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Village of Lowellville

Ordinance No. 3625

**AN ORDINANCE AMENDING CODIFIED ORDINANCE NUMBERS 171.03, 171.04, 171.06, 171.11, AND 171.19 IN ORDER TO INCREASE THE RATE OF MUNICIPAL INCOME TAX FROM ONE AND ONE HALF PERCENT TO TWO PERCENT FOR THE PURPOSE OF PROVIDING FUNDS FOR CAPITAL IMPROVEMENTS, PROVIDING FOR AN EFFECTIVE DATE THEREOF, REPEALING CERTAIN SECTIONS OF THE CODIFIED ORDINANCES.**

Now, Therefore, Be it ordained, by the Council of the Village of Lowellville, Ohio,  $\frac{3}{4}$ 's of all members elected thereto concurring:

**Section 1:** Subject to the approval of the electors of the Village of Lowellville, Ohio, as provided in Section 718.01 of the Revised Code of Ohio, the following sections of the Codified Ordinances are hereby amended effective February 15, 2010, to provide an increase in the tax levied on income from one and one-half percent to two percent, such sections, as amended, to read as follows:

**Section 2:** Section 171.03 is hereby amended to read as follows:

171.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 171.16, an annual tax to provide funds for the purposes specified in Section 171.04 is hereby levied at a rate of two percent (2%) per annum, on and after February 15, 2010, upon the following:

(1) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by residents of the Village.

(2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by non-residents for work done or services performed or rendered in the Village.

(3) A. On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other activities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.

(4) A. On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all non-resident unincorporated businesses, professions or other activities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village, whether or not such unincorporated business entity has an office or place of business in the Village.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a non-resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.

(5) On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.

(b) 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 Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Tax Commissioner pursuant to this chapter.

(c) Consolidated Returns.

(1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Tax Commissioner.

(2) In the case of a corporation that carried on transaction with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Tax Commissioner shall require such additional information as

he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Tax Commissioner 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 transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Village.

(e) Rentals. Rental income received by a taxpayer shall be included in the computation of net profits from business activities under paragraph (3)(4), and (5) above, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred dollars (\$100.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred dollars (\$100.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farms whether or not the gross income exceeds one hundred dollars (\$100.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred dollars (\$100.00) per month.

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

**Section 2:** Section 171.04 is hereby amended to read as follows:

**171.04 EFFECTIVE PERIOD AND PURPOSES.**

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, ~~1977~~ 2011.

One percent (1%) of the tax imposed by this chapter shall be allocated to provide funds for the purposes of general operations, including maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements, and the remaining one percent (1%) so imposed shall be allocated solely for capital improvements within the Village including the improvement of streets by opening, extending, widening, grading, draining, curbing, paving, relocating, resurfacing and otherwise improving, the acquisition and construction of traffic control devices and traffic control signals for various streets, the construction, rehabilitation and improvement of bridges, the construction and improvement of storm sewer and storm drainage facilities, the construction and improvement of sanitary sewage collection and treatment facilities, the construction and improvement of buildings, housing, governmental services and functions and the acquisition of real estate and interests in real estate in connection therewith, maintenance and operation of sewage plants, fire street and police equipment, construction repair and maintenance of sidewalks and lighting and further including debt service on bonds and notes issued to pay costs thereof.

**Section 3:** Section 171.06 is hereby amended to read as follows:

**171.06 COLLECTION AT SOURCE.**

(a) In accordance with rules and regulations prescribed by the Tax Commissioner each employee within or doing business with the Village shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of two percent (2%) of the gross salaries, wages, commissions or other compensations due by the employer to the employee, and shall, on or before the last day of the month following the close of each calendar quarter make a return and pay to the Tax Commissioner the amount of taxes so deducted. Such returns shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the rules and regulations prescribed therefor by the Tax Commissioner. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

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

**Section 4:** Section 171.11 is hereby amended to read as follows:

171.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF  
OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion 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, provided, however, in those cases in which a 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 Tax Commissioner shall be one year from the time of the final determination of the Federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date such payment was made or the return was due, or within three months after final determination of the Federal tax liability, whichever is later.

(c) Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

**Section 5:** Section 171.19 is hereby amended to read as follows:

171.19 REGISTRATION OF TENANTS.

(a) For the purpose of this section, "tenant" means:

(1) If there is a written lease or rental agreement, the person or persons who sign the written lease or rental agreement with the owner.

(2) If there is an oral lease or rental agreement, the person or persons with whom the owner enters into the oral lease or rental agreement.

(b) On or before October 1, 1996, all property owners of rental or leased property who rent to tenants of residential or commercial property shall file with the Tax Commissioner a report showing the names and addresses of each such tenant who occupies the residential or commercial property within the Village of Lowellville as of July 1, 1996.

(c) Beginning October 1, 1996, and thereafter, within thirty days after a new tenant occupies residential or commercial property of any kind within the Village, all property owners of rental or leased residential or commercial property who rent to tenants shall file with the Tax Commissioner a report showing the names and addresses of each such tenant who occupies residential or commercial property within the Village.

(d) Beginning October 1, 1996, and thereafter, within thirty days after a tenant vacates a rental or leased residential or commercial property located within the Village of Lowellville, the property owner of such vacated rental or leased property shall file with the Tax Commissioner a report showing the date said property was vacated and identifying such vacating tenant.

(e) Whoever violates any provision of this section shall be fined not more than one hundred fifty dollars(\$150.00).

SECTION 2. Sections 171.03, 171.04, 171.06, 171.11, 171.19 of the Codified Ordinances as they existed prior to the passage and approval of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS 15 DAY OF February, 2010.

James Dedini Sr.  
MAYOR

Will Th  
CLERK-TREASURER, Acting

VILLAGE OF LOWELLVILLE, OHIO

INCOME TAX

ORDINANCE

NO. 1421

Effective January 1, 1970



Levying a tax to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all salaries, wages, commissions and other compensations earned by residents of the Village of Lowellville; on all salaries, wages, commissions and other compensation earned by non-residents of the Village of Lowellville for work done or services performed or rendered in the Village of Lowellville; on the net profits earned on all businesses, professions or other activities conducted by residents of the Village of Lowellville; on the net profits earned on all businesses, professions or other activities conducted in the Village of Lowellville by non-residents, and on the net profits earned by all corporations doing business in the Village of Lowellville as the result of work done or services performed or rendered in the Village of Lowellville; requiring the filing of returns and furnishing of information by employers and all those subject to said tax; imposing on employers the duty of collecting the tax at the source and paying the same to the Village of Lowellville; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor and imposing penalties therefor.

BE IT ORDAINED by the Council of the Village of Lowellville, State of Ohio, that:

#### SECTION 1. PURPOSE

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

#### SECTION 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.

**TAX COMMISSIONER** - The individual designated by the ordinance, whether appointed or elected to administer and enforce the provisions of the ordinance; said Tax Commissioner shall be responsible, subject to and supervised and controlled by the Clerk-Treasurer of the Village of Lowellville.

**ASSOCIATION** - A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

**BOARD OF REVIEW** - The Board created by and constituted as provided in SECTION 13 of this ordinance.

**BUSINESS** - 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.

**CORPORATION** - A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.

**EMPLOYEE** - One who works for wages, salary, commission or other type of compensation in the service of an employer.

EMPLOYER - An individual, partnership, association, corporation, governmental body, 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.

FISCAL YEAR - An accounting period of twelve (12) months or less ending on any day other than December 31st.

GROSS RECEIPTS - The total income from any source whatsoever.

NET PROFITS - A net gain from the operation of a 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; 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.

NON-RESIDENT - An individual domiciled outside the Village of Lowellville.

RESIDENT - An individual domiciled in the Village of Lowellville.

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

PERSON - Every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

PLACE OF BUSINESS - Any Bona Fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

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

TAXABLE INCOME - Wages, salaries and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance.

TAXABLE YEAR - The calendar year, or the fiscal year upon the basis of which the 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.

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

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

### SECTION 3. IMPOSITION OF TAX

A. Subject to the provisions of Section 16 of this ordinance, an annual tax for the purposes specified in Section 1 hereof shall be imposed on and after January 1, 1970, at the rate of one percent (1%) per annum upon the following:

1. On all salaries, wages, commissions and other compensation earned during the effective period of the ordinance by residents of the Village of Lowellville.

2. On all salaries, wages, commissions and other compensation earned during the effective period of the ordinance by non-residents for work done or services performed or rendered in Village of Lowellville.

3. (a) On the portion attributable to Village of Lowellville of the net profits earned during the effective period of this ordinance of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in Village of Lowellville.

(b) On the portion of the distributive share of the net profits earned during the effective period of this ordinance of a resident partner or owner of a resident unincorporated business entity not attributable to Village of Lowellville and not levied against such unincorporated business entity.

4. (a) On the portion attributable to Village of Lowellville of the net profits earned during the effective period of this ordinance of all non-resident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in Village of Lowellville, whether or not such unincorporated business entity has an office or place of business in Village of Lowellville.

(b) On the portion of the distributive share of the net profits earned during the effective period of this ordinance of a resident partner or owner of a non-resident unincorporated business entity not attributable to Village of Lowellville and not levied against such unincorporated business entity.

5. On the portion attributable to Village of Lowellville of the net profits earned during the effective period of this ordinance of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in Village of Lowellville, whether or not such corporations have an office or place of business in Village of Lowellville.

B. The portion of the net profits attributable to Village of Lowellville of a taxpayer conducting a business, profession or other activity both within and without the boundaries of Village of Lowellville shall be determined as provided in Section 718.02 of the Revised Code of Ohio and in accordance with the rules and regulations adopted by the Tax Commissioner pursuant to this ordinance.

C. Operating Loss Carry Forward.

1. The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1970, allocable to Village of Lowellville may be applied against the portion of the profit of succeeding year (s) allocable to Village of Lowellville, until exhausted but in no event for more than five (5) taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

2. The portion of a net operating loss sustained shall be allocated to Village of Lowellville in the same manner as provided herein for allocating net profits to Village of Lowellville.

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

D. Consolidated Returns.

1. Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by the Tax Commissioner.
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, or in case any person operates a division, branch, factor, office, laboratory or activity within Village of Lowellville constituting a portion only of its total business, the Tax Commissioner shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to Village of Lowellville. If the Tax Commissioner finds net profits are not properly allocated to Village of Lowellville by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to Village of Lowellville.

E. Rentals

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under sub-paragraphs 3, 4 and 5 above, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived (whether so rented, managed or operated by taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of \$100.00 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$100.00 per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farms, whether or not the gross income exceeds \$100.00 per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds \$100.00 per month.

F. Exception

The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Section 718.01 of the Revised Code of Ohio to the extent that such net profits are exempted from municipal income taxes under said Section.

SECTION 4. EFFECTIVE PERIOD

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect, **net profits of businesses, professions or other activities** earned on and after January 1, 1970.

## SECTION 5. RETURN AND PAYMENT OF TAX.

A. Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 15th of the year following the effective date of this ordinance, and on or before April 15th of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within one hundred five (105) days from the end of such fiscal year or period. The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Tax Commissioner shall be accepted as the return required of any employee whose sole income, subject to tax under this ordinance, is such salary, wages, commissions, or other compensation.

B. The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from such Tax Commissioner setting forth:

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

C. The Tax Commissioner may 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 the filing of the Federal Income Tax Return. The Tax Commissioner 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.

D. 1. The taxpayer making a return shall, at the time of the filing hereof, pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, however; that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6 of this ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of this ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 15 hereof, 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 of Lowellville 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.

E. 1. 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/or limitations contained in Sections 11 and 15. Such amended returns shall be on a form obtainable on request from the Tax Commissioner. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

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

#### SECTION 6. COLLECTION AT SOURCE.

A. In accordance with Rules and Regulations prescribed by the Tax Commissioner, each employer within or doing business within Village of Lowellville shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent (1%) of the gross salaries, wages, commissions or other compensation due by the said employer to said employee and shall, on or before the last day of the month following the close of each calendar quarter make a return and pay to the Tax Commissioner the amount of taxes so deducted. Said returns shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the Rules and Regulations prescribed therefor by the Tax Commissioner. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

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

#### SECTION 7. DECLARATIONS.

A. Every person who anticipates any taxable income which is not subject to Section 6 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3 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 of Lowellville in accordance with Section 6 hereof, such person need not file a declaration.

B. 1. Such declaration shall be filed on or before April 15th of each year during the life of this ordinance, or within one hundred five (105) days of the date the taxpayer becomes subject to tax for the first time.

2. Those taxpayers reporting on a fiscal year basis shall file a declaration within one hundred five (105) days after the beginning of each fiscal year or period.

C. 1. Such declaration shall be filed upon a form furnished by, or obtainable from, the Tax Commissioner, provided, however, credit shall be taken for Village of Lowellville tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 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 as provided for herein.

D. Such declaration of estimated tax to be paid Village of Lowellville shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax and at least a similar amount shall be paid on or before the 15th of the sixth, ninth and twelfth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

E. On or before the 15th day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village of Lowellville shall be paid there-with in accordance with the provisions of Section 5 hereof.

#### SECTION 8. DUTIES OF THE TAX COMMISSIONER.

A. 1. It shall be the duty of the Tax Commissioner to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.

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

B. Said Tax Commissioner is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this ordinance, including provisions for the re-examination and correction of returns.

The Tax Commissioner is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Tax Commissioner that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the ordinance.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 11 and 12 of the ordinance shall apply.

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

D. Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Tax Commissioner shall have the power to compromise any interest or penalty, or both, imposed by Section 10 of this ordinance.

#### SECTION 9. INVESTIGATIVE POWERS OF THE TAX COMMISSIONER - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

A. The Tax Commissioner, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of

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

B. The Tax Commissioner is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

C. The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the Tax Commissioner authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 12 hereof.

D. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this ordinance, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

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

E. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the withholding taxes are paid.

#### SECTION 10. INTEREST AND PENALTIES.

A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of one-half of one percent ( $\frac{1}{2}\%$ ) per month or fraction thereof.

B. In addition to interest as provided in paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due - other than taxes withheld; one-half per cent ( $\frac{1}{2}\%$ ) per month or fraction thereof.
2. For failure to remit taxes withheld from employees: three per cent (3%) per month or fraction thereof.



C. EXCEPTIONS. A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; 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.

D. Upon recommendation of the Tax Commissioner, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

#### SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

A. All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed whichever is later, provided, however, in those cases in which a 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 Tax Commissioner shall be one (1) year from the time of the final determination of the federal tax liability.

B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the Federal tax liability, whichever is later.

C. Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

#### SECTION 12. VIOLATIONS - PENALTIES.

A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration required by this ordinance; or
2. Make any incomplete, false or fraudulent return; or
3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or
4. Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Commissioner; or
5. Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Tax Commissioner and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Commissioner; or
7. Refuse to disclose to the Tax Commissioner any information with respect to the income or net profits of a taxpayer; or

8. Fail to comply with the provisions of this ordinance or any order or subpoena of the Tax Commissioner authorized hereby; or
9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employee's residence addresses, total wages paid and Village of Lowellville tax withheld, or to knowingly give the Tax Commissioner false information; or
11. Attempt to do anything whatever to avoid payment of the whole or any part of the tax, penalties or interest imposed by this ordinance;

Shall be guilty of a misdemeanor and shall be fined not more than FIFTY (\$50.00) DOLLARS, or imprisoned not more than six (6) months, or both for each offense.

B. All prosecutions under this SECTION must be commenced within three (3) years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be three (3) years from the date the return was due or the false or fraudulent return was filed.

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

#### SECTION 13. BOARD OF REVIEW.

A. A Board of Review, consisting of three (3) electors of the Village of Lowellville to be appointed by the Mayor of Village of Lowellville, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of SECTION 9 hereof 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.

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

C. Any person dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this ordinance may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Tax Commissioner, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling, or decision, or any part thereof.

#### SECTION 14. ALLOCATION OF FUNDS.

A. The funds collected under the provisions of this Ordinance or such part thereof, as may be appropriated by Council, shall be paid into the General Fund and applied to general operating purposes and other municipal purposes.

SECTION 15. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

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

B. Every individual taxpayer who resides in Village of Lowellville who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of Village of Lowellville, if it be made to appear that he has paid a municipal income tax on the same income taxable under this ordinance to another municipality, shall be allowed a credit against the tax imposed by this ordinance of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this ordinance on such income earned in such other municipalities where such tax is paid.

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

SECTION 16. SAVING 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 clause, sentence, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared to be the intention of the Council of Village of Lowellville that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 17. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE.

A. This ordinance shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Sections 11 and 12 hereof.

B. Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Section 5 and 6 of this ordinance as though the same were continuing.

SECTION 18.

This ordinance shall take effect and be in force from and after the 1st day of January 1970.

Joseph R. Rossi  
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MAYOR

Donald M. Nolfi  
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CLERK-TREASURER