

ORDINANCE 15-54E

**AN ORDINANCE ESTABLISHING CHAPTER 881, INCOME TAX EFFECTIVE FOR
TAX YEARS BEGINNING JANUARY 1, 2016 AND BEYOND, OF THE
CITY OF NEW CARLISLE CODIFIED ORDINANCES, AND DECLARED AN EMERGENCY**

WHEREAS, due to House Bill 5 and ORC 718 changes effective January 1, 2016; and

WHEREAS, current Chapter 880 does not meet the requirements of ORC 718 effective January 1, 2016;
and

NOW, THEREFORE, THE CITY OF NEW CARLISLE, OH HEREBY ORDAINS as follows:

Section 1. Chapter 881: Income Tax shall be added as follows for tax years beginning 2016:

**CHAPTER 881: INCOME TAX
IN EFFECT FOR TAX YEARS 2016 AND BEYOND**

881.01 PURPOSE; LEVY OF TAX.

(a) To provide funds for the purposes of capital improvements, general municipal operations, maintenance, new equipment, police expenses, extension and enlargement of municipal services and facilities of the city, there shall be and is hereby levied an annual tax levied on every person residing in or earning or receiving municipal taxable income in the City of New Carlisle. "Person" includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(b) This tax is levied in accordance with Ohio Revised Code Chapter 718 in accordance with the provisions and limitations of Ohio Revised Code Chapter 718. These ordinances are adopted with the intent to conform to Ohio Revised Code Chapter 718 and all other Ohio Revised Codes that govern municipal tax matters in effect January 1, 2016.

(c) New Carlisle's Chapter 881 is in effect for all returns and payments due for tax year 2016 and beyond.

(d) New Carlisle's Chapter 880 is in effect for all returns and payments due for tax years prior to 2016.

881.02 IMPOSITION OF DIRECT TAX.

The annual tax for the purposes specified in § 881.01 shall be imposed on and after January 1, 2016 for tax year 2016 and beyond, at the rate of one and one-half percent (1.50%) per annum on taxable income for every person residing in or earning or receiving income in the City of New Carlisle and that the tax shall be measured by municipal taxable income as defined in the Ohio Revised Code Chapter 718. This is a continuation of the tax rate in effect July 1, 2015 in New Carlisle Chapter 880.

881.03 IMPOSITION OF WITHHOLDING TAX.

Subject to the provisions of § 880.13, each employer shall, at the time of payment of any taxable income specified under "Withholding Accounts – Duty of Withholding" (Article VIII) of the Income Tax Rules and Regulations effective January 1, 2016, deduct the tax of one and one-half percent (1.50%), commencing January 1, 2016, of the qualifying wages due by such employer to his or her employees who are subject to the provisions of this chapter. Each employer shall make returns and pay to the City of New Carlisle Income Tax Division, the tax withheld in accordance with "Withholding Accounts – Filing and payment requirements/deadlines for withholding businesses" (Article VIII) of the Income Tax Rules and Regulations effective January 1, 2016. This is a continuation of the tax rate in effect July 1, 2015 in New Carlisle Chapter 880.

881.04 MUNICIPAL TAXABLE INCOME.

(a) For a taxpayer other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the City of New Carlisle under Section 718.02 of the Ohio Revised Code. Loss carryforwards for tax years prior to 2018 are permitted at 100% while loss carryforwards for tax years 2018 and beyond will follow ORC 718 and are covered in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016.

(b) For an individual who is a resident of the City of New Carlisle, income reduced by income exempted, and increased by deductions excluded. Exempt income and deductions excluded are covered in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016. Loss carryforwards for tax years prior to 2018 are permitted at 100% while loss carryforwards for tax years 2018 and beyond will follow ORC 718 and are covered in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016.

(c) For an individual who is a non-resident of the City of New Carlisle, income reduced by exempt income to the extent otherwise included in the income and then, as applicable, apportioned situated to the City of New Carlisle under Section 718.02 of the Ohio Revised Code. Loss carryforwards for tax years prior to 2018 are permitted at 100% while loss carryforwards for tax years 2018 and beyond will follow ORC 718 and are covered in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016.

(d) In computing the City of New Carlisle taxable income of a taxpayer who is an individual, the taxpayer may subtract 2106 expenses if the appropriate documentation is provided and the allowable deduction is reduced by 2% of the total City taxable income. 2106 deductions are covered in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016.

881.05 EFFECTIVE PERIOD.

(a) The tax imposed by this chapter shall be levied, collected and paid with respect to the municipal taxable income earned and received commencing January 1, 2016.

(b) Where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the annual net profits for the fiscal year as shall be earned and accrued or received on and after January 1, 2016.

881.06 RETURN AND PAYMENT OF TAX.

(a) On or before the date prescribed by ORC 718, every person and business entity subject to City of New Carlisle income tax shall, except as provided in the exceptions below, make and file with the Income Tax Division an annual return on the form provided by the City of New Carlisle or a generic city income tax form whether or not tax is due. This process is known as mandatory filing. Additional rules related to the forms and other documentation required to be filed are included in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016.

(b) Withholding employers (in addition to any return required to be filed with respect to their own earnings or net profits) shall, on or before the fifteenth (15th) day of the month next following each withholding period, make a return and pay, to City of New Carlisle Income Tax Division, the full amount of the tax so deducted or withheld with respect to qualifying wages paid all of their employees subject to the tax under the Ordinance. Additional rules related to form and payment deadlines are included in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016.

881.07 TAXPAYER'S RIGHTS AND RESPONSIBILITIES.

"Taxpayer's rights and responsibilities" means the rights provided to taxpayers in the Ohio Revised Code sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 5717.011 and 5717.03 and the responsibilities of taxpayers to file, report, withhold, remit and pay City of New Carlisle income taxes and otherwise comply with Ohio Revised Code Chapter 718, New Carlisle Ordinances and the New Carlisle Income Tax Rules and Regulations. The New Carlisle Income Tax Rules and Regulations effective January 1, 2016 define the delinquent processes for both direct and withholding accounts along with the process for taxpayers to protest or appeal any decision of the tax administrator.

881.08 INTEREST AND PENALTIES.

(a) Interest for unpaid balances shall be applied as required by ORC 718 and as stated in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016.

(b) Penalties for underpayment of estimated taxes, non-filing, and non-payment shall be applied as required by ORC 718 and as outlined in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016.

881.09 COLLECTION OF UNPAID TAXES; REFUND OF OVERPAYMENTS.

(a) Collection of unpaid sums will follow the rules defined in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016.

(b) Refunds of overpayments will follow the rules defined in the New Carlisle Income Tax Rules and Regulations effective January 1, 2016. Where the total amount due or refund claimed for a tax year is less than ten dollars (\$10.00), such amount shall not be collected or refunded.

881.10 VIOLATIONS; STATUTE OF LIMITATIONS.

Actions upon violations of Ohio Revised Code 718 or the New Carlisle Ordinances or the New Carlisle Income Tax Rules and Regulations will be made in accordance with the limitations imposed under Ohio Revised Code Section 718.12. The New Carlisle Income Tax Rules and Regulations effective January 1, 2016 define the delinquent processes for both direct and withholding tax accounts along with the penalties for non-compliance.

881.11 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be allocated in such manner as prescribed by ordinances and policies adopted by the City Council.

881.12 LOCAL BOARD OF TAX REVIEW

The legislative authority of the City of New Carlisle shall maintain a Local Board of Tax Review to hear appeals as provided in ORC 718.11. The Board shall consist of three members. Two members shall be appointed by the legislative authority but such appointees may not be employees, elected officials or contractors with the City of New Carlisle at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the City Manager of the City of New Carlisle. This member may be an employee of the City of New Carlisle but may not be the Director of Finance or equivalent officer, or the Tax Administrator or other similar official, or an employee directly involved in municipal tax matters or any direct subordinate thereof. The requirements for this Board are outlined in Article XV of the New Carlisle Income Tax Rules and Regulations.

881.13 CREDITS FOR TAXES PAID TO ANOTHER MUNICIPALITY OR JOINT ECONOMIC DEVELOPMENT DISTRICT.

The City of New Carlisle does not allow credits for taxes paid to any other municipality to be used to offset tax due to New Carlisle.

881.14 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective, insofar as the levy of taxes and 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, until all of such 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 have been fully terminated, subject to the limitations contained in § 881.09 and § 881.10.

(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 ORC 718 as though the same were continuing.

881.15 RULES AND REGULATIONS.

The provisions of the rules and regulations referred to in this chapter, known officially as the New Carlisle Income Tax Rules and Regulations, effective January 1, 2016, are hereby approved, adopted and incorporated herein by reference and made a part of this chapter along with any supplements or amendments thereto hereafter approved by the City Council by motion. The tax administrator is directed to carry out the administration of his or her office in conformity with the provisions of this chapter, Ohio Revised Code Chapter 718 and the New Carlisle Income Tax Rules and Regulations.

881.16 SEPARABILITY.

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, invalid or not permissible under Ohio Revised Code Chapter 718 effective January 1, 2016, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this chapter and shall not affect or impair any of the remaining sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the City Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

881.17 PENALTY.

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both, for each offense.

(b) The refusal to produce books, papers, records and copies of federal income tax returns, or the refusal to submit to such examination, by any employer or person subject or presumed to be subject to the tax, or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Income Tax Division authorized hereby, shall be deemed to be in violation of this chapter guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six months, or both, for each offense. Each disclosure shall constitute a separate offense.

Section 2. This ordinance shall take effect and be in force from and after January 1, 2016 for tax years 2016 and beyond.

Passed this 7th day of December, 2015


Lowell McGlothlin, Mayor


Gene Collier, Clerk of Council

APPROVED AS TO FORM:


Lynette Dinkler, Director of Law