

## RECORD OF ORDINANCES

### Ordinance 08-007 Village of Portage, Ohio Income Tax

#### 1 PURPOSE OF TAX.

1.1 To provide funds for the purposes of general municipal operation, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the Village of Portage, there shall be and there is hereby levied a tax on income, salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

#### 2 DEFINITIONS. As used in this Ordinance, 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.

2.1 "ASSOCIATION" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

2.2 "BOARD OF REVIEW" means the Board created by and constituted as provided for herein.

2.3 "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 either real property, personal property, or both.

2.4 "CORPORATION" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, commonwealth, territory, or foreign country or dependency.

2.5 "EMPLOYEE" means one who works for wages, salary, commission, or other type of compensation in the service of any employer. "EMPLOYEE" also includes a person who is self-employed.

2.6 "EMPLOYER" means any individual, partnership, association, corporation, governmental body, or unit, or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

2.7 "FISCAL YEAR" means an accounting period of twelve (12) months or less ending on any day other than December 31st.

2.8 "GROSS RECEIPTS" means the sum total of all income of taxpayers from whatever source derived. "GROSS RECEIPTS" includes interest, dividends, trust benefits, rental income, annuity benefits, retirement benefits, pension plans, social security benefits unless otherwise exempted under state or federal law, and any other income from whatever source derived.

2.9 "LANDLORD" means the owner, lessor, or sublessor of residential or business premises, the agent or the owner, lessor, or sublessor, or any person authorized by the

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- owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement. (R.C. § 5321.01(B))
- 2.10 “MUNICIPALITY” means the Village of Portage, Ohio.
- 2.11 “NET PROFITS” means the net gain from the operation of business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this Ordinance, 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 and other owners; and otherwise adjusted to the requirements of this Ordinance.
- 2.12 “NON-RESIDENT” means a person, whether an individual, association, corporation, or other entity, domiciled outside the Village of Portage.
- 2.13 “ORGANIZATION” means a structure through which individuals cooperate systematically to conduct business. “ORGANIZATION” includes any business enterprise that engages in business activities with the primary purpose of generating a profit whether or not a profit is, in fact, derived. “ORGANIZATION” is defined by its business purpose and includes any form of business whether sole proprietorship, partnership, limited liability enterprises or any business enterprise, incorporated or not, that employs one or more employee(s). All “ORGANIZATIONS” are subject to the organizational penalties if they are found to violate the provisions of the Portage earnings tax set forth herein.
- 2.14 “PERSON” means every natural person, partnership, fiduciary, association, corporation, or other entity. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any unincorporated association shall mean the partners or members thereof and as applied to corporations, the officers thereof.
- 2.15 “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.
- 2.16 “RESIDENT” means an individual, association, corporation, or other entity, domiciled or having a place of business in the Village of Portage.
- 2.17 “TAX 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.
- 2.18 “TAX ADMINISTRATOR” means the Tax Administrator of the Village of Portage or the person executing the duties of the aforesaid Tax Administrator as described within this Ordinance.
- 2.19 “TAX PAYER” means a person, whether an individual, partnership, association, corporation, or other entity required by the Ordinance to file a return or pay a tax.
- 2.20 The singular shall include the plural, and the masculine shall include the feminine and the neuter.

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2.21 "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. R.C. § 718.01(A)(1)

2.22 "Schedule C" means internal revenue service schedule C filed by a taxpayer pursuant to the Internal Revenue Code. R.C. § 718.01(A)(2)

2.23 "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code. R.C. § 718.01(A)(3)

2.24 "Generic Form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

2.25 "Intangible Income" means income of any of the following types: income yield, interest, dividend, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Revised Code. Internal Revenue Code. R.C. § 718.01(A)(4)

2.26 "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical sub network called the World Wide Web. Internal Revenue Code. R.C. § 341.42(A)(3)

2.27 "Other Payer" means any person that pays an individual any item included in the taxable income of that individual, other than the individual's employer or that employer's agent.

2.28 "Return Preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

**3. NO MUNICIPAL CORPORATION SHALL TAX ANY OF THE FOLLOWING:**

3.1 The military pay or allowances of members of the armed forces of the United States and/or members of their reserve components, including the Ohio National Guard;

3.2 The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities;

3.3 Except as otherwise provided herein, intangible income;

3.4 Compensation paid under section 3501.28 or 3501.36 of the Revised Ordinance to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually. Such compensation in excess of one thousand dollars (\$1,000.00) may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

3.5 Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306. of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or

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through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation.

- 3.6 The income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code, except starting January 1, 2002, the income of an electric company or combined company, as defined in section 5727.01 of the Revised Code, may be taxed by the municipal corporation. For a combined company, only the income attributed from the activity of an electric company shall be subject to taxation by a municipal corporation. The income of an electric company or combined company subject to taxation by a municipal corporation shall be computed by taking into account the adjustments provided by division (I)(16) of section 5733.04 of the Revised Code.
- 3.7 The compensation paid for legal services to the Village. All such income shall be considered earned at the physical location of the attorney's office.
- 3.8 Items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code.
- 3.9 On and after January 1, 2009, compensation paid to an individual for personal services performed within the municipal corporation, if the individual does not reside in the municipal corporation, performs such personal services in the municipal corporation on twelve or fewer days in the calendar year, and, if the individual is an employee, the principal place of business of the individual's employer is located outside the municipal corporation. This section does not apply to professional entertainers or professional athletes or the promoters of professional entertainment or sports events and their employees, as reasonably defined by the municipal corporation.
4. AN ANNUAL TAX for the purposes specified above shall be imposed on and after January 1, 2009 at the rate of one percent (1%) per annum upon the following:
- 4.1 The aggregate amounts of salaries, wages, tips, commissions, and other compensation earned, and gross income from any business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income, earned during the preceding year and subject to said tax. Notwithstanding the provisions herein "intangible income" is exempted from municipal taxation pursuant to the Uniform Municipal Income Tax Act as amended in 1986 by Am. Sub. S. B. No. 238.
- 4.2 On all salaries, tips, commissions, bonuses, wages, including sick pay, vacation pay, commissions, and other compensation earned or received, during the effective period of this Ordinance, by nonresidents or residents of the Village for work done or services performed or rendered in the Village.
- 4.3 On the portion of net profits attributable to the Village earned during the effective period of this Ordinance of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Village.

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- 4.4 On a resident partner’s or owner’s share of the net profits earned during the effective period of this Ordinance of a resident partner or owner of a resident association or other unincorporated business entity not attributable to the Village and not levied against such association or other unincorporated entity by the Village.
- 4.5 On the portion of net profits attributable to the Village earned during the effective period of this Ordinance, of all nonresident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Village, whether or not such incorporated business association or other entity has an office or place of business in the Village.
- 4.6 On a resident partner’s or owner’s share of the net profits earned during the effective period of this Ordinance of a nonresident association or other unincorporated business entity not attributable to the Village and not levied against such association or other unincorporated entity by the Village.
- 4.7 On the net profits earned during the effective period of this Ordinance of all corporations derived from sales made, work done or 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.
- 4.8 On any and all income received, no matter how generated, and unless otherwise exempted, by any resident domiciled in the Village of Portage.
- 4.9 On any and all income received, no matter how generated, and unless otherwise exempted, by any nonresident of the Village of Portage when such income results from any work performed within the Village of Portage or when such moneys result from any business activity, however small, performed within the Village of Portage.

### 4.10 EXEMPT INCOME

4.10.1 Notwithstanding the foregoing provisions and unless otherwise mandated by the Ohio legislature and codified within the Ohio Revised Code, the following is specifically exempt from the Portage Village Income and Earnings tax.

Lottery and gambling winnings are hereby exempt from taxation. Lottery and gambling losses shall not be deemed or otherwise considered legitimate deductions from income.

Annuity benefits.

Retirement benefits.

Pension benefits.

Social Security benefits.

Any governmental relief benefit received by the beneficiary of such benefit.

Any governmental assisted benefit received by the beneficiary of such benefit.

Trust benefits paid to the beneficiary of said Trust.

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Supplemental Unemployment Benefits.

Compensation earned by itinerants.

4.11 The tax provided for herein shall not be levied upon the active 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 718 of the Revised Code of Ohio to the extent that such net profits are exempted from municipal income taxes under said Section.

### 4.12 12-DAY OCCASIONAL ENTRY RULE

The Village of Portage shall not tax the compensation of an individual if all of the following apply:

The individual does not reside in the Village of Portage.

The compensation is paid for personal services performed by the individual in the Village of Portage on twelve or fewer days during the calendar year.

In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside of the Village of Portage and the individual pays tax on compensation earned from such employment to the City or Village in which the employer's principal place of business is located and no portion of that tax is refunded to the individual.

The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment of sports event, or an employee of such a promoter, all as may be reasonably defined by the Village of Portage.

For the purpose of this section:

"Day" means any part of a 24-hour calendar day where compensation is earned in the Village of Portage. Beginning with the 13th day, the individual shall no longer be considered an occasional entrant and shall be liable for taxes on all income or compensation earned within the Village of Portage including the income or compensation earned during the 12-day exclusion set forth herein.

"Athlete" means any person who engages in any sporting event as a member of a team the goal of which is to defeat another team through achieving a better score than the other team within the rules of the game at which both teams are engaged. "Athlete" also means any individual who is in a contest, the outcome of which is determined by the superior skill, speed or strength of one of the contestants. "Athlete" also means any individual who engages in feats requiring physical skill, physical dexterity, physical strength or speed, whether physical or whether mechanical provided that such person directly controls the mechanical device achieving such speed. "Athlete" also means any person who enters a contest, the outcome of which is determined by physical prowess rather than mental prowess.

"Professional Athlete" means any athlete who is paid to participate in a sporting event or who, as a result of the outcome of his participation in an event, receives something of value. "Something of Value" does not include a stipend paid to the athlete to

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cover his out-of-pocket expenses for travel and necessary items such as room and board while in the area for the purpose of participating as an athlete. "Something of Value" does not include trophies, medals, ribbons or any other thing of no utility other than to recognize the athlete for participating in or for prevailing at the sport for which the athlete appeared. "Professional Athlete" does not include a person who is an amateur athlete. "Professional Athlete" does not include a person whose primary source of income is derived from some other source of employment provided, however, that said person spends the majority of his working time engaging in such other employment.

"Entertainer" means any person engaged for the purpose of drawing an audience to watch or hear the entertainer perform.

"Professional Entertainer" means any entertainer who is paid to perform in front of an audience. "Professional Entertainer" does not include amateur entertainers or entertainers who are not paid for performing in front of an audience.

A "Promoter of a professional entertainment or sports event" means the person or entity that has advertised the professional entertainment or the sporting event or the person or entity that stages such events with the purpose of deriving a profit therefrom whether or not such profit is derived.

### 4.13 \$150.00 DEMINIMUS RULE

A nonresident employer, agent of such employer, or other payer that is not situated in the Village of Portage shall not be required to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for the Village of Portage on account of all of the employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150.00) for a calendar year.

If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150.00) for a calendar year, the employer, agent of such an employer or other payer must deduct and withhold taxes in that calendar year and in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is one hundred fifty dollars (\$150.00) or less, until such time that the tax so deducted and withheld is one hundred fifty dollars (\$150.00) or less for three (3) consecutive years.

A nonresident employer, agent of such an employer, or other payer that is not situated in the Village of Portage and is exempt from withholding pursuant to this section shall report all taxable income paid to its employees or agents working in the Village of Portage on an annual basis. This report shall be due on or before the due date of reconciliation of the Village of Portage of each year, and shall include a calculation of the total compensation earned in the Village of Portage by all employees during the preceding calendar year.

The employer as set forth above is not relieved of paying over the first one hundred fifty dollars (\$150.00) in withholding when he does in fact exceed one hundred fifty dollars (\$150.00) in withholding for the Village of Portage.

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Any nonresident employer who withholds taxes for an employee in the name of the Village of Portage must report such withholding to the Village of Portage and to the employee.

**5. ALLOCATION OF NET PROFITS**

In the taxation of income that is subject to municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of a municipal corporation disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the municipal corporation, then only such portion shall be considered as having a taxable status in such municipal corporation for purposes of municipal income taxation. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable status in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of:

The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average net book value 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.

Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or professions, wherever their services are performed, excluding compensation described in division (F)(8) of section 718.01 of the Revised Code;

Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and service, wherever made or performed. If the foregoing allocation formula does not produce an equitable result, another basis may be substituted, under uniform regulations, so as to produce an equitable result.

As used herein, such sales include:

All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;

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

All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title



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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. (R.C. 718.02)

### 6. CONDITIONS UNDER WHICH A GENERIC TAX FORM IS PERMISSIBLE

#### 6.1 As used in this section:

“Generic Form” means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation’s tax on income.

“Return Preparer” means any person other than a taxpayer to file an annual income tax return or report prior to the filing date for the corresponding tax reporting period as prescribed for such a taxpayer under the Internal Revenue Code.

#### 6.2 All returns reporting municipal income taxes shall include all of the following, as appropriate:

The taxpayer’s name and address.

The taxpayer’s Social Security or Federal Employer Identification Number.

If a business tax return, schedules X, Y and Z.

A credit section that shows payments made by the taxpayer, payments made on behalf of the taxpayer by any third party and withholdings made on behalf of the taxpayer by the taxpayer’s employer(s) for the tax period to which the generic form applies. The credit section shall show:

The amount paid to the Village of Portage for the current taxable period.

The anticipated earnings tax due any village or municipality other than Portage.

The source of every payment or withholding made by or on behalf of the taxpayer. If the source is the taxpayer’s employer, the generic form shall also include the employer’s name, business address and phone number.

If the generic form relates to a partial tax period which has not yet ended, the taxpayer shall include an estimate of the taxes that will be paid or withheld during the entire taxable period.

Any overpayments made to the Village of Portage for the taxpayer’s previous years’ tax liability provided that such overpayments were not refunded by the Village of Portage.

A penalty section indicating the anticipated amounts for penalty, interest, late fees and, at the bottom of said section, a total of the above anticipated penalties, interest and late fees.

Any generic form shall contain space at the bottom or at the end of the generic form for validation by the taxpayer or the tax preparer.

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The validation section shall contain the following language:

“I CERTIFY THAT I HAVE EXAMINED THIS RETURN INCLUDING THE ACCOMPANYING SCHEDULES AND STATEMENTS, AND DECLARE THAT IT IS TRUE, CORRECT AND THAT THE FIGURES CONTAINED HEREIN ARE ACCURATE TO THE BEST OF MY KNOWLEDGE.”

If the generic form does not contain the above language, it may contain language that is substantially similar. If the generic form does not contain either the above language or language that is substantially similar, it shall be returned to the taxpayer or the tax preparer and the taxpayer or tax preparer shall have five (5) business days to insert the proper language. If the taxpayer or the tax preparer does not correct the generic form within five business days, the Tax Administrator shall refuse the generic form and any penalty or interest incurred thereby shall be the responsibility of the taxpayer.

6.3 The taxpayer or the tax preparer shall sign the generic form immediately underneath the validation section and such signature shall be an attestation that the generic form has been reviewed and is accurate to the best of the reviewer's knowledge.

6.4 All applicable federal schedules, forms and statements shall accompany the generic form. In the event the applicable federal schedules, forms and statements do not accompany the generic form, the taxpayer or tax preparer shall submit a statement explaining why the required schedules, forms and statements are not attached.

6.5 If the taxpayer or the tax preparer fails to comply with any of the above requirements, the generic form shall be returned to the taxpayer or tax preparer and the tax payer or tax preparer shall have five (5) business days to comply with the requirements set forth in this section. Any failure to timely comply with the requirements of this section may result in penalties and interest being levied against the taxpayer.

**7. INCOME FROM RENTAL PROPERTY AND LANDLORD'S DUTIES**

7.1 Within thirty (30) days after a new tenant occupies rental property of any kind within the Village all property owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Administrator of the Village a report showing the names, addresses and telephone numbers of each such tenant who occupies an apartment, room or other rental property within the corporate limits of the Village.

7.2 Within thirty (30) days after a tenant vacates an apartment, room or other rental property located within the Village, the property owner of such vacated rental property shall file with the Tax Administrator, a report showing the date of vacation from the rental property and identifying each such vacating tenant.

7.3 Violation of this section shall be an offense punishable by a fine not to exceed one hundred dollars (\$100.00).

**8. OPERATING LOSS CARRY-FORWARD**

8.1 The portion of a net operating loss sustained in any taxable year, beginning January 1, 2009, allocable to the Village, may be applied against the portion of the profit of succeeding tax years allocable to the Village, until exhausted, but in no event for more

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than five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

8.2 The portion of a net operation loss sustained shall be allocated by the Village in the same manner as provided herein for allocating net profits to the Village.

8.3 In any return a net operating loss deduction is claimed, the following shall be furnished:

8.3.1 A copy of the Federal income tax return for the year in which the net operating loss was sustained.

8.3.2 The amount of net operating loss used as a deduction in prior years.

8.3.3 The amount of net operating loss claimed as a deduction in the current year.

8.3.4 The Tax Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

### 8.4 CONSOLIDATED RETURNS

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 Tax Administrator 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 Tax Administrator 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 full and proper allocation of net profits to the Village.

### 9. EFFECTIVE PERIOD

The tax imposed by this Ordinance shall be levied, collected, and paid with respect to all income and net profits subject to the tax earned on or after January 1, 2009.

### 10. RETURN AND PAYMENT OF TAX

#### 10.1 DATES AND EXEMPTIONS

Each person who engaged in business, or whose salary, wages, commissions, or other compensation is subject to the tax imposed by this Ordinance shall, whether or not a tax be due thereon, make and file, on or before April 30th in each year, beginning with the year 2009, a return with the Tax Administrator. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period of this Ordinance, file his return within four (4) months from the end of such fiscal year or period. In lieu of a tax return, the Tax Administrator is hereby authorized to provide by regulation that the return of an employers, showing the amount of tax deducted by said employer or employers from salaries, wages, commissions, or other compensation of the employee, and paid by him or them to the Tax Administrator may be accepted in lieu of the return required of any employee whose sole income, subject to tax under this Ordinance, is such salary wages, commissions, or other compensation.

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### 10.2 RETURNS AND CONTENTS THEREOF

The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator, or such generic form meeting the requirements set forth herein, setting forth:

10.2.1 The aggregate amounts of salaries, wages, commissions, and other compensation earned and gross income from any business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income, earned during the preceding year and subject to the tax;

10.2.2 The amount of the tax imposed by this Ordinance on such earnings and profits; and

10.2.3 Such other pertinent statements, information returns, or other relevant information as the Tax Administrator 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;

10.2.4 Income and expenses attributable to the Village clearly stated.

10.2.5 All returns are to be signed by the preparer attesting the accuracy of the statements therein.

### 10.3 EXTENSIONS AND ACCEPTANCE OF FEDERAL EXTENSIONS

10.3.1 The Tax Administrator shall have the authority to extend the time for filing of the annual return upon the request of the taxpayer for a period of not to 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 provided that a written request has been submitted to the Tax Administrator before the due date of such return. The Tax Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

10.3.2 Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Village of Portage tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Administrator. R.C. 718.05(D).

10.3.3 Any taxpayer not required to file a federal income tax return may request an extension for filing a Village of Portage tax return. Such request shall be in writing, shall be made to the Tax Administrator and shall be filed on or before the date that a federal tax return would otherwise be required.

10.3.4 The request for an extension shall be filed no later than the last day the Village of Portage income tax is due as prescribed by ordinance.

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10.3.5 A valid extension request extends the due date for filing a return six (6) months from the original due date of such return.

10.3.6 The Village of Portage may deny a taxpayer's request for an extension if the taxpayer:

(a) fails to timely file the request;

(b) fails to file a copy of the federal extension request, if applicable;

(c) owes the Village of Portage any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax;

(d) has failed to file any required income tax return, report or other related document for a prior tax period.

10.3.7 The granting of an extension for filing a Village of Portage income tax return does not extend the last date for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension as set forth by the Portage Tax Ordinance. No penalty shall be assessed in those cases in which the return is filed and the final tax paid is paid within the extension period provided all other filing and payment requirements of the Tax Ordinance have been fulfilled. Any extension granted by the Tax Administrator shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted. R.C. 718.05(D).

### 10.4 PAYMENT WITH RETURNS

The taxpayer making a return shall, at the time of the filing thereof, pay or have paid to the Tax Administrator the amount of taxes shown as due thereon.

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.

### 10.5 AMENDED RETURNS

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 herein, such Amended Returns shall be on a form obtainable on request from the Tax Administrator.

Within three (3) months from the final determination of any Federal Tax liability affecting the taxpayer's Portage tax liability, such payer shall make and file an amended

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Portage return, showing income subject to the Village tax based upon such final determination of federal tax liability, and pay any additional tax shown thereon, or make claim for refund of any overpayment.

### 11. COLLECTION OF TAX AT SOURCE

#### 11.1 WITHHOLDING BY EMPLOYER

Each employer situated within the Village of Portage, each employer doing business within the Village of Portage, each employer or person who conducts business within the Village of Portage, and each employer who employs an employee subject to the provisions of the Portage Tax Ordinance although situated outside of the Village of Portage and any other person or business entity that falls within the provisions of the Portage Tax Ordinance who employs one or more persons on salary, wage, commission, or other compensation basis shall regularly deduct, at the time of the payment of such salaries, wages, commission, or other compensations, due from said employer to each said employee, the estimated tax liability of said employee or business entity due the Village of Portage and shall, on or before the last day of April, June, October and January of each year, beginning with the year 2009, make a return and pay to the Tax Administrator the amount of taxes so deducted during the preceding Calendar quarter. Said return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the rules and regulations prescribed therefore by the Tax Administrator. Those taxes collected from employees shall be remitted to the Village by the last day of the month following their collection.

#### 11.2 EMPLOYER CONSIDERED AS TRUSTEE

Each employer in collecting said 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. Each employee shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

#### 11.3 CORPORATE OFFICERS PERSONAL LIABILITY

It shall be the responsibility, jointly and severally, of the officers of each corporation required to withhold the tax from wages of its employees under this section to see that all such taxes so withheld are paid to the Village in accordance with the provisions of this section. In the event taxes withheld by a corporation from the monies due its employees are not paid to the Village in accordance with the provisions of this section, the officers of said corporation shall each be criminally liable under the provisions herein.

#### 11.4 EMPLOYEES' LISTINGS

On or before April 30th of each year, beginning with the year 2010, each employer shall file a withholding return, on a form or forms prescribed by and obtainable from the Tax Administrator, setting forth the tax which was withheld during the preceding calendar year and such other information as may be required by the rules and regulations adopted by the Tax Administrator.

## RECORD OF ORDINANCES

### 12. DECLARATIONS

#### 12.1 REQUIREMENTS FOR FILING

Every person who anticipates any taxable income which is not subject to exemption, or engages in any business, profession, enterprise, or activity, 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.

#### 12.2 DATES FOR FILING

Beginning with the year 2009, and thereafter during the life of this Ordinance, on or before April 30, or within four (4) months of the date the taxpayer first becomes subject to the provision of this section.

Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the start of each year or period, excepting that no declaration need be filed prior to April 30, 2009.

#### 12.3 FORMS-PAYMENT DATES

Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator. Credit shall be taken in said declaration for Portage tax to be withheld from any portion of such income.

Beginning with the year 2009 a declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least one-fourth (1/4) of the estimated tax, less credit for taxes withheld and at least a similar amount shall be paid on or before that last day of the seventh, tenth and thirteenth months after the beginning of the tax year.

A declaration may be amended at any time provided, however, that in case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

#### 12.4 AMENDED DECLARATION

An amended declaration may be filed with the filing of any quarterly return. If it appears that the original declaration and payments made for such year underestimated the taxpayer's income by thirty percent (30%) or more the difference between seventy percent (70%) of said taxpayer's tax liability, and the amount of estimated tax he actually paid on or before January 31st, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions established herein.

#### 12.5 ANNUAL RETURN REQUIRED

On or before the last day of the fourth month of the calendar or fiscal year following that for which the declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions herein.

## RECORD OF ORDINANCES

### 13. ACTIONS TO RECOVER: TIME LIMITATION

Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three years after the tax was due or the return was filed, whichever is later.

Prosecutions for an offense made punishable under a municipal ordinance imposing an income tax 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 per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

Claims for refund of municipal income taxes must be brought within three (3) years.

Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the complete return is filed, whichever is later, no interest shall be allowed on the refunded overpayment. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by section 5703.41 of the Revised Code. (R.C. 708.06)

### 14. DUTIES OF THE TAX ADMINISTRATOR

#### 14.1 COLLECTION AND MAINTENANCE RESPONSIBILITY

A Tax Administrator shall be necessary for the efficient collection of the tax imposed herein. Such administrator shall consist of a Tax Administrator appointed by the Mayor, with consent of a majority of the members of the Village Council. The Tax Administrator need not reside within the Village. The Tax Administrator may be a village position created by the Village Council or an outside administrative agency.

It shall be the duty of the Tax Administrator to collect and receive the tax imposed by this Ordinance in the manner prescribed herein, and to keep an accurate record thereof, and to report all moneys so received.

It shall be the duty of the Tax Administrator and the Village Clerk Treasurer to enforce payment of all income taxes owing the Village, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration or make any return including a return of taxes withheld, and to show the dates and amounts of payments thereof.

#### 14.2 ENFORCEMENT AUTHORITY

The Tax Administrator and the Village Clerk Treasurer are hereby charged with the enforcement of the provisions of this Ordinance, and are hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and enforce rules and regulations authorized or required by this Ordinance, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and



**RECORD OF ORDINANCES**

enforcement of the provisions of this Ordinance, including provisions for the re-examination and correction of returns.

**14.3 DETERMINATION OF TAXES**

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 Tax Administrator or the Village Clerk Treasurer may determine the amount of tax appearing to be due the Village 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.

**14.4 COMPROMISE AUTHORITY**

Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Administrator and the Village Clerk Treasurer shall have the power to compromise any liability imposed by this Ordinance.

**15. INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR AND VILLAGE CLERK TREASURER--PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION**

**15.1 EXAMINATION OF TAXPAYER RECORDS--REQUIREMENT TO SUPPLY RECORDS OF EMPLOYMENT OF OUTSIDE CONTRACTORS**

The Tax Administrator, Village Clerk Treasurer, or any of his authorized agents, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer, taxpayer or any person subject to, or whom the Tax Administrator believes is subject to the provisions of this Ordinance for the purpose of verifying the accuracy of any withholdings or taxes due under this Ordinance. Every such employer, supposed employer, taxpayer, or supposed taxpayer, is hereby directed and required to furnish, upon written request of the Tax Administrator, Village Clerk Treasurer, or his duly authorized agent or employee the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized. Failure to comply with the orders of the Portage Tax Administrator or Village Clerk Treasurer shall be deemed refusal to comply and shall be punished pursuant to this Ordinance. Every employer that employs, hires, or otherwise uses contractors, subcontractors, or any person or business, other than an employee, to supply services or products within the Village shall report: (1) the names of such persons, contractors, subcontractors, or businesses, (2) the scope or nature of the services from such persons, contractors, subcontractors, or businesses, (3) the addresses and phone numbers of such contractors, subcontractors, persons, or businesses, and (4) the approximate dates when such contractors, subcontractors, persons, or businesses supplied services. The report shall be forwarded to the Portage Tax Administrator on a quarterly basis and shall be due no later than January 20, April 20, July 20 and October 20 of each year. Failure to comply with this paragraph shall be punished pursuant to this Ordinance.

15.2 When the Portage Tax Administrator, Village Clerk Treasurer, or one of his duly appointed assistants finds that information is required pursuant to the provisions of the Portage Tax Ordinance, the Tax Administrator or Clerk Treasurer shall notify the person or entity from which the information is sought. Notification shall be sent as follows:

**RECORD OF ORDINANCES****15.2.1 CERTIFIED MAIL RETURN RECEIPT REQUESTED:**

If the certified mail is refused or returned unclaimed, then notification shall be sent by first class mail. If first class mail is not returned by the United States Post Office, notification will be deemed given. OR

Personal delivery by an officer of the Portage Police Department, or by a deputy sheriff in the county where the taxpayer resides. Notification to persons or entities shall contain, in capital print, the following language: "THIS COMMUNICATION HAS BEEN SENT TO YOU BY THE TAX ADMINISTRATOR OR CLERK TREASURER OF PORTAGE, OHIO. THE TAX ADMINISTRATOR OR CLERK TREASURER OF PORTAGE REQUIRES YOUR PRESENCE REGARDING YOUR PORTAGE INCOME TAX. YOUR FAILURE TO CONTACT THE PORTAGE TAX ADMINISTRATOR OR CLERK TREASURER WITHIN THIRTY DAYS OF THIS LETTER AND SET UP AN APPOINTMENT IN THIS MATTER WILL BE DEEMED A REFUSAL TO COOPERATE AND MAY RESULT IN CRIMINAL ACTION TAKEN AGAINST YOU PURSUANT TO THE PORTAGE TAX ORDINANCES. YOU ARE ENTITLED TO SEEK A CONTINUANCE IN THIS MATTER. IN ORDER TO PROCURE A CONTINUANCE, YOU MUST CONTACT THE PORTAGE TAX ADMINISTRATOR OR CLERK TREASURER WITHIN THIRTY DAYS. ONLY ONE CONTINUANCE MAY BE GRANTED. YOU MAY RETAIN LEGAL COUNSEL TO REPRESENT YOU IF YOU DESIRE. YOUR IMMEDIATE ATTENTION TO THIS MATTER IS REQUIRED."

Once notification is given, the recipient has thirty days to make arrangements to personally meet with the Portage Tax Administrator or Clerk Treasurer and to supply the documentation as requested. The recipient may request one thirty day extension, which the Tax Administrator or Clerk Treasurer shall grant.

If the recipient fails to respond, he shall be deemed a refusing recipient.

Once a recipient is deemed a refusing recipient, the Tax Administrator or Clerk Treasurer shall file an affidavit with the Portage Mayor's Court or such other court of competent jurisdiction stating, briefly, the facts, the reasons information is required, that notification was properly given pursuant to the Portage Tax Ordinance, the estimated amount of tax due, if known, and the last known address of the recipient. In addition, the Tax Administrator or Clerk Treasurer shall attach evidence showing that return receipt mailing was performed, whether or not the mail was picked up. In addition the Tax Administrator or Clerk Treasurer shall request that the Mayor's Court Magistrate, or a court of competent jurisdiction, issue a subpoena duces tecum to the recipient ordering the refusing recipient to appear before the Portage Tax Administrator or Clerk Treasurer and ordering the refusing recipient to, upon appearance, supply the requested information.

Upon receipt of the affidavit and proper attachments, the Mayor's Court Magistrate, or judge of competent jurisdiction, shall issue a subpoena duces tecum ordering the refusing recipient to appear before the Tax Administrator or Clerk Treasurer within fifteen days. The Subpoena shall be served upon the refusing recipient by certified mail, return receipt requested.

If the refusing recipient shall not appear as ordered, the Mayor's Court Magistrate, or a court of competent jurisdiction, upon receipt of a written affidavit from the Tax Administrator or Clerk Treasurer supported by sufficient evidence of violation,

## RECORD OF ORDINANCES

may issue a warrant for the arrest of the refusing recipient. The refusing recipient may be charged in the Portage Mayor's Court or Bowling Green Municipal Court with a violation of the Portage Tax Ordinance and, upon conviction may be sentenced for each violation to a fine not to exceed \$1,000.00, Nothing herein relieves the refusing recipient of his obligations to comply with further orders of the Tax Administrator or Clerk Treasurer and nothing herein relieves the refusing recipient of his tax obligations under this Ordinance.

### 15.3 RETENTION OF RECORDS BY TAXPAYER

Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed or the taxes required to be withheld are paid.

### 15.4 CONFIDENTIAL NATURE OF INFORMATION

Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Ordinance levying an income tax pursuant to this Ordinance is confidential, and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this Ordinance authorizing the levy. The Tax Administrator and Clerk Treasurer of the Village of Portage may furnish copies of returns filed under this Ordinance to the internal revenue service.

Any person that knowingly discloses such information in violation of this section shall be guilty of a misdemeanor in the third degree and shall be fined not more than five hundred dollars (\$500.00) and imprisoned not more than sixty (60) days, or both, for each offense. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Village who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

### 15.5 TAX ADMINISTRATOR AND TAX ADMINISTRATION IMMUNITY

Unless otherwise specified within these ordinances or by statute, the Portage Tax Administrator, Clerk Treasurer, the employees of the Portage Tax Department, and the Board of Review, in the good faith performance of their normal and customary duties, are immune from civil liability from any cause of action which results from carrying out the duties placed on them to enforce Portage Tax Ordinances.

## 16. INTEREST AND PENALTIES

### 16.1 INTEREST

All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this Ordinance, remaining unpaid after they become due, shall bear interest at the rate of one percent (1% ) per month.

### 16.2 PENALTIES

In addition to interest as provided herein, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this Ordinance are hereby imposed as follows:

## RECORD OF ORDINANCES

In the case of taxpayers failing to pay the full amount of tax due, a penalty of the higher of: (a) fifty dollars (\$50.00) or (b) one and one-half percent (1-1/2%) per month or fraction thereof, of the amount of the unpaid tax.

In the case of employers who fail to withhold and remit to the Tax Administrator the taxes to be withheld from employees, a penalty of the higher of (a) one hundred dollars (\$100.00) or (b) one percent (1%) per month or fraction thereof, of the unpaid withholding.

Notwithstanding the provisions set forth in sections 16.2.1 and 16.2.2, above, should any court of competent jurisdiction hold that the interest and/or penalties set forth above are illegal, then the interest and penalties shall be the highest amount permitted by the laws of Ohio.

### 16.3 EXCEPTIONS

A penalty shall not be assessed by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by this Ordinance; 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 (3) months after final determination of the federal tax liability.

### 16.4 ABATEMENT BY BOARD OF REVIEW

Upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.

## 17. VIOLATION--PENALTIES

### 17.1 ENUMERATION OF AND PENALTIES

Any person who, or business entity that:

fails, neglects, or refuses to make any return or declaration required by this Ordinance; or

makes an incomplete, false, or fraudulent return; or

fails, neglects, or refuses to pay the tax, penalties, or interest imposed by this Ordinance; or

fails, neglects, or refuses to withhold the tax from his employees and remit such withholding tax to the Tax Administrator; or

refuses to permit the Tax Administrator or any duly authorized agent or employee to examine his or her employer's books, records, papers, and federal income tax returns; or

fails to appear before the Tax Administrator and to produce his or her employer's books, records, papers, and federal income tax returns upon order or subpoena of the Tax Administrator; or

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refuses to disclose to the Tax Administrator any information with respect to such person's or such person's employer's income or net profits; or

fails, neglects, or refuses to make any payment on the estimated tax for any year as required by section 12; or

fails, as an officer or manager of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this Ordinance to be paid to the Village in accordance with the provisions of Section 11 hereof; or

attempts to do anything whatever to avoid the payment of the whole or any part of the tax, penalties, or interest imposed by this Ordinance;

shall be guilty of a misdemeanor of the first degree, and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months or both, for each offense. In the event the offender is an organization, the maximum fine shall be five thousand dollars (\$5,000.00) and the maximum sentence shall be not more than six (6) months. (R.C. 2929.31)

**17.2 FAILURE TO OBTAIN FORMS NOT A DEFENSE**

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

**17.3 RESPONSIBILITY OF CORPORATION EMPLOYEES**

The term "person" as used in this section shall, in addition to the meaning prescribed in Section 2 of this Ordinance, include in the case of an association or corporation not having any partner, member, or officer within the Village, any employee or agent of such association or corporation who can be found within the corporate limits of the Village.

**18. BOARD OF REVIEW**

**18.1 COMPOSITION**

A Board of Review, which shall consist of three persons, including the Village Solicitor, and two electors who shall be appointed by the Mayor with the three-fourths consent of the members of Council, is hereby created. One member shall act as secretary of the Board. Board members shall receive such compensation as Council may determine.

**18.2 PROCEDURE**

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. All hearings by the Board shall be conducted privately unless taxpayer requests a public hearing, and the provisions of this 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 on appeal.

**RECORD OF ORDINANCES**

**18.3 APPEALS TO THE BOARD OF REVIEW**

Whenever the Tax Administrator or Clerk Treasurer issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Village of Portage, the Tax Administrator or Clerk Treasurer shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

Any person who is aggrieved by a decision of the Tax Administrator or Clerk Treasurer and who has filed with the Village of Portage the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision the Board of Review by filing a request with the Clerk Treasurer. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the decision has been issued.

The imposition of a penalty and interest as prescribed in the codified ordinances of the Village of Portage is not a sole basis for an appeal.

The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives the hearing.

If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative provided, however, that a certified public accountant or representative other than an attorney at law is prohibited from raising or addressing any matters of law. Any person, other than a taxpayer appearing pro se or an attorney at law is unauthorized to offer legal advice or a legal opinion on behalf of the taxpayer.

The Board may affirm, reverse, or modify the Tax Administrator's or Clerk Treasurer's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision.

Each Board or Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

The purpose of the Board of Review is administrative only. Any person dissatisfied with any ruling or decision of the Board of Review made under the authority conferred by this Ordinance may appeal therefrom to the County Court of Common Pleas in conformity with the provisions of the Ohio Revised Code.

**19. ALLOCATION OF FUNDS**

The funds collected under the provisions of this Ordinance shall be deposited in the General Fund and said funds collected from the imposition date of the tax under this Ordinance shall be disbursed for the following, to wit:

**RECORD OF ORDINANCES**

Such part thereof as shall be necessary to defray all cost of collection the taxes and the cost of administering and enforcing the provisions thereof.

The balance of any monies collected under the provisions of this Ordinance shall be allocated to the Village General Fund.

**20 SAVINGS CLAUSE**

This Ordinance shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Ordinance or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality or invalidity shall effect only such clause, sentence, section or part of this Ordinance and shall not effect or impair any of the remaining provisions, sentences, or other parts of this Ordinance. It is hereby declared to be the intention of Council of the Village of Portage that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, or part hereof, not been included therein.

\_\_\_\_\_  
Mayor

Aye: \_\_\_\_\_ Nay: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk-Treasurer

I hereby certify that a copy of the foregoing Ordinance was posted in five (5) village locations this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Clerk-Treasurer