

Village of Wintersville
Wage Tax Ordinance
Ordinance No. 1995-2

AN ORDINANCE LEVYING A TAX TO PROVIDE FUNDS FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATIONS, MAINTENANCE, REPLACEMENT AND REPAIR OF EQUIPMENT FOR USE OF THE VILLAGE, REPAIR, REPLACEMENT AND IMPROVEMENTS TO THE STREETS OF THE VILLAGE, MAINTENANCE, ENLARGEMENT AND IMPROVEMENT OF MUNICIPAL SERVICES AND FACILITIES AND CAPITAL IMPROVEMENTS IN AND FOR THE VILLAGE, RECREATION, PROVIDING FOR THE HIRING OF A WAGE TAX, ADMINISTRATOR, PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX INCLUDING BUT NOT LIMITED TO THE PAYMENT OF SALARIES, PURCHASING OF EQUIPMENT AND THE LIKE NECESSARY FOR THE OPERATION AND MAINTENANCE OF THE WAGE TAX OFFICE. ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY NON-RESIDENTS OF THE VILLAGE OF WINTERSVILLE AND FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE OF WINTERSVILLE. ON THE NET PROFITS EARNED BY ALL BUSINESSES, PROFESSIONS AND OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF THE VILLAGE OF WINTERSVILLE. ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS AND OTHER ACTIVITIES CONDUCTED IN THE VILLAGE OF WINTERSVILLE BY NON-RESIDENTS AND ON THE PROFITS EARNED BY ALL CORPORATIONS DOING BUSINESS IN THE MUNICIPALITY RENDERED IN THE VILLAGE OF WINTERSVILLE REQUIRING THE FILING OF RETURNS AND FURNISHING OF INFORMATION BY EMPLOYERS AND ALL THOSE SUBJECT TO SAID TAX IMPOSING ON THE EMPLOYERS THE COLLECTING THE TAX AT THE SOURCE AND PAYING THE SAME TO THE VILLAGE OF WINTERSVILLE DECLARING VIOLATION THEREOF TO BE A MISDEMEANOR AND IMPOSING PENALTIES THEREFORE.

Now, Therefore, this Ordinance is hereby entered into by the Village of Wintersville, County of Jefferson, State of Ohio, as follows:

SECTION 1. PURPOSE:

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

SECTION 2. DEFINITIONS:

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

ADMINISTRATOR: The individual or corporation designated by the ordinance, employed by the Village of Wintersville, to administer and enforce the provisions of the ordinance.

ASSOCIATION: A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

BOARD OF REVIEW: The Board created by and constituted as provided in Section 13 of this ordinance.

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

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

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

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

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

GROSS RECEIPTS: The total income from any source as defined here in below under "TAXABLE INCOME".

NET PROFITS: The net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable, and necessary expenses paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes, without deducting of taxes imposed by this ordinance, federal state and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this ordinance.

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

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

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

RESIDENT: An individual domiciled in the Village of Wintersville.

RESIDENT UNINCORPORATED BUSINESS ENTITY: An unincorporated business entity having an office or place of business in the Village of Wintersville.

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

TAXABLE YEAR: The calendar year, or the fiscal year upon the basis of which net profits are to be computed under this ordinance and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

TAXPAYER: A person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

The singular shall include the plural, and masculine shall include the feminine and the neuter.

SECTION 3. IMPOSITION OF TAX:

A. Subject to the provisions of Section 16 of this ordinance, and annual tax for the purpose specified in Section 1 here of shall be imposed on and after May, 1995 primary election at, the rate of one percent per annum upon the following:

1. On all salaries, wages, commissions and other compensation earned during the effective period of the ordinance by residents of the Village of Wintersville.

2. On all salaries, wages, commissions and other compensation earned during the effective period of the ordinance by non-residents for work done or services performed or rendered in the Village of Wintersville.

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

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

4. (a) On the portion attributable to the Village of Wintersville of the net profits earned during the effective period of this ordinance of all non-resident Unincorporated businesses, professions or other entities, derived from Sales made, work done, or services performed or rendered and business Or other activities conducted in the Village of Wintersville, whether or not Such unincorporated business entity has an office or place of business in The Village of Wintersville.

(b) The portion of the distributive share of the net profits earned during the Effective period of this ordinance of a resident partner or owner of a non-resident unincorporated business entity not attributable to the Village of Wintersville and not levied against such unincorporated business entity by the Village of Wintersville.

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

(b) The portion of the net profits attributable to the Village of Wintersville Of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village of Wintersville shall be determined as provided in Section 718.02 of the Ohio Revised Code and in accordance with the rules and regulations adopted by the Administrator pursuant to this ordinance.

(c) Operating Loss Carry Forward.

1. The portion of a new operating loss sustained in any taxable year subsequent to July 1, 1995, allocable to the Village of Wintersville may be applied against the portion of the profit of succeeding year (s) allocable to the Village of Wintersville, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

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

(d) Consolidated Returns

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

2. In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other methods, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village of Wintersville constituting a portion only of its total business, the administrator shall require such additional information

as he may deem necessary to ascertain whether net profits are properly allocated to the Village of Wintersville.

If the Administrator finds net profits are not properly allocated to the Village of Wintersville by reason of transactions with stockholders or with other corporations related by stock ownership interlocking directorates, or transactions with such divisions, branch, office, laboratory or activity or by some other method he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Village of Wintersville.

(e) Exception.

1. The tax provided for herein shall not be levied upon the military pay or allowance of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Section 718.01 of the Ohio Revised Code to the extent that such net profit are exempted from municipal income taxes under said section, nor shall the tax be levied upon Workman's Compensation Benefits, Sick Pay, Social Security, Income Pensions and Interest on Savings.

SECTION 4. EFFECTIVE PERIOD;

Said tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensations, and with respect to the net profits of businesses, professions or other activities earned on and after July 1, 1995.

SECTION 5. RETURN AND PAYMENT OF TAX;

A. Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30th of the year following the effective date of this ordinance, and on or before April 30th of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers, from the salaries, wages, commissions, or other compensation of an employee, and paid by him or them to the Administrator shall be accepted unless otherwise specified as the return required of any employee whose sole income, subject to tax under this ordinance, is such salary, wages, commissions, or other compensation.

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

- (1) The aggregate amounts of salaries, wages, commissions and other compensation and gross income from business, profession or other activity, less allowable ordinary, reasonable, and necessary expenses incurred in the year and subject to said tax;
- (2) The amount of the tax imposed by this ordinance on such earnings and profits; and
- (3) Such other pertinent statements, information returns, or other information as the Administrator may require.

C. The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Administrator may require a tentative return, accompanied by a payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period of extension.

D. The taxpayer making return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6 of this ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of this ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance

with Section 15 thereof, shall be deducted from the amount shown to be due and only the Balance, if any, shall be due and payable at the time of filing said return.

A taxpayer who has overpaid the amount of tax to which the Village of Wintersville is entitled under the provisions of this ordinance may have such overpayment applied against any subsequent liability thereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than \$1.00 shall be collected or refunded.

D. 1. AMENDED RETURNS: Where necessary and amended return must be filed in order to report additional income tax due, or claim a refund of tax overpaid, subject to the requirements and/or limit actions in Section 11 and 15. Such amended returns shall be on a form obtained on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profit after the due date for filing the original return.

E. 1. AMENDED RETURNS: Where necessary an amended return must be filed in order to report additional income tax due, or claim a refund of tax overpaid, subject to the requirements and/ or limit actions in Section 11 and 15. Such amended returns shall be on a form obtained on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profit after the due date for filing the original return.

E. 2. Within three (3) months from the final determination of any federal tax liability affecting The taxpayer's tax liability to the Village of Wintersville, such taxpayer shall make and file an amended return showing income subject to the income tax of the Village of Wintersville 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.

SECTION 6. COLLECTION AT SOURCE;

A. In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Village of Wintersville shall deduct at the time of the payment of such salary, wage, commission or there compensation, the tax of one percent of the gross salaries, wages, commissions or other compensation due by the said employer to said employee of the tips or gratuities reported to said employer by each said employee for Social Security or Federal Income Tax purposes and shall on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator and the amount of taxes so deducted. Said returns shall be on a form prescribed by or acceptable to the Administrator and shall be subject to the Rules and Regulations prescribed therefore by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax have in fact been withheld.

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

C. On or before January 31st of each year beginning with the year 1996, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the proceeding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

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

SECTION 7. DECLARATIONS;

A. Every person who anticipates any taxable income which is not subject to Section 6 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3 hereof

shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village of Wintersville in accordance with Section 6 hereof, such person need not file a declaration.

B. Such declaration shall be filed on or before April 30th of each year during the life of this Ordinance, or within four (4) months of the date the taxpayer becomes subject to tax for the first time. Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the beginning of each fiscal year or period.

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

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

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

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

SECTION 8. DUTIES OF THE ADMINISTRATOR;

A. 1. There is hereby created the position of Village Wage Tax Administrator who shall be nominated by the Mayor and approved by the vote of at least $\frac{3}{4}$ of the members of the Council of the Village of Wintersville and shall serve until their successor is appointed and qualified. It shall be the duty of the Village Tax Administrator to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.

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

B. Said Administrator is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered, subject to the approval of the Board of Review to adopt and promulgate and to enforce Rules and Regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of the provisions of this ordinance, including provisions for the re-examination and correction of returns.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owned by him under the ordinance.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 11 and 12 of the ordinance shall apply.

C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the Village of Wintersville from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties there on, if any.

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

SECTION 9. INVESTIGATIVE POWERS OF THE ADMINISTRATOR - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION;

A. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this ordinance, for the purpose of verifying the accuracy of any return made, or if no return was made, to ascertain the tax due under this ordinance. Every such employer, supposed, employer taxpayer or supposed taxpayer is hereby directed and required to furnish upon request by the Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

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

C. The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the Administrator authorized hereby shall be deemed to a violation of this ordinance, punishable as provided in Section 12 hereof.

D. Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by the ordinance or authorized by these Rules and Regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of \$500.00 or imprisonment for not more than 6 months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Village of Wintersville who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

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

SECTION 10. INTEREST AND PENALTIES;

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

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

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

2. For failure to pay taxes due - other than taxes withheld from employees; five percent (5%) per month or fraction thereof.

C. EXCEPTIONS.

A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.

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

SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS;

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

B. Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of the Village of Wintersville income taxes must be brought within the time limitation provided in Division A of this section.

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

SECTION 12. VIOLATIONS/PENALTIES:

A. Any Person who shall:

1. Fail, neglect or refuse to make any return or declaration required by this ordinance; or
2. Make any incomplete, false or fraudulent return; or
3. Willfully fail, neglect or refuse to pay the taxes, penalties, or interest imposed by this ordinance, or
4. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator, or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers, and Federal Income Tax returns relating to the income or net profits of a taxpayer, or
6. Fail to appear before the Administrator and to produce his books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator, or
7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer, or
8. Fail to comply with the provisions of this ordinance or any order or subpoena of the Administrator authorized hereby; or
9. Give to an employee false information as to his true name, correct social security number and residence address, or fail to change in residence address and date thereof; or

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

11. Attempt to do anything whatsoever to avoid, the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance.

Shall be guilty of a misdemeanor and shall be fined not more than five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months or both for each offense.

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

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

SECTION 13. BOARD OF REVIEW

A. A Board of Review consisting of a chairman and two other individuals to be appointed by the majority of Council is hereby created. Ant Board shall be composed of one member of Council, private citizen and one merchant. The term for said citizen representative and the merchant representative shall be for 3 years, while the member of Council shall be appointed by the majority of Council beginning in January of each year. For purposes of implementation of this Ordinance, the first Board of Review herein created shall include a merchant position with a three year term, the Citizen position with a two year term and the Council member position a one year term. All members shall serve with compensation. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep record of its transactions. Any hearings by the Board may be conducted privately and the provisions of Section 9 hereof with reference to the confidential character of information required to be disclosed by the ordinance shall apply to such matters as may be heard before the Board of Appeal.

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

C. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this ordinance may appeal therefrom to the Board of Review within 30 days from the announcement of such ruling or to affirm, reverse or modify any such ruling or decision, in any part thereof.

SECTION 14. ALLOCATION OF FUNDS

The allocation of funds generated under the terms of this ordinance shall be in accordance with the following formula. Said allocation mechanism shall be reviewed by the Council on an annual basis so that the allocation fund (Category 7) may be distributed as needed in any given year. The funds that are in Category 7 are to be divided only among the category listed within this section. It is the intent of this ordinance that the funds generated under the terms of this ordinance shall be used according to the following formula.

1. Maintenance, replacement or repair of equipment for use within the Village (10% minimum)
2. Repair, replacement and improvements to the streets of the Village (13% minimum)

3. Recreation within the Village (2% minimum)
4. Police Department (10% minimum)
5. Maintenance, enlargement, and improvements of Municipal Services and facilities (10% minimum)
6. Capital improvements in and for the Village (5% minimum)
7. Allocation Fund (to be divided ONLY among the categories listed above) (50% maximum)

All percentages will be based upon the NET money available after all expenses related to the hiring of a Wage Tax Administrator providing for the administration, collection and enforcement of said tax. All of these expenses shall be taken out of the total amount of money collected.

A $\frac{3}{4}$ vote of Council may amend this section by adding a category. However, no part of the monies from this tax can be spent on anything that is not specifically listed above. Further, the 7 Categories currently listed above may not be deleted or their specific percentage may not be reduced unless a financial emergency exists within the Village.

SECTION 15. ADVISORY BOARD:

The Advisory Board shall be made up of one councilman and two Village residents who will be selected by majority of Council. The Advisory Board members will serve 5 year terms and will serve without compensation.

SECTION 16. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY:

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

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

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

SECTION 17. SAVINGS CLAUSE:

If any sentence, clause, section or part of this ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall 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 Wintersville that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

SECTION 18. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE:

A. This ordinance shall continue insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collection on any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of said taxes

levied hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Section 11 and 12 hereof.

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