

CHAPTER 880  
Earned Income Tax

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**CROSS REFERENCES**

- Power to levy income tax - see Ohio Const., Art. XVIII, Sec. 3  
Payroll deductions - see Ohio R.C. 9.42  
Municipal income taxes - see Ohio R.C. Ch. 718  
Income Tax Administrator - see ADM. Ch. 236  
Income tax rate or credit change - see CHTR. Sec. 8.01(A)
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**880.01 PURPOSE.**

To provide funds for the purposes of general Municipal operation, maintenance of equipment, extension, enlargement and improvement of Municipal services and facilities, and for capital improvements in the City, there is hereby levied a tax on all salaries, wages, commissions and other compensations and on net profits, as hereinafter provided.  
(Ord. 75-74. Passed 1-14-75.)

**880.02 DEFINITIONS.**

As used in this chapter, unless the context clearly indicates or requires a different meaning:

- (a) The singular includes the plural and the masculine includes the feminine and the neuter. (Ord. 31-96. Passed 6-11-96.)
- (aa) “Adjusted federal taxable income” means a “C” Corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute “adjusted federal taxable income” as if the pass-through entity was a “C” Corporation. This definition does not apply to any taxpayer required to file a return under Ohio R.C. (ORC) 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on and after January 1, 2004.  
(Ord. 83-2004. Passed 12-28-04.)
- (b) “Administrator” means the person or persons who may be designated by Council to act in the capacity of Administrator of the Income Tax.
- (c) “Association” means any 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 880.49.
- (e) “Business” means any 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, excluding, however, all nonprofit corporations exempted from payment of Federal Income Tax. The ordinary administration of a decedent’s estate by an executor or administrator and the mere custody, supervision and management of trust property under passive trust, whether inter vivos or testamentary, unaccompanied by the actual operation of a business as otherwise herein defined, shall not be construed as the operation of a business, but the fees collected by the trustee, custodian, executor or administrator shall be income taxable under this chapter.

- (f) “Corporation” means an organization constituted under and complying with the general corporation laws or other corporation laws of the State or a joint stock association thereunder or a corporation or joint stock association as defined by the laws of the United States of America or any other state, territory, foreign country or dependency.
- (g) “Employee” means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (h) “Employer” means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether organized for profit or not, who or which employs one or more persons on a salary, wage, commission or other basis of compensation.
- (i) “Fiscal year” means an accounting period of twelve months or less, ending on any day other than December 31. Only fiscal years accepted by the Internal Revenue Service of the United States of America for Federal Income Tax purposes may be used for the purposes of this chapter.
- (j) “Fundamental change” means any substantial alteration by an employer, including liquidation, dissolution, bankruptcy, and reorganizations such as mergers, consolidations, acquisitions, transfers or changes in identity, form or organization.
- (k) “Gross receipts” means the total income from any source.  
(Ord. 31-96. Passed 6-11-96.)
- (kk) “Intangible income” means intangible income as defined in Ohio R.C. 718.01(A)(5). (Ord. 83-2004. Passed 12-28-04.)
- (l) “Manager” means any of the employer’s officers, responsible persons, employees having control, or supervision and employees charged with the responsibility of filing the return, paying taxes and otherwise complying with this chapter.  
(Ord. 31-96. Passed 6-11-96.)
- (m) “Net profits” for taxable years prior to 2004 means the 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 chapter or of 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. For taxable years 2004 and later, net profits shall mean “adjusted federal taxable income”. (See “adjusted federal taxable income”.) (Ord. 83-2004. Passed 12-28-04.)
- (n) “Nonresident” means an individual domiciled outside the City.
- (o) “Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the City.
- (p) “Person” means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause imposing and prescribing 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.
- (q) “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.  
(Ord. 31-96. Passed 6-11-96.)

- (qq) “Qualifying wage” means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. “Qualifying wage” represents employees’ income, including non-qualified deferred compensation and stock options, from which municipal tax shall be deducted by the employer, and any wages not considered a part of “qualifying wage” shall not be taxed by the City. This definition is effective as of January 1, 2004 for taxable years 2004 and later. (Ord. 83-2004. Passed 12-28-04.)
- (r) “Resident” means individual domiciled in the City.
- (s) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the City. (Ord. 31-96. Passed 6-11-96.)
- (t) “Taxable income” means qualifying wages, salaries and other compensation paid by an employer or employers before any deduction of any kind and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter and winnings from lotteries, gaming, wagering or other schemes of chance. (Ord. 83-2004. Passed 12-28-04.)
- (u) “Taxable year” means the calendar year, or the fiscal year, upon the basis of which 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.
- (v) “Taxpayer” means a person, whether an individual, partnership, association, corporation or any other entity, required hereunder to file a return or pay a tax. (Ord. 31-96. Passed 6-11-96.)

#### 880.03 LEVY OF TAX.

An annual tax for the purposes specified in Section 880.01 shall be imposed on and after March 1, 1982, at the rate of one and one-half percent per year, upon the following:

- (a) On all salaries, wages, commissions and other compensation earned on and after March 1, 1982, by residents of the City; (Ord. 31-96. Passed 6-11-96.)
- (b) On all salaries, wages, commissions and other compensation earned on and after March 1, 1982, by nonresidents of the City for work done or services performed or rendered in the City. A nonresident individual who works in the City twelve (12) or fewer days per year shall be considered an occasional entrant, and shall not be subject to the City’s municipal income tax for those twelve days. For purposes of the twelve-day calculation, any portion of a day worked in the City shall be counted as one day worked in the City. Beginning with the thirteenth day, the employer of said individual shall begin withholding the City’s income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the City in accordance with the requirements of this chapter. Since the individual can no longer be considered to have an occasional entrant, the

employer is further required to remit taxes on income earned in the City by the individual for the first twelve days. If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the City. The twelve-day occasional entrant rule does not apply to entertainers or professional athletes, their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events. (Ord. 83-2004. Passed 12-28-04.)

- (c) On the portion attributable to the City of the net profits earned on and after March 1, 1982, of all resident unincorporated business entities or professions or other activities derived from sales made, work done, services performed or rendered and business or other activities conducted in the City;
- (d) On the portion of the distributive share of the net profits earned on and after March 1, 1982, of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City;
- (e) On the portion attributable to the City of the net profits earned on or after March 1, 1982, of all nonresident unincorporated business entities, professions or other activities derived from sales made, work done, services performed or rendered and business and other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City;
- (f) On the portion of the distributive share of the net profits earned on or after March 1, 1982, of a resident partner or owners of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City;
- (g) On the portion attributable to the City of the net profits earned on and after March 1, 1982, of all corporations, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City; and
- (h) On the portion attributable to the City pursuant to this chapter, including:
  - (1) Royalty income, which is income earned by a taxpayer from a royalty interest in the production of an oil or gas well, whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, and which shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer. Where the gross income received by a taxpayer from a royalty interest in the production of an oil or gas well in a taxable year, exceeds three thousand dollars (\$3,000), it shall be prima-facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to the tax.

- (2) The employer's income derived from finance and carrying charges associated with its consumers' accounts receivable.
- (i) On all winnings from lotteries, gaming, wagering or other schemes of chance by residents of the City on and after July 1, 1996.  
(Ord. 31-96. Passed 6-11-96.)

#### 880.04 EFFECTIVE PERIOD.

The tax provided for in this chapter 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, 1969.  
(W. V. Ord. 1968-42. Passed 10-22-68.)

#### 880.05 ALLOCATION OF TAX.

(a) Method of Determination. The portion of the entire net profits of a taxpayer conducting a business or profession both within and without the boundaries of the City to be allocated as having been derived from within the City, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

- (1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. For the purpose of this paragraph, real property includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental price thereof by eight;
- (2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever those services are performed; and
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period for sales made and services performed, wherever so made or performed.

(b) Alternate Methods. Should the above allocation formula produce an inequitable result, another basis may, under uniform regulations promulgated by the Administrator, be substituted so as to produce such result.

If the Administrator approves the use of books and records as a substitute method, the following shall apply:

- (1) The net profits allocable to the City from business, professional or other activities conducted in the City by corporations or unincorporated entities (whether resident or nonresident) may be determined from the records of the taxpayer only if the taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within the City.
- (2) If the books and records of the taxpayer are used as the basis for apportioning net profits, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to the City are apportioned with reasonable accuracy.
- (3) In determining the income allocable to the City from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the City.  
(Ord. 83-2004. Passed 12-28-04.)

**880.06 DEFINITION OF “SALES MADE IN THE CITY.”**

As used in Section 880.05(a)(3), the term “sales made in the City” means:

- (a) All sales of tangible personal property which is delivered within the City, regardless of where title passes, if shipped or delivered from a stock of goods within the City;
- (b) All sales of tangible personal property which is delivered within the City, regardless of where title passes, even though transported from a point outside the City, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion, but mere advertisements in published media shall not be deemed to be such solicitation or promotion as falls within the purview of this subsection;
- (c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City, regardless of where title passes, if the taxpayer is not, through his own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made, as the term solicitation or promotion is used in subsection (b) hereof.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.07 TOTAL ALLOCATION.**

Add together the percentages determined in accordance with Section 880.05 or such of the aforesaid percentages as are applicable to the particular taxpayer, and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the percentage business allocation referred to in Section 880.05. A factor is applicable even though it may be allocable entirely in or outside of the City.

(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.08 RENTAL INCOME .**

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 880.03(c) to (g), 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 a taxpayer individually or through agents or other representatives, constitutes a business activity 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 two hundred fifty dollars (\$250.00) 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 the tax. However, in the 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 two hundred fifty dollars (\$250.00) per month. In the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the



gross or net receipts derived from the farm, whether or not such gross income exceeds two hundred fifty dollars (\$250.00) per month, and the same shall be true of greenhouse property. The person who operates a licensed rooming house shall be considered in the business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.

Property owners who are considered to have a business activity under the provisions of this section shall submit or cause to be submitted to the Administrator a list of names, addresses and tax identification numbers of all persons, firms, corporations or other entities occupying, leasing or renting any premises belonging to the property owner within the Municipality. The required list shall be prepared as of December 31 of each year and submitted on or before January 31 of the following year. In addition to the annual filing requirement stated herein, any changes to the information contained in the list as filed with the Administrator shall be reported by way of a supplemental filing within thirty days after such change occurs.  
(Ord. 85-94. Passed 7-14-94.)

#### 880.09 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained subsequent to January 1, 1969, in any taxable year, if allocable to the City, may be applied against the portion of the profit of succeeding tax years allocable to the City until exhausted, but in no event for more than five years immediately following the taxable year in which the loss occurred. No portion of a net operating loss shall be carried back against the net profits of any prior year.

(b) The portion of a net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.10 EXEMPTIONS; SOURCES OF INCOME NOT TAXED .**

The tax provided by this chapter shall not be levied on the following:

- (a) The pay or allowance of active members of the Armed Forces of the United States of America or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities;
- (b) Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations;
- (c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived;
- (d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations;
- (e) Alimony received;
- (f) Personal earnings of any natural person under eighteen years of age;
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise;
- (h) Interest, dividends and other revenue from intangible property;

- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business);
- (j) Salaries, wages, commission and other compensation and net profits, the taxation of which is prohibited by the Constitution of the United States or any act of Congress limiting the power of states or their political subdivisions to impose net income taxes on income derived from interstate commerce; or
- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes. (W. V. Ord. 1968-42. Passed 10-22-68.)
- (l) Parsonage allowance to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. The ordained minister must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church. (Ord. 83-2004. Passed 12-28-04.)

#### 880.11 DATE OF RETURNS.

Each taxpayer, except as provided in this section, shall, whether or not a tax is due thereon, make and file a return on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. Any person who has no income need not file an annual return. Any person who has exempt income must file a return and declare to the Administrator the nature or his or her exemption. Any person who has taxable income must file a tax return with the Administrator. (Ord. 104-84. Passed 9-25-84.)

#### 880.12 FORM AND CONTENT OF RETURN.

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

- (a) 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 such tax;
- (b) The amount of the tax imposed by this chapter on such earnings and profits; and
- (c) Such other pertinent statements, information, returns or other information as the Administrator may require.

Generic forms as defined and allowed by the Ohio Revised Code shall be acceptable. (Ord. 83-2004. Passed 12-28-04.)

#### 880.13 EXTENSION OF TIME FOR FILING RETURNS.

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon, by the date 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.

The extension request may be made by filing a copy of the taxpayer's request for a federal filing extension, or by filing a written request. The Administrator may deny the extension if the taxpayer's income tax account with the City is delinquent in any way. (W. V. Ord. 1968-42. Passed 10-22-68; Ord. 83-2004. Passed 12-28-04.)

**880.14 CONSOLIDATED RETURNS.**

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

(b) 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 City, 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 City. If the Administrator finds that net profits are not properly allocated to the City 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 City.  
(W. V. Ord. 1968-42. Passed 10-22-68.)

(c) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the City. However, once the affiliated group has elected to file a consolidated return or a separate return with the City, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the City.  
(Ord. 83-2004. Passed 12-28-04.)

**880.15 AMENDED RETURNS.**

(a) 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, limitations, or both, contained in Sections 880.31 to 880.35, inclusive. Such amended return 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.

(b) Within three months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended return showing income subject to the City tax based upon such final determination of Federal tax liability and pay any additional amount of tax due thereon or make claim for refund of any overpayment.  
(W. V. Ord. 1968-42. Passed 10-22-68.)

**880.16 PAYMENT OF TAX ON FILING RETURN.**

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon. However, where any portion of the tax so due has been deducted at the source pursuant to Section 880.17, or where any portion of such tax has been paid by the taxpayer pursuant to Section 880.18, or where an income tax has been paid on the same income to another Municipality, credit for the amount so deducted or paid, or credit to the extent provided for in Section 880.34, 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.

(b) A taxpayer who has overpaid the amount of tax to which this City is entitled under this chapter may have such overpayment applied against any subsequent liability hereunder or, at his or her 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.

(c) If an employer who is liable for tax obligations imposed by this chapter undergoes a fundamental change, then the employer and its manager shall be liable for taxes due up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. Any successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalty which the predecessor employer owes pursuant to this chapter. The successor employer shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amounts, then the successor and, in a personal manner, the successor's manager, shall be jointly and severally liable for the payment of such taxes, interest and penalty.  
(Ord. 104-84. Passed 9-25-84.)

#### 880.17 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City, shall deduct, at the time of the payment of a salary, wage, commission or other compensation, the tax of one and one-half percent per year of the gross salary, wages, commission or other compensation due by that employer to the employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by an employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefore by the Administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax has, in fact, been withheld.

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

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him or her exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter.

- (e) Every manager's obligations shall be as follows:
- (1) Every manager is deemed to be a trustee of the City in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to the City for payment of such trust, whether or not actually collected by the employer. Any tax deducted and withheld shall be considered paid to the City, whether or not the employer actually remits the tax to the City, for purposes of determining employee payments or credits.
  - (2) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax interest and penalty as required by this chapter.
  - (3) No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employees' or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.  
(Ord. 104-84. Passed 9-25-84.)

#### 880.18 DECLARATION OF ESTIMATED INCOME.

Except as otherwise provided in this section, every person who anticipates any taxable income which is not subject to Section 880.17, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 880.03, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon if any. However, if a person's income is wholly from wages from which the tax will be withheld and remitted to the City in accordance with Section 880.17, such person need not file a declaration. If the estimated tax for the current year, less the tax to be withheld and less the tax credit allowed in Sections 880.34 and 880.35 amounts to not more than ten dollars (\$10.00), no declaration or payment of estimated tax is required.  
(Ord. 80-73. Passed 12-11-73.)

#### 880.19 FILING OF DECLARATION.

(a) Effective January 1, 2003, the declaration of estimated tax to be paid to the City by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth of the declaration amount and at least a similar amount shall be paid on or before July 31<sup>st</sup> and October 31<sup>st</sup> of the taxable year and January 31<sup>st</sup>, of the following year.

Effective January 1, 2003, such declaration of estimated tax to be paid to the City by corporations and associations shall be accompanied by a payment of at least one-fourth of the declaration amount and at least a similar amount shall be paid on or before June 15<sup>th</sup>, September 15<sup>th</sup> and December 15<sup>th</sup>. In the case of a fiscal year, the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth and twelfth months of the taxable year, respectively.

(b) Taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or other period.  
(Ord. 83-2004. Passed 12-28-04.)

**880.20 FORM OF DECLARATION.**

(a) The declaration of estimated income required by Section 880.18 shall be filed upon a form furnished by or obtainable from the Administrator. However, credit shall be taken for City tax to be withheld from such income under the provisions of Section 880.17. In accordance with the provisions of Sections 880.34 and 880.35 credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

(b) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment date as provided for in this chapter. (W. V. Ord. 1968-42. Passed 10-22-68.)

**880.21 PAYMENT ACCOMPANYING DECLARATION.**

The declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax payable, and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. However, 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. (Ord. 80-73. Passed 12-11-73.)

**880.22 ANNUAL RETURN.**

On or before April 15th of the year following that for which such declaration of estimated income was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 880.16. (Ord. 83-2004. Passed 12-28-04.)

**880.23 EXTENSION OF TIME.**

The Administrator may extend the time for filing any return required, making any payment or performing any other act which is required by the provisions of Sections 880.16 to 880.22, inclusive, for a period of not more than six months beyond the original required date. (W. V. Ord. 1968-42. Passed 10-22-68.)

**880.24 INTEREST ON UNPAID TAX.**

All taxes imposed and all monies withheld are 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 1.5 percent per month. (Ord. 31-96. Passed 6-11-96.)

**880.25 PENALTIES ON UNPAID TAX.**

In addition to the interest that is provided in Section 880.24, penalties based on the unpaid tax are hereby imposed as follows:

- (a) For failure by any person to pay taxes due, other than taxes withheld by employers, a penalty of 1.5 percent per month, but not less than twenty-five dollars (\$25.00) for the first offense, fifty dollars (\$50.00) for the second offense and one hundred dollars (\$100.00) for each offense thereafter; and
- (b) For failure to remit taxes withheld from employees when due, a penalty of ten percent per month or fraction thereof, but the accumulated penalty shall not exceed fifty percent upon any unpaid amount and shall not be less than twenty-five dollars (\$25.00).

- (c) For failure or neglect to file any return or declaration required by this chapter, there shall be assessed a penalty in the amount of twenty-five dollars (\$25.00) for the first offense, fifty dollars (\$50.00) for the second offense and one hundred dollars (\$100.00) for each subsequent offense, provided, however, that this subsection shall not be applied to any offense which occurs prior to the effective date of this section.  
(Ord. 26-2004. Passed 5-11-04.)

#### 880.26 EXCEPTIONS.

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

No penalties or interest shall be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period, or if ninety percent of the actual liability has been received. (W. V. Ord. 1968-42. Passed 10-22-68; Ord. 83-2004. Passed 12-28-04.)

#### 880.27 ABATEMENT OF INTEREST AND PENALTY.

The Administrator or the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown.  
(Res. 63-92. Passed 10-13-92.)

#### 880.28 VIOLATIONS.

No person shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (b) Make any incomplete, false or fraudulent return;
- (c) Intentionally or willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator when required to do so;
- (e) Refuse to permit the Administrator, or any duly authorized agent or employee, to examine his books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (f) Fail to appear before the Administrator and to produce his books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (i) 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;
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld, or knowingly give the Administrator false information; or
- (k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.  
(Ord. 104-84. Passed 9-25-84.)



**880.29 LIMITATION ON PROSECUTION.**

All prosecutions for violations of any of the provisions of this chapter shall be commenced within the time provided by Ohio R. C. 718.06.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.30 FAILURE TO PROCURE FORMS BARRED AS EXCUSE.**

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, nor from filing such form, nor from paying the tax.  
(W.V. Ord. 1968 42. Passed 10-22-68.)

**880.31 COLLECTION PROCEDURES; UNPAID TAXES TREATED AS OTHER DEBTS.**

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount would be recoverable at law. Except in the case of fraud, of omission of a substantial portion of income subject to this chapter and tax, or of failure to file a return, additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal Statute of Limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of final determination of the Federal tax liability. Further, the Administrator may, in cases in which three years have passed from the time the return was due, waive the reactivation of the three-year statute of limitations in case of voluntary filing of a return after such three-year period by the taxpayer.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.32 REFUNDS OF TAXES ERRONEOUSLY PAID.**

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made, or the return was originally due, whichever is later, or within three months after the final determination of the Federal tax liability, whichever is later.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.33 COLLECTION; REFUND OF AMOUNTS OF LESS THAN ONE DOLLAR.**

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

(b) In any tax return or form filed in compliance with this chapter, the taxpayer may, at his option, round off all sums to the nearest dollar, with items of fifty cents (50¢) or less being calculated as the next lower even dollar and fifty-one cents (51¢) being calculated as the next higher even dollar.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.34 RESIDENT SUBJECT TO TAX ELSEWHERE.**

(a) When the taxable income of a resident of the Municipality is subject to the municipal income tax of another municipality, or of a joint economic development district created pursuant to Ohio R.C. 715.70, as the same exists or may hereafter be amended, on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality or joint economic development district equal to one-third of this Municipality's tax rate. As used in this section, "taxable income" includes the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) If a City resident is entitled to credit for taxes paid in another municipality or joint economic development district, such resident is required to file a return on such forms and in such manner as the Administrator may prescribe. If such resident fails, neglects or refuses to file such return or form as is prescribed by the Administrator, he or she shall not be entitled to such credit and shall be considered to be in violation of this chapter for failure to file a return and make payment of taxes when due hereunder.

(c) Such tax credit shall be amended only by a majority vote of a general election.  
(Ord. 55-95. Passed 7-10-95.)

(EDITOR'S NOTE: The foregoing section was interpreted by the Director of Law of the City to effect a fifty percent (50%) tax credit. See the Law Director's Opinion dated May 18, 1989.)

**880.35 CLAIM FOR CREDIT.**

Any claim for credit for income taxes paid to another municipality or to a joint economic development district created pursuant to Ohio R.C. 715.70, as the same exists or may be hereafter amended, on the same income taxable hereunder, or claim for or assignment of any refund due to the credit provided for herein, must be filed with the Administrator on or before December 31 of the year following that for which such credit is claimed. However, when such claim for reciprocity refund is assigned to the municipality of residence, such municipality of residence shall file a claim for refund with the Administrator of the City on or before January 31 following. Failure to file such claim for reciprocity credit or refund, or assignment thereof, within the time prescribed herein shall render such credit, claim for refund or assignment null and void.  
(Ord. 55-95. Passed 7-10-95.)

**880.36 DISBURSEMENT OF RECEIPTS OF TAX.**

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) Such part thereof as is necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(W.V. Ord. 1968-42. Passed 10-22-68.)

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund, except that ten percent of such balance shall be deposited annually in the Capital Improvement Fund for the General Improvements Fund, and two percent of such balance shall be deposited annually in the Capital Improvement Fund for the purchase of service equipment only.

(Ord. 49-90. Passed 5-8-90.)

**880.37 DUTY OF ADMINISTRATOR TO RECEIVE TAX, KEEP RECORDS.**

It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein upon payment by the taxpayers, and to keep an accurate record of such receipts and to report all moneys so received.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.38 DUTY OF ADMINISTRATOR TO ENFORCE COLLECTION.**

The Administrator shall enforce payment of the taxes owing to the City and keep adequate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and shall show the dates and amounts of payments thereof.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.39 AUTHORITY OF ADMINISTRATOR TO MAKE AND ENFORCE REGULATIONS.**

The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby authorized, subject to the approval of the Board of Review, to adopt, promulgate and 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.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.40 AUTHORITY OF ADMINISTRATOR TO ARRANGE INSTALLMENT PAYMENTS.**

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

(b) Failure to make any deferred payments when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 880.28 and 880.31 shall apply.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.41 AUTHORITY OF ADMINISTRATOR TO DETERMINE AMOUNT DUE.**

(a) Preparation of Return. If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefor, but consents to disclose all information necessary to the preparation thereof, then the Administrator may prepare such return which, after being signed by such person, may be received by the Administrator as the return of such person.

(b) Execution of Return. If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefor, or makes, willfully or otherwise, a false or fraudulent return, then the Administrator shall make in a reasonable manner such return from his or her own knowledge and from such information as he or she can obtain through testimony or otherwise.

(c) Assessment of Taxpayer. The Administrator may calculate and assess any taxpayer for the amount of tax, penalty and interest which is imposed by this chapter and which is due and owing. Such assessment shall be made by the Administrator issuing summary records to the last known address of the taxpayer of the assessment. This summary shall include the identification of the taxpayer, the character of the liability assessed, the taxation period and the amount of the assessment.

(d) Status of Executed Returns and Assessments. Any return executed by or any assessment made by the Administrator pursuant to this chapter shall be prima-facie good and sufficient for all legal purposes. The Administrator may execute supplemental tax returns and may issue supplemental assessments whenever the Administrator has knowledge derived from any source, including the taxpayer's financial data that any executed tax return or assessment is imperfect or incomplete in any material respect.

(e) Limitation of Prosecutions. Neither the Administrator's execution of a return nor the Administrator's assessment of a taxpayer shall start the running of the period of limitations on prosecutions set forth elsewhere in this chapter.  
(Ord. 104-84. Passed 9-25-84.)

#### 880.42 AUTHORITY OF ADMINISTRATOR TO INVESTIGATE.

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

(W.V. Ord. 1968-42. Passed 10-22-68.)

#### 880.43 AUTHORITY OF ADMINISTRATOR TO COMPEL PRODUCTION OF RECORDS.

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts relating to tax due under this chapter 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 and 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.

(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.44 REFUSAL TO PRODUCE RECORDS.**

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 or presumed to be subject to the tax, or by any officer, agent or employee of a person subject to the tax or presumed to be subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter and shall be punishable in accordance with Section 880.99. (W. V. Ord. 1968-42. Passed 10-22-68.)

**880.45 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.**

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. No person shall divulge such information. (W. V. Ord. 1968-42. Passed 10-22-68.)

**880.46 TAXPAYER REQUIRED TO RETAIN RECORDS.**

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date of his return, or the date on which withholding taxes are paid. Failure to comply with this section shall result in the determination of tax by the Administrator being conclusive, so long as such determination is made to the best of the Administrator's good faith ability under the circumstances. (W. V. Ord. 1968-42. Passed 10-22-68.)

**880.47 AUTHORITY TO CONTRACT FOR SERVICES OF THE CENTRAL COLLECTION AGENCY.**

The Administrator may and is hereby authorized and directed to enter into an agreement on behalf of the City with any other municipal corporation or other political subdivision of the State for the purpose of administering the income tax laws of the City as its agent and of providing a central collection facility for the collection of income tax on behalf of the City, but such agreement shall be subject to approval by the Law Director. (Ord. 83-71. Passed 12-22-71.)

**880.48 ASSIGNMENT OF DUTIES; AUTHORITY OF THE ADMINISTRATOR.**

In the event the Administrator, on behalf of the City, enters into an agreement with any other municipal corporation or other political subdivision of the State to act as agent of the City for the purpose of administering the income tax provided for by this chapter, and of providing a central facility for the collection of the income tax, as provided in Section 880.47, then all or a part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation or political subdivision. (W. V. Ord. 1968-42. Passed 10-22-68.)

**880.49 BOARD OF REVIEW.**

(a) A Board of Review, consisting of the President of Council, the Law Director and one other member of Council, appointed by the Mayor, is hereby created. The term of office of the member appointed by the Mayor shall be one year and such appointment shall take effect on January 1, except that the first appointment shall be made by the Mayor and shall take effect immediately upon the effective date of this chapter, and except that the Mayor shall from time to time fill any vacancy which may occur and such interim appointment, which shall be for the remainder of the unexpired term, shall take effect when made.

(b) The Board shall select the President of Council to be its Chairman and the other member of Council shall be its Secretary. A majority of the members of the Board shall constitute a quorum and a majority vote of the quorum shall be necessary to act on any matter. No member shall abstain from voting unless he disqualifies himself from any discussion and counsel due to the possibility of a conflict of interest, in which case he shall not be counted as present at the meeting for the purpose of the matter on which the vote is taken.

(c) The Board shall adopt its own procedural rules and shall keep a record of the transactions. Any hearing by the Board may be conducted privately and the provisions of Section 880.45 with reference to the confidential character of the information shall apply to such matters as may be heard before the Board on appeal.  
(W. V. Ord. 1968-42. Passed 10-22-68.)

#### 880.50 DUTY TO APPROVE REGULATIONS AND HEAR APPEALS.

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. The Board shall hear and pass on appeals from any ruling or decision of the Administrator and, at the request of the taxpayer or the Administrator, is authorized to substitute alternate methods of allocation.  
(W. V. Ord. 1968-42. Passed 10-22-68.)

#### 880.51 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review by filing written notice of such appeal with the Board within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing within forty-five days, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof. Any person filing an appeal pursuant to this section must have filed with the City the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. Such hearing shall be scheduled within forty-five days from the date of appeal. The Board ruling must be made within thirty days from the date of the closing of the record, shall be in writing and filed with the Administrator, and within fifteen days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Review/Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.  
(Ord. 83-2004. Passed 12-28-04.)

#### 880.52 SEPARABILITY.

If any sentence, clause, section or other 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 sentence, clause, section or other part of this chapter and shall not affect or impair any of the remainder of this chapter. It is hereby declared to be the legislative intent of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or other part had not been included herein.  
(W. V. Ord. 1968-42. Passed 10-22-68.)

**880.53 EFFECTIVE PERIOD.**

The tax provided for under this chapter shall continue to be levied in each and every year until this chapter is repealed and, unless otherwise specified in any future repeal ordinance, all taxes due hereunder at the time of repeal or which would have been due at the next filing or reporting date had the chapter not been repealed, due to the fact that the income on which such tax was levied was earned prior to repeal, shall be collected in the manner provided for in this chapter as though this chapter were continuing in full force and effect.  
(W.V. Ord. 1968-42. Passed 10-22-68.)

**880.99 PENALTY.**

(a) Whoever violates any of the provisions of this chapter for which no penalty is otherwise provided shall be fined not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) for each offense.

(b) Whoever violates Section 880.45 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City who violates the provisions of Section 880.45 relative to the disclosure of information of a confidential nature shall be guilty of an offense punishable by immediate dismissal.  
(W. V. Ord. 1968-42. Passed 10-22-68.)

(c) Whoever violates any of the provisions of Section 880.28 is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.  
(Ord. 104-84. Passed 9-25-84.)