effects on neighboring property, to preserve desirable site features and to provide grades and gradients for safe and convenient access to and around buildings for their normal use and maintenance.

is hereby amended to read:

SECTION 7. DECLARATIONS

A. Requirements for Filing. Every person who anticipates any taxable income which is not subject to Section 6 thereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3 hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, however, the following are exempt from filing declaration:

1. individuals, including sole proprietors, who shall file and pay tax in accord with Section 5; and
2. persons whose income is wholly from qualifying wages from which the tax will be withheld and remitted to the Village of New Waterford in accordance with Section 6 hereof.

B. Dates for Filing.

1. Such declaration shall be filed on or before April 15th of each year during the life of this ordinance, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to the tax for the first time.
2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

C. Forms - Credit for tax withheld or paid another community.

1. Such declaration shall be filed upon a form furnished by, or obtainable from, the Tax Administrator or an acceptable generic form and credit shall be taken for the Village of New Waterford tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
3. For taxpayers that are not individuals or sole proprietorships, such declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth, and twelfth months after the beginning of the tax year.
4. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

D. Amended Declaration.

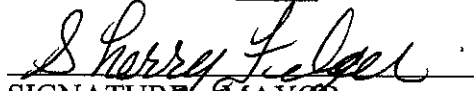
1. A declaration may be amended at any time.
2. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

E. Annual Return Required.

On or before the fifteenth day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of Section 5.

Section 2.: That this resolution is hereby declared to be an emergency measure necessary to the preservation of the public peace, health, safety, peace and general welfare of the Village of New Waterford and the inhabitants thereof, and as such this Resolution shall take effect and be in full force and virtue upon passage with the terms hereof.

ADOPTED THE 10TH DAY OF JULY 2007.


SIGNATURE - MAYOR


SIGNATURE - PRESIDENT OF COUNCIL


SIGNATURE - FISCAL OFFICER

Village of New Waterford

SS

State of Ohio, Columbiana County,

I, Michael A. Harold, clerk of Village Council of the Village of New Waterford, do hereby certify that the foregoing is taken and copied from the record of the proceedings of said council; that the same has been compared by me with the resolution on said record and that it is a true and correct copy thereof.

Witness My Signature, this 10TH Day of JULY, 2007.


SIGNATURE

MICHAEL A. HAROLD, CLERK
PRINT NAME

Posted:

Community Building
Taylor Road Garage
Vittle Village
Village Laundromat
Firehall