

ORDINANCE No.: 18-2008
ORDINANCE AMENDING THE VILLAGE OF LOCKBOURNE
INCOME TAX
AND DECLARING AN EMERGENCY

WHEREAS, the Council of the Village of Lockbourne has determined that it is in the best interests of the Village to amend the Income Tax of the Village of Lockbourne as follows:

PREAMBLE / DESCRIPTION

AN ORDINANCE AMENDING AND REPLACING VILLAGE OF LOCKBOURNE, ORDINANCE 28-94, (INCOME TAX) OF THE CODIFIED ORDINANCES OF THE VILLAGE OF LOCKBOURNE LEVYING A TAX TO PROVIDE FUNDS FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATIONS, MAINTENANCE OF EQUIPMENT, NEW EQUIPMENT, EXTENSIONS, ENLARGEMENT AND IMPROVEMENT OF MUNICIPAL SERVICES AND FACILITIES AND CAPITAL IMPROVEMENTS, ON ALL INCOME, SALARIES, QUALIFYING WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED OR RECEIVED BY RESIDENTS OF THE VILLAGE, ON ALL INCOME, SALARIES, QUALIFYING WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED OR RECEIVED BY NON- RESIDENTS OF THE VILLAGE FOR WORK DONE, SERVICES PERFORMED OR RENDERED OR ATTRIBUTED TO WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE, ON THE NET PROFITS EARNED ON ALL BUSINESS, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS OF THE VILLAGE, ON THE NET PROFITS EARNED ON ALL BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED IN THE VILLAGE BY NON-RESIDENTS, AND ON THE NET PROFITS EARNED BY ALL CORPORATIONS DOING BUSINESS IN THE VILLAGE AS THE RESULT OF WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE VILLAGE, REQUIRING THE FILING OF RETURNS AND FURNISHING OF INFORMATION BY EMPLOYERS AND ALL THOSE SUBJECT TO VILLAGE TAX, IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT THE SOURCE AND PAYING THE TAX COLLECTED TO THE VILLAGE, PROVIDING FOR THE ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE TAX, DECLARING VIOLATION THEREOF TO BE A MISDEMEANOR AND IMPOSING PENALTIES THEREFORE, AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LOCKBOURNE, OHIO:

**SECTION 1.
EFFECTIVE DATE**

The tax imposed by Ordinance No. 28-94, passed October 5, 1994, and as subsequently amended or replaced, shall continue to be levied, collected and paid with respect to income, salaries, qualifying wages, commissions, and other compensation or distributions earned or received, and also with respect to the net profit of businesses, professions and other activities earned or received. This Ordinance amends and replaces Ordinance No. 28-94 (passed October 5, 1994) and any amendments thereto.

**SECTION 2.
DEFINITIONS**

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

"ADJUSTED FEDERAL TAXABLE INCOME" - A "C" corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute "Adjusted Federal Taxable Income" as if the pass-through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) section 5745.03 or to the net profit from a sole proprietorship. This definition became effective for tax years beginning on or after January 1, 2004.

"ASSOCIATION" - A partnership, limited partnership, or any other form of unincorporated enterprise or collection of persons or entities owned, operated or controlled by one (1) or more persons. Limited Liability Companies (LLC) are taxed as an association and must file and pay tax under the regulations as such.

"BUSINESS" - An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association, joint venture or other entity or arrangement.

"CORPORATION" - A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, foreign country of dependency. Corporation shall include sub-chapter S corporations as defined in the federal tax code, 26 U.S.C. 1361.

"DOMICILE" - The permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

"EMPLOYEE" - An individual who works for wages, salary, commissions, or other type of compensation or other income in the service and under the control of an employer.

"EMPLOYER" - An individual, partnership, limited partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one (1) or more persons on a salary, wage, commission or other compensation or other income basis.

G. "FEDERAL SHORT-TERM RATE" - The rate of the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of three (3) years or less, as determined under Section 1274 of the "Internal Revenue Code of 1966", 100 Stat. 2085, 26 USC 1274, for July of the current year.

"GROSS RECEIPTS" - The revenue derived from sales, work done, or services rendered before any deductions, exceptions or credits are claimed.

"INCOME" - Shall include all monies derived from any source whatsoever, including but not limited to:

(A) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the Village of Lockbourne.

(B) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in the Village of Lockbourne.

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

NET PROFITS" - For taxable years prior to 2004, the net gain from the operation of a business, profession, or 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 (i.e., either cash or accrual) used by the taxpayer for Federal Income Tax purposes without deduction of taxes imposed by this Ordinance, Federal, State and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners,

and other owners; and without deduction for dividends paid or disbursed to share holders of incorporated business entities; and without deduction for charitable contributions; and without deductions for expenses attributable to non-taxable income; and otherwise adjusted to the requirements of this Ordinance.

Net profits shall include any amount or value received, realized, or recognized in a sale or other disposition of tangible personal property or real property used in business, in excess of book value. (For taxable years 2004 and later, see "adjusted federal taxable income").

"NON-RESIDENT" - An individual, domiciled outside the Village of Lockbourne.

"NON-RESIDENT UNINCORPORATED BUSINESS ENTITY" - An unincorporated business entity not having an office or place of business within the Village of Lockbourne.

"OTHER ENTITY" - The term "other entity" means any person, unincorporated body, venture or combination of individuals or entities not previously named or defined and includes, but is not limited to, fiduciaries, located within the Village of Lockbourne, Ohio.

"PERSON" - Every individual, partnership, LLC, limited partnership, corporation, fiduciary or association, or other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association or venture shall mean the partners or members thereof, and as applied to corporations, the officers thereof and any individual properly classified as a "responsible party" as has been interpreted by the Internal Revenue Service.

"QUALIFYING WAGE" - Wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employees' income from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by the Municipality. This definition became effective January 1, 2004.

"RESIDENT" - An individual domiciled in the Village.

"RESIDENT UNINCORPORATED BUSINESS ENTITY" - An unincorporated business entity having an office or place of business within the Village.

"TAXABLE INCOME" - Income, minus the deductions and including the credits allowed by this chapter. (See "Income" definition.)

"TAXABLE YEAR" - The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in case of a return for fractional part of a year, the period for which such return is required to be made.

"TAXPAYER" - A person, whether an individual, partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or to pay a tax hereunder.

SECTION 3. IMPOSITION OF TAX

To provide funds for general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements of the Village of Lockbourne, Ohio, there is hereby levied a tax upon earnings at the rate of one percent (1%). The imposed and levied income tax is upon income as follows:

- A. On all income, salaries, qualifying wages, bonuses, commissions, and other compensation earned or received by resident individuals of the Village.
- B. On all income, salaries, qualifying wages, bonuses, commissions, and other compensation earned or received by non-resident individuals of the Village, for work done, services performed or rendered or attributed to work done or services performed or rendered in the Village.
- C. Net Profits:
 - 1. On the net profits earned of all unincorporated businesses, professions, or other activities conducted by residents of the Village.
 - 2. On the net profits earned of all unincorporated businesses, professions, or other activities conducted in the Village by non-residents.
 - 3. For the purposes of paragraphs C (1) and C (2) above, an association shall be taxed as an entity, on the net profits of the association derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village, whether or not such association has its principal or any place of business located in the Village.
 - 4. For the purposes of paragraph C (1) above, a resident of the Village who is a member of an association is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under paragraph C (3) above.
 - 5. Limited Liability Companies (LLC) are taxed as an association and must file and pay any tax due on behalf of their members at the association level as described in C (3) and C (4) above.
- D. On the net profits earned, of all corporations, including S corporations, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village.

E. On all income from gambling, lottery, and/or sports winnings, except to the extent that they are excluded by Section 13 (D) of the Ordinance, by a resident of the Village. No regard is given to losses or to the location where the gambling, lottery, and/or sports winnings were received.

F. The portion of the net profits attributable to the Village of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village shall be determined as provided in Sections 718.01 and 718.02 of the Revised Code of Ohio in accordance with the Rules and Regulations adopted by the Council of the Village pursuant to this Ordinance.

G. CONSOLIDATED RETURNS.

1. Any affiliated group which 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 Village of Lockbourne. However, once the affiliated group has elected to file a consolidated return or a separate return with the Village of Lockbourne, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Village of Lockbourne.

2. In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, the Village Clerk / Treasurer shall require such information, in addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Village Clerk / Treasurer finds net profits are not properly allocated to the Village by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the Village.

H. If a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other taxable year.

I. Net profit from a business or profession conducted both within and outside the boundaries of the Village shall be considered as having a taxable situs in the Village for purposes of income taxation 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 Village 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. 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 or distributions paid during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries and other compensation or distributions paid during the same

period to persons employed in the business or profession, wherever their services are performed. Wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.

3. Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and service, wherever made or performed. Sales include the following:

(a) All sales of tangible personal property which is delivered within the Village regardless of whether title passes if shipped or delivered from a stock of goods.

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

(c) All sales of tangible personal property which is shipped from a place within the Village to purchasers outside the Village 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.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under guidelines established by the Village, be substituted so as to produce such result.

SECTION 4. EXEMPTIONS

The tax provided for herein shall not be levied on the following:

A. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard.

B. Pensions paid as a result of retirement, social security, interest, trust income or distributions, unemployment compensation, and disability benefits (which shall exclude sick pay benefits) received from private industry or local, state or Federal governments, or from charitable, religious or educational organizations.

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

D. Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sport events and

health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.

E. Any association, organization, corporation, club or trust, which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc., purposes, to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property, or tax exempt activities.

F. Proceeds of insurance paid by reason of death of the insured; economic or casualty loss, retirement disability benefits, annuities, or gratuities not in the nature of compensation for services rendered from whatever source derived.

G. Compensatory damages awarded for personal injuries, but not including damages for loss of profits

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

I. Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.

J. Gains from involuntary conversions, cancellations of indebtedness, interest on Federal obligations, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

K. Earning and income of all individuals under eighteen (18) years of age, whether residents or non-residents.

L. Expenses reported in accordance with federal guidelines for Federal Form 2106, subject to audit and approval by the Village of Lockbourne income tax office.

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

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

SECTION 5.
CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

When the taxable income of a resident of the Village of Lockbourne is subject to a municipal income tax in another municipality on the same income taxable under this chapter, the resident shall not be allowed any credit against the amount of income tax paid on the taxable income to the other municipality. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

SECTION 6.
RETURN AND PAYMENT OF TAX

A. DATES.

Each person who is engaged in business, or whose income, salary, qualifying wages, commissions, or other compensation are subject to the tax imposed by this Ordinance shall, whether or not a tax be due thereon, make and file a return with the Village Clerk / Treasurer on or before April 30th for years prior to taxable year 2004, and on or before April 15th, or the federal tax due date if it is other than April 15th, for taxable years 2004 and later. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall file his return within four (4) months from the end of each fiscal year or period for years prior to taxable year 2004, and on or before 105 days, or the federal tax due date if it is other than 105 days from the end of each fiscal year or period, for taxable years 2004 and later. However, each resident individual of the Village who has no income subject to the Village's income tax shall so indicate this fact on their income tax return, including the reason(s) their income is not taxable and, if authorized by the Village, shall be relieved of filing future returns unless and until such time the taxpayer receives income taxable to the Village.

B. CONTENT OF RETURNS.

The return, including W-2 and 1099 forms, shall be filed with the Village Clerk / Treasurer on a form or forms furnished by or obtainable upon request from the Village Clerk / Treasurer setting forth:

1. The aggregate amounts of income, salaries, wages, commissions, and other compensation earned, and gross receipts from any business, profession, or other activity, less expenses allowable in the calculation of Adjusted Federal Taxable Income for tax years 2004 and later, for the tax year being reported;
2. The amount of the tax imposed by this Ordinance on such earnings and profits; and
3. Such other pertinent statements, information returns, federal schedules, or other information as the Village Clerk / Treasurer may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under the provisions of this Ordinance.

C. The Village of Lockbourne Income Tax Department shall accept a generic form of its annual income tax return if the generic form once completed and filed contains all of the information required to be submitted with the Village of Lockbourne's prescribed returns, reports or documents, and if the tax payer or return preparer filing the generic form otherwise complies with the rules or ordinances of the Village of Lockbourne governing the filing of returns, reports or documents.

D. EXTENSIONS.

The Village Clerk / Treasurer may extend the time for filing of the annual return upon the request of the taxpayer. For tax years prior to 2004 no extension may exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for filing of the Federal Income Tax Return. For taxable year 2004 the extended due date shall be the last day of the month following the month to which the due date of the federal income tax return has been extended. For taxable years subsequent to 2004 the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended. 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 Village Clerk / Treasurer may deny the extension if the taxpayer's income tax account with the Village of Lockbourne is delinquent in any way. The Village Clerk / Treasurer 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 shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

E. PAYMENT WITH RETURNS.

1. The taxpayer making a return shall at the time of the filing thereof pay to the Village Clerk / Treasurer the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source, pursuant to the provisions of Section 16 of this Ordinance; or where any portion of said tax shall have been paid by the taxpayer, pursuant to the provisions of Section 17 of this Ordinance, or where an income tax, creditable against the Village income tax pursuant to Section 4 hereof has been paid to another municipality, credit for the amount so paid 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 said return.
2. A taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this Ordinance 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.

F. AMENDED RETURNS.

1. Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Sections 4 and 18. Such amended returns shall be on a form obtainable on request from the Village Clerk / Treasurer. A taxpayer may not change the method of accounting (i.e., cash or accrual) or apportionment of net profits after the due date for filing the original return.

2. Within three (3) months from the final determination of any Federal Tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return, showing income subject to the Village tax 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.

G. In lieu of filing an annual return with the Village, each vendor at all festivals, fairs, carnivals, flea markets, and similar type events within the Village who are not otherwise engaged in any business activity which would require the filing of a return of payment of tax, shall submit a fifteen dollar (\$15.00) estimated tax payment for each booth located at all festivals, fairs, carnivals, flea markets and similar type events located within the Village of Lockbourne. Furthermore, all property owners, except those exempt under Section 191.14 of the Codified Ordinances of the Village of Lockbourne, who rent vendor space to three (3) or more vendors, as defined above, shall collect the fifteen dollar (\$15.00) estimated tax payment and remit said payment to the Village Income Tax Department within seven (7) days of the start date of the rental agreement. Every such property owner, as defined above, required to collect the (\$15.00) estimated tax payment per booth is liable directly to the Village of Lockbourne, Ohio for the payment of such tax, whether actually collected by such real property owner or not.

H. Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this ordinance.

**SECTION 7.
COLLECTION AT SOURCE**

A. In accordance with this Ordinance, each employer within or doing business within the Village shall deduct at the time of payment of such salary, qualifying wages, commissions or other compensation or other income, the tax of one percent (1.0%) of the gross salaries, qualifying wages, commissions or other compensation or other income due by the employer to the employee.

B. Each such employer withholding tax in accordance with subsection A hereof, shall make a return and pay to the Village Clerk / Treasurer the amount of taxes so withheld as follows: If the amount of taxes so withheld is five hundred dollars (\$500.00) or more in any calendar month, a return shall be made and the taxes so withheld shall be paid to the Village Clerk / Treasurer on

or before the last day of the succeeding calendar month; if the amount of taxes so withheld is less than five hundred dollars (\$500.00) for any calendar month, a return shall be made and the taxes so withheld paid to the Village Clerk / Treasurer on or before the last day of the month following the close of each calendar quarter.

C. Such returns shall be on a form or forms prescribed by or acceptable to the Village Clerk / Treasurer and shall be subject to the rules and regulations adopted in conjunction with this Ordinance. 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.

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

(E) The employer of a domestic worker shall be required to withhold income tax on wages, salaries, commissions, other compensation and other income paid by the employer to the domestic worker, and remit such withheld tax to the Village in accordance with paragraphs A and B of this Section.

(F) All employers that provide any contractual service within the Village, and who employ subcontractors in conjunction with that service, shall provide the Village's income tax office the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this Ordinance.

SECTION 8. DECLARATIONS

A. Every person who anticipates any taxable income which is not subject to Section 16 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 2 hereof 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 will be withheld and remitted to the Village, in accordance with Section 16 hereof, such person need not file a declaration; and provided, however, no declaration is due nor are quarterly estimated payments required if the estimated payments for the taxable year will total less than \$100.

B. Filing of declarations:

1. Such declaration shall be filed on or before April 30th of each year, and on or before April 15th or the federal tax due date if it is other than April 15th, for taxable years 2005 and later, during the life of this ordinance, except that no penalties or interest shall be

assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the Village of Lockbourne on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period, or has remitted at least 90% of final tax liability for the tax year for which the most recent tax return is due. A declaration of estimated tax which does not meet the payment requirements of this Ordinance shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 12 INTEREST and PENALTIES of this Ordinance.

2. Those taxpayers reporting on a fiscal year basis shall file a declaration within 120 days after the beginning of each fiscal year or period, and within a 105 days, or the federal tax due date if it is other than 105 days from the end of each fiscal year or period, for taxable years 2005 and later. Such declaration shall be filed upon a form furnished by, or obtainable from the Village Clerk / Treasurer.

C. Adjustment to declarations:

1. In accordance with the provisions of Section 4 hereof, 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. Effective January 1, 2005, such declaration of estimated tax to be paid the Village by taxpayers who are individuals shall be accompanied by a payment of one-fourth (1/4) of the estimated annual tax and at least a similar amount shall be paid on or before July 31st and October 31st of the taxable year, and January 31st of the following 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. Effective January 1, 2003, such declaration of estimated tax to be paid to the Village by corporations and associations shall be accompanied by a payment of one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before June 15, September 15 and December 15. In the case of a fiscal year taxpayer the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.

SECTION 9.

COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS

A. All taxes imposed by Section 3 shall be collectible, together with any interest and penalties thereon, by suit. Except in the case of fraud, omission of twenty-five percent (25%) or more of income subject to this tax, or failure to file a return, an additional assessment shall not be

made after three years from the time the return was due or filed, whichever is later. However, In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover Municipal income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Village Clerk / Treasurer shall be one year from the time of the final determination of the Federal tax liability.

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

C. Should it appear that any taxpayer has paid more than the amount of the tax to which the Village of Lockbourne is entitled under the provisions of this Ordinance a refund of the amount so overpaid shall be made, provided there is no other tax liability, and further provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Village Clerk / Treasurer or on other forms deemed acceptable by the Village Clerk / Treasurer or his duly authorized agent or employee. All applications for refunds shall be made within three (3) years after the tax was due or the return was filed, whichever is later. However, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

1. A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.
2. A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.
3. Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.

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

E. No refund shall be made for an amount less than One Dollar (\$1.00), nor shall any tax due under this Ordinance in an amount less than One Dollars (\$1.00) be collected.

**SECTION 10.
ADMINISTRATION;
DUTIES OF THE VILLAGE CLERK / TREASURER**

A. It shall be the duty of the Village Clerk / Treasurer to receive the tax imposed by this Ordinance in the manner prescribed, to keep an accurate record thereof, and to report all monies so received.

B. It shall be the duty of the Village Clerk / Treasurer to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

C. The Village Clerk / Treasurer is hereby charged with the enforcement of the provisions of this Ordinance and to enforce the rules and regulations of Council of the Village relating to any manner or thing pertaining to the collection of Village income taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the examination and correction of returns, declarations and payments. Taxpayers are hereby required to comply with said rules and regulations.

D. 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 Village Clerk / Treasurer may determine the amount of tax appearing to be due the Village from the taxpayer, together with interest and penalties thereon, if any, and shall send to such taxpayer a written statement showing the proposed assessed amount so due. A taxpayer may, within fifteen days after the date the proposed assessment mailed, file a written protest with the Village Clerk / Treasurer. Within fifteen days after receipt of the protest, the Village Clerk / Treasurer shall give the protester an opportunity to be heard; provided further that the Village Clerk / Treasurer may extend the date of hearing for

good cause shown. After the hearing the Village Clerk / Treasurer shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final thirty days after being served.

E. The Village Clerk / Treasurer shall have the power to compromise any interest or penalty, or both, imposed by this Ordinance.

F. A Department of Taxation is hereby created within the office of the Village Clerk / Treasurer of the Village. Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by the Council of the Village, and shall receive such salary as may be determined by the Village Council. The Village Clerk / Treasurer shall make all appointments of personnel and purchase all equipment, supplies and material for the Department. The Department shall be charged with the administration and operation of this Ordinance, under the direction of the Village Clerk / Treasurer. The Village Clerk / Treasurer shall prescribe the form and the method of accounts and reports for the Department, as well as the forms for the taxpayer's returns and declarations, and shall be charged with the internal examination and audit of all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer, and the date of receipt. The Village Clerk / Treasurer shall also make written report to Council annually of all monies collected hereunder during the preceding year.

SECTION 11.

INVESTIGATIVE POWERS OF THE VILLAGE CLERK / TREASURER; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. The Village Clerk / Treasurer or duly authorized agent or employee is hereby authorized to examine the books, papers and records of any employer, taxpayer, or person subject to the tax, or believed to be subject to the provisions of the Ordinance, for the purpose of verifying the accuracy of any return or declaration made, or, if no return or declaration was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the Village Clerk / Treasurer or duly authorized agent or employee, within fifteen (15) days following a written request the means, facilities and opportunity for making such examination and investigation as are hereby authorized.

B. The Village Clerk / Treasurer and/or duly authorized agent or employee thereof, is hereby authorized to subpoena any person, employer, or employee to appear before the Village Clerk / Treasurer and/or duly authorized agent or employee thereof, and may examine any person, employer or employee, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income. For this purpose, the Village Clerk / Treasurer and/or duly authorized agent or employee thereof may compel the production of Federal Income Tax Returns or State of Ohio income tax returns, books, papers, records and the attendance of all persons before the Village Clerk / Treasurer and/or duly

authorized agent or employee thereof whether as a party or a witness, whenever the Village Clerk / Treasurer and/or duly authorized agent or employee thereof believes that such persons have knowledge of such income or information pertinent to such inquiry. If necessary, the Village Clerk / Treasurer and/or duly authorized agent or employee thereof is authorized to conduct such examinations and inquiries at a taxpayer's place of business.

C. The refusal to produce such books, papers, records or Federal Income Tax returns or State of Ohio income tax returns, or the refusal to submit to such examination by any employer or persons subject to or presumed to be subject to the tax imposed by this Ordinance by any officer, agent or employee or the failure of any person to comply with the provisions of this Section or with any order or subpoena of the Village Clerk / Treasurer authorized hereby shall be deemed a violation of this Ordinance, punishable as provided in Section 8 hereof.

D. Tax returns, investigations, hearings and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the Village for official purposes. Nothing set forth herein shall, however, prevent the Village from pursuing enforcement of the Ordinance or the collection of any tax determined due in any Court of competent jurisdiction.

E. Any information acquired as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official tax purposes and except in accordance with proper judicial order. Any person divulging such information shall be deemed guilty of a misdemeanor of the third degree (which is a fine not to exceed \$500 and/or imprisonment not to exceed 60 days) upon conviction thereof. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee of the Village who violates the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the Village. Nothing set forth herein shall prevent the Village from pursuing enforcement or collection of any tax determined due in any Court of competent jurisdiction.

F. Every taxpayer shall retain all records necessary to compute his tax liability for a period of six years from the date his return is filed, or the withholding taxes are paid.

SECTION 12. INTEREST AND PENALTIES

All taxes imposed by this Ordinance, including taxes withheld or required to be withheld from wages by an employer and remaining unpaid after they have become due shall bear interest and penalty on the amount of the unpaid tax.

A. Such interest rate shall be computed by using the federal short-term rate, rounded to the nearest whole number percent plus three (3%) percent for interest on the amount of unpaid tax.

B. Such interest rate computation shall be made public on the fifteenth (15) day of October of each year.

C. In addition thereto, a penalty shall be assessed of one percent (1%) per month for each month the tax remains unpaid. The penalty assessed in total shall be a minimum of \$25, but shall not exceed a maximum 50% of the unpaid tax. Each reporting period for which nonpayment of withheld taxes is not made shall constitute separate penalties as hereinabove described, for each such period or periods. The Village Clerk / Treasurer may abate interest or penalties or both, and upon appeal from the refusal of the Village Clerk / Treasurer to so recommend, the Board of Review may nevertheless abate interest or penalty, or both.

D. Penalties shall be assessed for failure to file income tax returns. A penalty of \$25 shall be assessed for the first instance of failure to file, and \$50.00 for each subsequent instance.

SECTION 13. VIOLATIONS - PENALTIES

A. The following shall be considered violations of the Ordinance:

1. Failing, neglecting or refusing to make any return or declaration required by this Ordinance; or
2. Making an incomplete, false or fraudulent return; or
3. Failing, neglecting or refusing to pay the tax, penalties or interest imposed by this Ordinance; or
4. Failing, neglecting or refusing to withhold the tax from employees or to remit such withholding to the Village; or
5. Refusing to permit the Village Clerk / Treasurer or any duly authorized agent or employee to examine books, records and papers and Federal Income Tax returns relating to the income or net profits of a taxpayer; or
6. Failing to appear before the Village Clerk / Treasurer and to produce books, records, Federal or State income tax returns and papers relating to the income or net profits of a taxpayer under order or subpoena of the Village Clerk / Treasurer; or
7. Refusing to disclose to the Village Clerk / Treasurer any information with respect to the income or net profits of a taxpayer; or
8. Failing to comply with the provisions of this Ordinance or any order or subpoena of the Village Clerk / Treasurer authorized hereby; or
9. Attempting to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance.

B. Any person who violates any of the provisions of this Ordinance including the failure to

file a return, shall be guilty of a misdemeanor of the fourth degree upon conviction thereof for a first offense, and shall be guilty of a misdemeanor of the first degree upon conviction thereof for a second or a subsequent offense.

C. The failure of any employer, taxpayer or other person to receive or obtain a return, declaration or other required form shall not excuse the required submittal of any information, return or declaration, the filing of such form or from paying the tax.

D. Any taxpayer subject to the provisions of this Ordinance and who has a delinquent balance due with the Village Income Tax Department shall not receive any moneys from any other Village Department by way of refund, reimbursement, credit, or payment for services rendered until such balance due is paid in full with the Village Income Tax Department.

SECTION 14. CONTRACT PROVISIONS

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

"Said hereby further agrees to withhold all Village income taxes due or payable under the provisions of this ordinance, Village of Lockbourne Income Tax Ordinance, for income, wages, salaries, and commissions paid to its employees and further agrees that any of its sub contractors shall be required to agree to withhold any such Village income taxes due under said Article for services performed under this contract."

"Said.....hereby further agrees to file a year end return for profit and loss under the provisions of Village of Lockbourne's Income Tax Ordinance, for sales made, work done or services performed or rendered and further agrees that any of its sub contractors shall be required to agree to file a year end return for profit and loss under said provisions."

SECTION 15. BOARD OF REVIEW

A. A Board of Review, consisting of three (3) electors of the Village, one to be appointed by the Mayor, one to be appointed by the Village Clerk / Treasurer, and the third to be selected by the two so appointed, is created by this Ordinance. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay.

B. A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

C. All hearings of the Board shall be conducted privately and the provisions of Section 6 of

the Ordinance with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board of Review on appeal.

D. Any person dissatisfied with any ruling or decision of the Village Clerk / Treasurer which is made under the authority conferred by the Ordinance and the Rules and Regulations related thereto, and who has filed with the Village the required returns or other documents pertaining to the municipal income tax obligation at issue, may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Village Clerk / Treasurer. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board of Review shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 90 days from the date of the closing of the record on the appeal, shall be in writing and filed with the Village Clerk / Treasurer, and within 15 days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal.

E. Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

F. The Board of Review, as created, shall serve during the life of the Ordinance.

SECTION 16. ALLOCATION OF FUNDS

The funds collected under the provisions of this Ordinance shall be deposited in the Income Tax Revenue fund and such funds collected from the effective date of this chapter, and all amendments thereto, shall be disbursed as specified in the 'Annual Appropriation Ordinance'.

SECTION 17. APPLICABILITY

This Ordinance shall not apply to any person, firm, corporation, or any property as to whom or which it is beyond the power of the Village Council of the Village of Lockbourne, Ohio to impose the tax herein provided for.

**SECTION 18.
SAVINGS CLAUSE**

If any sentence, clause, section or part of this Ordinance, 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 sentence, clause, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, section or other parts of this Ordinance. It is hereby declared to be the intention of the Council of the Village of Lockbourne, Ohio that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 19.
EFFECTIVE PERIOD**

The Ordinance shall continue effective insofar as the levy of taxes is concerned until revoked. In the event the Ordinance become ineffective, insofar as the collection of taxes levied, actions or proceedings for collecting any tax so levied, or enforcing any provisions of this Ordinance are concerned, this Ordinance shall continue effective until all of such taxes levied are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishments of violations of this Ordinance shall have been fully terminated.

**SECTION 20.
REPEAL CLAUSE**

That any ordinance or resolution in conflict with this ordinance is hereby repealed and any portions of the Codified Ordinances of the Village of Lockbourne not otherwise amended by this ordinance shall remain in full force and effect.

**SECTION 21.
INCOME TAX RESOLUTION**

The Village of Lockbourne Income Tax Ordinance hereby adopts the Regional Income Tax Agency Rules & Regulations for use as the Village of Lockbourne Income Tax Rules and Regulations, and they are hereby incorporated by reference as part of this Ordinance.

**SECTION 22.
EMERGENCY CLAUSE**

This ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety, and welfare of the citizens of the Village of Lockbourne, such emergency arising out of the decreased revenues currently being generated by the Village and the immediate need for the receipt of additional funding without which the Village will not be able to continue to provide for basic safety forces operations and general government operations of the Village, so that this ordinance shall take effect and be in force immediately from and after its passage and approval by the Mayor.

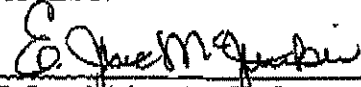
This council finds and determines that all formal actions of this Council concerning and relating to the adoption of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law; and,

That for the reasons stated in the preamble hereto, which are made a part hereof, this Ordinance is hereby declared to be an emergency measure and should take effect and be in force from and after the earliest period allowed by law and as indicated in the this ordinance.

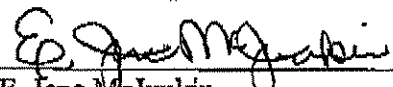

Ralph S. Coon, Mayor

PASSED: November 17, 2008

ATTEST:


E. Jane McJunkin, Clerk

I, E. Jane McJunkin, Clerk/Treasurer of the Village of Lockbourne do hereby certify that the foregoing Ordinance was duly published by posting copies thereof at five of the most public places as determined by the Council of the Said Village by Ordinance, each for a period of fifteen days. I do further certify that there is no newspaper published in the Said Village.


E. Jane McJunkin
Clerk/Treasurer

Village of Lockbourne - Ordinances 2008