

**VILLAGE OF WESTFIELD CENTER  
INCOME TAX ORDINANCE  
1999-10**

**LEVYING A TAX TO PROVIDE FUNDS FOR THE PURPOSES OF GENERAL VILLAGE OPERATION, MAINTENANCE OF EQUIPMENT, NEW EQUIPMENT, EXTENSION, ENLARGEMENT AND IMPROVEMENT OF VILLAGE SERVICES AND FACILITIES AND CAPITAL IMPROVEMENTS, ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATIONS EARNED BY RESIDENTS OF THE VILLAGE OF WESTFIELD CENTER; ON ALL SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED BY NON-RESIDENTS OF THE VILLAGE OF WESTFIELD CENTER FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE OF WESTFIELD CENTER; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF THE VILLAGE OF WESTFIELD CENTER; ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED IN THE VILLAGE OF WESTFIELD CENTER BY NON-RESIDENTS, AND ON THE NET PROFITS EARNED BY ALL CORPORATIONS DOING BUSINESS IN THE VILLAGE OF WESTFIELD CENTER AS THE RESULT OF WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE OF WESTFIELD CENTER; 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 WESTFIELD CENTER; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX; DECLARING VIOLATION THEREOF TO BE A MISDEMEANOR AND IMPOSING PENALTIES THEREFORE.**

**BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WESTFIELD CENTER, OHIO:**

**SECTION I. PURPOSE**

To provide funds for the purposes of general village operations, maintenance of equipment, new equipment, extension and enlargement of village services and facilities and capital improvements of the Village of Westfield Center there shall be, and is hereby levied, a tax of one percent (1%) 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 Clerk-Treasurer or his/her authorized representative
ASSIGNMENT	The assignment made by a resident of Westfield Center of claim for refund due from another taxing municipality or village granting credit to non-residents thereof.
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 the profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation, or any other entity.
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 of 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 31.
GROSS RECEIPTS	The total income from any source whatsoever.
NET PROFITS	A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this ordinance, federal, state and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this ordinance.
NON-RESIDENT	An individual, partnership, limited partnership, corporation, association, or other entity domiciled outside the Village of Westfield Center.
NON-RESIDENT UNINCORPORATED BUSINESS ENTITY	An unincorporated business entity not having an office or place of business within the Village of Westfield Center.
OTHER ENTITY	The term "other entity" means any person or unincorporated body not previously named or defined and includes inter alia fiduciaries located within the Village of Westfield Center.
PARTNERSHIP	An association of two (2) or more persons to carry on, as co-owners, a business for profit.
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 corporation, 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, partnership, limited partnership, corporation, association, or other entity domiciled in the Village of Westfield Center.
RESIDENT UNINCORPORATED BUSINESS ENTITY	An unincorporated business entity having an office or place of business within the Village of Westfield Center.
TAXABLE INCOME	Wages, salaries, lottery and gambling winnings, golden parachutes/severance packages, employee bonuses and rewards, and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance.
TAXING MUNICIPALITY	Any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business, profession or other activity.
TAXING VILLAGE	Any village levying a village income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business, profession or other activity.
TAXPAYER	A person, whether an individual, partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or pay a tax.

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

### **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, 2000 at the rate of one percent (1%) 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 Westfield Center.
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 Westfield Center.

3. (a) On the portion attributable to the Village of Westfield Center of the net profits earned during the effective period of this ordinance of all resident unincorporated businesses, professions, or other entities, derived from sales made, work done, services performed, or rendered and business or other activities conducted in the Village of Westfield Center.
  - (b) On the portion of the distributive share of the net profits earned during the effective period of this ordinance of a resident partner or owner of a resident unincorporated business entity not attributable to the Village of Westfield Center and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality or village shall be subject to the Relief and Reciprocity Provisions of Section 15 hereof.
  4. (a) On the portion attributable to the Village of Westfield Center 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 Westfield Center, whether or not such unincorporated business entity has an office or place of business in the Village of Westfield Center.
  - (b) On the portion of the distributive share of the net profits earned during the effective period of this ordinance of a resident partner or owner of a non-resident unincorporated business entity not attributable to the Village of Westfield Center and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality or village shall be subject to the Relief Provisions of Section 15 hereof.
  5. On the portion attributable to the Village of Westfield Center, of the net profits earned during the effective period of this ordinance of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Westfield Center, whether or not such corporations have an office or place of business in the Village of Westfield Center.
- B. The portion of the net profits attributable to the Village of Westfield Center of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village of Westfield Center shall be determined as provided in Section 718.02 of the Revised Code of Ohio and in accordance with the rules and regulations adopted by the Administrator pursuant to this ordinance.

#### OHIO REVISED CODE SECTION 718.02 DETERMINATION OF INCOME SUBJECT TO TAX

- (A) In the taxation of income which is subject to the village income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of a village shall disclose with reasonable accuracy what portion of its net profit is attributable to the part of the business or profession conducted within the boundaries of the village, then only such portion shall be considered as having a taxable situs of such village for purposes of village income taxation. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of a village 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:
- (1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business of profession in such village during the taxable period to the average net book value of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

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

- (2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such village to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in such village to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations be substituted as to produce such result.

(B) As used in division (A) of this section, "sales made in a village" mean:

- (1) All sales of tangible personal property which is delivered within such village regardless of where title passes if shipped or delivered from a stock of goods within such village.
- (2) All sales of tangible personal property which is delivered within such village regardless of where title passes even though transported from point to point outside such village if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such village and the sales result from such solicitation or promotion.
- (3) All sales of tangible personal property which is shipped from a place within such village to purchases outside such village regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(C) Operating Loss Carry Forward

1. The portion of a net operating loss sustained in any taxable year subsequent to (effective date of "first" ordinance permitting loss carry forwards) and allocable to the Village of Westfield Center may be applied against the portion of the profit of succeeding year(s) allocable to the Village of Westfield Center, 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 Westfield Center in the same manner as provided herein for allocating net profits to the Village of Westfield Center.
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 or required in accordance with Rules and Regulations prescribed by the Administrator.

2. In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or other activity within the Village of Westfield Center 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 Westfield Center by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Village of Westfield Center.

(E) EXCEPTION

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

1. Funds received from local, state or federal governments because of service in the Armed Forces of the United States by the person rendering such service, or as a result of another person rendering such service.
2. Poor relief, pensions, social security, unemployment compensation, and disability benefits received from private industry or local, state or federal governments, or from charitable, religious or educational organizations.
3. Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.
4. Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious, and/or educational organizations and associations.
5. Any association, organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious, educational, literary, scientific etc., purposes.
6. Gains from involuntary conversions, cancellation of indebtedness interest of federal obligations, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
7. Earnings and income of all persons under eighteen (18) years of age, whether residents or non-residents.

**SECTION 4. EFFECTIVE PERIOD**

This ordinance shall continue effective insofar as the levy of taxes is concerned until changed by a vote of the Westfield Center Village Council.

**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 15 of the year following the effective date of this ordinance, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within ninety (90) days 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 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. (a) The aggregate of salaries, wages, commissions and other compensation earned; and
  - (b) The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income;
  - (c) Such income shall include only income earned during the year, or portion thereof, covered by the return and subject to the tax imposed by this ordinance.
  2. (a) The amount of tax imposed by this ordinance on income reported;
  - (b) Any credits to which the taxpayer may be entitled under the provisions of Sections 6, 7 and 15 of this ordinance.
  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 any 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 payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period which is extended.
- D. 1. The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the balance of tax due, if any, after deducting:
- (a) The amount of Westfield Center income tax deducted or withheld at the source pursuant to Section 6 hereof;
  - (b) Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 7 hereof;
  - (c) Any credit allowable under the provisions of Section 15 hereof.
2. Should the return, or the records of the Administrator indicate an overpayment of the tax to which the Village of Westfield Center is entitled under the provisions of this ordinance, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability. Provided, however, that overpayment of less than one dollar (\$1.00) shall not be refunded.

E. 1. AMENDED RETURNS

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 11 and 15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment 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 taxpayers' of the Village of Westfield Center tax liability, such taxpayers' shall make and file an amended Village of Westfield Center return showing income subject to the Village of Westfield Center 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.

**SECTION 6. COLLECTION AT SOURCE**

- A. 1. Each employer within or doing business within the Village of Westfield Center who employs one or more persons on a salary, wage, commission or other compensation basis shall, at the time of payment thereof, deduct the tax of one percent (1%) from the gross salaries, wages, commissions or other compensation earned by Westfield Center residents regardless of where such compensation was earned and shall deduct the tax of one percent (1%) from the salaries, wages, commissions, or other compensation earned within Westfield Center by non-residents.
  2. Notwithstanding the provisions of Paragraph A-1 of this Section, where such employer employs a Westfield Center resident in another taxing municipality requiring such employer to deduct its tax from all employees engaged therein, such employer shall withhold for and remit to the Village of Westfield Center only the difference, if any, between the tax imposed by such other taxing municipality and the tax imposed by this ordinance.
  3. Each such employer shall, on or before the last day of the month following each calendar quarter, make a return and remit to the Village of Westfield Center the tax hereby required to be withheld. Such return shall be on a form or forms 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 taxes have in fact been withheld.
  4. On or before the 31<sup>st</sup> day of January following any calendar year, such employer shall file with the Administrator an information return for each employee from whom the Village of Westfield Center Income Tax has been, or should have been withheld, showing the name, address, and Social Security number of the employee, the total amount of compensation paid during the year and the amount of the Village of Westfield Center Income Tax withheld from such employee.
- 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 Westfield Center, as a Trustee for the benefit of the Village of Westfield Center and any such tax collected by such employer from his employees shall, until the same is paid to the Village of Westfield Center, be deemed a trust fund in the hands of such employer.

**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 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 Westfield Center in accordance with Section 6 hereof, such person need not file a declaration.

- B. 1. Such declaration shall be filed on or before May 1<sup>st</sup> 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.
- 2. 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. 1. Such declaration shall be filed upon a form furnished by or obtainable from the Administrator. Credit shall be taken for the Village of Westfield Center income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of Section 15 hereof.
- 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.
- D. The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least one-fourth (1/4) of the estimated annual tax due after deducting:
  - 1. Any portion of such tax to be deducted or withheld at the source pursuant to Section 6 thereof;
  - 2. Any credits allowable under the provisions of Section 15 hereof; and
  - 3. Any overpayment of previous year's tax liability which taxpayer has not elected to have refunded.

At least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth month after the beginning of taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance 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 Westfield Center shall be paid therewith in accordance with the provisions of Section 5 hereof.

**SECTION 8. DUTIES OF THE ADMINISTRATOR**

- A. 1. It shall be the duty of the Clerk Treasurer to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all moneys so received.
- 2. It shall be the duty of the Administrator to enforce payment of all taxes owing the Village of Westfield Center, to keep accurate records for a minimum of five (5) 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 amounts of payments thereof.
- 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 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 the proper returns are filed by the taxpayer for all amounts owed 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 Westfield Center from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereof, if any.
- D. Subject to the consent of the Board of Review or pursuant to regulation 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.
- E. The Department of Taxation is hereby created within the office of the Clerk-Treasurer of the Village of Westfield Center. Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by the Council of the Village of Westfield Center, and shall receive such salary as may be determined by Village Council. The Clerk-Treasurer shall recommend all appointments of personnel and purchase all equipment, supplies and materials for the Department of Taxation subject to the appropriation by Council. The Department of Taxation shall be charged with the administration and operation of this ordinance under the direction of the Clerk-Treasurer. The Clerk-Treasurer shall prescribe the form and method of accounts and reports for said department as well as the forms for taxpayers' returns and declaration, and shall be charged with the internal examination audit of all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer and the date of such receipt. The Clerk-Treasurer shall also make written report to Council annually of all moneys collected hereunder during the preceding year.

**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 written 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 come, 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 to presumed to be 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 a violation of this ordinance, punishable as provided in Section 12 hereof.
- D. Any information gained as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this ordinance, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine 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 Westfield Center who violates the provisions of this Section relative to the disclosure of confidential information shall be immediately dismissed from the service of the village.

- 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 moneys withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of one-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-half (1/2) percent per month or fraction thereof.
  - 2. For failure to remit taxes withheld from employees; three percent (3%) 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 or 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 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 collectable, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed, whichever is later, provided, however, in those cases in which a commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one (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. Amounts of less than One Dollar (\$1.00) shall not be collected or refunded.

#### **SECTION 12. VIOLATIONS - PENALTIES**

- A. Any person who shall:
  - 1. Fail, neglect or refuse to make any return or declaration required by this ordinance; or
  - 2. Make any incomplete, false or fraudulent return; or
  - 3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or
  - 4. Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the 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 order or subpoena of the Administrator authorized hereby; or
9. Give to an employer false information as to his true name, correct social security number or residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and the Village of Westfield Center tax withheld, or to knowingly give the Administrator false information; or
11. 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;

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. All prosecutions under this Section must be commenced within five (5) years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten (10) years from the date the return was due or the date the false or fraudulent return was filed.
- C. The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

### **SECTION 13. BOARD OF REVIEW**

- A. A Board of Review, consisting of three (3) electors of the Village of Westfield Center, one (1) to be appointed by the Mayor, one (1) to be appointed by Council, and the third to be selected by the two (2) so appointed, is hereby created. No member shall be appointed to the Board of Review who holds other public office, or appointment. The members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and it shall keep a record of its transactions.
- B. All hearings of the Board shall 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 Review.
- C. 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 allocation.
- D. 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 thirty (30) days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

### **SECTION 14. ALLOCATION OF FUNDS**

The funds collected under the provision of this ordinance shall be deposited in the General Fund, and said funds shall be distributed for the period from effective date of ordinance through termination in the following order, to wit:

1. Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof.
2. The net available income tax receipts received annually shall be used by the Village at the discretion of Council.

#### **SECTION 15. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR VILLAGE**

It is the intent of this Section that a taxpayer, subject to tax in more than one village or municipality on the same income, who has complied with the provisions hereof, shall not be required by this ordinance to pay a total village or municipal income tax on such income greater than the tax imposed at the higher rate.

Accordingly, notwithstanding any other provisions of this ordinance;

- A. When a resident of Westfield Center is subject to and has paid, or has acknowledged liability for, a village or municipal income tax in another village or municipality of the same income taxable under this ordinance, such Westfield Center resident may claim a credit of the amount of such tax paid to such other village or municipality, but not in excess of the tax assessed by this ordinance.
- B. The credit provided for in Paragraph A of this Section will not be allowed unless the same is claimed in a timely return or form acceptable to, and filed with the Administrator. In the event a taxpayer fails, neglects, or refuses to file such timely return or form he shall not be entitled to such credit and shall be liable for the full amount of tax assessed by this ordinance, together with such interest and penalties, both civil and criminal, as are prescribed in the ordinance.

#### **SECTION 16. SAVING 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 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 Westfield Center that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

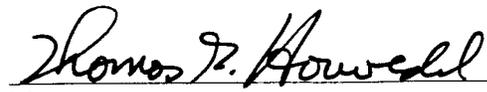
#### **SECTION 17. CLAUSE**

This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of said Village and for the further reason that the financial position of the Village requires immediate additional tax revenue for police and fire protection and other necessary village services; wherefore, this ordinance shall be in full force and effect from and immediately after its passage and signature by the Mayor and Clerk-Treasurer.

Passed: December 7, 1999

ATTEST:

  
\_\_\_\_\_  
Clerk

  
\_\_\_\_\_  
Mayor