

Village of LaGrange

ORDINANCE 2009 – 2190

AN ORDINANCE TO AMEND SECTION 181.05
OF THE CODIFIED ORDINANCES OF THE
VILLAGE OF LAGRANGE

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LAGRANGE,
LORAIN COUNTY, OHIO, THAT:

SECTION 1: That section 181.05(c) of the Codified Ordinances of the Village of LaGrange is hereby amended to read as follows:

A penalty of twenty-five dollars (\$25.00) shall be assessed for each annual return that is not timely filed. In the event that a taxpayer has obtained an extension from the Internal Revenue Service for filing of the taxpayer's federal income tax return, then the time for the filing of the annual return shall be extended until the date that is the earlier of (1) the date the federal income tax return is filed or (2) the date upon which the federal income tax return is due. Provided that regardless of whether an extension for the filing of the annual return has been obtained, all taxes shall be fully paid on or before April 30 of the tax year for which the annual return is due.

SECTION 2: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

1st Reading December 10, 2009

2nd Reading December 30, 2009


3rd Reading January 14, ~~2009~~
2010

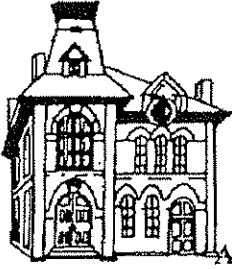
PASSED: January 14, ~~2009~~
2010

ATTEST: 
Fiscal Officer


Mayor

APPROVED AS TO FORM:


Jon D. Clark, Solicitor



Village of LaGrange

ORDINANCE 2009 - 2185

Founded 1875

AN ORDINANCE TO AMEND SECTION 181.03 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF LAGRANGE

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LAGRANGE,
LORAIN COUNTY, OHIO, THAT:

SECTION 1: That existing subsections (3), (4) and (5) of Section 181.03 of the Codified Ordinances of the Village of LaGrange, Ohio shall be and are hereby re-designated as subsections (4), (5) and (6) respectively.

SECTION 2: That new subsection (3) of the Codified Ordinances of the Village of LaGrange is hereby enacted to read as follows:

- (3) On all lottery winnings and income derived from lotteries, gaming, wagering or schemes of chance in the amount of \$ 1,000,000.00 or more received on or after the effective date of this Ordinance, by residents of the Village.

SECTION 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

1st Reading _ October 8, 2009

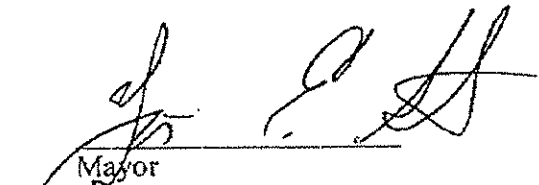
2nd Reading _ October 22, 2009

3rd Reading _ November 19, 2009

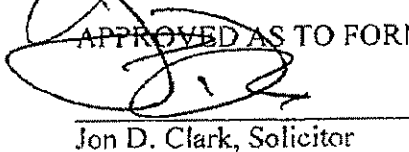
PASSED: November 19, 2009

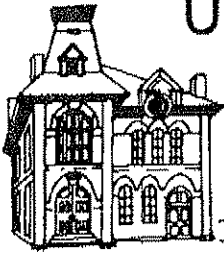
ATTEST:


Fiscal Officer


Mayor

APPROVED AS TO FORM:


Jon D. Clark, Solicitor



ORIGINAL Village of LaGrange

Founded 1875

ORDINANCE 2009 - 2179

AN ORDINANCE TO AMEND SECTION 181.06 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF LAGRANGE

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LAGRANGE, LORAIN COUNTY, OHIO, THAT:

SECTION 1: That existing subsections (c) and (d) of Section 181.06 of the Codified Ordinances of the Village of LaGrange, Ohio shall be and are hereby re-designated as subsections (d) and (e) respectively.

SECTION 2: That new section 181.06(c) of the Codified Ordinances of the Village of LaGrange is hereby enacted to read as follows:

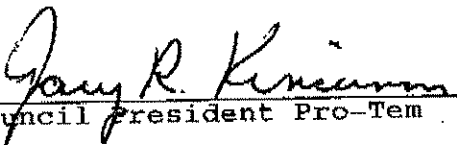
The officer, employee or person having control or supervision of or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax due as required herein. The dissolution, bankruptcy or reorganization, whether by merger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

SECTION 3: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

1st Reading July 9, 2009

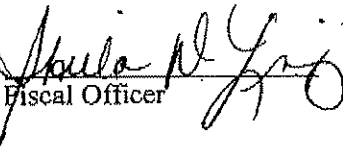
2nd Reading July 16, 2009

3rd Reading August 13, 2009


Council President Pro-Tem

PASSED: August 13, 2009

ATTEST


Fiscal Officer

APPROVED AS TO FORM:


Jon D. Clark, Solicitor

	TITLE NINE - Taxation
Chap. 181.	Income Tax.
Chap. 185.	Motor Vehicle License Tax.

CHAPTER 181
Income Tax

181.01	Purpose.	181.10	Interest and penalties.
181.02	Definitions.	181.11	Collection of unpaid taxes and refunds of overpayments.
181.03	Imposition of tax.	181.12	Board of Review.
181.035	Additional one-half percent tax.	181.13	Allocation of funds.
181.04	Effective period.	181.14	Credit for tax paid to another municipality.
181.05	Return and payment of tax.	181.15	Severability.
181.06	Collection at source.	181.16	Collection of tax after chapter termination.
181.07	Declarations.	181.99	Penalty.
181.08	Duties of the Administrator.		
181.09	Investigative powers of the Administrator; penalty for divulging confidential information.		

CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42
Municipal income taxes - see Ohio R.C. Ch. 718
State income tax - see Ohio R.C. Ch. 5747

181.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of this Municipality there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation which shall include but not be limited to income derived from gaming, wagering, lotteries or schemes of chance, and on net profits as hereinafter provided. (Ord. 97-942. Passed 3-13-97.)

181.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

- (a) "Administrator" means the individual designated by this chapter, whether appointed or elected, to administer and enforce the provisions of this chapter.
- (b) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Review" means the board created by and constituted as provided in Section 181.12.
- (d) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- (e) "Corporation" means a corporation 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.
- (f) "Employee" means one who works for wages, salary, commission 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, who employs one or more persons on a salary, wage, commission or other compensation basis.
- (h) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31st.
- (i) "Gross receipts" means the total income from any source whatsoever which shall include but not be limited to income derived from gaming, wagering, lotteries or schemes of chance.
- (j) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable 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 and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, or other owners; and otherwise adjusted to the requirements of this chapter.
- (k) "Nonresident" means an individual domiciled outside this Municipality.
- (l) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within this Municipality.
- (m) "Person" means every natural person, partnership, fiduciary, association, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any incorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (n) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (o) "Resident" means an individual domiciled in this Municipality.
- (p) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within this Municipality.
- (q) "Taxable income" means wages, salaries, and other compensation paid by an employer or employers before any deductions 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.

- (r) "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.
- (s) "Taxpayer" means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.
- (t) "Forms of words". The singular shall include the plural, and the masculine shall include the feminine and the neuter.
(Ord. 97-942. Passed 3-13-97.)

181.03 IMPOSITION OF TAX.

(a) Rate. Subject to the provisions of Section 181.15, an annual tax for the purposes specified in Section 181.01 shall be imposed on and after February 1, 1981 at the rate of one percent (1%) per annum upon the following:

- (1) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by residents of this Municipality.
- (2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by nonresidents for work done or services performed or rendered in this Municipality.
- (3) A. On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality.
B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (4) A. On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in this Municipality, whether or not such unincorporated business entity has an office or place of business in this Municipality.
B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (5) On the portion attributable to this Municipality, of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality, whether or not such corporations have an office or place of business in this Municipality.

(b) Profits Attributable to Village. The portion of the net profits attributable to this Municipality of a taxpayer conducting a business, profession or other activity both within and without the boundaries of this Municipality shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.

(c) Operating Loss Carry-Forward.

- (1) The portion of a net operating loss sustained in any taxable year subsequent to February 1, 1981 allocable to this Municipality may be applied against the portion of the profit of succeeding years allocable to this Municipality until exhausted but in no event for more than five taxable years. No portions of a net operating loss shall be carried back against net profits of any prior year.
- (2) The portion of a net operating loss sustained shall be allocated to this Municipality in the same manner as provided herein for allocating net profits to this Municipality.
- (3) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(d) Consolidated Returns.

- (1) Filing of consolidated returns may be permitted, required or denied in accordance with rules and regulations prescribed by the Administrator.
- (2) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within this Municipality constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to this Municipality. If the Administrator finds net profits are not properly allocated to this Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocations as he deems appropriate to produce a fair and proper allocation of net profits to this Municipality.

(e) Exceptions. The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal income taxes under such section. (Ord. 500. Passed 1-8-81.)

181.035 ADDITIONAL ONE-HALF PERCENT TAX.

(a) In addition to the existing Municipal income tax, there shall be an additional annual tax of one half of one percent (.5%) per annum and shall be imposed on and after January 1, 1993, upon the following:

- (1) On all salaries, wages, commissions and other compensation and net profits from unincorporated business entities and professions earned during the effective period of this section by residents of the Village of LaGrange.
- (2) On all salaries, wages, commissions and other compensation earned during the effective period of this section by nonresidents for work done or services performed or rendered in the Village.
- (3) On the portion attributable to the Village of LaGrange of the net profits earned during the effective period of this section of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities performed in the Village.
- (4) On the portion of the distributive shares of the net profits earned during the effective period of this section of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity; provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the Relief and Reciprocity Provisions.
- (5) On the portion attributable to the Village of LaGrange of the net profits earned during the effective period of this section of all nonresident unincorporated business, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in LaGrange, whether or not such unincorporated business entity has an office or place of business in the Village.

- (6) On the portion of the distributive share of the net profits earned during the effective period of this section of a resident partner or owner of a nonresident unincorporated business entity not attributable to LaGrange and not levied against such unincorporated business entity.
- (7) On the portion attributable to LaGrange, of the net profits earned during the effective period of this section of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.

(b) The funds collected under the provisions of this section providing for the imposition of an additional income tax of one half of one percent (.5%) shall be credited to the General Fund of the Village and shall be allocated in such a manner as prescribed by legislation adopted by Council of the Village for law enforcement and street repair purposes only.

(c) No provision of this section shall in any way affect any rights or obligations of the Village, any taxpayer or any other person, official or entity with respect to the current one percent (1%) Municipal income tax already in effect. (Ord. 819. Passed 8-13-92.)

(EDITOR'S NOTE: See Resolution 282, passed January 14, 1993, as to credit for tax paid to another Municipality as it pertains to the one-half percent (.5%) increase in this section.)

181.04 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after February 1, 1981. (Ord. 500. Passed 1-8-81.)

181.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by the employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted unless otherwise specified as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.

(b) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator setting forth:

- (1) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable ordinary, reasonable and necessary expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;
- (2) The amount of the tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns, or other information as the Administrator may require.

(c) The Administrator may 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 Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date of the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

- (d) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator 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 181.06, any portion of the tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.07 or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 181.14 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 this Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded,

provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

- (e) (1) Amended returns. Where necessary an amended return shall 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 181.11 and 181.14. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's tax liability to this Municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this Municipality based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.
(Ord. 500. Passed 1-8-81.)

181.06 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within this Municipality shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent (1%) of the gross salaries, wages, commissions or other compensation due by the employer to the employee or the tips or gratuities reported to the employer by each employee for social security or federal income tax purposes and shall on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted. The returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

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

(c) On or before January 31 of each year beginning with the year 1982, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

(d) The Tax Administrator for good cause may require immediate returns and payments to be submitted to his office. (Ord. 500. Passed 1-8-81.)

181.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 181.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 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 wages from which the tax shall be withheld and remitted to this Municipality in accordance with Section 181.06, such person need not file a declaration.

- (b) (1) Such declaration shall be filed on or before April 30 of each year during the life of this chapter or within four months of the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
- (c) (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, provided however, credit shall be taken for this Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.14, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
- (2) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date and provided for herein.

(d) Such declaration or estimated tax to be paid this Municipality 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 thirteenth 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.

(e) On or before the last 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 this Municipality shall be paid therewith in accordance with the provisions of Section 181.05. (Ord. 500. Passed 1-8-81.)

181.08 DUTIES OF THE ADMINISTRATOR.

- (a) (1) It shall be the duty of the Clerk-Treasurer of the Municipality to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all moneys so received.
- (2) It shall be the duty of the Administrator to enforce payment of all taxes owing this Municipality, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(b) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

The 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 Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest to become payable on demand and the provisions of Sections 181.11 and 181.99 shall apply.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due this Municipality from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 181.10. (Ord. 500. Passed 1-8-81.)

181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR;

PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator, or any authorized employees, 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 whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been reported 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.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.99.

(d) Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by this chapter or authorized by these rules and regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of this Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid. (Ord. 500. Passed 1-8-81.)

181.10 INTEREST AND PENALTIES.

(a) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one-half of one percent (1/2%) per month or fraction thereof.

(b) In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

- (1) For failure to pay taxes due, other than taxes withheld: one and one-half percent (1-1/2%) per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees: five percent (5%) per month or fraction thereof.

(c) A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; 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 final determination of the federal tax liability.

(d) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both. (Ord. 500. Passed 1-8-81.)

181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes shall be brought within the time limitation provided in subsection (a) hereof.

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 500. Passed 1-8-81.)

181.12 BOARD OF REVIEW.

(a) A Board of Review, consisting of the Solicitor and a member of Council to be elected by that body, and a member appointed by the Mayor, is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as chairman and one to serve as secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of this chapter with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, shall be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, having jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.
(Ord. 500. Passed 1-8-81.)

181.13 ALLOCATION OF FUNDS.

All funds obtained through this tax shall be allocated to the General Fund.
(Ord. 500. Passed 1-8-81.)

181.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of this Municipality is subject to a municipal income tax in another municipality he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in this Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of this Municipality, if it be made to appear that he has paid a municipal income tax on the same income taxable under this chapter to another municipality, 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. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities where such tax is paid.

(c) A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide.
(Ord. 500. Passed 1-8-81.)

181.15 SEVERABILITY.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 500. Passed 1-8-81.)

181.16 COLLECTION OF TAX AFTER CHAPTER TERMINATION.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.11 and 181.99.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 181.05 and 181.06 as though the same were continuing. (Ord. 500. Passed 1-8-81.)

181.99 PENALTY.

- (a) Any person who:
- (1) Fails, neglects or refuses to make any return or declaration required by this chapter; or
 - (2) Makes any incomplete, false or fraudulent return; or
 - (3) Willfully fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or
 - (4) Willfully fails, neglects or refuses to withhold the tax from his employees or remit such withholding to the Administrator; or
 - (5) Refuses to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits or a taxpayer; or
 - (6) Fails to appear before the Administrator and to produce his books,

- records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (7) Refuses to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
 - (8) Fails to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
 - (9) Gives to an employer false information as to his true name, correct social security number and residence address, or fails to promptly notify an employer of any change in residence address and date thereof; or
 - (10) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this Municipality's income tax withheld, or knowingly gives the Administrator false information; or
 - (11) Attempts to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter;

Shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both for each offense.

(b) Prosecutions for an offense made punishable under this section or any other provision of this chapter shall be commenced within three 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 income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.
(Ord. 500. Passed 1-8-81.)