The City of Loveland, Ohio

INCOME TAX RULES AND REGULATIONS

Adopted under the Authority of Chapter 183
Section 183.09(c), of the City Code of Ordinances

ARTICLE I

PURPOSE

Section 183.02 of income tax Ordinance #2006-50, passed June 27, 2006, and as subsequently amended, outlines the uses to which funds raised are to be put and the items on which the tax is to be applied. The effective period of the tax is specified in Section 183.04 of the Ordinance.

ARTICLE II

DEFINITIONS

As used in these Rules and Regulations, the following words shall have the meaning ascribed to them in this Article, except as and if the context clearly indicates or requires a different meaning. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

"Adjusted federal taxable income" means 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. This definition is effective for tax years beginning on or after January 1, 2004.

"Association" means a partnership, limited partnership, limited liability company, or any form of unincorporated enterprise.

"Board of Review" means the Board created by and constituted as provided in Section 183.14.

"Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit; whether by an individual,

partnership, limited partnership, fiduciary, trust, corporation, association, or any other entity, including but not limited to, the renting or leasing of real or personal property.

“City” means the City of Loveland, Ohio.

“Corporation” means a corporation, Chapter S Corporations as defined in the Federal Tax Code, 26 USC 1361, 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.

“Domicile” means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

“Employee” means an individual who works for income, wages, salary, commissions or other type of compensation in the service and under the control of an employer.

“Employer” means an individual, partnership, limited partnership, association, corporation, government body, unit or agency or any other entity, whether or not organized for profit, who employs one or more persons on a salary, wage, commission or other compensation basis, but not including an individual who employs domestic help for such individual's private residence.

“Fiscal year” means an accounting period of twelve months or less ending on any day other than December 31.

“Fiscal year taxpayer” means a taxpayer that reports municipal income tax on the basis of a twelve-month period that does not coincide with the calendar year.

“Form 2106” means the Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

“Generic form” means 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 City’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 City’s procedures for processing forms.

"Gross Receipts" means the total revenue derived from sales, work done, or service rendered, before any deductions, exceptions, or credits are claimed.

“Income” means all monies derived from any source whatsoever, subject to limitations imposed by ORC 718, including but not limited to:

(1) All salaries, income, qualifying wages, commissions, other compensation from whatever source received by residents of the City.

(2) All salaries, income, qualifying wages, commissions, other compensation from whatever source received by nonresidents for work done or services

performed or rendered or activities conducted in the City. The net income received from the lease of property located in the City is also taxable.

(3) The portion attributable to the City of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the City.

“Individual” means a natural person.

“Limited liability company” means a limited liability company formed under ORC Chapter 1705 or under the laws of another state.

“Joint Economic Development District” means a district created under Ohio Revised Code 715.70 through 715.83, as amended from time to time.

“Net profits” For taxable years prior to 2004, the net gain from the operation of a business, profession, or enterprise after provision for all ordinary, reasonable and necessary expenses incurred in the conduct thereof, including allowance for depreciation, depletion, amortization, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed; and without deduction of federal and state taxes based on income exclusive of amount of Ohio franchise tax computed on the net worth basis; and without deducting taxes imposed by this chapter; 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 chapter. (For taxable years 2004 and later, see “adjusted federal taxable income”.**)**

“Nonresident” means a person, as defined by this chapter, domiciled outside the City.

"Nonresident Unincorporated Business Entity" means an unincorporated business entity not having any office or place of business within the City.

"Other Entity" means any person or unincorporated body not previously named or defined and includes fiduciaries located within the City.

“Other payer” means 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.

“Owner” means a partner of a partnership, a shareholder of an S corporation, a member of a limited liability company, or other person with an ownership interest in a pass-through entity.

“Pass-through entity” means a partnership, S Corporation, Limited Liability Company, or any other class of entity the income or profits from which are given pass-

through treatment under the Internal Revenue Code. Unless otherwise specified, for purposes the City income tax the tax treatment for pass-throughs is the same as “Association”.

“Person” means every natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any section, phrase, or clause prescribing and imposing a penalty, the term "person" as applied to any association, shall mean the partners or members thereof, and as applied to corporations, the officers thereof in their individual capacity.

“Place of business” means any bona fide office (other than a mere statutory office), a 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, or where or more of his employees are regularly in attendance.

“Principal place of business” means, in the case of an employer having headquarters activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

“Qualifying wage” means wages as defined in Section 3121(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 City.

“Resident” means an individual domiciled in the City.

"Resident Unincorporated Business Entity" means an unincorporated business entity having an office or place of business within the City.

“Return preparer” means 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.

“S corporation” means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

“Tax Administrator” means the City employee charged with the responsibility of administering the City Income Tax laws, and includes the Tax Administrator’s designee or duly authorized agent.

"Taxable Income" means income minus the deductions and credits allowed by this ordinance. (See “Income” definition.)

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

“Taxing municipality” means a municipality or Joint Economic Development District levying a tax on income earned by nonresidents working within such municipality or Joint Economic Development District, and income received by its residents.

“Taxpayer” means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return and/or pay a tax. It does not include any person that is a disregarded entity or a qualifying subchapter S (if the subchapter S is a subsidiary entity). The term “taxpayer” does include any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

ARTICLE III

IMPOSITION OF TAX

A. Bases.

1. Resident:

a. In the case of residents of the City an annual tax at the rate of one percent (1%) is imposed on income, salaries, qualifying wages, commissions, and other compensation earned and/or received during the effective period of Chapter 183, whether such income is received and/or earned directly or through an agent and whether paid in cash and/or in property. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 183.02 of Chapter 183, the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable.

b. The following items are subject to the tax imposed by Section 183.02:

(1) Income, including but not limited to salaries, qualifying wages, bonuses and incentive payments earned by an individual, whether directly or through an agent, and whether in cash and/or in property for services rendered during the tax period as an officer, director or employee of a corporation (including charitable and other non-profit organizations), or association or any other entity or person; an officer or employee (whether elected, appointed, or commissioned) of the United States Government or any of its agencies or of the State of Ohio or any of its political sub-divisions or agencies thereof; or any foreign country or dependency.

(a) "Qualifying wages" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(1A) Deduct the following amounts:

(i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(ii) For purposes of subparagraph (1)(b) of this section, any amount included in wages if the amount constitutes payment on account of accident or sickness disability.

(2A) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986;

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. This sub-paragraph applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k) or 457 of the Internal Revenue Code. This sub-paragraph applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(b) For taxable years beginning after 2003, any employer or any agent of any employer or any other payer shall not be required to withhold tax with respect to any amount other than qualifying wages.

(2) The employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued. However, if an incentive stock option is exercised as a disqualifying disposition, the income is then considered ordinary income (vs. capital gains) and therefore is subject to Medicare, and consequently subject to tax by the City.

(3)(a) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by the City or, if the income is subject to Medicare withholding, by the employer's exemption from the requirement to withhold the tax.

(3)(b) The failure of an employer to remit to the City the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(4) Commissions earned by a taxpayer, whether directly or through an agent, and whether in cash or in property for services rendered during the effective period of Chapter 183, regardless of how computed or by whom or wheresoever paid.

(a) If amounts received as a drawing account exceed the commissions earned and the excess is not subject to the demand of the employer for repayment, the tax is payable on the amounts received as a drawing account.

(b) Amounts received from an employer for expenses and used as such by the individual receiving them are not deemed to be compensation if the employer deducts such expenses or advances as such from his income for the purpose of determining his net profits taxable under Federal law, and the employee is not required to include such receipts as income on his Federal income tax return.

(c) If commissions are included in the net earnings of the trade, business, profession, enterprise or activity, carried on by an unincorporated entity or association of which the individual receiving such commission is owner or part owner and therefore subject to Article III A3 or A4 of the Rules and Regulations, they shall not be subject to Article A1 of the Rules and Regulations.

(5) Fees, unless such fees are properly includible as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity or association owned or partly owned by said individual and such net profits are subject to Article III A3 and/or A4 of the Rules and Regulations.

(6) For clarification, other compensation and income, as reported on W-2's or 1099's, includes but is not limited to tips, bonuses, lump sum distribution from qualified pension and profit sharing trusts not made pursuant to employees retirement, profit sharing, portions of stock options that are not considered capital gains by the City, and gifts of any type in connection with services rendered, compensation paid to casual employees and other types of employees, and compensation received by domestic servants. Income from "non-competition" covenants shall be included as taxable income.

(7) Payments made to an employee by an employer as sick leave, vacation pay, or any other types of payments made under a wage or salary continuation plan, including "sub" pay (such as pay received from unions by individuals in lieu of wages), during periods of absence from work are taxable when paid.

(8) Payments made to an employee by an employer as separation or severance pay-outs (including but not limited to separation pay, termination pay, and early retirement incentives) and reportable as earned income (including, but not limited

to, sick pay and vacation pay) are taxable when paid if applicable tax has not previously been paid, and are allocable only to the City of Loveland. On-going retirement benefits, such as payments from pension plans, are exempt from City income tax.

(9) Moving expenses, to the extent they are reimbursed by employers, are not taxable if deducted on the Federal return.

(10) On all income derived anywhere from lottery, gambling and sports winnings, and games of chance by residents of the City. No deductions shall be allowed against these sources of income. However, if the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.

(11) Loss from the operation of a business, including rental losses, may not be used to offset the income on a taxpayer's W-2 form, nor offset the income on the W-2 form of the taxpayer's spouse.

(12) For an individual who has income required to be reported on federal schedules C, E, and/or F, the income shall be considered to be "net profits".

c. When compensation is paid or received in property, its fair market value at the time of receipt shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value, except in the case of domestics and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.

d. When a resident receives compensation for services for sales of real estate or insurance from an employer whose situs is the City, or compensation from a non-resident broker for sale of property located in the City, that total compensation is taxable at the City's tax rate and is payable to the City. The site of the property sold or residence of the purchaser of insurance has no bearing on the taxing of the compensation.

e. The distributive shares of net profits earned and/or received by residents of Loveland from all resident and non-resident unincorporated businesses, professions, other entities, and associations (i.e., pass-through entities). The tax shall apply whether or not the distributive share was attributable to Loveland, and whether or not the tax on the distributive share was withheld by the entity remitting the tax. (For withholding requirement see Article III A1b.)

2. Non-Resident:

a. In the case of individuals who are not residents of the City, there is imposed under Section 183.02 of Chapter 183, a tax of one percent (1%) is imposed on and after

March 1, 1971, on all income, salaries, qualifying wages, commissions, and other compensation earned and/or received during the effective period of Chapter 183 for work done or services performed or rendered within the City, whether such income is received and/or earned directly or through an agent and whether paid in cash and/or in property. The location of the place from which payment is made is immaterial. Separation pay, termination pay, reduction-in-force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to the City. Tax shall not be levied on expenses reported in accordance with Federal guidelines for Federal Form 2106, subject to audit and approval by the City Income Tax Department. An employee who is permitted to deduct business expenses from income, qualifying wages, salaries, or commissions must file a return in order to claim such deductions even though all or part of such income, qualifying wages, salaries, or commissions are subject to withholding.

b. The items subject to tax for non-residents are the same as those listed and defined in Article III A1 above, with the following exceptions:

(1) Lottery income referenced in Article III A1b(10) shall be excluded from the tax.

(2) The tax on distributive shares in Article III A1e shall apply only to net profits allocated to the City. For the methods of computing the extent of such work or services performed within the City, in cases involving compensation for personal services partly within and partly without the City, see Article V A6 of these regulations.

(3) Portions of stock options that are not considered capital gains by the City are taxable at time of exercise if the non-resident is still employed in the City at the time of exercise of the stock options, or has retired from employment with the employer that issued the stock options. The stock options are not subject to allocation or apportionment in any manner.

c. When a non-resident receives compensation for services for sales of real estate or insurance from an employer whose situs is the City, or compensation from a non-resident broker for sale of property located in the City, that total compensation is taxable at the City's tax rate and is payable to the City. The site of the property sold or residence of the purchaser of insurance has no bearing on the taxing of the compensation.

d. Occasional entrant.

(1) Effective January 1, 2001, the City shall not tax the compensation paid to a non-resident individual for personal services or work performed by the individual in the City on twelve (12) or fewer days in a calendar year (which hereby classifies the individual as an “occasional entrant”) unless one of the following applies:

(a) The individual is the employee of another person, the principal place of business in which the employee normally works is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days, and the individual is not liable to that other municipal corporation for tax on the compensation paid for such services.

(b) The individual is a professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the City.

(2) For purposes of the 12-day calculation, any portion of a day worked in the City shall be counted as one day worked in the City.

(3) Beginning with the thirteenth day, the employer of said individual shall begin withholding City income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the City in accordance with Section 183.06 of Chapter 183. In addition, the individual shall not be considered to have been an occasional entrant at any time, and therefore the employer is also required to remit taxes on income earned in the City by the individual for the first twelve (12) days.

(4) Any tax withheld for the City under Article III A2d(1) is subject to being refunded only to the municipality in which the employer's principal place of business is located, and only after the municipality has established that the employee has a liability to them.

3. Resident Unincorporated Businesses and Associations:

a. In the case of resident unincorporated businesses, associations, or other entities, an annual tax of one percent (1%) on the net profits earned, accrued or received during the effective period of Chapter 183 attributable to the City under the formula (see Article III C1) or other method (see Article III C2), derived from work done or services performed or rendered and business or other activities conducted in the City.

b. The tax imposed on resident associations or unincorporated entities owned by one or more persons is to be paid by the entities on behalf of the individual members or owners thereof, but the tax imposed on an unincorporated resident entity owned by one person is upon the individual owner. For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see Article III A3e and f below.

c. The tax imposed by Section 183.02 of Chapter 183 is imposed, on behalf of the members, on all resident unincorporated entities or associations having net profits attributable to the City under the method of allocation provided for in Chapter 183, regardless of where the owner or owners of such resident unincorporated business entities or associations reside.

d. Resident unincorporated entities or associations owned by one or more persons, all of whom are residents of the City, shall disregard the method of allocation provided for in Chapter 183 and pay the tax on their entire net profits thereof. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of such net profits; however, in accordance with Chapter 183.05 and Article IV A1a of these Rules and Regulations, a return shall be required from any such owner or member.

e. A resident individual who is sole owner of a resident unincorporated entity or association shall disregard the business allocation formula and pay the tax on the entire net profits of his resident unincorporated business entity or association.

f. In the case of a resident individual partner or part owner of a resident unincorporated entity or association, there is imposed an annual tax of one percent (1%) on such individual's distributive share of net profits earned, accrued or received during the effective period of Chapter 183 not attributable to the City and not taxed against the entity.

g. Excluding rentals, a taxpayer's net profits and losses from businesses operating within Loveland may be combined to determine the profit or loss attributable to operations within Loveland.

4. Non-resident Unincorporated Businesses or Associations:

a. In the case of non-resident unincorporated businesses, associations, or other entities, there is imposed an annual tax of one percent (1%) on the net profits earned, accrued or received during the effective period of Chapter 183 attributable to the City, under the formula or other method provided for Article III C2.

b. The tax imposed on non-resident unincorporated entities or associations owned by one or more persons is upon the entities rather than the individual members or owners thereof. For tax on that part of a resident owner's distributive share of net profits not taxed against the entity, see other method (Article III C2) and Article III A4d and e below.

c. Non-resident unincorporated entities or associations, owned by one or more persons all of whom are residents of the City, may elect to disregard the method of allocation provided for in Chapter 183 and pay the tax on the entire net profits. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the net profits.

d. A resident individual who is sole owner of a non-resident unincorporated business entity or association shall disregard the business allocation formula and pay the tax on the entire net profits of his unincorporated entity or association.

e. In the case of a resident individual partner or part owner of non-resident unincorporated entity or association, there is imposed an annual tax of one percent (1%) on such individual's distributive share of net profits earned, accrued or received during the effective period of Chapter 183 not attributable to the City under the method of allocation provided for in Section 183.03 of Chapter 183 and not taxed against the entity.

f. Excluding rentals, a taxpayer's net profits and losses from businesses operating within Loveland may be combined to determine the profit or loss attributable to operations within Loveland.

5. Imposition of Tax on Net Profits of Corporations:

a. In the case of corporations, whether domestic or foreign and whether or not such corporations have an office or place of business in the City, there is imposed an annual tax of one percent (1%) on the net profits earned, received or accrued during the effective period of Chapter 183 attributable to the City under the formula (see Article III C1) or other method (see Article III C2).

b. In determining whether a corporation is conducting a business or other activity in the City, the provisions of Article III C of these Rules and Regulations shall be applicable.

6. If the individual is self-employed or an independent contractor, it shall be the responsibility of the individual to remit the appropriate income tax to the City, and comply with all applicable provisions of the income tax ordinance and these Rules and Regulations.

B. Clarification of Taxation of Net Profits:

The following information is provided to clarify the calculations for net profits subject to taxation.

1. Net Profits ("adjusted federal taxable income") means, for tax years 2004 and later, a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

b. Add an amount equal to five per cent of intangible income deducted under division B1a of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

c. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

d. (1) Except as provided in subparagraph B1d(2) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(2) Subparagraph B1d(1) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

g. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:

(1) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and

(2) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

2. For taxable years 2003 and prior, Article III B2 through B4 shall be substituted for the provisions of Article III B1:

a. Net Profits as used in Chapter 183 and these Rules and Regulations means net profits derived from any business, profession or other activity or undertaking carried on for profit or normally carried on for profit.

b. Net Profits as disclosed on any return filed pursuant to the provisions of Chapter 183 shall be computed by the same accounting method (i.e., either cash or accrual) used in reporting net income to the Federal Internal Revenue Service, providing such method does not conflict with any provisions of Chapter 183 or these Rules and Regulations, or the provisions of Ohio Revised Code Chapter 718.

3. Gross Receipts:

a. Gross receipts shall include, but not be limited to, income in the form of commissions, fees, rentals from real and tangible personal property and other compensation, for work done or services performed or rendered as well as income from sales of stock in trade.

b. From gross receipts there shall be deducted allowable expenses to arrive at the net profit subject to tax.

4. Expenses:

a. All ordinary and necessary expenses of doing business shall be allowed but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business, enterprise, or association.

(1) If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty not compensated for by insurance or otherwise, of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the Federal income tax. Provided, however, that loss on the sale, exchange or other disposition of depreciable property or real estate used in the taxpayer's business shall not be allowed as a deductible expense.

(2) Where depreciable property is voluntarily destroyed only the cost of such demolition and the undepreciated balance thereof will be allowed as an expense in the year of such demolition, to the extent allowable for Federal income tax purposes.

(3) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Tax Administrator (if the reserve method is used), a reasonable addition to the reserve may be claimed; but in no event shall the amount exceed the amount allowable for Federal income tax purposes.

(4) Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax then taxes on, and other expenses of, said property are not deductible. In any event, the following taxes are not deductible from income; (1) the tax under Chapter 183; (2) Federal or other taxes based upon income; (3) gift, estate or inheritance taxes; and (4) taxes for local benefits or improvements to property which tend to appreciate the value thereof.

5. Other Income or Losses:

a. Capital gains and losses (capital or other) from sale, exchange or other disposition of property used in the trade or business shall not be taken into consideration in arriving at net profits earned. However, any amount or value received, realized or recognized on a sale or other disposition of tangible personal property or real property used in business, in excess of original book value, shall be treated as taxable income under Chapter 183 to the extent of depreciation previously taken as a deduction. The method of calculating the depreciation deduction shall not be considered when recovering the depreciation as a result of the sale, exchange or other disposition of property. The balance in excess of the amount of depreciation recovered shall be treated as a capital gain.

(1) Definition of Property Used in the Trade or Business. For purposes of this Article, the term "property used in the trade or business" means property used in the trade or business of a character which is subject to the allowance for depreciation and real property used in the trade or business, held for more than 6 months, which is not:

(a) Property of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year;

(b) Property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business; or

(c) A copyright, a literary, musical, or artistic composition, or similar property held by the taxpayer.

b. In general, non-taxable income (and expense incurred in connection therewith) are not to be considered in determining net profits. Income from intangibles, by way of dividends, interest and the like, shall not be included if such income is subject to taxation under the intangible personal property laws of the State of Ohio or is specifically exempt from taxation under said laws.

c. Income derived from the operation of oil and/or gas wells shall be taxable, and expenses incurred in connection therewith shall be considered in determining net profits.

d. Expenses attributable to non-taxable income shall be considered to be five percent (5%) of non-taxable income.

6. Rentals from real property received by the taxpayer are to be included as net profits if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by taxpayers individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part. The net profits will be allocated in accordance with the 3-factor formula, unless approval is given by the Tax Administrator

to use an alternate method (see Article III C2). Net profits not constituting a business activity remain taxable, and shall be taxed using the books and records method.

a. Where the gross monthly rental of real properties located in Loveland, regardless of number and value, aggregates in excess of $1,000.00 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax as a business activity:

(1) Provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds $1,000.00 per month.

(2) Provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not such rental exceeds $1,000.00 per month.

(3) Provided further that the person who operates a rooming house of five or more rooms rented shall be considered in business whether or not the income exceeds $1,000.00 per month.

b. In determining the amount of gross rental of any real property periods during which (by reason of vacancy or any other cause) rentals that are not received shall not be taken into consideration by the taxpayer.

c. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

d. Real property, as the term is used in this Article, shall include commercial property, residential property, farm property, and any and all other types of real estate.

e. In determining the taxable income from rentals, the deductible expenses therefrom shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal income tax purposes.

f. Residents of the City are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned.

g. Non-residents of the City are subject to such taxation only if the real property is situated within the City. Non-residents, in determining whether gross monthly rentals exceed $1,000.00, shall take into consideration only real estate situated within the City.

h. To be considered non-taxable as ground rents, the property must be under a perpetual leasehold by the term of which the lessor performs no services of any type, including the payment of taxes on the property.

i. Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.

j. A taxpayer's net profits and losses from rentals within Loveland may be combined to determine the profit or loss attributable to rental operations within Loveland.

7. Income from patents or copyrights is not to be included in net profits subject to the tax if the income from such patents or copyrights is subject to taxation under the intangible personal property laws of the State. Income in the form of royalties is taxable if the taxpayer's activities produced the publication or other product, the sale of which produces the royalties.

8. If an individual is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity may be used to offset the profits of another (except any portion of a loss or profit separately reportable for municipal tax purposes to another taxing entity) for purposes of arriving at overall net profits or net operating loss. Net operating losses from the operation of a business or profession are not deductible from employee earnings but may be carried forward as set forth herein.

9. The portion of a net operating loss sustained in any taxable year allocated to the City which has been detailed in a return submitted to the Tax Administrator may be applied against the portion of the profit of succeeding year(s) allocated to the City, until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year. The portion of a net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.

10. In determining income subject to taxation, losses from the operation of a business or profession cannot be used to reduce wages from employment or other employment compensation.

C. Allocation of Business Profits (Section 183.03 (a)):

1. Business Allocation Percentage Method:

a. STEP 1: Calculate the percentage allocable to the City of the average original cost of total real and tangible personal property (including lease-hold improvements), wherever situated, owned or used in the business during the period covered by the return.

(1) The percentage of taxpayer's real and tangible personal property within the City is determined by dividing the average original cost of such property within the City by the average original cost of all such property within and without the City. In determining such percentage, property rented to the taxpayer, as well as real and tangible personal property owned by the taxpayer, must be considered.

(a) The original cost of real and tangible personal property rented by the taxpayer shall be determined by multiplying gross annual rents payable by eight (8).

(b) Gross rent means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and includes:

(1) Any amount payable for the use or possession of real and tangible personal property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise;

(2) Any amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs or other amounts required to be paid by the terms of a lease or other arrangement.

b. STEP 2: Calculate the percentage allocable to the City of the total qualifying wages, salaries, commissions, other compensation and other income of employees, within and without the City, during the period covered by the return.

(1) Salaries and reasonable compensation paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.

(2) Qualifying wages, salaries, and other compensation shall be computed on the cash or accrual basis in accordance within the method of accounting used for income tax purposes.

(3) In the case of an employee who performs services both within and without the City the amount treated as compensation for services performed within the City shall deemed to be:

(a) In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the City;

(b) In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services within the City bears to the value of all his services; and

(c) In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within the City is of his total working time.

c. STEP 3: Calculate the percentage allocable to the City of the total gross receipts of the taxpayer derived from sales made, work done and services rendered, wherever derived, during the period covered by the return.

(1) The following sales shall be considered sales within the City:

(a) All sales made through retail stores located within the City to purchasers within or without the City except such of said sales to purchasers outside the City that are directly attributable to regular solicitations made outside the City personally by the taxpayer or his employees.

(b) All sales of tangible personal property delivered to purchasers within the City if shipped or delivered from an office, store, warehouse, factory or place of storage located within the City.

(c) All sales of tangible personal property delivered to purchasers within the City even though transported from a point outside the City of the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sale is directly or indirectly the result of such solicitation.

(d) All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the City to purchasers outside the City if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place of delivery.

(e) Charges for work done or services performed incident to a sale, whether or not included in the price of the property, shall be considered gross receipts from such sale.

(2) In the application of the foregoing sub-paragraphs, a carrier shall be considered the agent of the seller regardless of the FOB point or other conditions of the sale; and the place at which orders are accepted or contracts legally consummated shall be immaterial.

(3) All solicitation of customers outside of the City by mail, telephone, fax, electronic mail or other media from an office or place of business within the City shall be considered a solicitation of sales within the City.

d. STEP 4: Add the percentage determined in accordance with Steps 1, 2 and 3, or such of the aforesaid percentages as may be applicable to the particular taxpayer's business, and divide the total so obtained by the number of percentages used in computing said total. The result so obtained is the business allocation percentage. In

determining the average percentage, a factor shall not be excluded from the computation merely because said factor is found to be allocable entirely outside the City. A factor is excluded only when it does not exist anywhere.

e. STEP 5: The business allocation percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits allocable to the City.

2. Substitute Method:

a. In the event a just and equitable result cannot be obtained under the formula the Tax Administrator, upon application of the taxpayer, may substitute other factors in the formula or prescribe other methods of allocating net income calculated to effect a fair and proper allocation.

b. Application to the Tax Administrator to substitute other factors in the formula or to use a different method to allocate net profits must be made in writing before the end of the taxable year. The application shall state the specific grounds on which the substitution of factors or use of different method is requested and the relief sought to be obtained. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Tax Administrator.

c. A request to change methods of allocation must be made, in writing, to the Tax Administrator before the close of the taxable year.

d. If the Tax Administrator approves the use of books and records as a substitute method, the following shall apply:

(1) The net profits allocable to the City from business, professional or other activities conducted in the City by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer only if the taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within the City.

(2) If the books and records of the taxpayer are used as the basis for apportioning net profits, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Tax Administrator to determine whether the net profits attributable to the City are apportioned with reasonable accuracy.

(3) In determining the income allocable to the City from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the City.

D. Exemptions from tax (Section 183.16):

The tax provided for in Section 183.02 of Chapter 183 shall not be levied on:

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.

2. Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations, or labor unions, lodges, and similar organizations.

3. Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious, and educational organizations and associations.

4. Welfare benefits, pensions (by IRS definition) paid as a result of retirement, Social Security benefits, state unemployment compensation (but not including supplemental unemployment compensation), and permanent disability benefits received from private industry or local, state or federal governments, or from charitable, religious or educational organizations.

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, or other purposes to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities. Any association or organization corporation, club, or trust as listed herein which receives income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder. In the event any association or organization, corporation, club, or trust receives taxable income as provided in this section from real or personal property ownership or income producing business located both within and without the corporate limits of the City, the association or organization, corporation, club, or trust shall calculate its income allocable to the City as set forth in Section 183.03.

6. Income from intangibles such as interest, dividends and royalties; and income of a decedent's estate during the period of administration (except such income from the operation of a business).

7. Compensation paid under ORC 3501.28 or 3501.36 to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars ($1,000) annually. Such compensation in excess of one thousand dollars ($1,000) may be subjected to taxation. The payer of such compensation is not required to withhold City tax from that compensation.

8. Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Ohio R.C. Chapter 306 for operating a transit bus or other motor vehicle for the authority or commission in or through the City, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the City, or the headquarters of the authority or commission is located within the City.

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

10. Proceeds of insurance paid by reason of death of the insured, pensions, including industrial pensions, disability benefits paid for total and permanent disability, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

11. 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 paid resulting from punitive damages.

12. Expenses shown on Federal Form 2106, if filed for the same year with the federal return. Form 2106 is subject to review and audit by the Loveland Income Tax Office. The deduction allowable for City purposes is not subject to the minimum threshold of 2% of gross income required by federal income tax regulations; however, expenses are deductible only from the income directly related to such expenses. The 2106 expenses must be apportioned to municipalities in the same manner to which the related income is apportioned.

13. The income of a public utility when that public utility is subject to the tax levied under ORC 5727.24 or 5727.30, except starting January 1, 2002, the income of an electric company or combined company, and starting January 1, 2004, the income of a telephone company, both as defined in ORC 5727.01, may be taxed by a municipal corporation subject to ORC Chapter 5745.

14. Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.

15. Income, salaries, wages, commissions and other compensations and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio, or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

ARTICLE IV

RETURN AND PAYMENT OF TAX

A. Date and Requirement for Filing.

1. a. Every resident 18 years of age or older or every person subject to Section 183.02, shall, whether or not a tax be due thereon, make and file a return on or before April 15th of each year, or on or before the federal filing date if it is other than April 15th. The return shall be filed with the Tax Administrator on a form obtainable from the Tax Administrator or on any acceptable generic form, setting forth the aggregate amount of income, salary, wages, commissions, or other compensation, and gross receipts from a business, less allowable expenses incurred in the acquisition of such gross receipts earned during the preceding year or period and subject to the tax; together with other pertinent information as the Tax Administrator may require. However when the final return is made for a fiscal year or other period different from the calendar year, the return shall be filed by the 15th day of the fourth month from the end of such fiscal year or period, or on or before the federal filing date if it is other than the 15th day of the fourth month from the end of such fiscal year or period. No return shall have been considered filed unless it clearly sets forth the income and expenses subject to the City income tax and all required forms and documentation have been attached.

b. An individual who is retired and has no income subject to tax in the City shall file an annual return for the year in which the retirement occurred and for the following year, indicating on the later filing that no tax is due the City as the result of retirement, and also indicating the date of retirement. Thereafter, such retired individual shall be exempt from the mandatory filing requirements of the City Code, except that the individual must begin again to file annual returns if subsequently the individual receives income subject to tax in the City.

c. The fact that a taxpayer is not required to file a Federal tax return does not relieve the taxpayer from filing a City tax return.

d. Any return or payment mailed postage prepaid and U.S. postmarked on an extended date for filing an annual return shall be considered filed or paid in a timely fashion.

e. The Tax Return is considered received, if mailed, on the date postmarked by the United States Post Office Postal Service or on the date delivered without mailing to the City Tax Office.

2. A husband and wife may file either separate returns or a joint return for City purposes, even though one of the spouses has neither taxable income nor deductions included on the City return regardless of whether their Federal and State returns were filed separately or jointly. If a joint City return is made, the tax shall be computed on the

aggregate taxable income and the liability with respect to the tax shall be joint and several.

3. Any taxpayer who received taxable income not subject to withholding under Chapter 183 must file a return.

4. Any taxpayer having income, qualifying wages, other compensation or other income for which a return must be filed, and also having net profits from a business covering the same or a different period, is required to file only one return if self-employed.

5. Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof.

6. Except as provided for herein, the tax is to be paid by the resident associations, and a return is required disclosing the net profits allocable to the City and the tax paid thereon. However, any resident partner or resident member of an unincorporated entity or association is required to make a return and pay the tax in accordance with Article III A3f of these regulations.

B. Information Required and Reconciliation with Federal Returns.

1. Every person subject to the provisions of Section 183.02 of Chapter 183 shall, except as hereinafter provided, file a return setting forth the aggregate amount (if any) of income, salaries, qualifying wages, commissions, and other personal service compensation, net profits from business or other activities, including the rental from real and personal property, and other income taxable under Chapter 183, received for the period covered by the return and such other pertinent facts and information in detail as the Tax Administrator may require.

2. The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from such Tax Administrator or on other forms deemed acceptable by the Tax Administrator, setting forth:

a. The aggregate amounts of income, qualifying wages, commissions and other compensation earned or received and gross receipts from the business, profession or other activity, less expenses allowable in the calculation of Adjusted Federal Taxable Income for tax years 2004 and later.

b. The amount of the tax imposed by the Chapter on such earnings and profits.

c. Such other pertinent statements, information returns or other information as the Tax Administrator may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Income Forms, page one of form 1040 (income on Form 1040 not subject to the City income tax may be deleted), Page one and two of Form 1120, 1120S

(including (K-1), 2106, 1065, Schedule C (including cost of goods manufactured and/or sold), Schedule E, schedule F and any other Federal Schedules if applicable.

3. Any individual, partnership, person, corporation, association, business or other entity that pays to any other individual, partnership, person, corporation, association, business or other entity any compensation that is required by federal law to be reported on a federal form 1099 or other federal miscellaneous income forms, or any resident of the City who receives a federal form 1099, shall forward to the City along with their income tax forms copies of the 1099 form or other miscellaneous income forms. Only those 1099 miscellaneous forms that contain income taxable to the City shall be forwarded to the City.

4. 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 any nonresident employee, and paid by him or them to the City, shall be accepted as the return required of any nonresident employee whose sole income subject to the tax is such salary, wage, commission or other compensation.

5. 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.

C. Acceptance of Federal Extensions.

1. Any taxpayer that has requested an extension for filing a Federal income tax return may request an extension for the filing of a City income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for Federal filing extension with the Tax Administrator.

2. Any taxpayer not required to file a Federal income tax return may request an extension for filing a City tax return in writing.

3. The request for an extension shall be filed not later than the last day for filing the City tax return for calendar and fiscal year filers as prescribed by the Chapter.

4. A valid extension request extends the due date for filing a return to the last day of the month following the month to which the due date of the federal income tax return has been extended, provided however that in the case of businesses that file an extension request through the Ohio Business Gateway, the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended.

5. The Tax Administrator may deny a taxpayer's request for extension if any of the following are found:

a. Has failed to file a copy of the Federal extension (if applicable) by the original due date for the annual return.

b. Owes the City any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax.

c. Has failed to file any required income tax return, report, or other related document for a prior tax period.

6. The Tax 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. If the estimated tax is not paid at this time, such tax will be subject to interest and penalty as provided in Section 183.11 from the date it was normally due.

7. If a taxpayer wishes to extend the time for filing the City tax return to a date beyond that provided above, the taxpayer must file such a request in writing to the Tax Administrator prior to the due date of the automatic extension.

D. Consolidated Returns (Section 183.03(d)):

1. Consolidated returns may be filed by a group of corporations who are affiliated through stock ownership provided such group files consolidated returns for Federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

2. Once a consolidated return has been filed for any taxable year the consolidated group must continue to file consolidated returns in subsequent years unless:

a. Permission in writing is granted by the Tax Administrator to file separate returns.

b. A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.

c. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.

3. a. If a corporation becomes a member of the group during the taxable year, the consolidated return must include the income from the entire taxable year of the common parent corporation and any subsidiaries which were members of the group for the entire year, plus the income of each subsidiary which becomes a member of the group during the year for the period beginning with the date it became a member of the affiliated group. For the period prior to the time any subsidiary became a member of the group, separate returns must be filed for that subsidiary. When a subsidiary ceases to be a member of the affiliated group, the consolidated return must include the income of such subsidiary for the period during which it was a member of the group, but separate returns must be filed for the period after it ceases to be a member. If a corporation has been a member of the affiliated group for less than one month of the taxable year of the

group, it may be considered as not being part of the group. Similarly, a subsidiary may be considered as being a member of the affiliated group during the entire taxable year of the group if the period during which it was not a member of the group does not exceed one month.

b. If a subsidiary is a member of a consolidated group for only part of a taxable year, the income considered to be earned in such fractional part of the year shall be that portion of the net income for the entire year which the number of days it was a member of the group bears to the total number of days in the taxable year.

4. In determining the allocation fraction where a corporation becomes a member of the group or ceases to be a member of the group during the taxable year, the property factor (Step 1 of the formula) shall be determined on the basis of the average net book value of the property during the period such corporation was a member of the group. The rental portion of the factor, however, shall be computed at 8 times the annual rent. The gross receipts and wage factors shall be based on the actual figures.

5. All subsidiary corporations must agree in writing to the filing of the consolidated return as they will be liable for the tax as well as the parent corporation.

6. In consolidating the net income, the taxable income of each corporation shall be computed in accordance with the provisions governing the taxable income of separate corporations except that there shall be eliminated unrealized profits and losses in transactions between members of the affiliated group.

E. Amended Returns.

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 Sections 183.06 and 183.08 of Chapter 183. Such amended return shall be on a form obtainable, upon request, from the Tax Administrator. A taxpayer may not change the method of accounting (i.e., cash or accrual) 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 taxpayer's the City tax liability, such taxpayer shall make and file an amended the City return showing income subject to the tax based upon such final determination of Federal tax liability, and pay any additional tax shown thereon or make claim for refund of any overpayment.

F. Information returns, schedules and statements and/or other documents required to support tax returns, which are incomplete without such information, shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements and/or other documents shall be deemed to be a violation of the Chapter. Provided, however, that the taxpayer shall have ten

days after notification by the Tax Administrator, or his authorized representative, to file the items required by this subsection.

G. Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of the ordinance and these Rules and Regulations.

H. Payment With Return.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes due; provided, however, that where any portion of the tax so due has been withheld or where any portion of such tax has been paid through estimated payments or where an income tax is required to be paid to another municipality or Joint Economic Development District, credit for the amount so paid in accordance with Sections 183.06 and 183.07 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 the return.

2. A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of the Chapter may have such overpayment applied against any liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded. However, no additional taxes or refunds of less than two dollars ($2.00) shall be collected or refunded.

3. The officers and/or employees 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 the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes, penalties, or interest due.

ARTICLE V

COLLECTION AT SOURCE

A. Duty of Withholding.

1. Each employer located, or doing business within the City who employs one or more persons on an income, salary, wage, commission, or other compensation basis, excluding exempted incomes set forth in Section 183.16, and subject to the provisions of subsection B hereof, shall deduct, at the time such income, salary, wage, commission, or other compensation is paid, allocated or set aside, the tax of 1% of the gross income, salaries, wages, commissions, or other compensation due from the employer to the employee.

2. Employers who do not maintain a permanent office or place of business in the City, but who are subject to tax on net profits attributable to the City under the method of allocation provided for in the Chapter and these Rules and Regulations, are considered to be employers within the City and subject to the requirements of withholding.

3. The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation paid in accordance with Article IV. The officer(s) and/or employee(s) of such employer having control or supervision or charged with the responsibility of withholding the tax shall be personally liable for failure to withhold the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's and/or employee's liability for a prior failure of such business to withhold and/or pay the taxes, penalties, or interest due. If the employer has withheld the tax and failed to pay the tax withheld to the Tax Administrator, the employee is not liable for the tax so withheld.

4. Commissions and fees paid to independent contractors are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file a declaration and return and pay the tax pursuant to the provisions of Chapter 183 and Articles IV and VI of these Rules and Regulations**.**

5. Where a non-resident receives compensation for personal services rendered or performed partly within the City, the employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within the City in accordance with the following rules of apportionment:

a. If the non-resident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within the City bears to the total volume of business transacted by him, except as clarified in Article III. However, for real estate and insurance sales the allocation shall be in accordance with Article III A2c.

b. The deducting and withholding of personal service compensation of other non-resident employees, including officers of corporations, shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within the City is of the total number of working hours.

c. The fact that non-resident employees are subject to call at any time does not permit the allocation of pay for time worked within the City on a seven-day per week basis. The percentage of time worked in the City will be computed on the basis of a forty-hour week unless the employer notifies the Tax Administrator that a greater or lesser number of hours per week is worked.

d. Wage continuation plans paid by the employer for purpose of health, rest, recuperation or other reward are deemed to have the same tax situs as the primary job assignment or job location of the employee and are taxable on the same ratio as the normal earnings of such employee for his primary job assignment.

6. An employer shall withhold the tax on the full amount of any advances made to any employee on account of commissions.

7. An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services, provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a business expense by the employee under Article III of these Rules and Regulations.

8. Every employer shall retain all records necessary to compute withholding taxes due Loveland for a period of six years from the date the Reconciliation form, W-2 Forms, and 1099 forms are filed.

9. All returns and forms required to be filed by an employer are considered received on the date postmarked by the United States Postal Service or on the date delivered without mailing by the taxpayer to the Loveland Tax Office.

10. The failure of any employer to receive or procure a return, or other required form shall not excuse the employer from preparing any information return, withholding tax returns or from filing such forms or from paying the tax due.

11. No person shall be required to withhold the tax on the wages or other compensation paid domestic employees employed exclusively in or about such person's residence, but such employee shall be subject to all of the requirements of the Chapter, including making quarterly estimated payments.

B. Return and Payment of Tax Withheld and Status of Employers.

1. Each employer subject to Article V A shall make a return to the Tax Administrator and pay to the City the amount of taxes so deducted on or before the last day of the month following such withholding. Tax shall be withheld only from qualifying wages as calculated in Article III A1b(1)(a).

2. The employer shall, on or before the last day of each month, make a return and pay to the Tax Administrator the tax withheld during the preceding month if taxes withheld for the preceding tax year averaged $300 per month or more.

a. If taxes withheld for the preceding tax year averaged less than $300 per month the employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30, and December 31, make a

return and pay to the Tax Administrator the tax withheld during the preceding calendar quarter.

b. Any employer who normally withholds $300 or more per month for the City, and who wishes to file and remit on a quarterly basis, may request the authority for quarterly filing from the Tax Administrator. Such request must be in writing, stating the name and the City Withholding Account Number of the employer, the address to which tax documents should be mailed, the estimated amount of tax to be withheld each quarter, the reason or reasons for the request, and the name and title of the person responsible for complying with the withholding requirements of Chapter 183.

c. In considering such a request, the Tax Administrator will base his decision on the facts so that the best interests of the City are served. He shall refuse such authority if he has reason to believe that the employer is a below average credit risk, engaging in seasonal or transitory business in fact or as to location, or for any other reason known to him which might place a burden upon the City or where such request is contrary to the policy of the City. The Tax Administrator will notify the employer, in writing, of the decision made upon his request.

d. If the request is granted the notice will specify the effective date of the authorization. Once this approval is granted, the employer may continue on such basis unless notified in writing by the Administrator that approval to file quarterly is withdrawn.

e. The Tax Administrator shall have the authority to deny quarterly payments if the employer is not in full compliance with all the City income tax laws. Notice of the withdrawal shall be made in writing and may be served in person or mailed to the address where the returns are mailed. In such case, the employer must begin to file monthly or semi-monthly as required by the Tax Administrator.

3. Every employer is deemed to be a trustee for the City in collecting and withholding the tax required to be withheld, and the funds so collected by such withholding are deemed to be trust funds in the hands of the employer.

4. Every such employer required to deduct and withhold the tax at the source is liable directly to the City for payment of such tax whether or not the tax was actually collected from such employee.

5. a. On or before February 28th, following any calendar year in which such deductions have been made by any employer, such employer shall file with the Tax Administrator in the form prescribed by the Tax Administrator, a Form W-3 and an information return for each employee from whom the City municipal income tax has been withheld, or should have been withheld, clearly showing the name, address, and social security number of the employee, the total Medicare wage paid during the year and the amount of the City income tax withheld from such employee.

b. On or before February 28th of each year all individuals, businesses, employers, brokers or other 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 City Income Tax Department with copies of all 1099 Miscellaneous Income Forms and/or a list of names, addresses, Social Security numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person. Only those 1099 miscellaneous forms that contain income taxable to the City shall forwarded to the City.

6. For the convenience of employers, the information return referred to in paragraph 5 above may be made in one of three ways, as follows:

a. W-2 copies that are complete (including all information required in paragraph 5 above) and fully legible may be submitted.

b. In lieu of W-2's, employers may submit the tax information using an employee list, as long as employee's full names, addresses, social security numbers, Medicare wages, and the City withheld taxes are accurately reported.

c. Reporting of employee wages via diskettes, magnetic cartridges, or magnetic tapes is permitted, using the standard formats currently used by the Social Security Administration for federal tax reporting. Other electronic reporting methods (such as reporting via the Internet) may be used if approval to do so is granted by the City.

d. Upon written request of the taxpayer, permission to file W-2 information in other than the three specified ways may be granted by the Tax Administrator.

7. In addition to the Withholding Statements, and at the time they are filed, each employer shall file with the Tax Administrator a reconciliation of income tax withheld, comparing the returns of income tax withheld to the total amount of taxes withheld as disclosed by the Withholding Statements.

C. In deducting and withholding the tax at the source and in payment of any tax due under the Chapter, a fractional part of a cent shall be disregarded unless it amounts to one-half (1/2) cent or more in which case it shall be increased to one (1) cent. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his total earnings.

D. Employers for limited engagements, who make payment for services at said engagement, as set forth below, shall, for the purposes of the collection of the income tax, be required to withhold, report, and pay over to the Tax Administrator the municipal income tax at the current rate on the gross amount so paid on completion of the engagement, said reports to be on forms approved by the Tax Commissioner. Employers for limited engagements include, but is not limited to:

1. Any person who employs or contracts for the services of any entertainer, entertainment act, sports event, promotional booth, special event, band, orchestra, rock group, or theatrical performance; or

2. Any person who, acting as a promoter, booking agent, or employer, engages the services of, or arranges the appearance of any entertainer, entertainment act, sports event participant, band, orchestra, rock group, or theatrical performance.

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

ARTICLE VI

DECLARATIONS AND ESTIMATED TAX PAYMENTS

A. Requirements of Filing:

1. A declaration of estimated tax shall be filed by every taxpayer who anticipates having taxable income, the tax on which is not or will not be withheld in full by an employer or employers in accordance with the requirements of Section 183.06, or who engages in any business, profession, enterprise, or activity subject to the tax imposed by Section 183.02 hereof, shall file a declaration setting forth the estimated taxable income or the estimated profit or loss from such business activity together with the estimated tax due thereon. The taxpayer shall be responsible for the calculation of the estimated tax liability on such declaration.

2. A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. No penalties or interest shall be assessed for not filing a declaration on any resident taxpayer who was not domiciled in the City on the first day of January of the year in which they first became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period, nor for estimated payments that equal at least 90% of the final liability for the current tax year completed for which estimated payments have been made.

B. Form For Filing:

1. Such declaration shall be filed upon a form or forms furnished by, or obtainable upon request from, the Tax Administrator, or on generic forms deemed acceptable by the Tax Administrator.

2. The original estimate of tax liability or any subsequent amendment thereof may be increased or decreased by filing an amended declaration at any time. Such amendment may be made on the regular declaration form or a form furnished by and obtainable from the Tax Administrator. An amendment may be filed on or before each quarterly filing date, and must be filed on or before January 31 of the year following or a date fixed by regulation of the Tax Administrator if there is a change of more than 30% to the original estimate.

3. No penalty, interest, or other similar assessment or charge shall be levied against a taxpayer for the late payment or nonpayment of estimated tax liability if one of the following applies:

a. The taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.

b. The taxpayer has timely remitted, pursuant to this section, an amount at least equal to one hundred percent (100%) of the taxpayer's tax liability for the preceding year as shown on the return filed by the taxpayer for the preceding year, provided that the return for the preceding year reflected a twelve-month period and the taxpayer filed a return for the preceding year.

c. The taxpayer, pursuant to this chapter, has timely remitted ninety percent (90%) of the actual tax liability due to the City for the taxpayer's current tax year.

d. The tax due at the time of filing is less than one hundred dollars ($100) and all required payments were made timely pursuant to this section.

C. Dates of Filing and Payment:

1. A declaration shall be filed on or before April 15th, or on or before the federal filing date if it is other than April 15th, of each year during the life of the Chapter, except as specifically exempted in paragraph A1 above.

2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth day of the fourth (4th) month after the start of each fiscal year or period, or on or before the federal filing date if it is other than the 15th day of the fourth month from the end of such fiscal year or period.

3. Prior to the application of any credits, estimated tax payments, or withheld taxes, individual taxpayers are required to remit estimated tax payments on a quarterly basis with payments not to exceed twenty-two and one half percent (22.5%) of the estimated annual tax liability for the current year, on or before April 15 disregarding any extension

granted pursuant to Section 183.17, forty-five percent (45%) by July 31, sixty-seven and one half percent (67.5%) by October 31 and ninety percent (90%) by January 31. Any amount deducted and withheld for taxes from the compensation of an individual shall be considered as estimated taxes paid in equal amount of each of the payments set forth in this section.

4. Prior to the application of any credits, or estimated tax payments, taxpayers that are not individuals are required to remit estimated tax payments with payments of at least (22.5%) of the estimated annual tax liability for the current year on or before the day on which the annual tax return for the prior year is required to be filed disregarding any extension granted pursuant to Section 183.17 or in the case of a fiscal year taxpayer, the fifteenth day of the fourth month of the taxpayer's taxable year; forty-five per cent (45%) by June 15, in the case of a fiscal year taxpayer, the fifteenth day of the sixth month of the taxpayer's taxable year; sixty-seven and one-half per cent (67.5%) by September 15 or, in the case of a fiscal year taxpayer, the fifteenth day of the ninth month of the taxpayer's taxable year; ninety per cent (90%) by December 15 or, in the case of a fiscal year taxpayer, the fifteenth day of the twelfth month of the taxpayer's taxable year.

D. Final Returns Required:

The filing of a declaration does not relieve the taxpayer of the necessity of filing a final return even though there is no change in the declared tax liability. A final return must be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Article IV. Should it appear that such taxpayer has paid more than the amount of tax to which the City is entitled, a refund of the amount so overpaid shall be made, or the same may be applied toward the declaration of estimated tax due for the ensuing year. Claims for refunds shall be made on forms obtainable from the Tax Administrator, or on any acceptable generic form.

ARTICLE VII

POWERS AND DUTIES OF THE TAX ADMINISTRATOR

A. Collection of Tax and Retention of Records:

1. It shall be the duty of the Tax Administrator to receive the tax imposed by Chapter 183 in the manner prescribed therein from the taxpayers; to keep an accurate record thereof and to report all monies so received. All cashiers handling tax monies shall be accountable to the Tax Administrator, and shall give a daily accounting to the Tax Administrator.

2. It shall be the duty of the Tax Administrator to enforce payment of all taxes owing the City, 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 payments thereof.

B. Enforcement Provisions:

1. The Tax Administrator is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered to enforce the Rules and Regulations approved by the Board of Review 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 corrections of returns. Taxpayers must comply with these Rules and Regulations as required by Chapter 183.09(c).

2. The Tax 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 Tax Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due, and has submitted a written application for installment payments to the Tax Administrator. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the Chapter.

3. Failure to make any installment payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 183.12 and 183.97 of Chapter 183 shall apply.

4. Payments received shall first be applied to delinquent penalties and interest~~,~~ and then to taxes. Each delinquent tax year shall be paid in full, beginning with the oldest year, before delinquent payments are applied to the next subsequent year.

5. Payment plans shall not exceed three (3) months in length unless approved by the Tax Administrator or the Tax Administrator's designee.

C. Assessment by the Tax Administrator:

In any case where a taxpayer or employer has failed to file a return or has filed a return without paying the proper amount of tax due, the Tax Administrator may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

1. If the Tax Administrator determines that any taxpayer subject to the provisions of Chapter 183 has a tax liability for which he has filed no return or has filed a return without paying the proper amount of tax due, the Tax Administrator may issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.

a. Such a proposed assessment shall be served upon the taxpayer in person or by mail to his last known address. Proof of mailing furnished by the U. S. Post Office shall be presumptive proof of receipt thereof by the addressee.

b. A taxpayer may, within thirty (30) days after the date the proposed assessment was served or mailed, file a written protest with the Tax Administrator. Within thirty (30) days after receipt of the protest the Tax Administrator shall give the protestant an opportunity to be heard; provided further that the Tax Administrator may extend the date of hearing for good cause shown. After the hearing the Tax Administrator shall withdraw the assessment or shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final thirty (30) days after being served. Any taxpayer or employer who does not file a notice of appeal to the Board of Review from a final assessment issued against him shall pay the amount thereof within thirty (30) days after service of such final assessment.

c. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment. The taxpayer may then appeal to the Board of Review as provided for in Section 183.14 of Chapter 183.

2. The Tax Administrator may execute supplemental tax returns and may issue supplemental assessments whenever the Tax Administrator has knowledge derived from any source including the taxpayer's financial data that any executed tax return or assessment is imperfect or incomplete in any material respect.

3. Neither the Tax Administrator's execution of a return nor the Tax Administrator's assessment of a taxpayer shall start the running of the period of limitations on prosecutions set forth elsewhere in the Chapter.

4. When any taxpayer subject to the provisions of Chapter 183 has filed a return indicating the amount of tax due and has failed to pay said tax to the City as required by Chapter 183, the Tax Administrator need not issue an assessment but may proceed under the provisions of Section 183.12 of Chapter 183.

5. Subject to the consent of the Board of Review or pursuant to regulations approved by the Board, the Tax Administrator shall have the power to compromise any interest or penalty, or both, imposed by Chapter 183.

ARTICLE VIII

INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. Investigations by the Tax Administrator:

1. The Tax Administrator or his duly authorized agent or employee, is hereby authorized to examine the books, papers, records and copies of Federal and State income tax returns of any employer, taxpayer or person subject to Chapter 183, for the purpose of verifying the accuracy of any return made to the City; or if no return was made, to ascertain the tax due under Chapter 183. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish upon written request by the Tax Administrator, or his duly authorized agent or employee, the means, facilities and opportunity to make such examination and investigations as are hereby authorized.

2. An employer or taxpayer shall furnish within ten (10) days following a written request by the Tax Administrator, or his duly authorized agent, the means, facilities and opportunity for making examinations and investigations authorized by Chapter 183.

B. Subpoena of Records and Persons:

1. The Tax Administrator, or any person acting in the Tax Administrator or designee capacity, is authorized to examine any person, under oath, concerning any income which was, or should have been, returned for taxation, or any transaction tending to affect such income. The Tax Administrator may compel the production of books, papers, records and copies of Federal and State income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of the facts concerning any supposed income or supposed transactions of the taxpayer pertinent to such inquiry.

2. The Tax Administrator may order the appearance before him, or his duly authorized agent, of any party whom he believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Tax Administrator is specifically authorized to order the appearance of the local manager or representative of any taxpayer.

3. The Tax Administrator, or the Tax Administrator’s designee or duly authorized agent shall have the power to issue subpoenas to enforce compliance with Section 183.10.

C. Penalty for Non-Compliance.

The refusal, by any employer or person subject or presumed to be subject to the tax or by any officer or agent or employee of a person subject to the tax or required to withhold tax, to produce books, papers, records and copies of Federal and State income tax

returns, and/or to submit to examination by the Tax Administrator or his duly authorized agent, shall be deemed a violation of the Chapter, punishable as provided in Section 183.12. Further, the failure of any person to comply with the provisions of the section or with an order or subpoena of the Tax Administrator authorized hereby shall be deemed a violation of the Chapter, punishable as provided in Section 183.12.

D. Confidential Nature of Examinations.

1. Any information gained as a result of any returns, investigations, audits, verifications or hearings before the Tax Administrator required by Chapter 183 or authorized by these Rules and Regulations shall be confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the City for official tax purposes.

2. No disclosure of the confidential information shall be made except for official tax purposes, or as ordered by a court of competent jurisdiction, or upon receipt of a waiver signed by the individual who has submitted the return or other documents. Any person divulging such information shall, upon conviction thereof, be deemed guilty of a first degree misdemeanor and shall be subject to a fine or penalty of not more than one thousand dollars ($1,000.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee or appointed official of the City who violates the provisions of this Section relative to disclosures of confidential information shall be immediately dismissed from the service of the City.

3. This section does not prohibit the legislative authority of the City, by ordinance or resolution, from authorizing the tax administrator to publish statistics in a form that does not disclose information with respect to particular taxpayers.

E. Retention of Records.

Every taxpayer is required to 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 taxes are paid, whichever is later.

ARTICLE IX

INTEREST AND PENALTIES

All taxes imposed by this chapter, including taxes withheld from wages by an employer and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of one percent (1%) per month or fraction of a month thereof, or twenty-five dollars ($25.00) total, whichever is greater. In addition to interest as provided in subsection (a) hereof, penalties are hereby imposed as follows:

A. If any of Section 183.11(a)(1)A through 183.11(a)(1)D apply to the taxpayer, and the tax due at the time of filing the final return is greater than $100.00, the penalty levied shall be 10% of the amount of tax due in excess of $100.00.

1. The taxpayer has failed to timely comply with the provisions of Section 183.07 setting forth the requirements for the filing of declarations and remitting estimated tax payments; or

2. The taxpayer has failed to file a final return and pay the total tax due on or before the end of the month following the end of the taxpayer's calendar or fiscal year; or

3. The taxpayer has failed to timely remit one hundred percent (100%) of the taxpayer's actual tax liability for the previous tax year; or

4. The taxpayer has failed to timely remit ninety percent (90%) of the taxpayer's actual tax liability for the current tax year.

B. For failure to file complete tax returns, informational reports, or any filing as required by this chapter on a timely basis, $25.00 for the first instance and $50.00 for each subsequent instance.

C. Where an employer required by Section 183.06 to withhold the tax fails to withhold and/or remit such tax to the Tax Administrator, a penalty of $25.00 for each period of delinquency shall be assessed.

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

ARTICLE X

COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

A. Unpaid Taxes, Penalties, and Interest:

1. All taxes imposed by Chapter 183 and not paid when due become, together with interest and penalties thereon, and any court costs and legal fees associated therewith, are a debt due the City from the taxpayer and are recoverable as are other debts by suit. Employers who are required under Section 183.06 of Chapter 183 to withhold and remit the taxes, and who fail to withhold and/or remit such taxes, become liable to the City in a suit to enforce the payment of the debt created by such failure.

2. No additional assessment shall be made by the Tax Administrator after three (3) years from the time the return was due or filed, whichever is later. Provided, however, there shall be a six (6) year period of limitation on such additional assessments in the case of a return that omits 25% or more of income, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return.

3. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an assessment may be made by the Tax Administrator is extended to one (1) year from the time of final determination of the Federal tax liability.

4. Those officers or employees having control or supervision of, or charged with, the responsibility withholding tax, of filing the return, and making payments for a corporation or association shall be personally liable for failure to file the return or pay the taxes due as required. The dissolution, bankruptcy, or reorganization of any employer does not discharge the officers' or employees' liability for a prior failure of such business to file a return or pay the taxes due.

B. Refunds and Overpayments:

1. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made, or the return was due, or three (3) months after the determination of the Federal income tax liability, whichever is later. Should it appear that any taxpayer has paid more than the amount of the tax to which the City is entitled under the provisions of this Chapter a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Tax Administrator or his duly authorized agent or employee, or on generic forms deemed acceptable by the Tax Administrator.

2. In the case of refunds due against tax paid on income from non-qualified deferred compensation plans, the following provisions shall apply:

a. (1) Except as provided in paragraph B2a(2) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(2) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the

calculation described in division B2a(1) of this section computed without regard to division B2a(2) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(3) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

b. "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

c. (1) Except as provided in division B2d of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

c. (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

d. The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

3. No refund shall be made to any taxpayer until he has complied with all provisions of Chapter 183 and these Rules and Regulations, and has furnished all information required by the Tax Administrator.

4. Overpayments will be either refunded, or credited to the taxpayer's current year's liability, at his option. Where no election has been made, overpayments of any year's taxes shall be applied as follows:

a. To unpaid penalty and interest assessments in the order in which they were assessed.

b. To the taxes owed for any previous year in the order in which such taxes became due.

c. To the taxpayer’s current estimated tax liability.

6. a. Refunds for days worked out of the City are available only to non-residents whose primary work situs is deemed to be the City. Refunds shall be computed by dividing wages by total days worked in order to determine an average daily wage. The work year shall be considered two hundred sixty (260) days. Saturdays and Sundays shall not normally be considered work days. Wage continuation plans of any type (including, but not limited to, vacation days, holidays, personal days, and sick days) are deemed to be days spent in the City for purposes of the refund calculation. Refunds shall be approved only after receipt, by the Tax Administrator, of all documents necessary to verify the accuracy of the refund request. The tax on stock options is considered fully taxable to the City, and is not subject to reduction for days worked out of the City. Additions, deletions, or other changes to the method for calculating refunds shall be at the discretion of the Tax Administrator.

b. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if the overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the complete

return is filed, whichever is later, no interest shall be allowed on the refunded overpayment. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by ORC 5703.47.

7. Income tax that has been deposited with the City, but should have been deposited with another municipality, is allowable by the City as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the City, but was deposited with another municipality, shall be subject to recovery by the City. The City will allow a non-refundable credit for any amount owed the City that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the City's tax rate. If the City's tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the City.

8. Tax amounts of less than two dollars ($2.00) shall not be refunded or assessed.

ARTICLE XI

VIOLATIONS - PENALTIES

A. In accordance with Section 183.97, it shall be a violation of Chapter 183 for any person to:

1. Fail, neglect or refuse to make any return, informational return, or declaration required by the Chapter; or

2. Make any incomplete, false or fraudulent return or informational return; or

3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by the Chapter; or

4. Fail, neglect or refuse to withhold the tax from such persons' employees or remit such withholdings to the Tax Administrator, whether as an individual charged with these responsibilities or as an entity; or

5. Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine the books, records, papers and federal and State income tax returns relating to the income or net profits of a taxpayer; or

6. Fail to appear before the Tax Administrator and to produce the books, records, papers or federal and State income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

7. Refuse to disclose to the Tax Administrator any information with respect to the income or net profit of a taxpayer; or

8. Fail to comply with the provisions of the Chapter or any order or subpoena of the Tax Administrator authorized hereby; or

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

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

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

12. Failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him or her from filing any information return, tax return or declaration of estimated tax, or from paying any tax due.

B. Any person who violates any Article XI A1and A2 above shall be guilty of a fourth degree misdemeanor for each violation, and shall be fined not more than two hundred fifty dollars ($250) and/or imprisoned not more than thirty (30) days. Subsequent violations of Article XI A1and A2, and each separate violation of Article XI A 3 through A12 or any other provision of Chapter 183 not enumerated herein shall be guilty of a misdemeanor in the first degree shall be fined not more than one thousand dollars ($1,000.00) or imprisoned not more than six (6) months, or both, for each offense.

C. Prosecution for an offense made punishable under this section or any other provision of this ordinance shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of taxable income, prosecution may be commenced within six (6) years after the commission of the offense.

ARTICLE XII

BOARD OF REVIEW

A. A Board of Review, consisting of three electors of the City, all appointed by the Mayor and approved by Council, is hereby created. Members of the Board of Review shall serve for staggered four-year terms. No member shall be appointed to the Board of Review who holds any other public office or appointment. The members of the Board of Review shall receive one dollar ($1.00) per year for their services.

B. Any Board member may be removed from office due to misfeasance, nonfeasance, malfeasance, or nonattendance to duty, and removal shall be made by the Mayor. Removal shall become effective upon receipt of notice either personally or by certified mail.

C. A majority of the members of the Board shall constitute a quorum. The Board shall elect a Chair, Vice-Chair, and Secretary from its membership. The Board shall adopt its own procedural rules and shall keep a record of its transactions. The Board shall follow Robert's Rules of Order, except as its own adopted procedures differ.

D. All Rules and Regulations, and amendments or changes thereto, which are adopted by the Tax Administrator under the authority conferred by the Chapter, must be approved by the Board of Review before the same become effective. After approval, such rules, regulations, amendments, and changes shall be filed with the Clerk of Council and shall be open to public inspection.

E. The Board of Review shall have the authority to absolve, upon recommendation of the Tax Administrator, delinquent income tax revenues deemed to be uncollectable.

F. Appeals by Taxpayers.

1. Whenever the Tax Administrator receives a written request for review and makes a ruling or decision regarding the application of the income tax ordinance of the City, the assessment of a penalty and/or interest, the Tax Administrator shall notify the taxpayer in writing of such ruling or decision, and of the taxpayer’s right to appeal such ruling or decision, and the manner in which the taxpayer may appeal such written ruling or decision. However, the imposition of penalty and interest as prescribed in the Codified Ordinances of the City is not a sole basis for an appeal.

2. Any person dissatisfied with any ruling or decision of the Tax Administrator, which is made under the authority conferred by the Chapter, may appeal therefrom to the Board within thirty (30) days from the announcement of such ruling or decision by the Tax Administrator, provided the taxpayer making the appeal has filed with the City the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any ruling or decision or any part thereof, is empowered to substitute alternate methods of allocation. Such hearing shall be scheduled within forty-five (45) days from the date of appeal, unless the taxpayer waives a hearing. The Board's ruling must be made within thirty (30) days from the date of the closing of the record, shall be in writing and filed with the Tax Administrator, and within fifteen (15) days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal.

3. Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the

announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

G. Hearing Procedures.

1. A majority of members present at any hearing or meeting shall constitute a quorum.

2. The Board of Review shall adopt its own procedural rules and keep records of all proceedings accordingly. Such records are not public records available for inspection under ORC 149.43.

3. All hearings upon appeal by the Board shall be conducted privately, unless a public hearing is requested by the taxpayer, and the provisions of Section 183.10 of Chapter 183 with reference to the confidential character of information required to be disclosed by Chapter 183 shall apply to such matters as may be heard before the Board of Review. Hearings requested by a taxpayer before the Board of Review are not meetings of a public body subject to ORC 121.22.

ARTICLE XIII

CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

A. Every individual taxpayer who resides in the City and receives net profits, income, salaries, wages, commissions, or other personal service compensation for work done or services performed or rendered outside of the City, if he has paid a municipal income tax on such net profits, income, salaries, wages, commissions, or other compensation to another municipality or Joint Economic Development District, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other municipality or Joint Economic Development District. The credit shall not exceed the tax assessed by this chapter on such net profits, income, salaries, wages, commission or compensation earned in such other municipality or municipalities or Joint Economic Development District where such tax is paid.

B. No credit shall be given for county or school district taxes paid.

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

ARTICLE XIV

APPLICABILITY AND SAVINGS CLAUSE

The chapter shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of the City to impose the tax herein provided. If any sentence, clause, section, or part of the chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal, or invalid, such finding of unconstitutionality, illegality, or invalidity shall affect only such sentence, clause, section, or part of the chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of the chapter. It is hereby declared to be the intention of the Board of Review that the chapter and these Rules and Regulations would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

ARTICLE XV

REPORTS BY OWNERS OF RENTAL OR LEASED PROPERTY; CONDOMINIUMS

The owner, manager or any person in control who rents or leases real estate in the City to other persons for any purpose is hereby directed and required to furnish to the Tax Administrator, or his duly authorized employee or agent, a roster of the names, addresses and other information as requested, of those residing in or occupying such real estate. In addition, every condominium association or other organization of owners is required to furnish the Tax Administrator a roster of the names and addresses of their association or organization members which own condominium units within the City. The president or chief executive officer of such association or other organization shall be responsible for providing the roster required by this section. The rosters shall be filed in accordance with the following schedule:

A. If the landlord owns four (4) or less leased and/or rental units in the City, the landlord shall submit a roster annually. The roster shall be due January 31 of each year and shall contain the required information for the previous year.

B. If the landlord owns five (5) to twenty (20) leased and/or rental units in the City, the landlord shall submit a roster quarterly. The roster shall be due on the last day of the month following the end of each calendar quarter, and shall contain the required information for the previous quarter.

C. If the landlord owns twenty-one (21) or more leased and/or rental units in the City, the landlord shall submit a roster monthly. The roster shall be due on the last day of the month following the month for which the roster is prepared, and shall contain the required information for that previous month.

D. For condominium units, the change in ownership shall be reported within thirty (30) days from the change of ownership of a condominium or sub-lease of a condominium.

ARTICLE XVI

EFFECTIVE PERIOD; COLLECTION OF TAX AFTER TERMINATION OF CHAPTER

A. This ordinance shall continue in effect insofar as the levy of taxes is concerned until the same has been repealed. Insofar as the collection of taxes levied or enforcing any provision of this ordinance are concerned, it shall continue in effect until all of such taxes levied in the aforesaid period are fully paid and all suits and prosecutions for the collection of such taxes, or for the punishment of violations of this ordinance, shall have been fully terminated. The provisions of this section are subject to the limitations contained in Sections 183.12 and 183.97.

B. Annual returns due for all or any part of the last effective year of this ordinance shall be due on the dates provided in Sections 183.05 through 183.06, as though the same were continuing.

The Income Tax Rules and Regulations as attached were approved on _____ by the Board of Review and accepted by the City Manager and the Income Tax Administrator. These Rules and Regulations replace any and all previous Rules and Regulations. The Rules and Regulations are subject to amendment as provided in Article XII D.

The following signatures are placed in witness hereof:

_____	_____
Carolyn Bingaman, Board Member	Date
_____	_____
Joseph Ciaramitaro, Board Member	Date
_____	_____
Scott Lehman, Board Member	Date
_____	_____
Thomas Carroll, City Manager	Date
_____	_____
Harry D. Steger, Income Tax Administrator	Date