

**AN ORDINANCE**

**AMENDING EXISTING SECTIONS 126.0101, 126.0501, 126.0502, AND 126.1302 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF CHAGRIN FALLS IN ORDER TO INCREASE THE INCOME TAX RATE FROM 1.5% TO 2.0%, BEGINNING JANUARY 1, 2013, SOLELY FOR THE PURPOSE OF PAYING COSTS AND DEBT CHARGES ASSOCIATED WITH DESIGNING, CONSTRUCTING, IMPROVING, AND MAINTAINING PUBLIC ROADWAYS, AND DECLARING AN EMERGENCY.**

WHEREAS, during annual budget reviews, this Council has consistently required Village Departments to do more with less; and

WHEREAS, Village Departments have continued to provide excellent services to Village residents, businesses and residents while doing more with less; and

WHEREAS, the Village is a leader in governmental collaborative efforts as the Village shares the EMS services of the Chagrin Falls Suburban Volunteer Fireman's Association, Inc. with Chagrin Falls Township, Moreland Hills, Hunting Valley, South Russell and Bentleyville, and the Chagrin Valley Dispatch Center also serves Chagrin Falls Township, Moreland Hills, Hunting Valley, South Russell, Bentleyville, Orange Village and Woodmere; and

WHEREAS, the Village has collaborated with volunteer groups on Village flower and streetscape beautification projects; and

WHEREAS, despite all of these efforts, the repeal of the estate tax and other actions by the General Assembly have and will continue to negatively impact the budget of local governments and their ability to provide the necessary services that residents expect and demand; and

WHEREAS, this Council finds that one of the necessary services that residents expect and demand is well maintained roadways; and

WHEREAS, the Village currently imposes a municipal income tax at the rate of one and one-half percent (1.5%); and

WHEREAS, this Council finds that it is necessary to increase the income tax rate from one and one-half percent (1.5%) to two percent (2%) solely for the purpose of (i) paying the costs associated with the design, construction, improvement, and maintenance of public roadways or (ii) paying the Debt Charges, as defined in Section 133.01(J) of the Ohio Revised Code, in Securities, as defined in Section 133.01 (KK) of the Ohio Revised Code, issued by the Village the proceeds of which are used to pay the costs set forth in subsection (i); and

WHEREAS, the proposed increase, if approved by the electors, would provide the Streets and Services Division of the Department of Public Service with the resources necessary to design, construct, improve, and maintain public roadways.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO, THAT:**

**SECTION 1.** Existing Section 126.0101, Purpose of Levy of Income Tax, of the Codified Ordinances of the Village of Chagrin Falls, Ohio, is hereby amended to read as follows:

**"126.0101 PURPOSE OF LEVY OF INCOME TAX.**

To provide funds for the purposes of general functions, including operating, capital improvement and debt retirement of the Municipality of Chagrin Falls, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensation, and on net profits as hereinafter provided. ~~On and after January 1, 1986, all moneys received by the Municipality from such income tax shall be allocated on the basis of eighty-five percent (85%) for general operating purposes, zero percent (0%) for the Permanent Improvement Fund and debt retirement, and fifteen percent (15%) for the Street Construction Maintenance and Repair Fund.~~ **On and after January 1, 2013, all moneys received by the Municipality from the one-half percent (0.50%) increase shall be allocated solely for the purpose of (I) paying the costs associated with the design, construction, improvement and maintenance of public roadways, including any street, alley, bridge, berm, shoulder, tree lawn, median or traffic signals and sidewalks or (ii) paying the Debt Charges, as defined in Section 133.01(J) of the Ohio Revised Code, on Securities, as defined in Section 133.01(KK) of the Ohio Revised Code, issued by the Village the proceeds of which are used to pay the costs set forth in subsection (i)."**

SECTION 2. Existing Section 126.0501, Rate and Income Taxable, of the Codified Ordinances of the Village of Chagrin Falls, Ohio, is hereby amended to read as follows:

**"126.0501 RATE AND INCOME TAXABLE.**

An annual tax for the purposes specified in Section 126.0101 hereof shall be imposed on and after July 1, 1981 at the rate of one and one-half percent per annum **and on and after January 1, 2012 at the rate of two percent per annum** upon the following:

- (a) On all salaries, qualifying wages, commissions and other compensation earned on and after July 1, 1981, by residents of the Municipality.
- (b) On all salaries, qualifying wages, commissions and other compensation earned on and after July 1, 1981, by nonresidents of the Municipality for work done or services performed or rendered within the Municipality.
- (c)
  - (1) On the portion attributable to the Municipality on the net profits earned on and after July 1, 1981, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality.
  - (2) On the portion of the distributive share of the net profits earned on and after July 1, 1981, of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality.
- (d)
  - (1) On the portion attributable to the Municipality of the net profits earned on or after July 1, 1981, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered, and business and other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality.
  - (2) On the portion of the distributive share of the net profits earned on and after July 1, 1981, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality.
- (e) On the portion attributable to the Municipality of the net profits earned on and after

July 1, 1981, of all corporations, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.

- (f) On the portion attributable to the Municipality pursuant to the terms of this chapter and including:
- (1) Royalty income. Income earned by a taxpayer from a royalty interest in the production of an oil or gas well whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer. Where the gross income received by a taxpayer from a royalty interest in the production of an oil or gas well in a taxable year exceeds three thousand dollars (\$3,000) it shall be prima-facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.
  - (2) Employer's income. The employer's income derived from finance and carrying charges associated with his customers' accounts receivable.
- (g) Occasional Entrant Rule.
- (1) A non-resident individual who works in the Municipality twelve or fewer days per year shall be considered an occasional entrant, and shall not be subject to the Municipality's income tax for those twelve days. For purposes of the twelve-day calculation, any portion of a day worked in the Municipality shall be counted as one day worked in the Municipality.
  - (2) Beginning with the thirteenth day, the employer of said individual shall begin withholding the Municipality's income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the Municipality in accordance with the requirements of this chapter. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the Municipality by the individual for the first twelve days. If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the Municipality.
  - (3) The twelve-day occasional entry rule does not apply to entertainers or professional athletes, their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events."

SECTION 3. Existing Section 126.0502, Effective Period, of the Codified Ordinances of the Village of Chagrin Falls, Ohio, is hereby amended to read as follows:

**"126.0502 EFFECTIVE PERIOD.**

Such 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 on and after July 1, 1981, and at the rate of two percent on and after January

1, 2013.”

SECTION 4. Existing Section 126.1302, Collection at Source, of the Codified Ordinances of the Village of Chagrin Falls, Ohio, is hereby amended to read as follows:

“126.1302 COLLECTION AT SOURCE.

- (a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Municipality shall deduct, at the time of the payment of such salary, qualifying wages, commissions or other compensation, the tax of ~~one~~ two percent (unless a different tax rate is imposed in Section 126.0501) per annum of the gross salaries, qualifying wages, commissions or other compensation due by such employer to such employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month; provided, however, that if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.
- (b) Such returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor 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.
- (c) Such employer in collecting such tax shall be deemed to hold the same until payment is made by such employer to the Municipality as a trustee for the benefit of the Municipality, and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer.
- (d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Municipality, but such employee shall be subject to all of the requirements of this chapter.
- (e) **Manager's Obligation.**
  - (1) Every manager is deemed to be a trustee of the Municipality in collecting and holding the tax required under this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds.  
Every manager is liable directly to the Municipality for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to the Municipality, whether or not the employer actually remits the tax to the Municipality, for purposes of determining employee payments or credits.
  - (2) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.
  - (3) No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employees' or manager's failure

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**INTRODUCED BY: MAYOR & COUNCIL**

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to remit funds held in trust, to file a tax return or to pay taxes.”

SECTION 5. Effective January 1, 2013, Sections 126.0101, 126.0501, 126.0502, and 126.1302 of the Codified Ordinances of the Village of Chagrin Falls, Ohio, as they have heretofore existed, are hereby repealed; provided, however, that no provision of this Ordinance, including the repeal of Sections 126.0101, 126.0501, 126.0502, and 126.1302 of the Codified Ordinances as they have heretofore existed shall in any way affect any rights or obligations of the Village, any taxpayer, or any other person, official or entity, with respect to the one and one-half percent (1.5%) municipal income tax authorized by Sections 126.0101, 126.0501, 126.0502, and 126.1302 of the Codified Ordinances as they have heretofore existed and shall remain in effect until January 1, 2013.

SECTION 6. That actions of this Council concerning and relating to the passage of this legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

SECTION 7. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 8. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of this Village and for the further reason that this Ordinance must be immediately effective in order to enable the Village to timely commence collection of the Village's income tax at the increased rate provided for in this Ordinance commencing January 1, 2013, and thereby to pay for needed design, construction, improvement, and maintenance of public roadways and thereby protect the health, safety and welfare of Village residents; wherefore, provided it receives the requisite number of affirmative votes of all members elected to Council, and provided that it receives a majority vote of the electors voting thereon at an election to be called on this ordinance this Ordinance shall take effect and be in force from and after January 1, 2013.

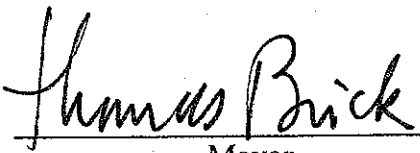
PASSED: July 23, 2012

  
\_\_\_\_\_  
Council President

Submitted to the Mayor for  
his approval on this  
24 day of July, 2012

Approved by the Mayor

July 24, 2012

  
\_\_\_\_\_  
Mayor

I hereby certify that Ordinance No. 2012- 31 was duly enacted on the 23 day of July

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\_\_\_\_\_, 2012, by the Council of the Village of Chagrin Falls and posted in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.



Clerk of Council