

RECORD OF RESOLUTIONS

City of Grandview Heights

Version 02-16-2010 B

Resolution No. 2010-02 Passed February 14, 2010

A Resolution declaring the necessity of an election on the question of approving an increase in the income tax rate of the City of Grandview Heights by one-quarter of one percent (0.25%) per annum on income earned on or after July 1, 2010, for the purposes of maintaining general municipal operations, capital improvements, street and other physical properties, and for the further purpose of increasing the credit granted to residents who pay income taxes to a municipality other than the City of Grandview Heights to an amount not to exceed two and one-quarter percent (2.25%), and declaring it an emergency.

WHEREAS, the City of Grandview Heights annually budgets, and must continue to obtain sufficient financial resources, to maintain essential City services and infrastructure for its residents; and

WHEREAS, the City currently provides for the imposition of an income tax at a rate of two and one-quarter percent (2.25%) per annum on certain wages, salaries, commissions and other compensation, in the case of individuals, and on the net profits, in the case of certain unincorporated and incorporated businesses, professions, and other activities, or derived from work done or services performed or rendered for the purposes specified in Section 181.02 of the Codified Ordinances of the City of Grandview Heights, Ohio; and

WHEREAS, the City originally proposed a temporary increase over the 2005 rate of two percent (2.0%) tax through Resolution 2005-03, which the City's electors approved by a ballot election held on May 3, 2005; and

WHEREAS, the City's financial challenges have been magnified by a decrease in the corporate tax base of the City, a decline in the value of the City's investment portfolio, projected income tax collections, and a declining national economy that has negatively affected the City's tax base; and

WHEREAS, the City has made significant reductions to its budget and expenditures, has deferred filling key staffing vacancies, and has delayed critical investments in certain capital improvements; and

WHEREAS, the City Council has, after considerable study, determined a need for additional revenue to maintain the level of essential City services and operations that residents have come to expect from the City, and to have sufficient revenue to enable the City to update its aging infrastructure and plan proactively for capital improvement needs; and

WHEREAS, Council recommends that five percent (5%) of income tax revenue collections be specifically allocated for capital expenditures; and

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WHEREAS, the City's Codified Ordinances, Chapter 181, provide for a reciprocal credit of two percent (2.0%) for residents of Grandview Heights who work outside of the City; and

WHEREAS, other municipalities have increased or may increase their income tax rates above the current reciprocal credit level, thereby causing an additional strain on residents of Grandview Heights who work outside the City but only receive a two percent (2.0%) credit from the City of Grandview Heights; and

WHEREAS, the impact of other municipalities' increased tax rates will cause additional strain for City residents if the City's credit is not increased; and

WHEREAS, upon passage of the proposed tax increase by the City's electors, the City would increase the tax credit provided in Codified Ordinances 181.05(f) and 181.13, given on taxes paid for income earned in another municipality whose tax rate is the same as or higher than that of Grandview Heights, to an amount not to exceed two and one-quarter percent (2.25%), thus maintaining the collective amount of tax paid by City residents to Grandview Heights and other municipalities at existing levels; and

WHEREAS, Section 718.01(C) of the Ohio Revised Code provides that no municipal corporation shall levy a tax on income at a rate in excess of one percent without having obtained the approval of the excess by a majority of the electors of the municipality; and

WHEREAS, the Charter of the City of Grandview Heights requires that any Ordinance levying a tax on income must obtain the approval of a majority of the electors of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GRANDVIEW HEIGHTS, OHIO THAT:

SECTION 1. This Council hereby authorizes and directs the submission to the electors of the City of Grandview Heights, Ohio, at an election to be held at the usual places of voting in said City on Tuesday, May 4, 2010, between the hours of 6:30 a.m. and 7:30 p.m. of said day, of the question of approving the increase of the income tax rate from two and one-quarter percent (2.25%) per annum to two and one-half percent (2.50%) per annum to income earned or received on or after July 1, 2010.

SECTION 2. Following passage by the electors, Council shall pass legislation to codify the aforementioned tax change and simultaneously codify an increase in the reciprocal credit granted to City taxpayers working outside the City on income earned in another municipality whose tax rate is the same as or higher than that of Grandview Heights to an amount not to exceed two and one-quarter percent (2.25%).

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SECTION 3. Council further authorizes the Finance Director to earmark not less than five percent (5%) of all income tax collected into an appropriate fund dedicated for capital expenditures.

SECTION 4. It is the desire of this Council that the ballots presented to the electors of the City of Grandview Heights shall be in substantially the following form:

A majority affirmative vote is necessary for passage.

Shall the Ordinance providing for an additional one-quarter of one percent (0.25%) per annum levy on income, and applying to income earned or received on or after July 1, 2010, for a total income tax of 2.50%, for the purposes of general municipal operations, capital improvement, street and other physical properties, purchase of new equipment and the payment of principal and interest on bonds issued by the City of Grandview Heights, be passed, and further, shall the Ordinance providing for the reciprocal credit for income taxes paid to another municipality whose tax rate is the same as or higher than that of Grandview Heights on income earned outside the City be increased from 2% to an amount not to exceed 2.25%?

The following items are exempt from the income tax: Social Security, pensions, military pay, capital gains, interest, and dividends.

	FOR THE INCOME TAX
	AGAINST THE INCOME TAX

SECTION 5. The Acting Clerk of this Council be and is hereby directed to file a copy of this Resolution with the Board of Elections no later than February 18, 2010.

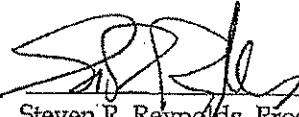
SECTION 6. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council and any of its Committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

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SECTION 6. This Resolution is hereby declared to be an emergency measure for the reason that it is necessary and in the City's best interest in order to maintain the City's fiscal integrity and viability; therefore, it shall take effect immediately upon its passage and approval by the Mayor.

Passed: 02/16, 2010



Steven R. Reynolds, President
Grandview Heights City Council

Attest:


Robert J. Dvoraczky,
Acting Clerk of Council

Approved ~~Not Approved~~

Date: 02/16, 2010



Ray E. DeGraw, Mayor

Approved as to form:


Marie-Joëlle C. Khouzam
City Attorney

Date: 2.16., 2010

I HEREBY CERTIFY THAT PUBLICATION OF THE FOREGOING ORDINANCE OF RESOLUTION WAS MADE BY POSTING TRUE COPIES THEREOF AT FIVE OF THE MOST PUBLIC PLACES IN GRANDVIEW HEIGHTS AS DETERMINED BY COUNCIL PURSUANT TO ORD. 50-80, TO WIT: GRANDVIEW HEIGHTS MUNICIPAL BUILDING, STEVENSON ELEMENTARY SCHOOL, EDISON ELEMENTARY SCHOOL, GRANDVIEW HEIGHTS HIGH SCHOOL, GRANDVIEW HEIGHTS PUBLIC LIBRARY, EACH FOR A PERIOD OF FIFTEEN DAYS COMMENCING ON THE 8 DAY OF March 2010


CLERK OF COUNCIL
CITY OF GRANDVIEW HEIGHTS, OH

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Ordinance No. _____ Passed _____, 20____

An Ordinance amending Chapter 181 of the Codified Ordinances of the City of Grandview Heights, Ohio, in its entirety to incorporate changes to bring the municipal income tax code into compliance with recent revisions in state law.

WHEREAS, the City needs to continue to obtain sufficient financial resources to maintain and enhance services and infrastructure for its residents; and

WHEREAS, recent changes to Ohio law governing municipal income taxation have made it necessary to amend several provisions of Chapter 181 of the Codified Ordinances of the City of Grandview Heights; and

WHEREAS, it is Council's desire to amend Chapter 181 of the Codified Ordinances of the City of Grandview Heights in order to bring it into compliance with the requirements of state law; and

WHEREAS, the passage of this Ordinance as an emergency is necessary so as to preserve the public peace, health and safety of the City of Grandview Heights.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GRANDVIEW HEIGHTS, OHIO THAT:

SECTION 1. Chapter 181 of the Codified Ordinances of the City of Grandview Heights is hereby amended to read as follows:

181.01 DEFINITIONS.

As used in this chapter, the following words shall have the meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning. The singular shall include the plural. The masculine gender shall include the feminine and the neuter genders.

- (a) "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, adjusted as follows:

- (1) Deduct intangible income to the extent included in federal

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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.

- (2) Add an amount equal to five percent (5%) of intangible income deducted under division (a)(1) 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.
- (3) 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 sections 1221 or 1231 of the Internal Revenue Code.
- (4) (A) Except as provided in division (a)(4)(B) 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 sections 1221 or 1231 of the Internal Revenue Code.

(B) Division (a)(4)(A) of this section does not apply to the extent the income or gain is income or gain described in sections 1245 or 1250 of the Internal Revenue Code.
- (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.
- (6) 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.
- (7) 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:
 - (A) Guaranteed payments and other similar amounts paid

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or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and

- (B) 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 be not allowed as a deduction.

Nothing in division (a) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

- (b) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.
- (c) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, limited liability company, trust, association, corporation or any other entity.
- (d) "City" means the City of Grandview Heights, Ohio.
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, State of Ohio, or any other state, territory or foreign country or dependency.
- (f) "Employee" means one who works for wages, salary, commissions or other type of compensation in the service of an employer.
- (g) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, that employs one or

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more persons on a salary, wage, commission, or other compensation basis.

- (h) "Director of Finance" means the Director of Finance of the City of Grandview Heights, Ohio.
- (i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (j) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income, which contains all the information required on City's regular tax return, estimated payment forms, and request for refund forms, and is in a similar format that will allow processing of the generic form without altering the City's procedures for processing forms.
- (k) "Gross receipts" means the total income from any source whatsoever.
- (l) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investment in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards or other income associated with any lottery winnings or other similar games of chance.
- (m) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (n) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the similar laws of another state.
- (o) (1) For taxable years beginning prior to January 1, 2004, "net profits" means the net gain from the operation of a

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business, profession, enterprise or other activity, whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit, after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this chapter, federal, state or other taxes based on income, and in the case of an association, without deduction of salaries paid to partners, and other owners, and otherwise adjusted to the requirements of this chapter.

(2) For taxable years beginning on or after January 1, 2004, "net profits" for a taxpayer other than an individual means adjusted federal taxable income and "net profits" for a taxpayer who is an individual means the individual's profit, other than amounts described in section 181.14, required to be reported on schedule C, schedule E, or schedule F.

(p) "Nonresident" means any natural person who is not domiciled in the City and whose usual place of abode is outside the City.

(q) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City.

(r) "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits of which are given pass-through treatment under the Internal Revenue Code.

(s) "Person" means every natural person, firm, company, business trust, estate, trust, partnership, limited liability company, fiduciary, association, corporation, or any other entity. Whenever used in any clause prescribed and imposing a penalty, the term "person" as applied to any unincorporated entity shall mean the parties or members thereof, and as applied to corporations, the officers thereof.

(t) "Place of business" means any bona-fide office, "other than a mere statutory office", factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular

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employees regularly in attendance.

- (u) "Qualifying wages" means wages as defined in section 3121(a) of the Internal Revenue Code, including non-qualified deferred compensation and stock options, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.
- (v) "Resident" means any natural person who is domiciled in the City or whose usual place of abode is in the City.
- (w) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City.
- (x) "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (y) "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (z) "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (aa) "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 entire taxable year.
- (bb) "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or the net profits from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this chapter. "Taxable income" includes prizes, awards or other income associated with any lottery winnings or other similar games of chance.
- (cc) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

181.02 IMPOSITION OF TAX.

To provide for the purposes of general municipal operations, capital

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improvement, street and other physical properties, purchase of new equipment and the payment of principal and interest on bonds issued by the City, there is hereby levied a tax at the rate of two percent (2%) per annum through June 30, 2005; at a rate of two and one-half percent (2.5%) per annum from July 1, 2005 through December 31, 2008; at a rate of two and one-quarter percent (2.25%) per annum from January 1, 2009 through December 31, 2010; and at a rate of two percent (2%) per annum on and after January 1, 2011, upon the following:

- (a) On all qualifying wages, commissions, other compensation, and other taxable income earned or received on or after July 1, 1983, by residents of the City.
- (b) On all qualifying wages, commissions, other compensation, and other taxable income earned or received on or after July 1, 1983, by nonresidents of the City for work done or services performed or rendered in the City.
- (c) On the net profits earned or received on or after July 1, 1983, of all unincorporated businesses, professions, or other activities conducted by residents of the City.
- (d) On net profits earned or received on or after July 1, 1983, of all unincorporated businesses, professions, or other activities conducted in the City by nonresidents.
- (e) For the purposes of divisions (c) and (d) of this section, an association or pass-through entity, except for an S corporation, shall not be taxable as an entity, but any member or owner thereof who is a resident of the City shall be taxed individually on the resident's entire share, whether distributed or not, of the annual net profits of the association or pass-through entity, and any nonresident members or owners thereof shall be taxed individually only on that portion of the nonresident's share, whether distributed or not, of the annual net profits of the association as is derived from work done, services performed or rendered, and businesses or other activities conducted in the City.
- (f) On the net profits earned or received on or after July 1, 1983, of all corporations, estates, trusts and limited partnerships, derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations, estates, trusts and limited partnerships have their

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principal or any place of business located in the City.

- (g) On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

181.03 ALLOCATIONS OF NET PROFITS.

- (a) This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Except as otherwise provided in division (b) of this section, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of the tax in the same proportion as the average ratio of:

- (1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

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

- (2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Ohio Revised Code.
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever

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made or performed.

- (b) In the event that the foregoing business allocation percentage formula does not produce an equitable result, another basis may, under uniform regulations, be substituted by the Director of Finance or his delegate so as to produce such result.
- (c) As used in this chapter, "sales made in the City" means:
 - (1) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.
 - (2) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
 - (3) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (d) Except as otherwise provided in division (e) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax by the City only if the property generating the net profit is located in the City.
- (e) This section does not apply to individuals who are residents of the City and, except as otherwise provided in section 718.01 of the Ohio Revised Code, the City may impose a tax on all income earned by residents of the City to the extent allowed by the United States Constitution.
- (f) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation percentage formula.

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181.04 LEVY OF TAX.

- (a) Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after July 1, 1983, and with respect to the net profits of business, professions or other activities earned on and after July 1, 1983. Provided, however, that where the fiscal years of the business, profession or other activity differs from the calendar year the tax shall be applied to that part of the net profits for the fiscal year as shall be earned on and after July 1, 1983, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis.
- (b) Where the fiscal year of a business, profession or other activity is other than a calendar year, in computing initial tax the profits of such taxpayer shall be determined by dividing the annual profits by twelve and multiplying the quotient by the number of months within the period commencing July 1, 1983, and ending at the conclusion of such fiscal year.

181.05 RETURN AND PAYMENT OF TAX.

- (a) Each taxpayer who engages in business or other activity, or whose qualifying wages, commissions, other compensation and other taxable income are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file a return on or before April 15 of each year with the Director of Finance on a form furnished by or obtainable from the Director of Finance, including a generic form if the generic form, when completed and filed, contains all the information required by the prescribed form, setting forth the aggregate amount of qualifying wages, commissions, other compensation earned and/or net profits earned and/or gross income from any business, profession, or other activity less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, the amount of the tax imposed by this chapter on such earning and profits, together with such other pertinent information, including copies of federal or state tax returns and/or schedules, as the Director of Finance or his delegate may require. Provided, however, that when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the fifteenth (15th) day of the fourth month after the close of such fiscal year or other period.

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- (b) Commencing with taxable years beginning subsequent to December 31, 1981, the net loss from an unincorporated business activity may not be used to offset qualifying wages, commissions or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity, except any portion of a loss separately reportable for municipal tax purposes to another taxing entity, may be used to offset the profits of another for purposes of arriving at overall net profits.
- (c) A husband and wife, in any taxable year, may elect to file separate or joint returns.
- (d) If a net operating loss has been sustained in any taxable year, such loss may not be carried forward or backward to any other taxable year.
- (e) Any affiliated group that files a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code may file a consolidated return with the City. However, once the affiliated group has elected to file a consolidated return or a separate return with the City, the affiliated group may not change its method of filing in any subsequent tax year without written approval from the City.
- (f) The taxpayer making a return shall at the time of the filing thereof, pay to the City the amount of taxes shown as due thereon, provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of section 181.07 or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of section 181.08, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with section 181.13 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.
- (g) A taxpayer who has overpaid the taxpayer's income tax in any taxable year may request a refund provided, however, there is no other tax liability and provided, further, that no amount of less than one dollar (\$1.00) will be refunded or collected.

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- (h) The Director of Finance or his delegate shall have the authority to extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The extension request may be made by filing a copy of the taxpayer's request for a federal filing extension, or by filing a written request. The Director of Finance or his delegate may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

181.06 AMENDED RETURN; REFUNDS.

- (a) Where an amended return must be filed in order to report additional income and pay any additional tax due or claim a refund of tax overpaid subject to the requirements and/or limitations contained in section 181.05(f), such amended return shall be on a form obtainable on request from the Director of Finance. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (b) Within three months from the final determination of any federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended city return showing income subject to the City tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment.
- (c) No refund shall be allowed unless a written request is presented to the Director of Finance or his delegate within three years of the date the taxes were due.

181.07 COLLECTION AT SOURCE.

- (a) Each employer within or doing business within the City, shall deduct at the time of payment of such salaries, wages, commissions or other compensation, the tax at the rates set forth in section 181.02 of this chapter on the qualifying wages due by the employer to such employees and shall, on or before the last

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day of the month following the close of each calendar quarter, make a return showing the amount of taxes so deducted and a record of payments showing that all taxes deducted during the quarter have been paid to the City in accordance with the payment schedule prescribed by divisions (b)(1), (2) and (3) of this section. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Every employer is deemed to be a trustee for the City in collecting and holding the tax required under this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds.

(b) Employers shall pay to the City all income taxes withheld or required to be deducted and withheld on either a semi-monthly, monthly, or quarterly basis depending on the amount of taxes involved according to the following payment schedule:

(1) Semi-monthly payments of the taxes deducted are to be made by an employer if the total taxes deducted in the prior calendar year were twelve thousand dollars (\$12,000) or more, or the amount of taxes deducted for any month in the preceding quarter exceeded one thousand dollars (\$1,000). Such payment shall be paid to the City within five banking days after the fifteenth and the last day of each month.

(2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000) but more than one thousand nine hundred and ninety-nine dollars (\$1,999) or if the taxes withheld during any month for the preceding quarter exceeded one hundred dollars (\$100.00). Such payments shall be paid to the City within fifteen days after the close of each calendar month, however, those taxes accumulated for the third month of the calendar quarter need not be paid until the last day of the month following such quarter.

(3) All employers not required to make semi-monthly or monthly payments of taxes withheld under Subsections (b)(1) and (2) of this section, shall make quarterly payments no later than the last day of the month following the end of each quarter.

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- (c) 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.
- (d) Each employer who maintains a place of business in the City and another branch within the metropolitan area of the City shall also withhold the tax from the employees residing in the City but working at the employer's metropolitan area branch, even though the payroll records and place of payment are outside the City.
- (e) The employer shall make and file a return on a form furnished by the Director of Finance, showing the amount of tax deducted by the employer from the qualifying wages, of any employee and paid by the employer to the City.
- (f) Each employer on or before January 31, unless written request for thirty days extension is made to and granted by the Director of Finance or his delegate, following any calendar year in which such deductions have been made, or should have been made by such employer, shall file with the Director of Finance or his delegate an information return (Grandview Heights Withholding Statement of Wages Paid, and Grandview Heights Income Tax Withheld), for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total amount of qualifying wages, commissions and other compensation paid such employee during the year, and the amount of City income tax withheld from each employee.
- (g) Where a resident performs service for the resident's employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the City to the extent of the tax liability in the other municipality.
- (h) The failure of an employer or taxpayer to receive or procure a return or declaration form shall not excuse him from making a return or declaration or paying the tax levied under this chapter.
- (i) All officers, members, managers, trustees, or the employees having control or supervision of or charged with the responsibility of filing the report and making payment, are personally liable,

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jointly and severally, for failure to file the report or pay the tax due as required by this section, as well as any related interest and penalties. The dissolution, termination, or bankruptcy of a corporation, limited liability company, business trust or association does not discharge an officer's, member's, manager's, trustee's, or employee's liability for a prior failure of the corporation, limited liability company, business trust or association to file returns or pay tax due.

181.08 DECLARATIONS.

- (a) Every person who anticipates any taxable income which is not subject to section 181.07, or who engages in any business, profession, enterprise or activity subject to the tax imposed by sections 181.02(c) and (d) shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from qualifying wages, from which the tax will be withheld and remitted to the City in accordance with section 181.07, such person need not file a declaration.
- (b) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or on or before the fifteenth (15th) day of the fourth month the taxpayer becomes subject to tax for the first time.
- (c) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth month after the beginning of each fiscal year or period.
- (d) Such declaration shall be filed upon a form furnished by or obtainable from the Director of Finance or on an acceptable generic form, provided, however, credit shall be taken for the city tax to be withheld from any portion of such income. In accordance with the provisions of section 181.13, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
- (e) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment day as provided for herein.

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- (f) Such declarations of estimated tax to be paid the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax, and at least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth months after the beginning of the taxable year, provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (1) Beginning July 1, 2006, the declaration of estimated tax to be paid to the City by taxpayers who are individuals shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the declaration amount and at least a similar amount shall be paid on or before July 31 and October 31 of the taxable year, and January 31 of the following year.
- (2) Beginning July 1, 2006, the declaration of estimated tax to be paid to the City by taxpayers who are not individuals shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the declaration amount and at least a similar amount shall be paid on or before the last day of the sixth, ninth, and twelfth months of the taxpayer's taxable year.
- (g) On or before the fifteenth (15th) day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of section 181.05.
- (h) A declaration of estimated tax that is less than eighty percent (80%) of the tax as shown on the final return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided in section 181.16.
- (i) The failure of an employer or taxpayer to receive or procure a return or declaration from shall not excuse the employer or taxpayer from making a return or declaration and paying the tax levied under this chapter.

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181.09 DUTIES OF THE DIRECTOR OF FINANCE.

- (a) The Director of Finance shall collect and receive the tax imposed by this chapter in the manner prescribed by this chapter, and it shall also be his duty to keep an accurate record showing the payment received by him from each taxpayer and the date of such payment.
- (b) The Director of Finance shall have the power to appoint a delegate to assist in the administration of this chapter, and such delegate shall be responsible to the Director of Finance.
- (c) The Director of Finance and his delegate are hereby charged with the administration and enforcement of the provisions of this chapter and they are hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns and payments.
- (d) In any case where a taxpayer has failed to file a return or failed to pay the tax due on a return or has filed a return which does not show the proper amount of tax due, the Director of Finance or his delegate may determine the amount of tax appearing to be due the City from the taxpayer based on any information in his possession and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

181.10 INVESTIGATIVE POWERS OF THE DIRECTOR OF FINANCE OR HIS DELEGATE.

- (a) The Director of Finance or his delegate, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or who the Director of Finance or his delegate believes is subject to, the provisions of this chapter for the purposes of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter, and every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Director of Finance or his delegate, or his duly authorized agent or employee the means, facilities, and

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opportunity for making such examinations and investigations as are hereby authorized.

- (b) The Director of Finance and his delegate are each hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or would have been returned for taxation or any transaction tending to affect such income and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

181.11 TAX INFORMATION CONFIDENTIAL.

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order, or except as hereinafter provided. The Director of Finance or his delegate may furnish the Internal Revenue Service, Treasury Department of the United States, the Tax Commissioner of Ohio and the duly authorized Income Tax Administrator of any other city or state with copies of the returns filed. The Director of Finance or his delegate is also authorized to enter into agreements for the exchange of any information with any of the foregoing federal, state, or city officials. Any person divulging such information, except as authorized in this section, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense

181.12 COLLECTION OF UNPAID TAXES.

- (a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.
- (b) The Director of Finance or his delegate is authorized to institute civil law suits to collect delinquent taxes due and owing the City by virtue of the provisions of this chapter. The Director of Finance or his delegate is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of State

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statutes of limitations.

181.13 CREDITS.

- (a) Every individual taxpayer who resides in the City but who received net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered outside of the City, if it appears that the taxpayer has paid a municipal income tax or excise tax based on income on such net profits, salaries, wages, commissions or compensation in another municipality, shall be allowed a credit not to exceed two percent (2%) for the amount so paid by or on behalf of the taxpayer in such other municipality, this credit to be applied only to the extent of the tax assessed by this chapter, by reason of such net profits, salaries, wages, commissions or compensation earned in such other municipality where such tax is paid.

- (b) Every resident who receives net profits from a pass-through entity that does not conduct business in the City shall be allowed a credit for tax paid to another municipality by the pass-through entity. The credit shall equal the lesser of the following amounts:
 - (1) The owner's proportionate share of the amount, if any, of tax paid by the pass-through entity to another municipal corporation in this state: or

 - (2) The owner's proportionate share of the amount of tax that would be imposed on the pass-through entity by the City if the pass-through entity conducted business in the City.

In no event shall the credit exceed the amount specified in division (a) of this section.

181.14 ECONOMIC DEVELOPMENT INCENTIVE TAX CREDIT.

- (a) Upon a finding by City Council pursuant to the Economic Development Incentive Program, the City may provide an inducement to a business entity in the form of a credit against the tax on net profits actually collected or which is otherwise due pursuant to sections 181.02 et seq.

- (b) All business entities shall be eligible, whether currently located in the City, whether incorporated, or otherwise.

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- (c) The Director of Administration of the City shall from time to time prepare and accept applications from business entities for consideration of a credit. The application shall describe among other information:
 - (1) The anticipated number of new employees and total employees to be located within the City;
 - (2) The new and total employment income generated;
 - (3) The tax revenue anticipated in connection with employees; and
 - (4) Any other information the Director of Administration deems necessary to perform under this program.
- (d) Upon City Council's approval, the City shall enter into a Development and Incentive Agreement signed by the City and the business entity to receive a credit equal to a portion of the actual proceeds of the tax paid pursuant to sections 181.02 et seq. from employees of the business entity.
- (e) The tax credit may be applied against amounts that the business entity is otherwise required to remit to the City based upon its net profits, or refunded after collection by the City if, as a result of the credit, the business entity has remitted to the City an amount in excess of the tax otherwise due after application of the credit, as expressly stipulated in the Agreement. In no event shall the credit reduce the taxpayer's liability for the tax imposed by this chapter on its net profits below zero.
- (f) Every Agreement shall state the maximum percentage of credit as against actual receipts to the City, which shall not be exceeded in any time period, notwithstanding any statement in the application, the Agreement, or in any other context. The Agreement shall be void and unenforceable to the extent that the tax actually collected by or remitted to the City under sections 181.02 et seq. is insufficient to cover the tax credit or any portion thereof.
- (g) No tax credit shall exceed a term of fifteen years.
- (h) No tax credit shall be granted to a business entity without an

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express provision that the business entity will continue with the project in the City for a period of time equal to the term of the credit plus five years.

- (i) Each Agreement shall contain conditions that the business entity must fulfill to receive the credit, or otherwise state that the credit is unconditional.
- (j) Each Agreement shall contain provisions for reduction of the credit or refund of either a portion or the whole of the credit, upon the business entity's failure to meet the conditions required in the Agreement.

181.15 EXEMPTIONS.

- (a) The provisions of this chapter shall not be construed to tax the following:
 - (1) Military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio national guard;
 - (2) Income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities;
 - (3) Amounts excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;
 - (4) Intangible income;
 - (5) The income of a public utility, when that public utility is subject to the tax levied under sections 5727.24 or 5727.30 of the Ohio Revised Code;
 - (6) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code;

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(7) Qualifying wages and other compensation paid to a nonresident for personal services performed by the nonresident in the City on twelve (12) or fewer days in a calendar year unless one of the following applies:

(A) The individual is an employee of another person, the principal place of business of which is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

(B) The individual is a professional entertainer or 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.

(C) For persons not otherwise exempt, beginning with the thirteenth (13th) day that a nonresident employee receives qualifying wages or other compensation for personal services performed in the City, all provisions of this chapter shall apply to the individual and the individual's employer, including with respect to qualifying wages paid for the first twelve days.

(b) The tax provided for herein shall not be levied on the personal earnings of any natural person under eighteen years of age.

181.16 CONTRACT PROVISIONS.

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless such contract contains the following provisions:

"Said _____ hereby further agrees to withhold all City income taxes due or payable under the provisions of Ordinance No. _____ of the City of Grandview Heights, Ohio, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City income taxes due under such ordinance for services performed under this contract."

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181.17 INTEREST AND PENALTIES.

- (a) All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest in addition to the amount of the unpaid tax, at the rate of eighteen percent (18%) per annum, and the taxpayers upon whom such taxes are imposed by this chapter shall be liable in addition thereto, to a penalty of ten percent (10%) of the amount of the unpaid tax.
- (b) A penalty shall not be assessed on an additional tax assessment made by the Director of Finance or his delegate when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Director of Finance or his delegate; 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 final determination of the federal tax liability.

181.18 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be applied for the following purpose and in the following order, to wit:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this chapter and enforcing the provisions hereof.
- (b) Such part thereof as Council may appropriate to the General Fund for the purpose of paying the cost of general municipal operations.
- (c) Such part thereof as Council may appropriate for the purposes of paying the cost of maintenance of, and the purchase of new equipment, motorized or other.
- (d) Such part thereof as the Council may appropriate for the purpose of paying the cost of the acquisition, construction, repair and/or maintenance of streets and/or other permanent improvements.

181.19 BOARD OF REVIEW.

- (a) There is hereby created an Income Tax Board of Review

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(hereinafter referred to as "Board"). The Board shall consist of the Mayor (or designee), the President of Council (or designee) and the Chair of the Council Finance Committee. Any such designee may serve so long as such designee's appointing authority remains in office. The Board shall possess the authority set forth in chapter 718 of the Ohio Revised Code and shall perform its duties in accordance with such provisions.

- (b) The Board shall establish its own rules of organization and procedure for the conduct of its business, elect its own chairperson, and keep a record of its proceedings. Such records of proceedings and hearings are not public records available for inspection under section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before the Board are not meetings of a public body subject to the provisions of section 121.22 of the Ohio Revised Code.
- (c) A majority of its members shall constitute a quorum for the conduct of any business to come before the Board.
- (d) Any person dissatisfied with a decision of the Director of Finance that is made under the authority conferred by Chapter 181 of the City of Grandview Heights Codified Ordinances may appeal to the Board by filing a notice of appeal with the Board within thirty days from the announcement of such decision by the Director of Finance. The appeal request shall be in writing and shall state why the decision should be deemed incorrect or unlawful. Upon appeal, the Board shall review the relevant facts as documented and any rules or regulations that have been adopted or applied by the Director of Finance under the authority of Chapter 181 of the City of Grandview Heights Codified Ordinances.
- (e) The Board shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives the hearing. If the hearing is not waived, the taxpayer may appear before the Board with representation from an attorney at law, certified public accountant, or other representative.
- (f) The Board may affirm, reverse or modify the decision of the Director of Finance or any part of that decision. The Board shall issue a decision on the appeal within ninety days after the Board's final hearing on appeal, and shall send notice of its decision by ordinary mail to all of the parties to the appeal within fifteen days

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after issuing the decision. The taxpayer or the Director of Finance may appeal the Board's decision as provided in section 5717.011 of the Ohio Revised Code.

181.99 PENALTY.

Any person subject to the provisions of this chapter who fails, neglects or refuses to make any return or declaration, or any employer who fails, neglects, or refuses to deduct and withhold the taxes or pay the taxes imposed by this chapter, or any taxpayer who fails, neglects or refuses to pay the tax, interest and penalties imposed by this chapter, or any person who refuses to permit the Director of Finance or his delegate, or his duly authorized agent or employee, to examine the books, records and papers of a taxpayer, or any person who knowingly makes an incomplete, false, or fraudulent return, or who attempts to do anything whatever to avoid payment of the whole or any part of the tax under this chapter, shall be deemed guilty of a misdemeanor and shall be fined not more than two hundred fifty dollars (\$250.00) for the first offense, and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than ninety days or both, for a second or subsequent offense.

SECTION 2. The existing provisions of Chapter 181 of the Codified Ordinances of the City of Grandview Heights are hereby repealed.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, and safety in this City for the reasons set forth in the recitals above; therefore, it shall take effect immediately upon its passage and approval by the Mayor.

Passed: _____, 2005

Attest:

Anthony S. Panzera, President
Grandview Heights City Council

James M. Nicholson
Clerk of Council

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Approved **Not Approved**

Date: _____, 2005

Ray E. DeGraw, Mayor

Approved as to form:

Luther L. Liggett, Jr.
City Attorney

Date: _____, 2005