

ORDINANCE NO. 6-2013

**AN ORDINANCE AMENDING IN PART AND RESTATING ORDINANCE NO. 60-2011 INVOLVING TITLE NINE, CHAPTER 181 INCOME TAX, BY ENACTING A REVISED SECTION 181.14 "ALLOCATION OF FUNDS" TO THE CODIFIED ORDINANCES OF THE VILLAGE OF LORDSTOWN AND DECLARING AN EMERGENCY.**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF LORDSTOWN, COUNTY OF TRUMBULL, STATE OF OHIO:**

**Section I:** That Chapter 181 Income Tax of the Codified Ordinances of the Village of Lordstown is hereby amended to read:

TITLE NINE - Taxation  
Chap. 181. Income Tax.  
Chap. 183. Income Tax Department.

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CHAPTER 181  
Income Tax

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| 181.01 | Purpose.   | 181.10        | Interest and penalties.                                 |
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## CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

State income tax - see Ohio R.C. Ch. 5747

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### 181.01 PURPOSE.

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

### 181.02 DEFINITIONS.

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

- (a) "Adjusted federal taxable income" means net profits from the operation of a business which may be adjusted by certain declarations and add-backs in order to determine the amount of income which is taxable by the municipality.
- (b) "Administrator" means the Village Treasurer or any employee authorized by Council to assist him or her.
- (c) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
- (d) "Board of Review" means the Board created by and constituted as provided in Section 181.13.
- (e) "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.
- (f) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (g) "Employee" means one who works for wages, salary, commission or other type of compensation in the service and under the control of an employer.
- (h) "Employer" means any individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs and has control of one or more persons on a salary, wage, commission, or other compensation basis.
- (i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.

- (j) “Forms” means all income tax returns, reports or other documents required under this chapter which may be filed on the forms promulgated by the Village of Lordstown or upon generic forms of such returns, reports or documents. The Village shall accept generic forms, if the generic forms, once completed and filed, contain all of the information required to be submitted with the Village of Lordstown’s prescribed returns, reports or documents and if the taxpayer or return preparer filing the generic form otherwise complies with the Village’s rules or ordinances governing the filing of returns, reports or documents.
- (k) “Gross receipts” means the total income from any source whatsoever.
- (l) “Internet” means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the World Wide Web.
- (m) “Net profits” means the net gain from the operation of a business, profession, or enterprise 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.
- (n) “Non-resident” means an individual domiciled outside the Village of Lordstown.
- (o) “Non-Resident Unincorporated Business Entity” means an unincorporated business entity not having an office or place of business within the Village of Lordstown.
- (p) “Pass-Through Entity” means a S corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code, except for Partnerships.
- (q) “Person” means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (r) “Place of business” means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (s) “Qualifying wages” means employee wages on which the employer must withhold as defined by Section 3121 of the Internal Revenue Code.
- (t) “Resident” means any individual domiciled in the Village of Lordstown.
- (u) “Resident Unincorporated Business Entity” means an unincorporated business entity having an office or place of business within the Village of Lordstown.
- (v) “Taxable Income” means qualifying wages and other compensation paid by an employer or employers before any deductions and/or the net profits or adjusted federal taxable income from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the chapter.
- (w) “Taxable year” means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter 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.
- (x) “Taxpayer” means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

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

### 181.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 181.17, an annual tax for the purposes specified in Section 181.01 hereof shall be imposed on and after the first day of the month following the effective date of this chapter at the rate of one percent (1%) per annum upon the following:

- (1) On all qualifying wages, sub pay, sick pay, deferred compensation plans, winnings over five thousand dollars (\$5,000) earned or derived from gaming, wagering, lotteries, or games of chance, commissions and other compensation earned during the effective period of this chapter by residents of the Village of Lordstown.
- (2) On all qualifying 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 or for the Village of Lordstown.
- (3) A. On the portion attributable to the Village of Lordstown of the net profits or adjusted federal taxable income earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in or for the Village of Lordstown.  
B. On the portion of the distributive share of the net profits or adjusted federal taxable income 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 of Lordstown and not levied against such unincorporated business entity.
- (4) A. On the portion attributable to the Village of Lordstown of the net profits or adjusted federal taxable income earned during the effective period of this chapter 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 or for the Village of Lordstown, whether or not such unincorporated business entity has an office or place of business in the Village of Lordstown.  
B. On the portion of the distributive share of the net profits or adjusted federal taxable income 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 of Lordstown and not levied against such unincorporated business entity.
- (5) On the portion attributable to the Village of Lordstown of the net profits or adjusted federal taxable income earned during the effective period of this chapter of all corporations and pass-through entities derived from sales made, work done, services performed or rendered and business or other activities conducted in or for the Village of Lordstown, whether or not such corporations have an office or place of business in the Village of Lordstown.

The tax imposed upon a pass-through entity applies to income of the pass-through entity in the hands of the entity.

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

(c) All lessors or landlords, corporate or personal, are required to report to the Lordstown Village Income Tax Office the names and addresses of lessees or tenants of any real estate, residential, commercial or industrial.

(d) All contractors or employers engaged in work within the corporate limits of the Village of Lordstown, Ohio, are required to provide the Lordstown Village Income Tax Office with a list of all the subcontractors and employees employed for jobs or construction within the Village.

(e) Consolidated Returns.

(1) Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by the Administrator.

(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, factory, office, laboratory or activity within the Village of Lordstown constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village of Lordstown. If the administrator finds net profits are not properly allocated to the Village of Lordstown 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 of Lordstown.

(3) Beginning on and after January 1, 2003, the Village of Lordstown shall accept for filing a consolidated income tax return from any affiliated group of corporations subject to the Village's tax if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

(f) On all qualifying wages or commissions earned from any employee that works for an entity that has a base from which to pick up supplies, trucks or any other equipment in the Village of Lordstown.

(g) Exceptions. The tax provided for herein shall not be levied upon:

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- (1) 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.
- (2) Beginning on and after January 1, 2001, compensation paid to an individual for personal services performed within the Village of Lordstown if:
  - (i) The individual does not reside in the Village,
  - (ii) The individual performs the personal services in the Village on twelve or fewer days in the calendar year, and
  - (iii) If the individual is an employee, the principal place of business of the individual's employer is located outside of the Village.

Subsection (g) (2) of this section does not apply to professional entertainers or professional athletes or to promoters of professional entertainment or sports events and their employees.

- (3) Beginning on and after January 1, 2003, items excluded from federal gross income pursuant to Section 107 of the Internal Revenue Code.
- (h) Beginning on and after January 1, 2004, any amount paid as deferral income to a non-qualified deferred compensation plan is taxable upon deferral; however, such amount withheld may be subject to a refund if the deferred payment is not subsequently paid to the taxpayer.
- (i) Operating Losses From a Business or Professional Activity.
  - (1) The operating losses from a business or professional activity, the profits of which would be taxable under this chapter, may not be offset against salaries, wages, commissions and other personal service compensation or against net profits from another business or professional activity.
  - (2) A husband and wife may, in any tax year, elect to file separate or joint returns. If joint returns are filed, a husband or wife may not offset losses from a business or professional activity against the husband's or wife's salaries, wages, commissions and other personal service compensation or against net profits from another business or professional activity of the husband or wife.
  - (3) Net operating losses may not be carried forward.

#### 181.04 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits or businesses, professions or other activities earned over and after the first day of the month following the effective date of this chapter and thereafter and shall remain in full force and effect unless amended or repealed hereafter.

#### 181.05 RETURN AND PAYMENT OF TAX.

- (a) Each taxpayer, over the age of eighteen and not yet retired, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 15 of the year

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following the effective date of this chapter, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by the employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such qualifying wages, commissions, or other compensation.

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

(b) The return required under this section shall be filed with the Administrator on a form setting forth:

- (1) The aggregate amounts of qualifying 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 the tax;
- (2) The amount of the tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns, or other information as the Administrator may require.

(c) For taxable years beginning after 2003, the due date is April 15<sup>th</sup> for calendar year filers, and the 15<sup>th</sup> day of the fourth month following the end of the taxable year for fiscal year filers. For tax year 2004, extensions are the end of the month following the month to which the federal date has been extended, and for tax year 2005 and later it is the last day of the month to which the federal date has been extended.

(d) The Administrator shall extend the time for filing of the annual return upon the filing of a copy of the taxpayer's request for a federal extension. The request for extension shall be filed not later than the last day for filing the municipal income tax return as prescribed by ordinance or rule of the Village of Lordstown. The 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. The Village of Lordstown may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes the Village of Lordstown any delinquent income tax or any penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing a Village of

Lordstown income tax return does not extend the last date for paying the tax without penalty unless the Village of Lordstown grants an extension of that date. 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 thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however; that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 181.06, or where any portion of the tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.07 of this chapter, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 181.15 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 the return.
- (2) A taxpayer who has overpaid the amount of tax to which the Village of Lordstown is entitled under the provisions of this chapter may have such overpayment applied against such 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 181.11 and 181.15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three months from the final determination of any Federal tax liability affecting the taxpayer's Village of Lordstown tax liability, such taxpayer shall make and file an amended Village of Lordstown return showing income subject to the Village of Lordstown 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.

#### 181.06 COLLECTION AT SOURCE.

(a) Except as provided in Subsection (d) below, each employer within or doing business within the Village, who employs one or more persons on salary, wage, commission or other compensation basis, shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent (1%) of the qualifying wages, commissions or other compensation 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 Administrator the amount of taxes so deducted, provided, however, that the employer who withholds one thousand dollars (\$1,000), or more in any one month, pursuant to this section, shall be required to remit such amount

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with the forms so prescribed, on or before the thirtieth day, following the close of the calendar month within which the tax was withheld. Such return shall be on a form or forms prescribed by, or acceptable to the Administrator and shall be subject to the rules and regulations prescribed by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

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

(c) On or before February 28, of each year each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

(d) The tax Administrator for good cause may require immediate returns and payments to be submitted to his office.

#### 181.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 181.06 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 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 Lordstown in accordance with Section 181.06 hereof, such person need not file a declaration.

(b) (1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(c) (1) Such declaration shall be filed upon a form provided, however, credit shall be taken for the Village of Lordstown tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.15 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 Lordstown shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the 15<sup>th</sup> 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 15<sup>th</sup> 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 Lordstown shall be paid therewith in accordance with the provisions of Section 181.05 hereof.

(f) Beginning January 1, 2003, taxpayers who are individuals shall remit payment of estimated taxes as prescribed in subsection (f) (1) to (4) of this section, subject to subsections (g) and (I) (1) and (2) of this section:

- (1) Not more than twenty-two and one-half percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the fifteenth day of April or the day on which the annual tax return for the prior year is required to be filed disregarding any extension, as prescribed by ordinance or rule of the Village of Lordstown;
- (2) Not more than forty-five percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the thirty-first day of July;
- (3) Not more than sixty-seven and one-half percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the thirty-first day of October;
- (4) Not more than ninety percent of the taxpayer's estimated tax liability for the previous year shall be required to have been remitted on or before the thirty-first day of January.

(g) Any amount deducted and withheld for taxes from the compensation of an individual shall be considered as estimated taxes paid in equal amounts on each of the payment dates prescribed by subsection (f) of this section.

(h) Beginning January 1, 2003, taxpayers that are not individuals shall remit payment of estimated taxes as prescribed in subsection (h) (1) to (4) of this section, subject to subsection (i) (2) of this section:

- (1) Not more than twenty-two and one-half percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the day on which the annual tax return for the prior year is required to be filed disregarding any extension or, in the case of a fiscal year taxpayer, the fifteenth day of the fourth month of the taxpayer's taxable year;

- (2) Not more than forty-five percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the fifteenth day of June or, in the case of a fiscal year taxpayer, the fifteenth day of the sixth month of the taxpayer's taxable year;
- (3) Not more than sixty-seven and one-half per cent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the fifteenth day of September or, in the case of a fiscal year taxpayer, the fifteenth day of the ninth month of the taxpayer's taxable year;
- (4) Not more than ninety percent of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the fifteenth day of December or, in the case of a fiscal year taxpayer, the fifteenth day of the twelfth month of the taxpayer's taxable year.
- (i) The Village of Lordstown shall not impose any penalty, interest, interest penalty, or other similar assessment or charge against a taxpayer for the late payment or nonpayment of estimated tax liability in any of the following circumstances:
  - (1) The taxpayer is an individual who resides in the Village of Lordstown but was not domiciled there on the first day of January of the current calendar year;
  - (2) The taxpayer has remitted, pursuant to subsection (f) or (h) of this section, an amount of at least one hundred percent of the taxpayer's tax liability for the preceding year as shown on the return filed by the taxpayer for the preceding year, provided that the return for the preceding year reflected a twelve-month period and the taxpayer filed a return for the preceding year.
  - (3) The taxpayer has remitted, pursuant to subsection (f) or (h) of this section, estimated payments equal to or greater than 90% of the taxpayer's tax liability shown on the tax return for the year for which the estimated payments were remitted.

181.08 DUTIES OF THE ADMINISTRATOR.

- (a) (1) It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.
- (2) It shall be the duty of the Administrator to enforce payment of all taxes owing the Village of Lordstown, to keep accurate records for a minimum of five 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) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the

collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due 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.

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

(e) Beginning on and after January 1, 2002, the Administrator shall make electronic versions of any rules or ordinances governing the tax available to the public through the internet, including, but not limited to, ordinances or rules governing the rate of tax; payment and withholding of taxes; filing any prescribed returns, reports, or other documents; dates for filing or paying taxes, including estimated taxes; penalties, interest, assessment, and other collection remedies; rights of taxpayers to appeal; and procedures for filing appeals.

Beginning on and after January 1, 2002, the Administrator shall make blanks of returns, reports, or documents, and any instructions pertaining thereto, available to the public electronically through the internet.

The information required to be electronically available to the public under this subsection shall be made available either by posting them on the electronic site established by the Tax Commissioner under Section 5703.49 of the Revised Code or by posting them on an electronic site established by the Village of Lordstown that is accessible through the internet. If the Village establishes such an internet site, the Village shall incorporate an electronic link between that site and the site established pursuant to Section 5703.49 of the Revised Code, and shall provide to the Tax Commissioner the uniform resource locator of the site established pursuant to this subsection.

#### 181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

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

(b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been 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 to presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.12.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter, 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 months, or both. Each disclosure shall constitute a separate offense.

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

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

#### 181.10 INTEREST AND PENALTIES.

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

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

- (1) For failure to pay taxes due - other than taxes withheld; one and one-half percent ( $1\frac{1}{2}\%$ ) per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees: five percent (5%) per month or fraction thereof.

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

(d) Upon careful consideration the Administrator may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board of Review may nevertheless abate penalty or interest, or both.

(e) A late filing fee of twenty-five dollars (\$25.00) shall be paid by any taxpayer that has not filed a return by April 15, or that has not received an approved extension by the Administrator.

#### 181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

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

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which 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 one dollar (\$1.00) shall not be collected or refunded.

#### 181.12 VIOLATIONS AND PENALTIES.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; 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 chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (5) Refuse or permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profit of a taxpayer upon order or subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator 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 a change in residence address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Village of Lordstown tax withheld, or to knowingly give the Administrator 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 chapter;
- (12) Fail to comply with Section 181.03 (b) and (c) relative to the providing of information concerning rentals and employment of personnel and subcontractors, shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both, for each offense.

(b) Prosecutions for an offense made punishable under this section or any other provision of this chapter shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

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

#### 181.13 BOARD OF REVIEW.

(a) The Board of Review, consisting of the Village Solicitor, as chairman, the Mayor and Village Clerk, 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. Such records are not public records available for inspection under Section 149.43 of the Revised Code. A hearing by the Board may be conducted and the provisions of Section 181.09 hereof, with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal. Hearings requested by a taxpayer before the Board created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Revised Code.

(b) All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective.

(c) At the time a decision is issued regarding an income tax obligation that is subject to an appeal, as provided in this section or in the ordinance or regulation, the Administrator shall notify the taxpayer of his 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 by the Administrator and who has filed the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board created pursuant to this section by filing a request with the Board. The request shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the tax Administrator issues the decision complained of.

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

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

(e) The Tax Administrator or taxpayer may appeal to the State Board of Tax Appeals and appeal any decision of the Board to the Supreme Court of Ohio, or to the Court of Appeals for Trumbull County, Ohio.

#### 181.14 ALLOCATION OF FUNDS.

(a) The revenues collected under the provisions of this chapter shall be deposited in a special fund known as the Income Tax Revenue Fund and shall be used for the following purposes and in the following order, to-wit:

- (1) First priority shall be given to the cost of collection and administration of the income tax which shall first be paid; and the remainder deposited as set forth herein; provided, however, that an unencumbered cash balance of \$1,000.00 shall be maintained at the end of each month in order to have sufficient cash flow.
- (2) **The Clerk's Office shall retain Fifty Thousand Dollars (\$50,000.00) per month or Six Hundred Thousand Dollars (\$600,000.00) annually in the Tax Refund Line of the Income Tax Fund from which income tax refunds shall be credited throughout the year until December 31 of 2013 at which time the remaining balance, if any, shall be reallocated among the accounts identified in Subsection 181.14 (a) (3).**
- (3) **Income tax revenues collected in excess of that identified in Subsection 181.14 (a) (1) and (2) shall be distributed as follows:**
  - (i) **Thirty-Five percent (35%)** of the balance of the funds collected shall be deposited in a special fund to be known as "Capital Improvements Fund" to be used as may be determined by Council to meet expenses of Capital Improvements; including improvements to streets, water facilities, building, land acquisition and improvements.
  - (ii) **Twenty-Five percent (25%)** of the balance of the funds collected shall be deposited in the "General Fund" to be used for the obligation of such fund.
  - (iii) **Five percent (5%)** of the balance of the funds collected shall be deposited in the "M & R Fund" to be used as may be determined by Council.
  - (iv) Debt Service No. 4 **thirty-five percent (35%)** (East Side Sewer) to pay debt service charges or note in bond payment on mortgage



revenue and/or general obligation bonds or notes issued for capital projects.

(b) The purpose of this section is to maintain positive balances in the three mentioned funds.

(c) The above allocation shall be in effect starting **January 1, 2013** and continue until the Council of the Village of Lordstown deems it necessary to change allocations based on the welfare of the Village.

181.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

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

(c) Beginning on and after January 1, 2003, the Village of Lordstown shall allow a credit for the tax imposed on income from a pass-through-entity to a taxpayer domiciled in the Village for taxes paid to another municipal corporation by a pass-through-entity that does not conduct business in the Village. The amount of the credit shall equal the lesser of the following amounts, subject to subsection (d) of this section:

- (1) The amount, if any, of tax paid by the pass-through-entity to another municipal corporation in this state, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity;
- (2) The amount of tax that would be imposed on the pass-through-entity by the Village of Lordstown if the pass-through-entity conducted business in the Village, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity.

(d) In the event a taxpayer erroneously pays income tax to the Village of Lordstown, and the municipality that should have received the income tax attempts to recover such tax, the municipality attempting the recovery shall allow a nonrefundable credit for the tax that is outside the statute of limitations.

(e) If the Village of Lordstown grants a credit for a percentage, less than one hundred percent, of the amount of income taxes paid on compensation by an individual who resides or is domiciled in the Village to another municipal corporation, the amount of credit otherwise required by subsection (c) of this section shall be multiplied by that percentage.

(f) A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide.

**181.16 [INTENTIONALLY LEFT BLANK].**

**181.17 SAVING CLAUSE.**

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

**181.18 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.11 and 181.12 hereof.

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

**181.19 EXEMPTIONS.**

The following income is exempt from this chapter:

- (a) Social Security and Railroad Retirement benefits;
- (b) Any pensions or private retirement benefits;
- (c) Any lump sum cash pension payments made through a "Special Attrition Plan" in conjunction with a normal and voluntary employee retirement program;
- (d) Interest on savings accounts, checking accounts or bond;
- (e) Stock dividends less than one thousand dollars (\$1,000) per year; and
- (f) Insurance proceeds or interest therefrom.

**Section II:** That this Ordinance shall be effective retroactively to **January 1, 2013**, and continue until the Council of the Village of Lordstown deems it necessary to make further revisions to this Income Tax Ordinance of the Village of Lordstown.

**Section III:** That the provisions of Ordinance No. **60-2011** which are not in conflict with this amended and restated Ordinance shall remain enforceable in accordance with their terms.

**Section IV:** That this Ordinance is hereby declared to be an emergency measure necessary for the public health, safety and welfare and for the further reason that this Ordinance must be enacted in a timely manner **in order to properly allocate income tax revenues assessed by the Village of Lordstown.**

**Section VI:** That the passage of this Ordinance and all deliberations relating to the passage of this Ordinance were held in open meetings in accordance with the provisions of Ohio Revised Code Section 121.22.

Passed in Council this 22 day of January, 2013.

  
\_\_\_\_\_, Mayor

  
\_\_\_\_\_, Clerk