

ORDINANCE NO. 93-12 AC CMS

AN ORDINANCE AMENDING SECTIONS 2, 3, AND 13 OF ORDINANCE NO. 507 AC CMS, AS AMENDED, TO PROVIDE THAT THE TEMPORARY ONE-HALF OF ONE PERCENT (1/2%) LEVY ON THE INCOME APPROVED IN 1983, AND RENEWED IN 1988, BE RENEWED FOR A PERIOD OF FIVE (5) YEARS, IN ORDER TO FIX THE RATE OF MUNICIPAL INCOME TAX AT ONE AND ONE-HALF PERCENT (1-1/2%) FOR THAT PERIOD OF TIME, WITH THE ADDITIONAL ONE-HALF PERCENT (1/2%) OF SAID LEVY TO BE USED ONLY FOR THE PURPOSE OF PROVIDING MONEY FOR CAPITAL IMPROVEMENTS AND OPERATING EXPENSES, PROVIDING FOR AN EFFECTIVE DATE THEREOF, AND PROVIDING THAT THIS ORDINANCE SHALL BE EFFECTIVE ONLY IF APPROVED BY THE ELECTORS AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, five-sevenths (5/7ths) of all members elected thereto concurring:

SECTION 1. Subject to approval of the electors of the City of Oberlin, Ohio, as provided in Section 718.01 of the Revised Code of Ohio and the Charter of the City of Oberlin, the following sections of Ordinance No. 507 AC CMS passed April 17, 1967, with subsequent amendments, be and the same is hereby amended effective January 1, 1994, to provide that the temporary one-half of one percent (1/2%) additional levy on income approved in 1983 and renewed in 1988, be renewed for a period of five (5) years, in order to fix the tax levied on income at one and one half percent (1-1/2%) for that period of time, such ordinance being amended to read as follows:

SECTION 2. PURPOSE: IMPOSITION OF TAX

To provide funds for the purposes as shown in Section 13 of this Ordinance, there be, and hereby is levied a tax at the rate of one and one-half percent (1-1/2%) upon the following:

A. On all salaries, wages, commissions, net rentals, and other compensation earned during the effective period of this ordinance by resident individuals of the City of Oberlin.

B. On all salaries, wages, commissions, net rentals, and other compensation earned during the effective period of this ordinance by non-resident individuals of the City of Oberlin.

C. On the net profits attributable to Oberlin, earned during the effective period of this ordinance, of all resident unincorporated business, professions and other activities derived from work done or service and/or facilities rendered or performed and business or other activities conducted in the City of Oberlin.

D. On the portion of the distributive share of the net profit earned during the effective period of this ordinance, of a resident individual, partner or owner of a resident unincorporated business entity attributable to Oberlin and not levied against such unincorporated business entity.

E. On the net profits attributable to Oberlin earned during the effective period of this ordinance, of all non-resident unincorporated business, professions and other activities, derived from work done or services performed or rendered and business or other activities, conducted in the City of Oberlin.

F. On the portion of the distributive share of the net profit earned during the effective period of this ordinance, of a resident individual, partnership or owner of a non-resident unincorporated business entity not attributable to Oberlin and not levied against such unincorporated business entity.

G. On the net profits earned during the effective period of this ordinance, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the City of Oberlin.

H. Business Allocation Percentage Formula (Section 718.02 Revised Code, State of Ohio).

(A) In the taxation of income which is subject to taxation by the provisions of this ordinance, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City of Oberlin shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City of Oberlin, then only such portion shall be considered as having a taxable situs in the City of Oberlin for purpose of income taxation. In the absence of such records, net profits from a business or profession conducted both within and without the boundaries of the City of Oberlin shall be considered as having a taxable situs in the City of Oberlin for the purpose of 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 or profession in the City of Oberlin during the taxable period to the average net book value of all of the real 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 business or profession for services performed in the City of Oberlin 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 the City of Oberlin to gross receipts 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 so as to produce such result.

(B) As used in division (A) of this sub-section, "sale made in the City of Oberlin" means:

(1) All sales of tangible personal property which are delivered within the City of Oberlin regardless of where title passes if shipped or delivered from a stock of goods within such City;

(2) All sales of tangible property which is delivered within the City of Oberlin regardless of where title passes even though transported from a point outside such City of the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Oberlin and the sales result from such solicitation or promotion;

(3) All sales of tangible personal property which is shipped from a place within the City of Oberlin to purchasers outside such City 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.

SECTION 3. EFFECTIVE PERIOD

Said taxes shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of persons, businesses, professions or other activities earned from January 1, 1994, through December 1998 at the rate of one and one-half percent (1-1/2%) per annum, and thereafter, at the rate of one percent (1%) per annum to and including the date of revocation Ordinance No. 507 AC CMS.

SECTION 13. ALLOCATION OF FUNDS

The funds collected under the provisions of this ordinance shall be deposited in the Income Tax Fund and said funds shall be distributed and used for the following purposes, to wit:

1. Such part thereof as shall be necessary to defray all cost of collecting the taxes and the cost of administering and enforcing the provisions thereof.
2. A sum equal to the amount of taxes collected per year from the additional one-half percent (1/2%) in effect from January 1, 1994, through December 31, 1998, shall be used for capital improvements.
3. The balance of such tax receipts collected following the allocation for administrative expense and for the purposes set forth in Item 2 herein shall be allocated to the General Fund of the City.

SECTION 2. That all other sections of Ordinance No. 507 AC CMS in which there is mentioned a tax on one percent (1%) be and the same are hereby amended to read one and one-half percent (1-1/2%).

SECTION 3. That Sections 2, 3, and 13, as amended and as presently effective, be and the same hereby are repealed effective January 1, 1994, provided this ordinance is approved by the electors of the City of Oberlin at the May 4, 1993 Special Election.

SECTION 4. No provision of this Ordinance shall in any way affect any rights or obligations of the City, any taxpayer or any other person, official or entity with respect to the one percent (1%) municipal income tax authorized by Ordinance No. 507 AC CMS passed April 17, 1967, as amended.

SECTION 5. It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 6. That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the citizens of the City of Oberlin, Ohio, to wit:

"to submit this ordinance to the Lorain County Board of Elections within the time limitations provided by law"

and shall take effect immediately upon passage, subject to the approval of the electors of the City of Oberlin, Ohio, at the May 4, 1993, Special Election and the certification of the results of said election.

PASSED: 1st Reading - February 16, 1993 (Emergency)
2nd Reading -
3rd Reading -

ATTEST:


CLERK OF COUNCIL, Pro-Tem


CHAIRMAN OF COUNCIL

POSTED: February 17, 1993

EFFECTIVE DATE: February 16, 1993