

INCOME TAX ORDINANCE

Levying a tax to provide funds for the purpose of general municipal operation, parks and recreation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all salaries, wages, including sick pay and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, gambling winnings, rents and other compensation earned or received by all residents of the Village of Felicity; on all salaries, wages, including sick pay and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, gambling winnings, rents and other compensation earned or received by non-residents of the Village of Felicity for work done or services performed or rendered in the Village of Felicity; on the net profits earned on all businesses, professions or other activities conducted by residents of the Village of Felicity; on the net profits earned on all businesses, professions, or other activities conducted in the Village of Felicity by non-residents, and on the net profits earned by all corporations doing business in the Village of Felicity as the result of work done or services performed or rendered in the Village of Felicity; requiring the filing of the 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 Felicity; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefore, and declaring an emergency.

NOW THEREFORE, BE IT ORDAINED, By the Council of the Village of Felicity, Clermont County, and State of Ohio, as provided pursuant to Ohio Revised Code Chapter 718:

SECTION 1. PURPOSE

1.01 To provide funds for the purposes of general municipal operations, parks and recreation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvement of the Village of Felicity there shall be, and is hereby, levied a tax on salaries, wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, gambling winnings, and pay as part of an employee buyout or wage contribution plan and other compensation, on net profits and other taxable income as hereinafter provided.

SECTION 2. DEFINITIONS

2.01 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.

ADJUSTED FEDERAL TAXABLE INCOME – A “C” corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute “Adjusted Federal Taxable Income” as if the pass-through entity was a “C” corporation. This definition does not apply to any taxpayer required to file a return under Ohio revised Code (ORC) Section 5745.03 or to the net profit from a sole proprietorship.

ASSOCIATION – A partnership, limited partnership, limited liability company, 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 mixed.

COMMISSIONER – The individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance.

CORPORATION – A corporation, including Chapter S corporations as defined in the federal tax code, 26 U.S.C. 1361, or joint stock association organized under the laws of the United States, the State of Ohio, or any state, territory, or foreign country or dependency.

DOMICILE – The permanent legal residence of a taxpayer. An individual may have more than one residence but not more than one domicile.

EMPLOYEE – One who works for income, wages, salary, commission or other types of compensation in the service of and under the control 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 an income, 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.

GENERIC FORM – An electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds that contain all the information required on Felicity's regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering the Village's procedures for processing forms.

GROSS RECEIPTS – The total revenue derived from sales, work done, or service rendered from any source whatsoever.

INCOME – All monies, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:

- (1) All income, qualifying wages, commissions, other compensation and other income from whatever source received by residents of Felicity.
- (2) All salaries, wages, commissions, compensation and other income from whatsoever source received by non-residents for work done or services performed or rendered or activities conducted in Felicity.
- (3) The portion attributable to the Village of the net profits of all unincorporated business, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in Felicity.

NET PROFITS – The net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this 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; otherwise adjusted to the requirements of this ordinance.

NON-RESIDENT – An individual domiciled outside of the Village of Felicity.

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

ORGANIZATION – A corporation for profit or not for profit, a partnership, limited partnership, joint venture, unincorporated association, estate, trust or other commercial or legal entity. Organization does not include an entity organized as or by a governmental agency for the execution of a governmental program.

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

PERSON – Every natural person, partnership, fiduciary, association, corporation or other entity. 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.

QUALIFYING WAGE – Wages as defined in Section 2131(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employees' income from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by the Village.

RESIDENT – A person, whether an individual, partnership, association, corporation, or other entity domiciled in the Village of Felicity.

RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity having an office or place of business within the Village of Felicity.

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

TAXABLE INCOME – Income minus the deductions and credits allowed by this ordinance. (See "Income" definition).

TAXABLE YEAR – The calendar year, or the fiscal year upon the basis on which the 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.

VILLAGE – The Village of Felicity.

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

SECTION 3. IMPOSITION OF TAX

3.01 Subject to the provisions of Section 17 of this ordinance, an annual tax for the purposes specified in Section 1 hereof shall be imposed on and after March 2, 2006 at the rate of one (1%) per cent per annum upon the following:

3.01(1) On all salaries, wages, including sick pay and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, gambling winnings, rents and other compensation earned or received during the effective period of the ordinance by residents of the Village of Felicity. In no circumstance shall deductions be allowed against gambling winnings.

3.01(2) On all salaries, wages, including sick pay and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, gambling winnings, rents and other compensation earned or received during the effective period of the ordinance by non-residents for sales made, work done or services performed or rendered in the Village of Felicity.

3.01(3) On the portion attributable to the Village of Felicity 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 Felicity. In no circumstance shall deductions be allowed against gambling winnings.

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 Felicity and not levied against such unincorporated business entity.

3.01(4) On the portion attributable to the Village of Felicity of the net profits earned during the effective period of this ordinance of all non-resident unincorporated business, 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 Felicity, whether or not such unincorporated business entity has an office or place of business in the Village of Felicity.

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 Felicity and not levied against such unincorporated business entity.

3.01(5) On the portion attributable to the Village of Felicity 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 Felicity, whether or not such corporations have an office or place of business in the Village of Felicity.

3.02 The portion of the net profits attributable to the Village of Felicity of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village of Felicity 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 Commissioner pursuant to this ordinance.

3.03 12-Day Occasional Entry Rule - The Village of Felicity shall not tax the compensation of an individual if all the following apply.

3.03(1) The individual does not reside in the Village.

3.03(2) The compensation is paid for personal services performed by the individual in the Village of Felicity on twelve or fewer days during a calendar year. A day is a full day or any fractional part of a day.

3.03(3) In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the Village of Felicity and the individual pays tax on compensation described in subsection 3.03(2) hereof to the village, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.

3.03(4) The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainer or sports event, or an employee of such a promoter, all as may be reasonably defined by the Village of Felicity.

3.04 Stock Options

3.04(1) Stock options or other compensation received in the form of property are taxable when included on Form W-2 or Form 1099 for federal purposes.

3.05 Allocation Formula

3.05(1) The portion of a net operating loss sustained in any taxable year allocable to the Village of Felicity may be applied against the portion of the profits of succeeding year(s) allocable to the Village, 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.

3.06 Operating Loss Carry Forward

3.06(1) The portion of a net operating loss sustained in any taxable year allocable to the Village of Felicity may be applied against the portion of the profit of succeeding year(s) allocable to the Village of Felicity, 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.

3.06(2) The portion of a net operating loss sustained shall be allocated to the Village of Felicity in the same manner as provided herein for allocating net profits to the Village of Felicity. Losses from the operation of a business or profession are not deductible from compensation received as an employee.

3.06(3) The Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

3.07 Consolidated Returns

3.07(1) Any affiliated group which files a consolidated return for federal income tax purpose pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Village of Felicity. However, once the affiliated group has elected to file a consolidated return or a separate return with the Village of Felicity, the affiliated group may not change its method of filing in any subsequent tax year without approval from the Village of Felicity.

SECTION 5. RETURN AND PAYMENT OF TAX

5.01 Each taxpayer, except as herein provided, shall, whether or not a tax is 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 105 days from the end of such fiscal year or period.

5.01(1) The commissioner 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 Commissioner shall be accepted as the return required by any employee whose sole income, subject to tax under this ordinance, is such salary, wages, commissions, or other compensation.

5.01(2) Retirees having no taxable income for municipal income tax purposes shall be exempt from these filing requirements. Retirees shall notify the tax office of their exemption status on a Village of Felicity tax return form or on a separate statement, and shall include their date of retirement and company or organization from which retired. Tax forms shall not be mailed to the retiree after receipt of this notification by the Village of Felicity tax office. This exemption from filing shall be in effect until and if such time the retiree receives taxable income for municipal income tax purposes, at which time the retiree shall be required to comply with the provisions of this chapter.

5.01(3) The Village of Felicity shall deduct from the taxpayer's taxable income the amount shown as a deduction on a Federal Form 2105, as filed with the Internal Revenue Service. Such amounts must be properly reported on Form 2106 and must be verifiable. An employee who is permitted to deduct business expenses from gross wages, salaries, or commissions must file a return in order to claim such deductions even though all or part of such wages, salaries, or commissions are subject to withholding.

5.01(4) The officer or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer or employee's liability for a prior failure of such business to file a return or pay taxes, penalties, or interest due.

5.01(5) Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this ordinance.

5.01(6) The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from filing any

3.07(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directories, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village of Felicity constituting a portion only of its total business, the commissioner shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village of Felicity by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directories, 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 Felicity.

3.08 Exceptions - The tax provided for herein shall not be levied upon the following:

3.08(1) The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the National Guard.

3.08(2) The income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities and only to the extent that the said income is exempt from federal income tax.

3.08(3) Dues, contributions and similar payments received by charitable, religious, educational, or literary organizations or labor unions, trade associations, lodges, and similar organizations.

3.08(4) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment, amusement, sports events and health and welfare activities when bona fide charitable, religious or educational organizations associations conduct any such and only to the extent that the said income is exempt from federal income tax.

3.08(5) Proceeds from welfare benefits, unemployment insurance benefits, Social Security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

3.08(6) Compensation for personal injuries or for damages to property by way of insurance or otherwise, but this exclusion does not apply to compensation paid for lost salaries or wages or to compensation from punitive damages.

3.08(7) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as part of an ordained minister's compensation. This minister must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church.

3.08(8) Alimony received.

SECTION 4. EFFECTIVE PERIOD

4.01 Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned from March 2, 2006 until ordinance is revoked.

5.02(2) The amount of the tax imposed by this ordinance on such earnings and profits; and

5.02(3) Such other pertinent statements, information returns, or other information as the Commissioner may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Forms, and all applicable federal schedules.

5.03 The Commissioner may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed 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 Commissioner may require a payment with the extension request of an amount of tax estimated 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 as extended.

5.03(1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Commissioner 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 5 or 7 of this ordinance, where an income tax has been paid another municipality, credit for the amount so paid in accordance with Section 16 hereof, of up to one percent (1%), 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. No credit shall be given for taxes paid to any other entity other than a municipality. County taxes paid are not considered a municipality.

5.03(2) A taxpayer who has overpaid the amount of tax to which the Village of Felicity is entitled under the provisions of this ordinance may have such overpayment applied against any subsequent liability hereunder, 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 one dollar (\$1.00) shall be collected or refunded.

5.04 Amended Returns

5.04(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 Section 11 and 16. Such amended returns shall be on a form obtainable on request from the Commissioner. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

5.04(2) Within three (3) months from the final determination of any Federal tax liability affecting the taxpayer's Village of Felicity tax liability such taxpayer shall make and file an amended Village of Felicity return showing income subject to the Village of Felicity 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, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

SECTION 6. COLLECTION AT SOURCE

6.01 In accordance with the Rules and Regulations prescribed by the Commissioner, each employer within or doing business within the Village of Felicity shall deduct at any time of the payment of such salary, qualifying wages, vacation pay, sick pay,

commissions, bonuses, tips, severance pay, incentive pay, deferred compensation, supplemental unemployment pay, third party sick pay or other compensation, the tax of one per cent (1%) of the gross salary, qualifying wages, vacation pay, sick pay, commissions, bonuses, tips, severance pay, incentive pay, deferred compensation, supplemental unemployment pay, third party sick pay or other compensation due by the said employer to said employee and shall, on or before the fifteenth day of the month following such withholding, make a return and pay to the Commissioner the amount of taxes so deducted, said returns shall be on a form or forms prescribed by or acceptable to the Commissioner and shall be subject to the rules and regulations prescribed therefor by the Commissioner. Such employer shall be liable for payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

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

6.03 On or before February 28 of each year, each employer shall file a withholding tax reconciliation for the preceding calendar year, showing the sum total of all compensation paid to all employees, the portion of which, (if any), was not subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Village of Felicity tax was withheld, or should have been withheld, setting forth the name, address and social security number of each such employee, the total amount of compensation paid during the year, the amount of the Village of Felicity tax withheld and such other information as may be required by the Commissioner. In lieu of submitting forms W-2 for each employee, an alternative method of reporting must be approved by the Commissioner, or his duly authorized agent.

6.04 On or before February 28 of each year, all individuals, businesses, employers, brokers or others who engage persons, either on a fee or commission basis or as independent contractors and not employees (those who are not subject to withholding) must provide the Commissioner with copies of all 1099 Miscellaneous Forms and/or list of names, addresses, Social Security numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person.

6.05 No person shall be required to withhold the tax on salaries, wages, commissions, other compensation and other income paid domestic workers employed by such person exclusively in or about such person's residence, even though the residence is in the city, but such employee shall be subject to all of the requirements of this ordinance.

SECTION 7. DECLARATIONS

7.01 Requirements for Filing

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 of 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 which the tax will be withheld and remitted to the Village of Felicity in accordance with Section 6 hereof, such person need not file a declaration.

7.02 Filing Dates

7.02(1) Such declaration shall be filed on or before April 15 of each year during the life of this ordinance, or within 105 days after the beginning of each fiscal year or period.

7.02(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within 105 days after the beginning of each fiscal year or period.

7.03 Credits and Amendments

7.03(1) Such declaration shall be filed upon a form furnished by, or obtainable from the Commissioner, or on an acceptable generic form, provided however, credit shall be taken for the Village of Felicity tax to be withheld from any portion of such income. In accordance with the provisions of Section 16 hereof, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

7.03(2) The original declaration (or subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

7.04 Such declaration of estimated tax to be paid the Village of Felicity shall be accompanied by payment of at least one-fourth (1/4) of the estimated tax and at least a similar amount shall be paid on or before the 15th day of the July, October, and January of the following year. Provided however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be in equal installments on or before the remaining payment dates.

7.04(1) The Commissioner may, in his discretion, exempt from the quarterly reporting requirements of this Section, any tax payer whose declaration of estimated tax filed with his annual return reflects a tax owing of \$100.00 or less.

7.04(2) The Commissioner may, upon written request from any tax payer stating that the tax payer would suffer undue economic hardship as a result of the enforcement of the provisions of this Section, inquire into the special circumstances of the tax payer and waive the requirements of quarterly reporting as provided in this Section. Such tax payers shall not, however, be released from the requirement of filing annual declarations of estimated tax with their annual tax return.

7.05 On or before the 15th 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 Felicity shall be paid therewith in accordance with the provisions of Section 5 hereof.

SECTION 8. DUTIES OF THE COMMISSIONER

8.01 It shall be the duty of the Commissioner to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayer, to keep an accurate record thereof, and to report all monies so received.

8.02 It shall be the duty of the Commissioner to enforce payment of all taxes owing the Village of Felicity, 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 amounts of payment thereof.

8.03 Said Commissioner 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 administration and enforcement of the provisions of this ordinance, including provisions for reexamination and correction of returns. Taxpayers are hereby required to comply with said rules and regulations.

8.04 The Commissioner 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 Commissioner that, due to certain hardship conditions, the taxpayer is unable to pay the full amount of tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by the taxpayer under this 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 Section 10 and Section 11 shall apply.

8.05 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 Commissioner may determine the amount of tax appearing to be due the Village of Felicity 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. Such determination may be modified or amended based upon information or data subsequently secured by or made available to the Commissioner. If the taxpayer fails to respond to the assessment within 30 days, the tax penalties, and interest assessed shall become due and payable and collectible, as are other unpaid taxes.

8.05 Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the commissioner 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 COMMISSIONER - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

9.01 The Commissioner, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax return of any employer or of any taxpayer or person subject to, or whom the Commissioner believes is subject to the provisions of this ordinance, for the purpose of verifying the accuracy of any return made, or, if no return is 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 within ten (10) calendar days following a written request by the Commissioner, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

9.02 The Commissioner 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 returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal and state income tax returns and 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.

9.03 The refusal to produce books, papers, records and federal and state 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 or 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 an order or subpoena of the Commissioner authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 12 hereof.

9.04 Any information gained as the result of any return, 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 of the fourth degree 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.

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

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

SECTION 10. INTEREST AND PENALTIES

10.01 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 percent (1%) per month or fraction thereof.

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

10.02(1) In case of taxpayers failing to pay the full amount of tax due, a penalty of the higher of (a) twenty-five (\$25.00) dollars or (b) one percent (1%) per month or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first six months after said tax became due; a penalty of two percent (2%) per month, or fraction thereof, of the unpaid tax, if said tax is paid between the seventh and twelfth months after said tax became due; and a penalty of four percent (4%) per month, or fraction thereof, of the amount of the unpaid tax, if said tax is paid later than twelve (12) months after it became due. The percentages herein specified, when used, shall apply from the first month of delinquency.

10.02(2) In case of employers who fail to withhold and remit to the Tax Commissioner the taxes to be withheld from employees, a penalty of the higher of (a) fifty (\$50.00) dollars, or (b) two percent (2%) per month or fraction thereof, of the unpaid withholding, if paid during the first three (3) months after it was due; a penalty of four per cent (4%) per month, or fraction thereof of the unpaid withholding, if paid during the fourth to sixth month, inclusive, after it was due; and a penalty of five percent (5%) per month or fraction thereof, of the unpaid withholding if paid later than six (6) months after it was due.

10.03 Exceptions

10.03(1) A penalty shall not be assessed on additional tax assessment made by the Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Commissioner; 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

additional tax is paid within three (3) months after final determination of the federal tax liability.

10.04 Upon recommendation of the Commissioner, the Board of Review may abate penalty or interest, or both, upon an appeal from the refusal of the Commissioner 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

11.01 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 within three (3) years. 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 six (6) years from the time the return was due or filed, whichever is later, provided however, in those cases in which the 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 Commissioner shall be one (1) year from the time of the final determination of the federal tax liability.

11.02 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 the three (3) months after the final determination of the federal tax liability, whichever is later.

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

SECTION 12. VIOLATIONS - PENALTIES

12.01 Any person who shall:

12.01(1) Fail, neglect, or refuse to make any return or declaration required by this ordinance; or

12.01(2) Make any incomplete, false or fraudulent return, or

12.01(3) Fail, neglect, or refuse to pay tax, penalties or interest imposed by this ordinance; or

12.01(4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Commissioner; or

12.01(5) Refuse to permit the Commissioner or any duly authorized agent or employee to examine his books, papers, records, and Federal income tax returns relating to the income or net profits of a taxpayer; or

12.01(6) Fail to appear before the Commissioner and to produce his books, records, papers, or federal income tax returns relating to the income or net profits of a taxpayer upon order of subpoena of the Commissioner; or

12.01(7) Refuse to disclose to the Commissioner any information with respect to the income or net profits of a taxpayer; or

12.01(8) Fail to comply with the provisions of the ordinance or any order or subpoena of the Commissioner authorized hereof; or

12.01(9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or

12.01(10) Fail to use ordinary diligence in maintaining proper records of employee's resident addresses, total wages paid Village of Felicity, tax withheld, or to knowingly give the Commissioner false information; or

12.01(11) Attempt to do anything whatever to avoid payment of the whole or any part of the tax, penalties or interest imposed by this ordinance;

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

12.02 All prosecutions under this Section must be commenced within six (6) 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.

12.03 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 tax.

SECTION 13. BOARD OF REVIEW

13.01 A Board of Review consisting of the Village Solicitor, as Chairman, the Mayor or a person designated by him, and a third member appointed by the Mayor and confirmed by Council, is hereby created. 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 provisions of Section 9 thereof 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.

13.02 All rules and regulations and amendments or changes thereto, which are adopted by the Commissioner 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 Commissioner, and, at the request of the taxpayer as hereinafter provided, and is empowered to substitute alternate methods of allocation.

13.03 Any person who is aggrieved by a decision of the Commissioner and who has filed with the Village of Felicity the required returns or other documents pertaining to the municipal 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 Commissioner has issued the decision.

13.03(1) The imposition of penalty and interest as prescribed in the codified ordinances of the Village of Felicity is not a sole basis for an appeal.

13.03(2) The Board of Review shall schedule a hearing within forty-five days after the request, unless the taxpayer waives a hearing.

13.03(3) 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.

13.03(4) The Board may affirm, reverse, or modify the Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety days after the Board's final hearing on an appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen days after issuing the decision.

13.03(5) Any person dissatisfied with any ruling or decision of the Board of Review may appeal to a court of competent jurisdiction or to the State Board of Tax Appeals as provided by law within thirty (30) calendar days from the date of the Board's ruling or decision.

13.03(6) The 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.

13.03 (7) 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, and the provisions of Section 9 with reference to the confidential character of information required to be disclosed by this ordinance shall apply.

The Village Solicitor shall serve as legal advisor to the Board and the Commissioner.

SECTION 14. RENTAL PROPERTY TENANT INFORMATION

14.01 Within thirty (30) days after a new tenant occupies rental property of any kind within the Village of Felicity, all property owners of rental property who rent to tenants of apartments, rooms, houses, and/or other rental accommodations shall file with the Tax Commissioner a report showing the names, addresses and telephone numbers, if available, of such tenant who occupies an apartment, room, house and/or other rental property within the Village of Felicity.

14.02 Within thirty days after tenant vacates an apartment, room, house and/or other rental property located within the Village of Felicity, the property owner of such vacated rental property shall file with the Commissioner, a report showing the date of vacation from the rental property and identifying each such vacating tenant.

14.03 Whoever violates this section shall be fined not more than one hundred dollars (\$100.00) for each instance of not filing the required reports.

SECTION 15. MANDATORY REGISTRATION

15.01 Each new resident of the Village shall register with the Tax Commissioner of the Village of Felicity within thirty (30) days of residence in the Village of Felicity.

15.02 All employers and contractors who do work in the Village shall register with the Tax Commissioner with thirty (30) days after they become taxable and shall present the Tax Commissioner with a list of all subcontractors or others who may do work for them within the Village of Felicity.

15.03 Any person upon written notification by the Village of Felicity of this requirement for mandatory registration who fails to register within thirty (30) days of

receipt of notification shall be considered in violation of this section and shall be subject to a fine of not more than one hundred (\$100.00) dollars.

SECTION 16. CREDIT FOR TAX PAID ANOTHER MUNICIPALITY

16.01 Where a resident of the Village of Felicity 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.

16.02 Every individual taxpayer who resides in the Village of Felicity who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Village of Felicity, if it be made to appear that he has paid a municipal income tax on the 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.

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

SECTION 17. SAVING CLAUSE

17.01 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.

17.02 It is hereby declared to be the intention of Council 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

18.01 This ordinance shall continue effective insofar as the levy of taxes is concerned through the effective period of the ordinance and insofar as the collection of taxes levied hereunder the actions or proceedings for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Sections 11 and 12 hereof.

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

SECTION 19. INCONSISTENT ORDINANCES REPEALED

19.01 All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 20. EMERGENCY CLAUSE

20.01 This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety, and it shall go into effect forthwith. The reason for the said emergency is the immediate necessity of levying the tax provided for herein in order to obtain revenue for the operation of the Village of Felicity government during the year 2006 and thereafter.

PASSED: March 2, 2006

Mayor

Clerk