

CODIFIED ORDINANCES OF CAREY OHIO

Local legislation current through January 6, 2020

State legislation current through July 30, 2019

CERTIFICATION

We, Jennifer Rathburn, Mayor and Laura Ewing, Fiscal Officer of Carey, Ohio, pursuant to Ohio Revised Code 731.23 and 731.42, hereby certify that the general and permanent ordinances of the Village of Carey, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of Carey, Ohio, 1979, as amended to January 6, 2020.

/s/ Jennifer Rathburn
Mayor

/s/ Laura Ewing
Fiscal Officer

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CAREY, OHIO
ROSTER OF OFFICIALS
(2020)

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Nathan Curtis	Assistant Village Administrator
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Chad Snyder	Fire Chief

The publisher
expresses his appreciation
to

LAURA EWING
Fiscal Officer

and all other Village officials
who gave their time and counsel
to this codification

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EDITOR'S NOTE

The arrangement and numbering of the Codified Ordinances into component codes, titles, chapters and sections are based on an adaptation of the decimal numbering system which is similar to that used in the Ohio Revised Code, and in accord with the best accepted practice in instituting a codification. Each section is self-identifying as to code, chapter and section number. For example, 305.06 indicates that the code number is 3, the chapter number is 305 (or the 5th chapter within code 3), and the section number is .06. The code and chapter numbers appear left of the decimal, with the code number preceding the first two digits left of the decimal, and the chapter number being all digits left of the decimal. The section number appears right of the decimal. As another example, 113.10 indicates the code number is 1, the chapter number is 113 (or the 13th chapter within code 1), and the section number is .10.

This numbering system has the advantage of inherent flexibility in allowing for an almost endless amount of expansion. Codes, titles and chapters initially are odd-numbered, thus reserving the use of even numbers for future legislation. Sections within chapters are consecutively numbered, except that penalty provisions are usually assigned the number .99 as used in the Revised Code. Newly created sections subsequent to the original codification may be indicated by three digits right of the decimal in the event the law properly belongs between two consecutively numbered sections. For example, newly created 575.061, 575.062 and 575.063 follow 575.06 and precede 575.07 to be placed in their logical position.

Section histories enable a user to trace the origin of the law contained in the section. The history indicates the derivation by reference to either its passage date and the ordinance number originally assigned to it at that time, or to its inclusion in any prior code. Sections without histories indicate that the section contains new matter which was ordained by the Adopting Ordinance which enacts the Codified Ordinances.

The Comparative Section Table is included to show the disposition of every ordinance included in the Codified Ordinances. It indicates whether a given ordinance was consolidated with another into one section or split into two or more sections. Cross references direct the user to subject matter reasonably related to material contained within a given chapter.

GENERAL INDEX

EDITOR'S NOTE: References are to individual code sections. As additional aids for locating material, users are directed to:

- (a) The Comparative Section Table, which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.
 - (b) The Table of Contents preceding each component code, and the sectional analysis preceding each chapter.
 - (c) The cross references to related material following the chapter analysis.
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EDITOR'S NOTE: Source material for the Codified Ordinances of Carey was either ordinances or resolutions enacted by Council, or new matter ordained by the Adopting Ordinance. Sections of the Codified Ordinances without any history indicate that such sections contain new matter ordained by the Adopting Ordinance. In the following table, the disposition of all source material in the Carey Codified Ordinances is indicated.

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2000-7	8-21-00	557.01, 557.02, 557.99	2002-8	8-19-02	121.01
2000-10	10-16-00	149.09(a)	2003-5	4-21-03	301.20, 301.51, 331.24, 333.01,
2000-12	11-6-00	921.10			371.12, 371.99, 501.01, 501.99,
2000-14	11-20-00	940.01, 940.02			505.04, 505.071, 509.06, 509.07,
2000-18	12-18-00	1317.01 to 1317.07, 1317.99			513.01, 517.01, 517.02, 517.04 to 517.14, 525.05, 525.08, 529.01,
2000-21	12-18-00	181.10(a) to (c), repeals 181.99(d)			529.02, 529.021, 529.07, 529.08,
2001-5	3-19-01	303.082, 303.083, 333.01, 333.99, 335.09, 337.02, 337.18, 337.24, 337.31, 339.03, 375.03, 501.07, 501.09, 505.13, 513.08, 513.12, 525.03, 525.07, 525.12, 525.16, 529.07, 533.03, 533.05, 533.06, 537.03, 537.05, 537.051, 537.06, 537.07, 537.16, 537.17, 553.01, 553.011, 1519.02, 1519.03	2003-15	12-1-03	149.13
			2003-16	12-1-03	133.02
			2003-18	12-1-03	Traffic Code
			2004-6	5-3-04	181.03(a)(4)C.
			2004-8	4-19-04	333.03, 513.02 to 513.08, 513.12, 529.021, 529.04, 529.07, 533.01, 533.02, 533.09, 533.11, 537.02, 537.03, 537.051,
2001-9	4-16-01	933.04, 933.06(a) (8)			537.07, 537.09, 537.14, 537.15,
2001-15	10-1-01	521.11(b)			537.18, 541.05,
2001-16	10-1-01	1317.99			549.01, 549.02,
2001-26	1-21-02	505.14			549.04, 549.09
2002-4	3-18-02	301.20, 335.08, 375.08, 501.06, 509.03, 509.05,	2004-11	6-21-04	149.06
			2004-17	8-16-04	Repeals Ch. 171
			2004-18	9-20-04	171.01 to 171.20

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2005-19	11-21-05	940.01, 940.02	2011-13	6-20-11	929.11
2005-25	1-3-06	121.01	2011-14	6-20-11	521.12
2006-1	3-6-06	149.02	2011-16	10-17-11	149.15
2006-2	3-6-06	154.01 to 154.05	2012-07	4-2-12	2012 Replacement Pages
2006-8	6-19-06	331.38, 331.40, 341.01 to 341.03, 341.05, 375.01, 501.05, 525.02, 533.07, 545.01, 545.09, 545.21	2012-10 2012-19 2013-03 2013-04	5-7-12 12-3-12 5-6-13 4-1-13	953.04 137.03 132.01 to 132.03 2013 Replacement Pages
2006-10	6-19-06	311.02	2013-06	5-6-13	953.04
2006-11	6-19-06	311.05	2013-11	10-7-13	733.01 to 733.07
2006-12	6-26-06	933.04	2013-16	11-4-13	351.04, 351.16
2006-17	11-6-06	149.14	2013-17	10-21-13	933.04
2006-18	11-6-06	181.01 to 181.07	2013-24	1-20-14	929.04, 929.06, 929.08, 929.09
2007-05	4-2-07	331.01, 331.07, 331.14, 333.01, 333.04, 337.29, 373.01, 373.02, 373.05 to 373.07, 501.06, 513.01, 513.03, 513.04, 513.08, 513.12, 513.15, 525.02, 525.15, 525.17, 529.02, 529.07, 529.08, 533.01, 533.06, 537.07, 541.10, 545.01, 545.05, 549.10	2013-25 2013-26 2014-07 2014-08 2014-15 2014-16 2015-01 2015-07 2014-15 2014-16 2015-01 2015-07 2015-10 2015-16 2015-21	1-20-14 1-20-14 4-7-14 5-19-14 10-6-14 10-20-14 4-6-15 4-20-15 7-13-15 10-19-15 11-30-15	933.05, 933.06 940.01 2014 Replacement Pages 953.04 933.04 505.15 953.04 2015 Replacement Pages 953.02 121.01 172.01 to 172.21, 172.97, 172.98, 172.99
2007-14	11-5-07	1313.11, 1313.15, 1313.131	2015-29	1-18-16	171.20
2007-15	11-5-07	1317.071			
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COMPARATIVE SECTION TABLE

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<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
2016-01	2-1-16	132.01
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2016-08	5-2-16	2016 Replacement Pages
2016-17	9-19-16	355.01 to 355.12, 355.99
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2017-13	6-5-17	1321.01 to 1321.03
2017-21	8-7-17	933.05
2018-07	3-19-18	149.10
2018-10	4-3-18	132.05
2018-12	4-16-18	132.06
2018-13	4-16-18	2018 Replacement Pages
2018-23	8-20-18	959.02, 959.04
2018-24	7-16-18	132.06
2019-07	3-18-19	2019 Replacement Pages
2019-14	6-3-19	953.04
2019-15	7-1-19	933.04
2019-19	8-5-19	377.08
2019-29	12-16-19	105.01 to 105.08
2019-30	12-2-19	172.091
2020-01	1-6-20	Repeals 549.02 to 549.10

admin

CODIFIED ORDINANCES OF CAREY
PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

- Chap. 101. Codified Ordinances.
- Chap. 103. Official Standards.
- Chap. 105. Public Records Policy.

TITLE THREE - Legislative

- Chap. 121. Council.
- Chap. 123. Ordinances and Resolutions.
- Chap. 125. Open Meetings.

TITLE FIVE - Administrative

- Chap. 131. Mayor.
- Chap. 132. Fiscal Officer.
- Chap. 137. Village Administrator.
- Chap. 139. Solicitor.
- Chap. 141. Police Department.
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- Chap. 147. Planning Commission.
- Chap. 149. Employment Provisions.
- Chap. 151. Tree Commission.
- Chap. 153. Treasury Investment Board.
- Chap. 154. Audit/Finance Committee.
- Chap. 155. Recreation Board.

TITLE SEVEN - Taxation

- Chap. 171. Income Tax.
- Chap. 172. Income Tax Effective January 1, 2016.
- Chap. 181. Motor Vehicle License Tax.

CODIFIED ORDINANCES OF CAREY
PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

- Chap. 101. Codified Ordinances.
Chap. 103. Official Standards.
Chap. 105. Public Records Policy.
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CHAPTER 101
Codified Ordinances

101.01	Designation; citation; headings.	101.06	Conflicting provisions.
101.02	General definitions.	101.07	Determination of legislative intent.
101.03	Rules of construction.	101.08	Severability.
101.04	Revivor; effect of amendment or repeal.	101.99	General penalty.
101.05	Construction of section references.		

CROSS REFERENCES

See sectional histories for similar State law
Statute of limitations on prosecutions - see Ohio R.C.
718.06; GEN. OFF. 501.06
Codification in book form - see Ohio R.C. 731.23
Imprisonment until fine and costs are paid - see Ohio R.C.
1905.30, 2947.14
Citation issuance for minor misdemeanors - see Ohio R.C.
2935.26 et seq.
Ordinances and resolutions - see ADM. Ch. 123
Rules of construction for offenses and penalties - see
GEN. OFF. 501.04

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Carey, Ohio, 1979, for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances. (ORC 1.01)

(b) All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless another definition is provided or the context otherwise requires:

- (a) "And" may be read "or", and "or" may be read "and", if the sense requires it.
(ORC 1.02(F))
- (b) "Another" when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.
(ORC 1.02(B))
- (c) "Bond" includes an undertaking and "undertaking" includes a bond.
(ORC 1.02(D), (E))
- (d) "Council" means the legislative authority of the Municipality.
- (e) "County" means Wyandot County, Ohio.
- (f) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent or employee.
- (g) "Land" or "real estate" includes rights and easements of an incorporeal nature.
(ORC 701.01(F))
- (h) "Municipality" or "Village" means Carey, Ohio.
- (i) "Oath" includes affirmation and "swear" includes affirm.
(ORC 1.59(B))
- (j) "Owner", when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
- (k) "Person" includes an individual, corporation, business trust, estate, trust, partnership and association.
(ORC 1.59(C))
- (l) "Premises", as applied to property, includes land and buildings.
- (m) "Property" means real and personal property.
(ORC 1.59(E))
- (n) "Personal property" includes all property except real.
"Real property" includes lands, tenements and hereditaments.
"Public authority" includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.

- (o) "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.
- (p) "Registered mail" includes certified mail and "certified mail" includes registered mail.
(ORC 1.02(G))
- (q) "Rule" includes regulation. (ORC 1.59(F))
- (r) "Sidewalk" means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.
- (s) "This State" or "the State" means the State of Ohio.
(ORC 1.59(G))
- (t) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
- (u) "Tenant" or "occupant", as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.
- (v) "Whoever" includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private.
(ORC 1.02(A))
- (w) "Written" or "in writing" includes any representation of words, letters, symbols or figures. This provision does not affect any law relating to signatures.
(ORC 1.59(J))

101.03 RULES OF CONSTRUCTION.

(a) Common and Technical Usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.
(ORC 1.42)

(b) Singular and Plural; Gender; Tense. As used in the Codified Ordinances, unless the context otherwise requires:

- (1) The singular includes the plural, and the plural includes the singular.
- (2) Words of one gender include the other genders.
- (3) Words in the present tense include the future.
(ORC 1.43)

(c) Calendar; Computation of Time.

- (1) Definitions.
 - A. "Week" means seven consecutive days.
 - B. "Year" means twelve consecutive months.
(ORC 1.44)
- (2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.
(ORC 1.45)

- (3) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday. When a public office, in which an act required by law is to be performed, is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday.
(ORC 1.14)
- (4) When legislation is to take effect or become operative from and after a day named, no part of that day shall be included.
(ORC 1.15)
- (5) In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(d) Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(e) Joint Authority. All words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority or inconsistent with State statute or Charter provisions.

(f) Exceptions. The rules of construction shall not apply to any law which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(a) The repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving clause therein.
(ORC 1.57)

(b) An ordinance which is re-enacted or amended is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance.
(ORC 1.54)

(c) The re-enactment, amendment or repeal of an ordinance does not, except as provided in subsection (d) hereof:

- (1) Affect the prior operation of the ordinance or any prior action taken thereunder;

- (2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred thereunder;
- (3) Affect any violation thereof or penalty, forfeiture or punishment incurred in respect thereto, prior to the amendment or repeal;
- (4) Affect any investigation, proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the ordinance had not been repealed or amended.

(d) If the penalty, forfeiture or punishment for any offense is reduced by a re-enactment or amendment of an ordinance, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the ordinance as amended.

(ORC 1.58)

101.05 CONSTRUCTION OF SECTION REFERENCES.

(a) A reference to any portion of the Codified Ordinances applies to all re-enactments or amendments thereof.

(ORC 1.55)

(b) If a section refers to a series of numbers or letters, the first and the last numbers or letters are included.

(ORC 1.56)

(c) Wherever in a penalty section reference is made to a violation of a series of sections or of subsections of a section, such reference shall be construed to mean a violation of any section or subsection included in such reference.

References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances.

(ORC 1.23)

101.06 CONFLICTING PROVISIONS.

(a) If there is a conflict between figures and words in expressing a number, the words govern.

(ORC 1.46)

(b) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.

(ORC 1.51)

(c) (1) If ordinances enacted at different meetings of Council are irreconcilable, the ordinance latest in date of enactment prevails.

- (2) If amendments to the same ordinance are enacted at different meetings of Council, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.
(ORC 1.52)

101.07 DETERMINATION OF LEGISLATIVE INTENT.

- (a) In enacting an ordinance, it is presumed that:
- (1) Compliance with the constitutions of the State and of the United States is intended;
 - (2) The entire ordinance is intended to be effective;
 - (3) A just and reasonable result is intended;
 - (4) A result feasible of execution is intended.
(ORC 1.47)

(b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective.
(ORC 1.48)

(c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:

- (1) The object sought to be attained;
- (2) The circumstances under which the ordinance was enacted;
- (3) The legislative history;
- (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
- (5) The consequences of a particular construction;
- (6) The administrative construction of the ordinance.
(ORC 1.49)

101.08 SEVERABILITY.

If any provision of a section of the Codified Ordinances or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.
(ORC 1.50)

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

CHAPTER 103

Official Standards

EDITOR'S NOTE: There are no sections in Chapter 103. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

- State standard of time - see Ohio R. C. 1.04**
- State legal holidays - see Ohio R. C. 1.14, 5.20 et seq.**
- State flag - see Ohio R. C. 5.02**

CHAPTER 105 Public Records Policy

105.01 Mission statement.
105.02 Defining public records.
105.03 Response timeframe.
105.04 Handling requests.
105.05 Electronic records.

105.06 Denial and redaction of records.
105.07 Copying and mailing costs.
105.08 Managing records.

105.01 MISSION STATEMENT.

Openness leads to a better informed citizenry, which leads to better government and better public policy. It is the mission and intent of the Village of Carey, Ohio (hereinafter Village) to at all times fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act. (Ord. 2019-29. Passed 12-16-19.)

105.02 DEFINING PUBLIC RECORDS.

(a) A "record" is defined to include the following: A document in any format-paper, electronic (including, but not limited to, business e-mail)-that is created, received by, or comes under the jurisdiction of the Village that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

(b) A "public record" is a "record" that is being kept by this office at the time a public records request is made, subject to applicable exemptions from disclosure under Ohio or federal law. All public records must be organized and maintained in such a way that they can be made available for inspection and copying.

(Ord. 2019-29. Passed 12-16-19.)

105.03 RESPONSE TIMEFRAME.

(a) Public records are to be available for inspection during regular business hours. Public records must be made available promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested, the proximity of the location where the records are stored, the necessity for any legal review and redaction, and other facts and circumstances of the records requested.

(b) It is the goal of the Village that all requests for public records should be acknowledged in writing or, if feasible, satisfied within three (3) business days following the office's receipt of the request. (Ord. 2019-29. Passed 12-16-19.)

105.04 HANDLING REQUESTS.

(a) No specific language is required to make a request for public records. However, the requester must at least identify the records requested with sufficient clarity to allow the office to identify, retrieve, and review the records.

(b) The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record(s). It is this office's general policy that this information is not to be requested. However, the law does permit the office to ask for a written request, the requester's identity, and/or the intended use of the information requested, but only if (1) a written request or disclosure of identity or intended use would benefit the requester by enhancing the office's ability to identify, locate, or deliver the public records that have been requested; and (2) the requester is first told that a written request is not required and that the requester may decline to reveal the requester's identity or intended use.

(c) In processing the request, the office does not have an obligation to create new records or perform a search or research for information in the office's records. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through the office's standard use of sorting, filtering, or querying features. Although not required by law, the office should consider generating new records when it makes sense and is practical under the circumstances.

(d) In processing a request for inspection of a public record, an office employee may accompany the requester during inspection to make certain original records are not taken or altered.

(e) A copy of the most recent edition of the Ohio Sunshine Laws Manual is available via the Ohio Attorney General's website for the purpose of keeping employees of the office and the public educated as to the office's obligation under Ohio's Public Record's Act, Ohio's Open Meetings Act, records retention laws, and the Personal Information Systems Act. (Ord. 2019-29. Passed 12-16-19.)

105.05 ELECTRONIC RECORDS.

(a) Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via hand-held communications device, are to be treated in the same fashion as records in other formats, such as paper or audiotape.

(b) Public record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of this office are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules. (Ord. 2019-29. Passed 12-16-19.)

105.06 DENIAL AND REDACTION OF RECORDS.

(a) If the requester makes an ambiguous or overly broad request or has difficulty in making a request such that the office cannot reasonably identify what public records are being requested, the request may be denied, but the office must then provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed by the office.

(b) If the office withholds, redacts, or otherwise denies requested records, it must provide an explanation, including legal authority, for the denial(s). If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt, the exempt portions may be redacted and the rest must be released. When making public records available for public inspection or copying, the office shall notify the requester of any redaction or make the redaction plainly visible.
(Ord. 2019-29. Passed 12-16-19.)

105.07 COPYING AND MAILING COSTS.

(a) Those seeking public records may be charged only the actual cost of making copies, not labor. The charge for black and white paper copies is ten cents (\$0.10) per page. The charge for color paper copies is twenty cents (\$0.20) per page. The charge for electronic files downloaded to a compact disc or digital versatile disc is two dollars (\$2.00) per disc. The charge for photographic images is three dollars (\$3.00).

(b) A requester may be required to pay in advance for the actual costs involved in providing the copy. The requester may choose whether to have the record duplicated upon paper, upon the same medium on which the public record is kept, or upon any other medium on which the office determines that the record can reasonably be duplicated as an integral part of the office's normal operations.

(c) If a requester asks that documents be delivered to them, he or she may be charged the actual cost of the postage and mailing supplies, or other cost of delivery. There is no charge for e-mailed documents. (Ord. 2019-29. Passed 12-16-19.)

105.08 MANAGING RECORDS.

Village records are subject to records retention schedules. The office's current schedules are available at 127 N. Vance Street, Carey, Ohio, a location readily available to the public as required by Ohio Revised Code Section 149.43(B)(2).
(Ord. 2019-29. Passed 12-16-19.)

TITLE THREE - Legislative

Chap. 121. Council.
Chap. 123. Ordinances and Resolutions.
Chap. 125. Open Meetings.

CHAPTER 121
Council

121.01 Regular meetings.

**121.02 Department directors to attend
regular meetings.**

121.03 Rules of order.

CROSS REFERENCES

Open meetings - see Ohio R.C. 121.22
General powers - see Ohio R.C. 715.03 , 731.47
To establish sewer rates - see Ohio R.C. 729.49
Composition and terms - see Ohio R.C. 731.09
Qualifications - see Ohio R.C. 731.12, 731.44
Vacancy - see Ohio R.C. 731.43
Meetings - see Ohio R.C. 731.44, 731.46
Rules and journal - see Ohio R.C. 731.45

121.01 REGULAR MEETINGS.

(a) Council shall meet in regular session at Council Chambers at 7:00 p.m. the first and third Mondays of each month.

(b) Should any holiday fall on the date scheduled for a regular meeting, Council shall designate another date within the same month in lieu thereof.
(Ord. 2015-16. Passed 10-14-15.)

121.02 DEPARTMENT DIRECTORS TO ATTEND REGULAR MEETINGS.

Department directors are required to attend all regular Council meetings unless excused. (Ord. 801. Passed 12-18-78.)

121.03 RULES OF ORDER.

Roberts Rules of Order are hereby adopted for the purpose of regulating the procedures of the meetings of Council. (Res. 92-3. Passed 3-16-92.)

CHAPTER 123

Ordinances and Resolutions

EDITOR'S NOTE: There are no sections in Chapter 123. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Newspaper publication - see Ohio R.C. 7.12, 701.04,
731.21 et seq.,
Adoption and style - see Ohio R.C. 715.03, 731.17 et seq.
Adoption of technical codes - see Ohio R.C. 731.231
Initiative and referendum - see Ohio R.C. 731.28 et seq.
Emergency measures - see Ohio R.C. 731.42

CHAPTER 125 Open Meetings

125.01	Definitions.	125.05	Notification of discussion of specific types of public business.
125.02	Notice of regular and organizational meeting.	125.06	General provisions.
125.03	Notice of special meetings.		
125.04	Notice to news media of special meetings.		

CROSS REFERENCES State provisions - see Ohio R.C. 121.22(F)

125.01 DEFINITIONS.

As used in this chapter:

- (a) "Clerk" means the Fiscal Officer.
- (b) "Day" means calendar day.
- (c) "Meeting" means any prearranged discussion of the public business of the Municipal Body by a majority of the members of the Municipal Body.
- (d) "Municipal Body" means each of the following: Council, Planning Commission, Board of Zoning Appeals and other board, commission or council established by Council.
- (e) "Oral notification" means notification given orally either in person or by telephone, directly to the person for whom such notification is intended, or by leaving an oral message for such person at the address, or if by telephone at the telephone number, of such persons as shown on the records kept by the Fiscal Officer under this chapter.
- (f) "Post" means to post in an area accessible to the public during the usual business hours at the office of the Fiscal Officer and at the main entrance of the Municipal Building. A notice identifying the locations at which notifications will be posted pursuant to this chapter shall be published by the Fiscal Officer within ten calendar days after the adoption of this chapter.
- (g) "Published" means published once in a newspaper having a general circulation in the Municipality, as defined in Ohio R.C. 7.12, except that no portion of such newspaper need be printed in the Municipality. If at the time of any such publication there is no such newspaper of general circulation, then such publication shall be in a newspaper then determined by the Fiscal Officer to have the largest circulation in the Municipality.

- (h) "Special meeting" means a meeting which is neither a regular meeting nor an adjustment of a regular or special meeting to another time or day to consider items specifically stated on the original agenda of such regular or special meeting.
- (i) "Written notification" means notification in writing mailed, telegraphed or delivered to the address of the person for whom such notification is intended as shown on the records kept by the Fiscal Officer under this chapter, or in any way delivered to such person. If mailed, such notification shall be mailed by first-class mail, deposited in a U. S. Postal Service mailbox no later than the second day preceding the day of the meeting to which such notification refers, provided that at least one regular mail delivery day falls between the day of mailing and the day of such meeting. (Res. 86-17. Passed 11-17-86.)

125.02 NOTICE OF REGULAR AND ORGANIZATIONAL MEETING.

(a) The Fiscal Officer shall post a statement of the time(s) and place(s) of regular meetings of each Municipal Body for each calendar year not later than the second day preceding the day of the first regular meeting, other than the organizational meeting, of the calendar year of that Municipal Body. The Fiscal Officer shall check at reasonable intervals to ensure that such statement remains so posted during such calendar year. If at any time during the calendar year the time or place of regular meetings, or of any regular meeting, is changed on a permanent or temporary basis, a statement of the time and place of such changed regular meeting shall be so posted by the Fiscal Officer at least twenty-four hours before the time of the first changed regular meeting.

(b) The Fiscal Officer shall post a statement of the time and place of any organizational meeting of a Municipal Body at least twenty-four hours before the time of such organizational meeting.

(c) Upon the adjournment of any regular or special meeting to another day, the Fiscal Officer shall promptly post notice of the time and place of such adjourned meeting. (Ord. 86-17. Passed 11-17-86.)

125.03 NOTICE OF SPECIAL MEETINGS.

(a) Except in the case of a special meeting referred to in Section 125.04(d), the Fiscal Officer shall, no later than twelve hours before the time of a special meeting of a Municipal Body, post a statement of the time, place and purposes of such special meeting.

(b) The statement under this section and the notifications under Section 125.04 shall state such specific or general purpose or purposes then known to the Fiscal Officer to be intended to be considered at such special meeting and may state, as an additional general purpose, that any other business as may properly come before such Municipal Body at such meeting may be considered and acted upon.
(Ord. 86-17. Passed 11-17-86.)

125.04 NOTICE TO NEWS MEDIA OF SPECIAL MEETINGS.

(a) Any news medium organization that desires to be given advance notification of special meetings of a Municipal Body shall file with the Fiscal Officer a written request on a standard form to be provided by the Fiscal Officer. Except in the event of any emergency requiring immediate official action as referred to in subsection (d) hereof, a special meeting shall not be held unless at least twenty-four hours advance notice of the time, place and purposes of such special meeting is given to the news media that have requested such advance notification.

(b) News media requests for such advance notification of special meetings shall specify: the Municipal Body that is the subject of such request; the name of the medium; the name and address of the person to whom written notifications to the medium may be mailed, telegraphed or delivered; and the names, addresses and telephone numbers (including addresses and telephone numbers at which notifications may be given either during or outside of business hours) of at least two persons to either one of whom oral notifications to the medium may be given.

Any such request shall be effective for one year from the date of filing with the Fiscal Officer or until the Fiscal Officer receives written notice from such medium canceling or modifying such requests, whichever is earlier. Each requesting news medium shall be informed of such period of effectiveness at the time it files its request. Such requests may be modified or extended only by filing a complete new request with the Fiscal Officer. A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the Village, the Municipal Body that is the subject of such request and the Fiscal Officer.

(c) The Fiscal Officer shall give such oral notification or written notification, or both, as the Fiscal Officer determines, to the news media that have requested such advance notification in accordance with subsection (b) hereof, of the time, place and purposes of each special meeting, at least twenty-four hours prior to the time of such special meeting.

(d) In the event of an emergency requiring immediate official action, a special meeting may be held without giving twenty-four hours advance notification thereof to the requesting news media. The persons calling such meeting, or any one or more of such persons or the Fiscal Officer on their behalf, shall immediately give oral notification or written notification, or both, as the person or persons giving such notification determine, of the time, place and purposes of such special meeting to such news media that have requested such advance notification in accordance with subsection (b) hereof. The minutes or the call, or both, of any such special meeting shall state the general nature of the emergency requiring immediate official action. (Res. 86-17. Passed 11-17-86.)

125.05 NOTIFICATION OF DISCUSSION OF SPECIFIC TYPES OF PUBLIC BUSINESS.

(a) Any person, upon written request and as provided herein, may obtain reasonable advance notification of all meetings at which any specific type of public business is scheduled to be discussed.

(b) Such person may file a written request with the Fiscal Officer specifying: the person's name and the address(es) and telephone number(s) at or through which the person can be reached during and outside of business hours; the specific type of public business the discussion of which the person is requesting advance notification; the Municipal Body that is the subject of such request; and the number of calendar months not to exceed twelve which the request covers. Such request may be cancelled by request from such person to the Fiscal Officer.

(c) Each such written request must be accompanied by cash, or a check or money order payable to the Village, in the amount of one dollar (\$1.00) for each month covered by the request, which amount has been determined by Council to represent a reasonable fee to cover costs of providing such advance notification.

(d) Such requests may be modified or extended only by filing a complete new request with the Fiscal Officer. A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the Village, Municipal Body that is the subject of such request, and the Fiscal Officer.

(e) The contents of written notification under this section may be a copy of the agenda of the meeting. Written notification under this section may be accomplished by giving advance written notification, by copies of the agenda, of all meetings of the Municipal Body that is the subject of such request. (Res. 86-17. Passed 11-17-86.)

125.06 GENERAL PROVISIONS.

(a) Any person may visit or telephone the office of the Fiscal Officer during that office's regular office hours to determine, based on information available at that office: the time and place of regular meetings; the time, place and purpose of any then known special meetings; and whether the available agenda of any such future meeting states that any specific type of public business, identified by such person, is to be discussed at such meeting.

(b) Any notification provided herein to be given by the Fiscal Officer may be given by any person acting in behalf of or under the authority of the Fiscal Officer.

(c) A reasonable attempt at notification shall constitute notification in compliance with this chapter.

(d) The Fiscal Officer shall maintain a record of the date and manner, and time if pertinent under this chapter, of all actions taken with regard to notices and notifications under Sections 125.03 to 125.05, and shall retain copies of proofs of publication of any notifications or notices published thereunder.

(e) To better ensure compliance with this chapter as to notice and notification, it shall be the responsibility of the chairman or secretary of a Municipal Body other than Council, or the person or persons calling the meetings, to timely advise the Fiscal Officer of future meetings, and the subject matters to be discussed thereat, of such Municipal Body. (Res. 86-17. Passed 11-17-86.)

TITLE FIVE - Administrative

- Chap. 131. Mayor.
 - Chap. 132. Fiscal Officer.
 - Chap. 137. Village Administrator.
 - Chap. 139. Solicitor.
 - Chap. 141. Police Department.
 - Chap. 143. Fire Department.
 - Chap. 147. Planning Commission.
 - Chap. 149. Employment Provisions.
 - Chap. 151. Tree Commission.
 - Chap. 153. Treasury Investment Board.
 - Chap. 154. Audit/Finance Committee.
 - Chap. 155. Recreation Board.
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CHAPTER 131
Mayor

131.01 Review of handicapped discrimination complaints.

131.02 Acceptance of forfeited cash or property.

CROSS REFERENCES

- Removal from office - see Ohio R.C. 3.07 et seq.
 - Election, term, qualifications and powers - see Ohio R.C. 733.24
 - To be Council president - see Ohio R.C. 733.24
 - Vacancy - see Ohio R.C. 733.25
 - General duties - see Ohio R.C. 733.30
 - Reports to Council - see Ohio R.C. 733.32, 733.41
 - Powers in an emergency - see GEN. OFF. 509.09
 - Power to regulate dances and dance halls - see BUS. REG. Ch. 717
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131.01 REVIEW OF HANDICAPPED DISCRIMINATION COMPLAINTS.

The Village government shall take the following measures to ensure prompt and equitable review of complaints alleging handicapped discrimination:

- (a) Any person, general public or employee, feeling that he/she has been a victim of discrimination because of their handicapped status may present the grievance orally to the Village Administrator.

- (b) If the grievance cannot be settled by the Village Administrator it may be presented in writing to the Mayor within seven days. The Mayor shall render a written finding within ten days. The decision of the Mayor shall be considered as final. (Ord. 918. Passed 10-15-84.)

131.02 ACCEPTANCE OF FORFEITED CASH OR PROPERTY.

(a) The Mayor is hereby authorized and directed to accept cash and other tangible property from the United States Government in accordance with the Comprehensive Drug Penalty Act of 1984; however, any acceptance of real estate by the Mayor shall be subject to approval by ordinance of Council.

(b) The Mayor is hereby directed to place all cash received into a special fund with the Fiscal Officer to be used solely for law enforcement purposes.

(c) All tangible property be brass tagged or assetted to the Police Department to be used solely for law enforcement purposes. (Ord. 90-4. Passed 6-18-90.)

(d) The Mayor is hereby authorized and directed to accept cash, vehicles and other property in accordance with the Contraband Seizure Forfeiture Act Ohio R.C. 2933.43; however, any acceptance of real estate by the Mayor shall be subject to approval by ordinance of Council.

(e) The Mayor is hereby authorized and directed to place all cash received into a special law enforcement trust fund with the Fiscal Officer to be used solely for law enforcement purposes. Such fund shall be separate and apart from the special fund established in Resolution 90-1.

(f) All vehicles and property be assetted or brass tagged to the Division of Police to be used solely for law enforcement purposes, or sold and the proceeds from the sale deposited in the special law enforcement trust fund, as directed by the Chief of Police.
(Ord. 90-5. Passed 6-18-90.)

CHAPTER 132

Fiscal Officer

132.01	Established; duties.	132.05	Electronic banking and funds transfer policy.
132.02	Initial appointment.	132.06	Credit/debit card policy.
132.03	Compensation.		
132.04	Spending limit; time period.		

CROSS REFERENCES

Uniform Bond Law - see Ohio R.C. Ch. 133

Auditing accounts - see Ohio R.C. 733.12 et seq.

Appropriation and expenditure - see Ohio R.C. 5705.41

132.01 ESTABLISHED; DUTIES.

(a) The Village Fiscal Officer shall perform the combined duties of the Village Clerk-Treasurer

(b) Pursuant to Ohio R.C. 733.262, Council does hereby establish the combined elected office of Clerk-Treasurer into an appointed office to be known as the Village Fiscal Officer.

(c) The Village Fiscal Officer shall be appointed by the Mayor, but that appointment shall not become effective until it is approved by a majority vote of Council. (Ord. 2013-03. Passed 5-6-13.)

(d) The Village Fiscal Officer need not be an elector of the Village nor be a resident of the Village, as a condition of his/her original appointment and/or continued employment. (Ord. 2016-01. Passed 2-1-16.)

(e) The Village Fiscal Officer shall have those powers, duties, and functions as provided by the general laws of the State of Ohio for the Village Fiscal Officer and, in addition, shall have those duties, powers, and functions as provided by the general laws of the State of Ohio for the Village Clerk-Treasurer. All laws pertaining to the Clerk-Treasurer shall be construed to apply to the position of Village Fiscal Officer.

(f) The Village Fiscal Officer shall serve at the pleasure of the Mayor and may be removed without cause either by the Mayor with the consent of a majority of the members of the Village Council or by the affirmative vote of three-fourths of the members of the Village Council with or without the consent of the Mayor.

(Ord. 2013-03. Passed 5-6-13.)

132.02 INITIAL APPOINTMENT.

Both the initial appointment, which shall become effective Dec. 1, 2013, and any subsequent appointment to said position shall be on an interim basis and subject to a 180-day probationary period. Upon successful completion of said probationary period, the appointment shall become permanent. (Ord. 2013-03. Passed 5-6-13.)

132.03 COMPENSATION.

The salary of the Village Fiscal Officer shall be established by Council, and thereafter as provided for in the current Wage Ordinance for Village employees.
(Ord. 2013-03. Passed 5-6-13.)

132.04 SPENDING LIMIT; TIME PERIOD.

(a) The spending limit for blanket purchase orders shall be increased to twenty-five thousand dollars (\$25,000).

(b) The time period for same to be extended to twelve months or one year, but not beyond the end of the current fiscal year.

(Ord. 2003-16. Passed 12-1-03.)

132.05 ELECTRONIC BANKING AND FUNDS TRANSFER POLICY.

EDITOR'S NOTE: Pursuant to Ordinance 2018-10 the Village has enacted an Electronic Banking and Funds Transfer Policy.

132.06 CREDIT/DEBIT CARD POLICY.

EDITOR'S NOTE: Pursuant to Ordinance 2018-12 and 2018-24 the Village has enacted a credit/debit card policy.

CHAPTER 137 Village Administrator

137.01 Creation of office.
137.02 Duties and powers.

137.03 Monthly fee for curbside recycling program, yard waste transfer station, annual brush grinding, and the spring and fall cleanups.

CROSS REFERENCES

Power to contract - see Ohio R.C. 731.141
Appointment and removal - see Ohio R.C. 735.271
Powers and duties - see Ohio R.C. 735.271, 735.273
Board of Trustees of Public Affairs abolished - see Ohio R.C. 735.272
To establish school police force - see ADM. 141.05

137.01 CREATION OF OFFICE.

Pursuant to Ohio R.C. 735.271, there is hereby created the position of Village Administrator. (Ord. 602. Passed 1-3-66.)

137.02 DUTIES AND POWERS.

The Village Administrator shall have those powers, duties and functions as provided by the general laws of the State and such further powers, duties and functions as shall be conferred upon him by Council. (Ord. 602. Passed 1-3-66.)

137.03 MONTHLY FEE FOR CURBSIDE RECYCLING PROGRAM, YARD WASTE TRANSFER STATION, ANNUAL BRUSH GRINDING, AND THE SPRING AND FALL CLEANUPS.

(a) The program of collection and disposal of recyclable materials, including brush grinding and the annual fall and spring cleanup, is hereby declared to be a public utility and shall be rendered to all residents desiring to comply with the current rules and regulations as adopted by the Village Administrator.

(b) Pursuant to the Village's authority under Ohio R.C. 715.43 to regulate and provide for the collection and disposal of refuse [garbage], each utility customer shall be charged a fee of two dollars (\$2.00) per month per recycling, brush grinding, and village cleanup drives, without regard to whether or not the customer chooses to participate in these programs.

(c) The revenue collected as a result of this fee shall be applied to the recycling, yard waste grinding, and the spring and fall cleanups.

(d) Said fee shall be subject to a biennial review and adjustment by Council if necessary. (Ord. 2012-19. Passed 12-3-12.)

CHAPTER 139
Solicitor

139.01 Duties.

CROSS REFERENCES

Legal counsel - see Ohio R.C. 733.48
Preparation of bonds - see Ohio R.C. 733.70

139.01 DUTIES.

- (a) The Village Solicitor shall serve as legal counsel for the Village or for any department or official thereof.
- (b) The Solicitor shall prepare and review contracts, resolutions, ordinances and other documents and advise Village officials on such matters by telephone, office conferences and in writing. (Ord. 849. Passed 1-4-82.)

CHAPTER 141
Police Department

141.01	Established; number.	141.03	Police cadet program.
141.02	Age and physical exam requirements.	141.04	School police force established.

141.05 Auxiliary police force.

CROSS REFERENCES

Police Officer training certificate required for permanent employment - see Ohio R. C. 109.77

Composition - see Ohio R. C. 715.05, 737.16

General powers and duties - see Ohio R. C. 731.11, 737.18

Powers and duties of Police Chief - see Ohio R. C. 737.161, 737.19

Probationary period, final appointment - see Ohio R. C. 737.17

Removal and appeal - see Ohio R. C. 737.171

Police and Fireman's Disability and Pension Fund - see Ohio R. C.
Ch. 742

141.01 ESTABLISHED; NUMBER.

(a) The Mayor is authorized to establish a Police Department which shall be composed of the following officers and other members:

- (1) Chief;
- (2) Captain;
- (3) Lieutenant;
- (4) Sergeant;
- (5) Patrolman I;
- (6) Patrolman II;
- (7) Patrolman III;
- (8) Extra policeman.

(b) The designations contained in subsection (a) hereof can be changed and used interchangeably with patrolwoman or other designation of the feminine gender.

(c) The Police Department is not limited in number. However, any further additions to the force shall only be made with the approval of Council.

(Ord. 789. Passed 2-6-78.)

141.02 AGE AND PHYSICAL EXAM REQUIREMENTS.

(a) No person shall be eligible to receive an original appointment to the Police Department, as a policeman, or policewoman, unless he, or she has reached the age of twenty-one; age twenty with prior Council approval, and has, not more than 120 days prior to the date of such appointment, passed a physical examination, given by a licensed physician, certifying that the applicant is free of cardiovascular and pulmonary disease, and showing that he, or she meets the physical requirements necessary to perform the duties of a policeman, or policewoman. The appointing authority shall prior to making any such appointment file with the Police and Fireman's Disability and Pension Fund a copy of the report or findings of the licensed physician. The professional fee for such physical exam shall be paid by the Village. Except as otherwise provided herein no person is eligible to receive an original appointment when he, or she is thirty-five years of age or older, and no person can be declared disqualified as over age prior to that time. (Ord. 99-6. Passed 5-17-99.)

(b) Nothing contained in this section shall prevent a municipal corporation from establishing a police cadet or auxiliary program and employing persons as such at age eighteen for the purpose of training same to become policemen and policewomen. (Ord. 95-13. Passed 8-21-95.)

141.03 POLICE CADET PROGRAM.

The Police Department may establish a Police Cadet program and employ persons for such purpose at the age of eighteen. A person participating in such program shall not be permitted to carry or use any firearm in the performance of his duties, except that he may be taught the proper use of firearms as part of his training.

(Ord. 655. Passed 12-1-69.)

141.04 SCHOOL POLICE FORCE ESTABLISHED.

(a) The Village Administrator is authorized to establish a private police force to be known as the school police. (Ord. 606. Passed 4-7-66.)

(b) Each person appointed as a school policeman shall have the following qualifications: Each school policeman shall be eighteen years of age or over at the time of appointment; shall furnish proof of physical ability to perform the duties of a school policeman; shall be a resident of the Municipality; and shall demonstrate to the satisfaction of the Police Chief ability to handle and deal with children of school age. (Ord. 91-15. Passed 9-3-91.)

(c) The school police shall direct pedestrian and vehicle traffic at intersections designated by the Police Chief. (Ord. 606. Passed 4-7-66.)

(d) Each school policeman shall wear such badges, insignia and uniform as prescribed by the Chief of Police and the Village Administrator. Each school policeman shall be paid as provided by Council. (Ord. 658. Passed 3-16-70.)

(e) The Chief of Police shall prescribe rules and regulations in regard to the organization of the school police, the hours of duty, the method of reporting hours of duty and all other matters relating to the operation of the school police. (Ord. 606. Passed 4-7-66.)

141.05 AUXILIARY POLICE FORCE.

(a) There is created within the Police Department to the Village an auxiliary police force, the members of which shall be appointed by the Chief of Police.

(b) Auxiliary police officers shall serve, at will, for as long as the Chief of Police may direct, or until a resignation in writing is submitted by such member and accepted by the Chief of Police.

(c) The Chief of Police shall be the commanding officer of the auxiliary police force, and be subject to the approval of the Administrator, shall have the control of assignment, training, stationing, and the direction of work of such force. The auxiliary police force shall have all police powers, but shall perform only such village police duties as assigned by the Chief of Police, and shall act only when in the prescribed uniform or portion of uniform. The Chief of Police shall prescribe the time and place such uniform or portion shall be worn. The Auxiliary members shall obey the chain of command of the division of police, and shall take orders from all regularly appointed members thereof.

(d) The Chief of Police with the approval of the Village Administrator, shall prescribe the rules and regulations for the conduct and control of the auxiliary police force.

(e) All services performed by the Auxiliary Police Force shall be on a voluntary basis within the corporate limits of the City, and auxiliary policeman shall be paid the sum of one dollar (\$1.00) per annum for their services.

(f) This section is declared by Council as an exercise by the Village of its police powers for the protection of the public peace, health, safety and general welfare; and neither the Village nor any agent, nor any representative of the Village nor any individual, firm, partnership, corporation, nor the receiver or trustee, nor any other agent thereof, who, in good faith, executes any executive order, rule or regulation promulgated pursuant to the provisions of such sections shall be liable for injury or damage sustained to persons or property as to direct or proximate result of such action. (Ord. 92-20. Passed 6-15-92.)

CHAPTER 143

Fire Department

143.01	Volunteer Firemen's Dependents Fund.	143.05	Fireman's Cadet program.
143.02	Number and salary of volunteer firemen.	143.06	Records.
143.03	Meetings.	143.07	Practice drills.
143.04	Age and physical exam requirements.	143.08	Assistant chief.

CROSS REFERENCES

Composition - see Ohio R.C. 715.05, 737.21 et seq.
 Removal of fire chief and firemen - see Ohio R.C. 733.35 et seq., 737.22
 General duties - see Ohio R.C. 737.11
 Regulations and hours - see Ohio R.C. 737.21
 Appointment of fire chief and firemen - see Ohio R.C. 737.22
 Police and Firemen's Disability and Pension Fund - see Ohio R.C. Ch. 742
 Fire Safety Regulations - see FIRE PREV. Ch. 1505

143.01 VOLUNTEER FIREMEN'S DEPENDENTS FUND.

Under the provisions of Ohio R.C. Chapter 146, there is hereby established a Volunteer Firemen's Dependents Fund to be administered by a Volunteer Firemen's Dependents Board which shall be composed and have such powers and duties as are set forth in Ohio R.C. Chapter 146.

143.02 NUMBER AND SALARY OF VOLUNTEER FIREMEN.

The Volunteer Fire Department shall consist of not more than twenty-five members. Each volunteer member shall receive such compensation as shall be provided by Council. (Ord. 449. Passed 3-1-54.)

143.03 MEETINGS.

(a) The Volunteer Fire Department shall hold semi-monthly meetings at two week intervals during each month and the attendance record of each member of the Department shall be recorded by a duly authorized officer of the Department and such attendance record shall be reported to the Fiscal Officer of the Municipality after each meeting. The compensation of each member of the Department shall be reduced as provided by Council for failure to attend each meeting.

(b) Any member of the Department who fails to attend five regular meetings of the Department in any one of the four quarters of a year shall automatically forfeit membership in the Department, unless excused by the duly authorized officer of the Department. (Ord. 449. Passed 3-1-54.)

143.04 AGE AND PHYSICAL EXAM REQUIREMENTS.

(a) In keeping with Section 124.42, Ohio Revised Code, no person shall be eligible to receive an original appointment as fireman in a fire department unless he or she has reached the age of eighteen and has, not more than 120 days prior to receiving such appointment, passed a physical examination, given by a licensed physician, certifying that the applicant is free of cardiovascular and pulmonary diseases and showing that he or she meets the physical requirements by the municipality. Professional fee for such physical exam shall be paid by the Municipality.

(b) Nothing in this section shall prevent a municipal corporation from establishing a fire cadet program and employing persons at age eighteen for the purpose of training same to become fire fighters.

(c) No person shall be eligible to receive an original appointment on or after his thirty-sixth birthday. (Ord. 95-12. Passed 8-21-95.)

143.05 FIREMAN'S CADET PROGRAM.

The Fire Department may establish a Fireman's Cadet program and employ persons for such purpose at the age of eighteen. A person participating in the Fireman's Cadet program shall not be permitted to carry or use any firearm in the performance of his duties. (Ord. 655. Passed 12-1-69.)

143.06 RECORDS.

The Fire Chief shall keep in convenient form a complete record of all fires. Such record shall include the time of the alarm, location of fire, cause of fire, if known, type of building, name of owner and tenant, purpose for which occupied, value of building and contents, members of the Department responding to the alarm and such other information as he may deem advisable or as may be required from time to time by Council.

143.07 PRACTICE DRILLS.

(a) The Fire Chief shall hold a monthly practice drill of at least one hour's duration for the Fire Department, when the weather permits, and give the firemen instructions in approved methods of fire fighting and fire prevention.

(b) Firemen absent from three consecutive drills or calls shall forfeit membership in the Department.

143.08 ASSISTANT CHIEF.

The Assistant Chief shall, in the absence or disability of the Chief, perform all the functions and exercise all of the authority of the Chief.

CHAPTER 147
Planning Commission

147.01 Established.
147.02 Compensation.

147.03 Powers.
147.04 Other offices.

CROSS REFERENCES

Planning Commission established - see Ohio R. C. 713.01
Planning Commission powers and duties - see Ohio R. C.
713.02, 713.06
Planning Commission shall be Platting Commission - see
Ohio R. C. 713.03
Division into districts - see Ohio R. C. 713.06, 713.10

.147.01 ESTABLISHED.

A Village Planning Commission of five members, consisting of the Mayor, one member of the legislative authority to be elected thereby for the remainder of his/her term as such member of Council; and three residents of the Village to be appointed by the Mayor for terms of six years each, except that the term of one of the members of the first Commission shall be for four years and one for two years, is hereby established. (Ord. 86-31. Passed 10-6-86.)

147.02 COMPENSATION.

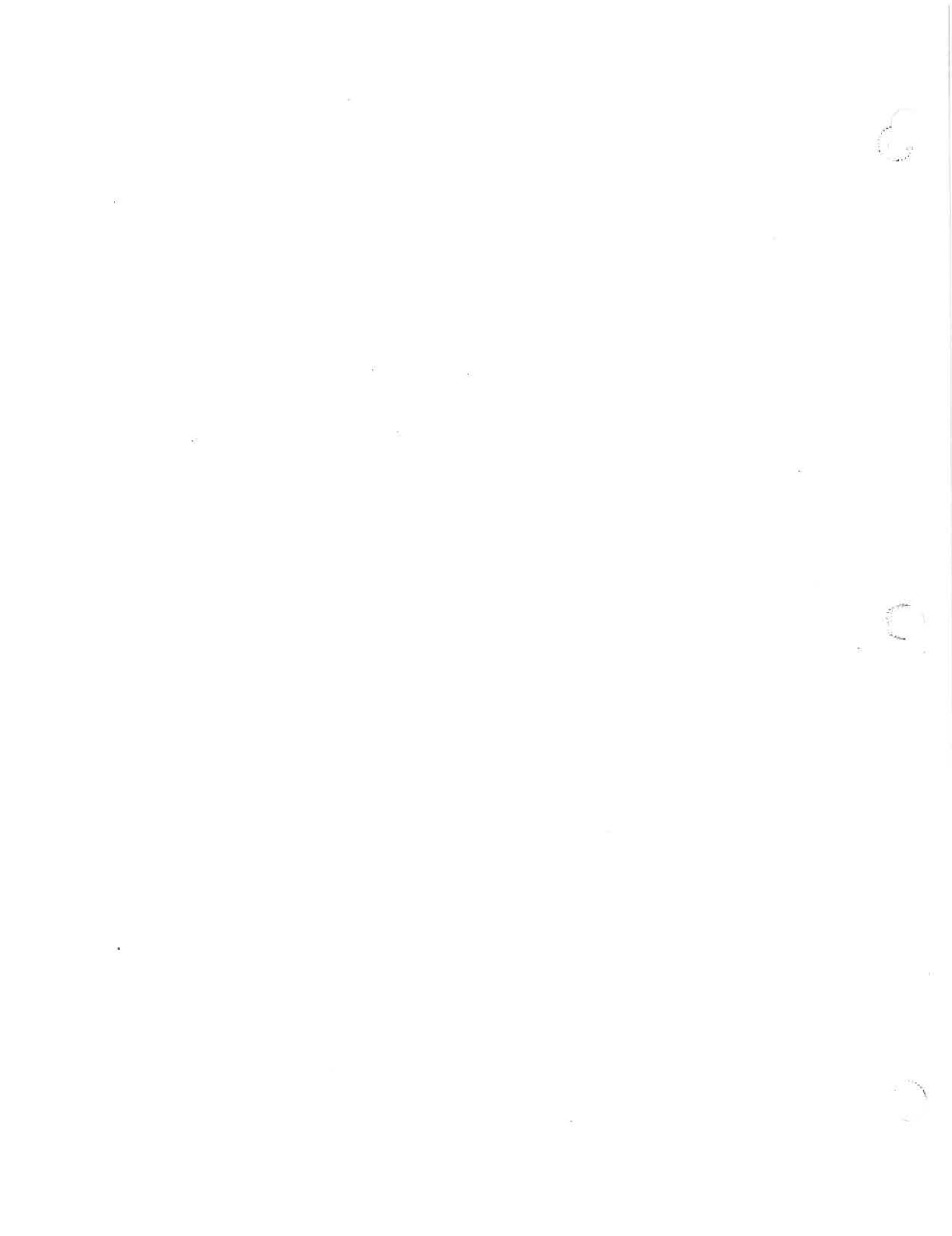
All such members shall serve without compensation. (Ord. 86-31. Passed 10-6-86.)

147.03 POWERS.

The Planning Commission, as appointed, shall have all the powers conferred in Ohio R.C. 735.15. (Ord. 86-31. Passed 10-6-86.)

147.04 OTHER OFFICES.

Any member of the Planning Commission established under this chapter, may hold any other public office and may serve as a member of a county, and a regional planning commission. (Ord. 86-31. Passed 10-6-86.)



CHAPTER 149

Employment Provisions

EDITOR'S NOTE: Compensation legislation and the benefits provided therein are not codified herein since they are subject to frequent change. Please consult the Fiscal Officer for information pertaining to legislation currently in effect.

149.01	Bonds.	149.10	Seminar attendance.
149.02	Uniform allowance.	149.11	Bereavement leave.
149.03	Vacations.	149.12	Disability leave.
149.04	Sick leave.	149.13	Expenditure of public funds for coffee, meals, refreshments and other amenities for public employees, municipal officers or or other persons.
149.05	Holidays.	149.14	Residency requirement.
149.06	Mileage allowance.	149.15	Rehiring of retired full-time employee.
149.07	Insurance.		
149.08	Starting salary.		
149.09	Pay raises and reductions.		

CROSS REFERENCES

- Workers' compensation - see Ohio Const., Art. II, Sec. 35;
 Ohio R.C. Ch. 4123
- Wages and hours on public works - see Ohio Const., Art. II,
 Sec. 37; Ohio R.C. Ch. 4115
- Failure to give bond - see Ohio R.C. 3.30, 731.49 et seq.
- Public Employees Retirement System - see Ohio R.C. Ch. 145
- Contract interest - see Ohio R.C. 735.09; GEN. OFF. 525.10

149.01 BONDS.

The amount of the performance bonds for various officers and employees of the Municipality shall be as follows:

<u>Position</u>	<u>Amount of Bond Per Person</u>
Mayor	\$5,000
Fiscal Officer	\$50,000
Village Administrator	\$25,000
Tax Administrator-Utility Supervisor	\$50,000
Account Clerks	\$25,000
Executive Secretary	\$5,000
Police	\$1,000
Park Manager	\$1,000
Assistant Pool Manager	\$1,000
Sr. Life Guard	\$1,000

(Ord. 97-13. Passed 12-1-97.)

149.02 UNIFORM ALLOWANCE.

(a) Police. A uniform allowance shall be provided based upon the amount of five hundred dollars (\$500.00) for each year, per policeman, after the first year of service. The initial year of outfitting an officer shall be controlled by the Chief of Police and funded IN FULL from the Department budget. The Chief of Police shall administer this allowance, prescribe the proper uniform and be responsible for assuring that each officer is properly attired while on duty. Sufficient funds will be appropriated to ensure replacement items may be purchased for proper uniformity. Any policeman leaving the service of the Municipality shall return all uniform items. The Chief may declare such returned items as beyond fair wear and tear and may allow the policeman to keep such items so designated.

(b) Full and Part-Time Dispatchers. A uniform allowance shall be provided based upon the amount of two hundred dollars (\$200.00) per year per dispatcher. The Chief of Police shall administer this allowance and be responsible for ensuring that each Dispatcher is properly attired while on duty. Any Dispatcher leaving the service of the Municipality shall return all uniform items. The Chief may declare such returned items as beyond fair wear and tear and may allow the Dispatcher to keep such designated items.

(1) The Police Department shall spend its clothing allowance at the Lawft, Findlay, Ohio, which supplier shall track each officer's expenditures.

(c) Public Works, Water and Electric Department. A uniform and safety shoe allowance shall be provided based upon the amount of three hundred seventy-five dollars (\$375.00) per year per employee. The Director of each department shall ensure that each employee is properly attired in the work uniform required of that position while on duty. Any employee leaving the service of the Municipality shall return all uniform items. The Director may declare such returned items as beyond fair wear and tear and may allow the employee to keep such items. Each employee shall be issued a check for said amount LESS any required withholding, as soon as practicable, after the first of each year and shall be responsible to track his/her purchases.

(d) Office Employees. An administrative office uniform allowance shall be provided based upon the amount of one hundred fifty dollars (\$150.00) per year per employee. The Village Administrator shall ensure that each employee is properly attired in the work uniform required of that position while on duty. Any employee leaving the service of the Municipality shall return all uniform items. The Administrator may declare such returned items as beyond fair wear and tear and may allow the employee to keep such items. Each employee shall be issued a check for said amount LESS any required withholding, as soon as practicable, after the first of each year and shall be responsible to track his/her purchases.
(Ord. 2016-03. Passed 1-18-16.)

149.03 VACATIONS.

(a) All Village employees who have completed one full year of full-time employment with the Village shall be entitled to a two week vacation with pay following his anniversary date of employment. None of the employees of the Village should be entitled to any vacation until they have completed one full year of employment.

(b) Once an employee has completed one full year of full-time employment, vacation in subsequent years shall be granted during the calendar year.

(c) All employees who have completed eight years of employment as defined under Ohio R.C. 9.44 shall be entitled to three weeks vacation with pay during the calendar years following the eighth anniversary date of employment. In no event shall an employee be granted any more than three weeks vacation in the year in which he becomes eligible as provided herein.

(d) Once an employee has become eligible for a three week vacation, as provided in subsection (c), vacation in subsequent years shall be granted during the calendar year.

(e) All employees who have completed fifteen years of full-time employment as defined under Ohio R.C. 9.44, shall be entitled to four weeks vacation with pay during the calendar years following his fifteenth anniversary date of employment. In no event shall an employee be granted any more than four weeks vacation in the year in which he becomes eligible as provided herein.

(f) Once an employee has become eligible for a four week paid vacation, as specified in subsection (e) hereof, vacation in subsequent years shall be granted during the calendar year.

(g) All employees who have completed twenty-five years of full-time employment as defined under Ohio R.C. 9.44, shall be entitled to five weeks vacation with pay during the calendar year following his twenty-fifth anniversary date of employment. In no event shall an employee be granted any more than five weeks vacation in the year in which he becomes eligible as provided herein.

(h) Once an employee has become eligible for a five week paid vacation, as specified in subsection (g) hereof, vacation in subsequent years shall be granted during the calendar year.

(i) Each hourly employee shall have vacation pay computed on a basis of forty hours per week.

(j) As used in this section, two weeks vacation means two calendar weeks of ten working days; three weeks vacation means three calendar weeks of fifteen working days; four weeks vacation means four calendar weeks of twenty working days; five weeks vacation means five calendar weeks of twenty five working days. Calendar year means January 1 through December 31.

(k) If a holiday, as set forth in Section 149.05, falls within an employee's vacation, time off for such holiday shall be taken at the beginning or at the end of the scheduled vacation.

(l) Each qualifying employee shall be required to take a two week vacation within the calendar year or lose the unused vacation remaining at the end of the calendar year.

(m) Employees entitled to the third, fourth, or fifth week of vacation shall have the option of either taking the time off, or receiving vacation pay, except that any employee entitled to a fifth week of vacation must take at least three weeks vacation within the calendar year.

(n) Upon separation from Municipal service, an employee shall be entitled to compensation at his/her current rate of pay for all lawfully accrued and unused vacation leave to his/her credit at the time of separation for the current year. In the case of death of an employee, such accrued and unused vacation leave shall be paid to his/her estate. If an employee's services are terminated by an employee without the Village receiving two-weeks notice from the employee, accumulated vacation of the employee shall be considered forfeited. (Ord. 97-13. Passed 12-1-97.)

149.04 SICK LEAVE.

(a) Each employee whose salary or wages are paid in whole or in part by the Municipality shall be entitled to sick leave of one and one quarter workdays for each completed month of service, at his or her regular rate of pay. The Fiscal Officer shall maintain a record of the dates employees have used for sick leave. Every department head shall supply the dates to the Fiscal Officer that he or employees of his department have used for sick leave during each two week period corresponding to each pay period for the efficient administration of this sick leave provision.

(b) After an absence of more than three days, for illness or other unexcused reason, sick leave shall only accumulate at a pro-rated or direct proportion rate to the above entitled amount of one and one quarter workdays for each completed month of service. As of January 1, 1985, unused sick leave shall be accumulated without limit. Accumulated sick leave shall be allowed only under the following specific terms: illness, injury or death in the employee's immediate family, injury or exposure to contagious disease suffered by an employee. To be valid, sick leave must have the approval of the department head. After three days or upon request, the department head may require an employee to furnish a satisfactory written, signed statement from a licensed physician certifying the nature of the illness or injury and that the employee is fit to return to the full work required by the employee. "Immediate family" means husband, wife, father, mother, brother, sister, son, daughter, grandparents, grandchild, or other person at the discretion of the Village Administrator.

(c) When an employee is unable to report for work for reasons set forth above, he shall, if at all possible, notify his department head. If a department head is unable to report for work, he shall notify the Mayor or Village Administrator prior to the regular reporting time, of his inability or of his employee's inability to so report. Failure to comply with this request shall be grounds for withholding of sick leave allowance.

(d) Termination of employment by death cancels any accumulated sick leave. No payment shall be made in lieu of accumulated sick leave on termination of employment, for reasons other than retirement.

(e) Sick leave, upon retirement, shall be granted in an amount of not less than one-fourth of the value of unused sick leave, up to a maximum of thirty days pay.

(f) Industrial Commission rule 4123-5-20 (OAC) provides that an employee injured while on duty can receive benefits directly from Worker's Compensation, or that the employer can advance one hundred percent (100%) of the employee's pay (compensation) in the form of sick leave and be reimbursed from said state agency; therefore,

- (1) Any employee injured while on duty shall be entitled to his or her regular wage (salary) in the form of sick leave, less any payments received from said employee from Worker's Compensation which sum total amount of benefits shall be reimbursed directly to the Village by said employee.
- (2) All funds and/or monies reimbursed, as required, shall be credited to said employee's accumulated sick leave account balance in the same percentage as repaid.

(Ord. 97-13. Passed 12-1-97.)

149.05 HOLIDAYS.

(a) All full time employees of the Municipality shall be entitled to the holidays provided herein and shall receive pay for such holidays. Full time employees means all salaried employees and all hourly employees working forty hours per week on a regular basis. Legal holidays as used in this section means the following days:

- (1) The first day of January, known as New Year's Day;
- (2) The third Monday in January, known as Martin Luther King, Jr. Day;
- (3) The third Monday in February, known as Washington - Lincoln Day;
- (4) Good Friday;
- (5) The last Monday in May, known as Memorial Day;
- (6) The fourth of July, known as Independence Day;
- (7) The first Monday in September, known as Labor Day;
- (8) November 11th, known as the traditional Veterans Day;
- (9) The fourth Thursday in November, known as Thanksgiving Day;
- (10) The Friday following the fourth Thursday in November. (Friday after Thanksgiving);
- (11) The 25th day of December, known as Christmas Day.

(b) If any day designated in this section as a legal holiday falls on a Saturday, the preceding Friday shall be taken. Holidays falling on a Sunday will be taken on the following Monday.

(c) In the event any hourly rated employee is required to perform work on any of the above holidays, such employee shall receive for the hours worked on such holidays his regular rate of pay to which shall be added his normal corresponding holiday pay.

(d) The police force and dispatchers shall be entitled to the holidays or equal time off as soon as possible after the holidays providing arrangements can be made within the department with the approval of the Mayor or Village Administrator.

(e) An option is established permitting all employees to determine by a majority vote an alternative holiday in lieu of the third Monday in January, known as Martin Luther King, Jr., Day. In order for employees to make said election, the vote on the same must be taken by January 1 of the following year, otherwise, Martin Luther King Jr. Day shall remain the holiday for that year. The election shall be conducted under the supervision and direction of the Village Administrator.

(Ord. 97-13. Passed 12-1-97.)

149.06 MILEAGE ALLOWANCE.

All Municipal officials and employees who are required to travel in their personal automobiles on Municipal business and who have been previously authorized to do so by the Mayor or Village Administrator, shall be reimbursed for such travel at the same cents-per-mile rate as reflected in the current IRS Publication 15-B. The expense for such travel shall show in detail the dates of occurrence and specific reason for the expense.

(Ord. 2004-11. Passed 6-21-04.)

149.07 INSURANCE.

In addition to salary and compensation otherwise provided, the Municipality shall pay the cost of hospitalization, medical and accident insurance coverage for the full-time employees who are now enrolled, or elect to enroll under the present group contract, and the Ohio Municipal League Group Accident Plan, or any agreement of the Municipality and a majority of the employees participating.

(Ord. 2016-21. Passed 11-28-16.)

149.08 STARTING SALARY.

All new employees will be hired at a starting rate as set forth in the current job classification schedule. (Ord. 97-13. Passed 12-1-97.)

149.09 PAY RAISES AND REDUCTIONS.

(a) The employee is expected to constantly develop his ability. Improvement may be attained by greater skill in performing assigned tasks, increased work effort, satisfactory completion of work relating to the position and interest in doing a better job. Advancements in wages of first year employees generally shall be considered only upon completion of one year of employment; however, earlier increases may be considered upon the written recommendation of the department head to the Village Administrator in which the reasons for the proposed wage increase are detailed. (Ord. 2000-10. Passed 10-16-00.)

(b) The written approval of the Village Administrator is required along with the approval of Council before any increase in wages can be granted.

(c) Upon recommendation by a department head, Village Administrator or the Mayor, wage reductions may be enforced. Such action may be taken provided at least two of those named herein concur.

(Ord. 97-13. Passed 12-1-97.)

149.10 SEMINAR ATTENDANCE.

(a) If an employee is required to attend a seminar or other scheduled training session, the Village will pay for the registration, meals, and overnight accommodations. The employee will be paid his regular pay for eight hours work while attending the training. Should the scheduled training exceed eight hours the employee will be paid at the rate of time and one half for that period in excess of eight hours only. Employees are expected to drive to and from a one day seminar within that day if within 125 miles one way. An employee may stay overnight for a two or more day seminar only on the approval of the Village Administrator or Mayor. The Village will pay up to one hundred twenty-five dollars (\$125.00) per room per night for seminars and/or sessions lasting two or more days.

(b) If an employee voluntarily attends a seminar or other training session, the Village will pay for the registration, meals and mileage only. The employee will be paid his regular pay for eight hours work while attending the training. Should the training exceed eight hours the employee will be paid at the straight time rate only. Overnight accommodations will not be paid for by the Village.

(Ord. 97-13. Passed 12-1-97.)

(c) Meals (excluding alcoholic beverages); including tips not to exceed fifteen percent (15%) but not taxes, if not furnished as part of the above seminar and/or session shall be reimbursed at the rate of up fifteen dollars (\$15.00) for breakfast, twenty dollars (\$20.00) for lunch, and thirty dollars (\$30.00) for dinner. Such payment shall be reimbursed upon presentation of proper receipt and voucher submission only. Receipts and vouchers shall be presented to the appropriate department head.

(Ord. 2018-07. Passed 3-19-18.)

149.11 BEREAVEMENT LEAVE.

(a) Each full-time employee of the Village shall be entitled to bereavement leave. Bereavement leave shall be allowed for a three day period of time. Those days will be the day before the funeral, the day of the funeral and the day after the funeral. Bereavement leave will be used only in the event of death in the employee's immediate family. For the purpose of this section, immediate family shall be construed to mean husband, wife, father, mother, brother, sister, son, daughter, grandparents, grandchildren and in laws of the above listed members.

(b) When using bereavement leave, the employee shall contact his department head. If the department head approves the request, a bereavement form will be completed by the employee and approved by the Village Administrator.

(c) The use of bereavement leave shall in no way affect the employee's accumulated sick leave or work record.

(Ord. 97-13. Passed 12-1-97.)

149.12 DISABILITY LEAVE.

(a) A full-time or part-time employee of the Municipality who suffers from an incapacitating physical or mental condition preventing the employee's performance of an essential job function, and who has exhausted all accrued sick leave and vacation leave, shall be eligible to apply for disability leave. Disability leave shall be unpaid leave. In the case of employees who are covered by the Municipality's health insurance policy at the time of their application for disability leave, the Municipality shall continue to make the insurance payments to maintain the employee's coverage for a period of up to three months following the month in which the employee last was in active pay status. This insurance continuation is subject to the conditions set forth below.

(b) In order to apply for disability leave, an employee must complete the Municipality's "Disability Leave Application Form" and submit it to the Administrator. To complete the form, the employee must attach a letter or statement signed by the employee's physician indicating the nature of the incapacitating condition, and estimating the time when the employee will be able to return to work and perform all the essential functions of his or her position. The employee must also sign a release authorizing their physician to disclose to the Municipality any information from the physician regarding the employee's medical condition.

(c) Based upon the employee's expected date of return to work, the employee will be eligible to apply for either short-term or long-term disability leave. If the employee is not expected to return within one year from the date when the employee is no longer in active pay status, he or she also may seek disability retirement from the appropriate retirement system.

(d) Employees shall not be eligible for or granted "light duty". In order to return to work following a period of disability, an employee must be capable of performing all of the essential functions of his or her job. Job restructuring may be possible, however, where alternate methods of performing the essential functions of the job exist.

- (1) Short-term disability leave. In the event that the employee will be able to return to work and perform the essential job functions of their job position within one year, the employee shall be eligible for "short-term disability leave."

In the case of employees who are covered by the Municipality's health insurance policy at the time of their application for short-term disability leave, the Municipality will loan up to three months of continued health insurance coverage. The employee is obligated to repay the Municipality for fifty percent (50%) of its expenses incurred as a result of this loan after the employee returns to work. Repayment may be made in incremental payments, in accordance with terms established by the Administration.

- (2) Long term disability leave. In the event that the employee's physician estimates that the employee will be able to return to work and perform the essential job functions of their job position no sooner than one year, the employee shall be eligible to apply for "long term disability leave."

In the case of employees who are covered by the Municipality's health insurance policy at the time of their application for long-term disability leave, the Municipality will loan up to three months of continued health insurance coverage only if the employee first has applied to PERS or PFDPF, whichever retirement system applies, for disability retirement. If the employee receives a long-term disability retirement from PERS or PFDPF, the employee is obligated to repay the Municipality for its expenses incurred as a result of this loan.

- (e) Disability Retirement. In the event that an employee has exhausted all of his or her accrued sick leave and vacation leave and the employee's physician anticipates that the employee will not be able to return to work for a period in excess of one year, the employee shall apply to PERS or PFDPF, whichever retirement system applies, seeking a disability retirement.

- (f) Disqualification. An employee who is on disability leave may lose that status and be subject to disciplinary sanctions in the event that the employee has engaged in any falsification or dishonesty involving the employee's incapacitated status, disability leave application, or physician's documents. Employees who are on disability leave may not engage in employment with another employer involving work having essential job functions of a type similar to those the employee purportedly is unable to perform for the Municipality by reason of physical or mental incapacity. The Municipality reserves the examination by a physician selected by the Municipality. In the event that the Municipality requires such an examination, the Municipality shall pay the cost of the examination. In addition, the Municipality reserves the right to require the employee to submit to nursing or other health follow-up visits or examinations in order to verify continued disability.

- (g) COBRA Coverage. Regardless of whether an employee seeks or is eligible for disability leave, federal law provides that in certain situations, an employee who is covered by the Municipality's health insurance policy has a right to continue that coverage, at the employee's expense, for a period of time after the employee terminates employment with the Municipality. For more information regarding continuation of insurance coverage, please contact the plan administrator for the health insurance policy. (Ord. 97-13. Passed 12-1-97.)

**149.13 EXPENDITURE OF PUBLIC FUNDS FOR COFFEE, MEALS,
REFRESHMENTS AND OTHER AMENITIES FOR PUBLIC EMPLOYEES,
MUNICIPAL OFFICERS OR OTHER PERSONS.**

The Village Administrator is hereby authorized and directed to authorize and approve the purchase of coffee, meals, refreshments (excluding alcoholic beverages) and other amenities for Village officers, employees or other persons provided such expenditure does not exceed one hundred dollars (\$100.00) per event, or six hundred dollars (\$600.00) per year in the aggregate. (Ord. 2003-15. Passed 12-1-03.)

149.14 RESIDENCY REQUIREMENT.

(a) As used in this section:

- (1) "Political subdivision" has the same meaning as in Ohio R.C. 2743.01.
- (2) "Volunteer" means a person who is not paid for service or who is employed on less than a permanent full time basis.

(b) (1) Except as otherwise provided in subsection (b)(2) hereof, no political subdivision shall require any of its employees, as a condition of employment, to reside in any specific area of the state.

- (2) A. Subsection (b)(1) of this section does not apply to a volunteer.
- B. To ensure adequate response time by certain employees of the Village, for emergencies or disasters while ensuring that those employees generally are free to reside throughout the state, Council hereby requires any individual, as a condition of employment, to reside either in Wyandot County or any adjacent county.

(c) Except as otherwise provided in subsection (b)(2), employees of political subdivisions of this State have the right to reside any place they desire.
(Ord. 2006-17. Passed 11-6-06.)

149.15 REHIRING OF RETIRED FULL-TIME EMPLOYEE.

(a) The Village hereby adopts a policy that prohibits the rehiring of individuals for full-time positions who previously retired as full-time employees of the Village.

(b) Nothing in this section shall be construed to prevent consideration of retired former full-time employees of the Village for part-time employment positions.
(Ord. 2011-16. Passed 10-17-11.)

CHAPTER 151

Tree Commission

151.01	Definitions.	151.13	Tree topping.
151.02	Established.	151.14	Pruning, corner clearance.
151.03	Term of office; vacancy.	151.15	Dead or diseased tree removal on private property.
151.04	Compensation.	151.16	Removal of stumps.
151.05	Duties and responsibilities.	151.17	Interference with Tree Commission.
151.06	Officers; rules.	151.18	Trees in new subdivisions.
151.07	Species to be planted.	151.19	Abuse or mutilation of trees.
151.08	Spacing.	151.20	Arborists license and bond.
151.09	Distance from curb and sidewalk.	151.21	Review by Council.
151.10	Distance from street corners and fireplugs.	151.99	Penalty.
151.11	Utilities.		
151.12	Public tree care.		

CROSS REFERENCES

Power to regulate shade trees and shrubbery - see Ohio R.C. 715.20
Assessments for tree planting or maintenance - see Ohio R.C. 727.011
Injury or destruction - see GEN. OFF. 541.06

151.01 DEFINITIONS.

(a) "Street trees" means any trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the Village.

(b) "Park trees" means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the Village, or to which the public has free access as a park. (Ord. 864. Passed 7-19-82.)

151.02 ESTABLISHED.

There is hereby created and established a Tree Commission for the Village which shall consist of five members, all of whom shall be residents of the Village, who shall be appointed by the Mayor with the approval of Council. The Commission shall have the right to call in consultants as they see fit. (Ord. 864. Passed 7-19-82.)

151.03 TERM OF OFFICE; VACANCY.

The term of the five members appointed by the Mayor shall be three years, except that the term of two of the members appointed to the first Tree Commission shall be for only one year and the term of two members of the first Commission shall be for two years. In the event that a vacancy shall occur during the term of any member, his successor shall be appointed for the unexpired portion of the term.

(Ord. 864. Passed 7-19-82.)

151.04 COMPENSATION.

Members of the Tree Commission shall serve without compensation.

(Ord. 864. Passed 7-19-82.)

151.05 DUTIES AND RESPONSIBILITIES.

The Tree Commission shall study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to Council and upon their acceptance and approval shall constitute the official comprehensive tree plan for the Village. The Commission, when requested by Council shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work. (Ord. 864. Passed 7-19-82.)

151.06 OFFICERS; RULES.

The Tree Commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (Ord. 864. Passed 7-19-82.)

151.07 SPECIES TO BE PLANTED.

The list attached to Ordinance 864, passed July 19, 1982, constitutes the official street tree species for the Village. No species other than those included in such list may be planted as Street Trees without written permission of the Tree Commission. This list shall be reviewed and updated annually by the Commission.

(Ord. 864. Passed 7-19-82.)

151.08 SPACING.

The spacing of Street Trees will be in accordance with the three species size classes referred to in Section 151.07. No trees may be planted closer together than the following: Small trees, thirty feet; medium trees, forty feet; large trees, fifty feet; except in special planting designed or approved by the Tree Commission.

(Ord. 864. Passed 7-19-82.)

151.09 DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes referred in Section 151.07. No trees may be planted closer to any curb or sidewalk than the following: Small trees, two feet; medium trees, three feet; and large trees, four feet.

(Ord. 864. Passed 7-19-82.)

151.10 DISTANCE FROM STREET CORNERS AND FIREPLUGS.

No Street Tree shall be planted closer than thirty-five feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No Street Tree shall be planted closer than ten feet of any fireplug.

(Ord. 864. Passed 7-19-82.)

151.11 UTILITIES.

No Street Trees other than those species referred to as small trees in Section 151.07 may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, distribution line or other utility. (Ord. 864. Passed 7-19-82.)

151.12 PUBLIC TREE CARE.

(a) The Village shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(b) The Tree Commission may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of such trees is in accordance with Sections 151.07 through 151.11. (Ord. 864. Passed 7-19-82.)

151.13 TREE TOPPING.

No person, firm or Village department shall, as a normal practice, top any Street Tree, Park Tree, or other tree on public property. "Topping" means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Tree Commission.

(Ord. 864. Passed 7-19-82.)

151.14 PRUNING, CORNER CLEARANCE.

Every owner of any tree overhanging any street or right of way within the Village shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The Village shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign. (Ord. 864. Passed 7-19-82.)

151.15 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

(a) The Village shall have the right to cause the removal of any dead or diseased trees on private property within the Village, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the Village. The Tree Commission shall notify in writing the owners of such trees. Removal shall be done by the owners at their own expense within sixty days after the date of service of notice.

(b) In the event of failure of owners to comply with such provisions, the Village shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice. (Ord. 864. Passed 7-19-82.)

151.16 REMOVAL OF STUMPS.

All stumps of street and park trees shall be removed below the surface of the ground to facilitate landscaping. (Ord. 864. Passed 7-19-82.)

151.17 INTERFERENCE WITH TREE COMMISSION.

No person shall prevent, delay or interfere with the Tree Commission, or any of its agents, while engaging in and about the planting, cultivation, mulching, pruning, spraying or removing of any Street Trees or trees on private grounds, as authorized in this chapter. (Ord. 864. Passed 7-19-82.)

151.18 TREES IN NEW SUBDIVISIONS.

See Subdivision Regulations regarding tree planting in new subdivisions. Any deviation from these regulations shall be a violation of this chapter.
(Ord. 864. Passed 7-19-82.)

151.19 ABUSE OR MUTILATION OF TREES.

No person shall abuse, destroy or mutilate any tree, shrub or plant in a public tree lawn or any other public place, or attach or place any rope or wire, other than one used to support a young or broken tree, or attach or place any sign, poster, handbill or other thing to any tree growing in a public place, or cause or permit any wire charged with electricity to come in contact with any such tree, or allow any gaseous, liquid or solid substance which is harmful to such trees to come in contact with their roots or leaves. (Ord. 864. Passed 7-19-82.)

151.20 ARBORISTS LICENSE AND BOND.

(a) No person or firm shall engage in the business or occupation of pruning, treating or removing Street or Park Trees within the Village without first applying for and procuring a license. The license fee shall be twenty-five dollars (\$25.00) annually in advance, provided, however, that no license shall be required of any public service company or Village employee doing such work in the pursuit of their public service endeavors.

(b) Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of fifty thousand dollars (\$50,000) for bodily injury and one hundred thousand dollars (\$100,000) property damage indemnifying the Village or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (Ord. 864. Passed 7-19-82.)

151.21 REVIEW BY COUNCIL.

Council shall have the right to review the conduct, acts and decisions of the Tree Commission. Any person may appeal from any ruling or order of the Tree Commission to Council who may hear the matter and make final decision.
(Ord. 864. Passed 7-19-82.)

151.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor.
(Ord. 864. Passed 7-19-82.)

CHAPTER 153
Treasury Investment Board

153.01 Established.

CROSS REFERENCES
State provisions - see Ohio R.C. 731.57 et seq.

153.01 ESTABLISHED.

There is hereby created a Treasury Investment Board of the Village comprised of the Fiscal Officer, Village Solicitor and the Village Administrator or Mayor in his absence. (Ord. 943. Passed 12-2-85.)

CHAPTER 154
Audit/Finance Committee

154.01 Established.
154.02 Composition.
154.03 Meetings.

154.04 Powers and duties.
154.05 Audit review.

154.01 ESTABLISHED.
Council hereby establishes the Village Audit/Finance Committee.
(Ord. 2006-2. Passed 3-6-06.)

154.02 COMPOSITION.
The Village Audit/Finance Committee shall be comprised of six members, as follows: The Mayor, the Village Administrator, the Law Director, the President Pro Tempore of Council and two (2) community individuals with accounting, financial and/or legal experience who hold no other municipal office within the Village of Carey, Ohio. The individual committee members shall be appointed by Council and shall serve without compensation for a term of two (2) years, beginning on the first day of the year.
(Ord. 2006-2. Passed 3-6-06.)

154.03 MEETINGS.
The Mayor shall establish the time, date and place for the first meeting each year. The Village Audit/Finance Committee shall meet at least two (2) times per year; however, a meeting will be held prior to and after any audit that is conducted by the Auditor of State or its representatives or designees. The Committee shall appoint a chairman and recording secretary and shall keep minutes of its proceedings.
(Ord. 2006-2. Passed 3-6-06.)

154.04 POWERS AND DUTIES.
The Village Audit/Finance Committee shall have the authority to examine and audit all accounts and records of the Village of Carey. Such records shall be made available to the Committee by the Fiscal Officer, who will be accessible to the Committee to explain any of the records during their examination. The Committee shall review all appropriations, budgets, revenues, expenditures, payroll, internal control, reporting procedures, data collection, and/or any other financial records it deems necessary and shall make recommendations that are consistent as to the fiscal well-being of the Village of Carey.
(Ord. 2006-2. Passed 3-6-06.)

154.05 AUDIT REVIEW.

During an audit year, the Committee shall review the annual unaudited financial report submitted to the Auditor of State; review audit results; assure that audit recommendations are appropriately addressed, and serve as a liaison between Village management and the auditors. (Ord. 2006-2. Passed 3-6-06.)

CHAPTER 155 Recreation Board

155.01 Membership.

155.02 Purpose.

CROSS REFERENCES

Power to construct recreation centers - see Ohio R.C. 717.01
Authority to establish - see Ohio R.C. 755.13
Composition; terms; vacancy - see Ohio R.C. 755.14
Organization; rules and regulations - see Ohio R.C. 755.15

155.01 MEMBERSHIP.

(a) The Recreation Board shall consist of five members, two of which shall be members of the Board of Education of the Village school district or members appointed by such Board. The other members of the Board shall be appointed by the Mayor with the consent of Council.

(b) All members of the Board shall be residents of the Village and shall serve for terms of five years, except that members first appointed shall be appointed for such terms that the term of one member shall expire annually thereafter.

(c) Members shall serve without pay and/or compensation.

(d) Vacancies in the Board, occurring otherwise than by expiration of term, shall be filled in the same manner as original appointments. (Ord. 88-9. Passed 5-16-88.)

155.02 PURPOSE.

The primary function and singular purpose of the Recreation Board shall be advisory in nature. It shall make its recommendations to Council, as such or otherwise, but shall have no authority in letting of any public contracts, which exclusive power to manage, care for, control, and supervise such facilities shall remain with the legislative authority in keeping with Ohio R.C. 735.27. (Ord. 88-9. Passed 5-16-88.)

TITLE SEVEN - Taxation
Chap. 171. Income Tax.
Chap. 172. Income Tax Effective January 1, 2016.
Chap. 181. Motor Vehicle License Tax.

CHAPTER 171
Income Tax

171.01	Purpose.	171.12	Violations; penalties.
171.02	Definitions.	171.13	Board of Review.
171.03	Imposition of tax.	171.14	Credit for tax paid to another municipality or Joint Economic Development Zone or District.
171.04	Effective period.	171.15	Income Tax Department confidentiality.
171.05	Return and payment of tax.	171.16	Severability.
171.06	Collection of tax at the source.	171.17	Savings clause.
171.07	Declarations.	171.18	Penalty.
171.08	Duties of the Tax Commissioner.	171.19	Amendments and supplements.
171.09	Investigative powers of the Tax Commissioner; penalty for divulging confidential information.	171.20	Allocation of funds.
171.10	Interest and penalties.		
171.11	Collection of unpaid taxes and refunds of overpayments.		

CROSS REFERENCES

Power to levy income tax – see Ohio Const., Art. XII, Sec. 8

Payroll deductions – see Ohio R.C. 9.42

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

171.01 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, there shall be, and is hereby levied, a tax on qualifying wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan and other compensation, on gambling winnings, on net profits and other taxable income as hereinafter provided.

(Ord. 2004-18. Passed 9-20-04.)

171.02 DEFINITIONS.

(a) 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.

- (1) “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, adjusted as follows:
- A. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income;
 - B. Add an amount equal to five percent (5%) of intangible income deducted under subsection (a)(1)A. hereof, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
 - C. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - D.
 - 1. Except as provided in subsection (a)(1)D.2. hereof, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - 2. Subsection (a)(1)D.1. hereof does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
 - E. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
 - F. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
 - G. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
 - 1. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
 - 2. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

- H. Nothing in subsection (a)(1) hereof shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.
- Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.
- (2) "Association" means a partnership, limited partnership, S corporation or any other form of unincorporated enterprise owned by one or more persons.
- (3) "Board of Review" means the Board created by and constituted as provided for in Section 171.13.
- (4) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity including but not limited to the renting or leasing of property, real, personal, or mixed. The ordinary administration of a decedent's estate by the executor or administrator, and the mere custody, supervision and management of trust property under passive trust, whether interviews or testimony, unaccompanied by the actual operation of a business as herein defined shall not be construed as the operation of a business.
- (5) "Business apportionment" means the portion of net profits to be apportioned to the Village as having been made in the Village, either under separate accounting method, or under the three factor formula of property, payroll, and sales, provided for in Section 171.03(b).
- (6) "Capital gains" means the net profits from the sale of any real or personal property if such property has been owned by the taxpayer for more than one year, and if the taxpayer is not regularly engaged in the business of selling such kind or character of property.
- (7) "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.
- (8) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though the taxpayer may have more than one residence. A domicile once acquired is presumed to continue until it is shown to have been changed. Intention to change domicile will not effect such a change unless accompanied by actual removal. Where a change of domicile is alleged, the burden of proving it rests upon the person making the allegation.
- (9) "Employee" means one who works for salaries, wages, commissions or other types of compensation in the services of an employer. Any person upon whom an employer is required to withhold for either federal income or social security or on whose account payments are made under the Ohio Workman's Compensation law shall *prima facie* be an employee.

- (10) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, and including the officers and resident managers, who or that employs one or more persons on a salary, wage, commission or other compensation basis whether or not such employer is engaged in business. It does not include a person who employs only domestic help for such person's private residence.
- (11) "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for municipal tax purposes.
- (12) "Floater" means an employee who does not work at a place of business of his employer and/or who regularly works in two or more taxing municipalities during a year.
- (13) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (14) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality's prescribed returns, reports, or documents.
- (15) "Gross receipts" means the total income of taxpayers from whatever source derived.
- (16) "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of other pass-through entities.
- (17) "Income Tax Department" means the office administering the Income Tax Ordinance.
- (18) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (19) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

- (20) "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.
- (21) "Joint Economic Development Zone or District" means a zone or district created under Ohio Revised Code Sections 715.69 through 715.83 as amended from time to time.
- (22) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (23) "Municipality" or "Village" means the Village of Carey, Ohio.
- (24) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in subsection (e) of Section 171.03, required to be reported on schedule C, schedule E, or schedule F.
- (25) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
- (26) "Nonresident" means an individual domiciled outside of the Village.
- (27) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Village.
- (28) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (29) "Ordinance" means the Income Tax Ordinance (Chapter 171) of the Village of Carey Codified Ordinances.
- (30) "Other payer" means any person, other than an individual's employer or the employer's agent, which pays an individual any amount included in the federal gross income of the individual.
- (31) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
- (32) "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
- (33) "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

- (34) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association includes the partners or members thereof, and as applied to corporations, the officers thereof, and in the case of any unincorporated entity or corporation not having any partner, member or officer within the Village, any employee or agent of such unincorporated entity or corporation who can be found within the corporate limits of the Village.
- (35) "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 employees regularly in attendance.
- (36) "Principal place of business" in the case of an employer having its headquarters' activities at a place of business within a taxing municipality, the term shall mean the place of business at which the headquarters is situated. In the case of an employer not having its headquarters' activities at a place of business within a taxing municipality, the term shall mean the largest place of business located in a taxing municipality.
- (37) "Qualified plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code, as amended.
- (38) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.
- (39) "Resident" means an individual domiciled in the Village. Continuous residence within the Village for ninety (90) days or more shall prima facie constitute domiciliary residence.
- (40) "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business situs is within the Village.
- (41) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
- (42) "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
- (43) "Rules and Regulations" means the Rules and Regulations, IF ANY, as adopted and authorized or required by this chapter and which are incorporated as the rules of interpretation of this chapter, if any.
- (44) "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (45) "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (46) "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (47) "S Corporation" means a corporation that has made an election under subchapter S of Chapter 1 of subtitle A of the Internal Revenue Code for its taxable year, treated as a corporation for purposes of the Village tax.

- (48) "Tax Commissioner" means the individual appointed to administer the Village's Income Tax Ordinance and to direct the operation of the Village Income Tax Department or the person executing the duties of the Tax Commissioner.
- (49) "Taxable income" means qualifying wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan and other compensation paid by an employer or employers, compensation for personal services, gambling winnings, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (50) "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.
- (51) "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality and on income earned by its residents.
- (52) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(b) The singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ord. 2004-18. Passed 9-20-04.)

171.03 IMPOSITION OF TAX.

(a) Rate. Subject to the provisions of prior Section 181.03, an annual tax for the purposes specified in section 181.02 shall be and is hereby levied on and after December 6, 1976, at the rate of one percent (1.0%) per annum, on and after September 1, 1987, at the rate of one and one-half percent (1.5%) per annum upon the following:

- (1) Resident Employee. On all qualifying wages, including sick and vacation pay, bonuses, commissions, grievance pay, incentive payments, settlements, stock options, severance pay, any pay as part of an employee buyout or wage continuation plan, other compensation, and other taxable income earned or received by residents of the Village.
 - A. For the purpose of determining the tax on the earnings of resident taxpayers taxed under Section 171.03, the sources of the earnings and the place or places in or at which the services were rendered are immaterial. All such earnings wherever earned or paid are taxable.

- B. The following items are subject to the tax:
1. Qualifying wages, including sick and vacation pay, bonuses, commissions, grievance pay, incentive payments, settlements, stock options, severance pay, any pay as part of an employee buyout or wage continuation plan, other compensation, and other taxable income earned or received by an individual whether directly or through an agent and whether in cash or in property for services rendered during the tax period as:
 - a. An officer, director or employee of a corporation (including charitable and other non-profit organizations), joint stock association, or joint stock company;
 - b. An employee (as distinguished from a partner or member) of a partnership, limited partnership, or any form of unincorporated enterprise owned by two or more persons;
 - c. An employee (as distinguished from a proprietor) of a business, trade or profession conducted by an individual owner;
 - d. An officer or employee (whether elected, appointed or commissioned) of the United States Government, or any of its agencies; or of the State of Ohio or any of its political subdivisions or agencies thereof; or any foreign country or dependency except as provided in Section 171.03(g);
 - e. An employee of any other entity or person, whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production or piece work rates; and whether paid by an individual, partnership, association, corporation (including charitable and other non-profit corporations), governmental administration, agency, authority, board, body, branch, bureau, department, division, subdivision, section or unit, or any other entity.
 2. Commissions earned by an individual directly or through an agent and whether in cash or in property for services rendered during the effective period of the chapter, regardless of how computed or by whom or wheresoever paid.
 - a. If amounts received as a drawing account exceed the commissions earned and the excess is not subject to the demand of the employer for repayment the tax is payable on the amounts received as a drawing account.

- b. Amounts received from an employer for expenses, and not as compensation, and used as such by the individual receiving them, are not deemed to be compensation if the employer deducts such expenses or advances as such from his gross income for the purpose of determining his net profits taxable under federal law, and the employee is not required to include such receipts as income on his federal tax return.
 - c. If commissions are included in the net earnings of the trade, business, profession, enterprise, or activity carried on by an unincorporated entity of which the individual receiving such commission is owner or part owner and therefore subject to the tax under Section 171.03(a)(3) or 171.03(a)(4), they shall not be taxed under Section 171.03(a)(1).
3. Fees, unless such fees are properly includable as part of the net profits of a trade, business, profession, or enterprise regularly carried on by an unincorporated entity owned or partly owned by said individual and such net profits are subject to the tax under Section 171.03(a)(3).
 4. Other compensation, including but not limited to: tips, bonuses, gifts or prizes of any type connected with employment or in lieu of pay, and including compensation paid to domestic servants, casual employees and other types of employees.
 5. Employer paid premiums for group term life insurance to the extent taxable for federal income tax purposes.
 6. Payments made to an employee by an employer as sick leave, holiday pay, vacation pay, or qualifying wages under any other wage continuation plan during periods of disability, sickness or absence from work are taxable when paid.
 7. Payments made to an employee for sick or disability pay, whether paid by the employer to the employee or through a third party, are taxable if the amount appears on a W-2 form and the employer or third party has paid the premium for this insurance coverage.
 8. Contributions by an employee or on behalf of an employee from gross wages into employer or third party trusts, non-qualified retirement plans, nonqualified deferred compensation plans or programs or qualified retirement plans; as permitted by any provisions of the Internal Revenue Code and which are excludable from gross wages for federal tax purposes are not and never have been excludable from qualifying wages subject to the Village income tax (401k plans and similar plans).

9. Sums deducted from gross wages or other compensation for retirement purposes (deferred compensation plans and similar plans) are taxable.
 10. The ordinary income portion of a stock option, employee stock purchase plan or other compensation received in the form of property to the extent that it is shown on a W-2 as ordinary income and is includable on the taxpayer's federal income tax return.
 11. Incentive payments and/or settlement payments, no matter how described, including but not limited to payments to induce early retirement.
 12. Car allowance, personal use of employer-provided vehicle.
 13. Payment made to an employee by an employer for moving or relocation in excess of federal allowance.
 14. Payments to an employee by an employer as separation or severance payouts (including, but not limited to sick pay, vacation pay, separation pay, termination pay, early retirement incentives and/or settlement payments) and reportable as earned income are taxable when paid if applicable tax has not previously been paid.
 15. Trusts not made pursuant to employee's retirement.
 16. Supplemental unemployment compensation benefits described in section 3402 (o)(2) of the Internal Revenue Code.
 17. Grievance pay and strike pay.
 18. Any monies withheld from employees' wages by a non-profit organization on a voluntary basis for the purchase of "Tax Shelter Annuities" under the provisions of Internal Revenue Code, section 401 shall be considered as income for determination of wages, subject to the Village income tax.
 19. All other earned compensation. If income appears on a W-2 form and is not shown to be an exception in accordance with section 171.03(G) hereof, it shall be considered other compensation and therefore taxable to the individual.
 20. Losses from the operation of a business or profession are not deductible from employee earnings.
- C. Where compensation is paid or received in property, its fair market value, at the time of receipt, shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.
1. In the case of domestics and other employees whose duties require them to live at their place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.
 2. Housing for clergy shall not be considered as wages or compensation earned.

- (2) Nonresident Employee. On all qualifying wages, including sick and vacation pay, bonuses, commissions, grievance pay, incentive payments, settlements, stock options, severance pay, any pay as part of an employee buyout or wage continuation plan, other compensation, and other taxable income earned or received by nonresidents for work done or services performed or rendered in the Village or as a result of employment in the Village whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property.
- A. The location of the place from which payment is made is immaterial.
 - B. The items subject to tax under Section 171.03(a)(2) are the same as those listed and defined in Section 171.03(a)(1).
 - C. The Village shall not tax the compensation of an individual if all of the following apply:
 1. The individual does not reside in the Village;
 2. The compensation is paid for personal services performed by the individual in the Village on twelve (12) or fewer days during the calendar year;
 3. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the Village and the individual pays tax on compensation described in item C.2. of this section to the municipality, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.
 4. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, as a may be reasonably defined by the Village.
 - D. For purposes of the 12-day calculation, "Day" means any part of a 24-hour calendar day where compensation is earned in the Village.
 - E. Beginning with the thirteenth (13) day, the individual shall no longer be considered an occasional entrant and is liable for taxes on income earned for the first twelve (12) days.
- (3) A. Resident Unincorporated Business. On the portion attributable to the Village of the net profits earned by all resident associations, unincorporated businesses, pass-through entities, professions or other entities, derived from sales made, work done, services performed or rendered or business or other activities conducted in the Village.
- 1. The tax imposed on resident associations, unincorporated businesses, pass-through entities, professions or other unincorporated entities owned by two or more persons is upon the entities rather than the individual members or owners thereof, but the tax imposed on an unincorporated resident entity owned by one person is upon the individual owner.

2. The tax imposed by Section 171.03(a)(3) is imposed on all resident unincorporated entities having net profits attributable to the Village under the business apportionment percentage formula provided for in this chapter, regardless of where the owner or owners of such resident unincorporated business entity reside.
3. Resident associations, unincorporated businesses, pass-through entities, professions or other unincorporated entities owned by two or more persons, all of whom are residents of the Village, may disregard the business apportionment percentage formula provided for in the chapter and pay the tax on their entire net profits thereof if no apportionment by the entity to another taxing municipality exists. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the net profits from the entity; however, an additional return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity.
4. The tax imposed shall not apply to income derived within the Village by any person from interstate commerce if the only business activities within the State of Ohio by or on behalf of such person, are either, or both of the following:
 - a. Solicitation of orders by such person, or his representative, in the State of Ohio for sales of tangible personal property, which orders are sent outside of the State of Ohio for approval or rejection, and, if approved, are filled by shipment or delivery from a point outside the State of Ohio; and
 - b. The solicitation of orders by such person, or his representative in the State of Ohio, in the name of or for the benefit of a prospective customer of such person, if orders by such customer to such person to enable such customer to fill orders resulting from such solicitations are orders described in subsection (a)(3)A.4.a. above; provided, however, that the provisions of this subsection shall not apply to any corporation which is incorporated under the laws of the State of Ohio or any individual who is domiciled in or a resident of the State of Ohio. For the purpose of this subsection a person shall not be considered to have engaged in a business activity within the State of Ohio during

any taxable year merely by reason of sales in the State of Ohio, or the solicitation of orders for sales within the State of Ohio, of tangible personal property on behalf of such person by one or more independent contractors, or by reason of the maintenance of an office within the State of Ohio by one or more independent contractors whose activities on behalf of such person in the State of Ohio consist solely of making sales, or soliciting orders for sales of tangible personal property. For the purposes of this subsection the term "independent contractor" means a commission agent, broker, or other independent contractor who is engaged in selling, or soliciting orders for sales of tangible personal property for more than one principal and who holds himself out as such in the regular course of his business activities. For the purpose of this subsection, the term "representative" does not include an independent contractor.

- B. Resident's Distributive Share of Profits of a Resident Unincorporated Business Entity, Not Attributable to the Village. On the portion of the distributive share of the net profits earned by a resident owner of a resident association, unincorporated business entity, pass-through entity, profession or other unincorporated entity not attributable to the Village and not levied against such resident association, unincorporated business entity, pass-through entity, profession or other unincorporated entity by the Village or any other taxing municipality at the same or higher rate.
1. A resident individual who is sole owner of a resident unincorporated entity shall pay the tax on the entire net profits of his resident unincorporated business entity. If allocation to another municipality exists, the taxpayer may qualify for credit for tax paid to another locality under Section 171.14.
 2. In the case of a resident individual partner or part owner of a resident unincorporated entity, the tax is imposed on such individual's distributive share of net profits not attributable to the Village, under business apportionment percentage formula provided for in Section 171.03(b), and not taxed against the entity.

- (4) A. Nonresident Unincorporated Business. On the portion attributable to the Village of the net profits earned by all nonresident associations, unincorporated businesses, pass-through entities, professions or other unincorporated entities, derived from sales made, work done, services performed or rendered or business or other activities conducted in the Village, whether or not such nonresident association, unincorporated business, pass-through entity, profession or other unincorporated entity has an office or place of business in the Village.
1. The tax imposed on nonresident associations, unincorporated businesses, pass-through entities, professions or other unincorporated entities owned by two or more persons is upon the entities rather than the individual members or owners thereof.
 2. The tax imposed by Section 171.03(a)(4) is imposed on all nonresident unincorporated entities having net profits attributable to the Village under the business apportionment percentage formula provided for in the chapter, regardless of where the owner or owners of such nonresident unincorporated business entities reside.
 3. Nonresident associations, unincorporated businesses, pass-through entities, professions or other unincorporated entities owned by two or more persons, all of whom are residents of the Village, may disregard the business apportionment percentage formula provided for in the chapter and pay the tax on their entire net profits thereof if no apportionment by the entity to another taxing municipality exists. In such case, the tax paid by the entity shall constitute all tax due from the owners or members of the entity for their distributive share of the net profits from the entity; however, an additional return shall be required from any such owner or member having taxable income other than the distributive share of the net profits from the entity.
- B. Resident's Distributive Share of Profits of a Nonresident Unincorporated Business Entity, Not Attributable to the Village. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident association, unincorporated business entity, pass-through entity, profession or other unincorporated entity not attributable to the Village and not levied against such nonresident association, unincorporated business entity, pass-through entity, profession or other unincorporated entity by the Village or any other taxing municipality at the same or higher rate.
1. A resident individual who is sole owner of a nonresident unincorporated entity shall pay the tax on the entire net profits of his resident unincorporated business entity. If allocation to another municipality exists, the taxpayer may qualify for credit for tax paid to another locality under Section 171.14.

2. In the case of a resident individual partner or part owner of a nonresident unincorporated entity, the tax is imposed on such individual's distributive share of net profits not attributable to the Village, under business apportionment percentage formula provided for in Section 171.03(b), and not taxed against the entity.
- (5) Net Profits of Corporations. On the portion attributable to the Village of the net profits earned by all corporations, whether domestic or foreign, that are not pass-through entities derived from sales made, work done or services performed or rendered or business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.
- A. The tax is imposed on the net profits attributable to the Village under the business apportionment percentage formula provided for in this chapter.
 - B. In determining whether a corporation is conducting a business or other activity in the Village, the provisions of the Rules and Regulations, if any, of this chapter shall be applicable.
 - C. A corporation whose sole business location is within the Village shall be considered a resident Village corporation and shall disregard the business apportionment percentage formula and pay the tax on the entire net profits of the corporate entity, unless allocation to another taxing municipality exists.
 - D. Corporations which are required by the provisions of Ohio Revised Code 5727.38 to 5727.41, inclusive, to pay an excise tax in any taxable year as defined by the chapter, may exclude that part of their gross receipts upon which the excise tax is paid. In such case, expenses incurred in the production of such gross receipts shall not be deducted in computing net profits subject to the tax imposed by the chapter.
- (6) Amplification. In amplification of the definition contained in Section 171.02 herein, but not in limitation thereof, the following additional information respecting net business profits is furnished.
- A. Net Profits.
 1. "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Section 171.03(e), required to be reported on schedule C, schedule E, or schedule F.
 2. "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, adjusted as defined in Section 171.02 herein.

B. Gross Receipts.

1. Gross receipts shall include but not be limited to income in the form of commissions, fees, directors' fees, subpay, profit sharing from nonqualified plans, rentals from real and tangible personal property, and other compensation for work or services performed or rendered as well as income from sales of stock in trade.
2. Gross receipts shall include ordinary income from Form 4797.

C. Expenses.

1. All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed but no deduction may be claimed for salary or withdrawal of a proprietor or of the partners, members, or other owners of an unincorporated business or enterprise.
2. If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty, not compensated for by insurance or otherwise of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the federal income tax. Provided, however, that loss on the sale, exchange or other disposition of depreciable property or real estate, used in the taxpayer's business, shall not be allowed as a deductible expense.
3. Current amortization of emergency facilities under the provisions of the Internal Revenue Code, if recognized as such for federal income tax purposes, may be included as an expense deduction hereunder.
4. Where depreciable property is voluntarily destroyed, only the cost of such demolition and the undepreciated balance thereof will be allowed as an expense in the year of such demolition, to the extent allowable for federal income tax purposes.
5. Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or at the discretion of the Tax Commissioner (if the reserve method is used), a reasonable addition to the reserve may be claimed, but in no event shall the amount exceed the amount allowable for federal income tax purposes.

6. Only taxes directly connected with the business may be claimed as a deduction. If for any reason the income from property is not subject to the tax, then taxes on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from income: (1) the tax under the chapter; (2) federal or other taxes based upon income; (3) gift, estate or inheritance taxes; (4) taxes for local benefit or improvements to property which tend to appreciate the value thereof; and (5) self-employment taxes for unincorporated businesses or other entities, including credit for employment taxes as allowed for federal tax purposes.
7. If the taxpayer reports income that is non-taxable under the chapter and such amounts are deducted in order to reconcile the municipal return with the taxpayer's federal return, expenses attributable to this non-taxable income shall not be allowed as a deduction from the remaining taxable income. The expenses attributable to such non-taxable income shall be:
 - a. Five percent (5%) of the non-taxable income. Non-taxable income given capital gain treatment on the federal return, from which attributable expenses were already deducted, is not subject to the foregoing.
8. An employee who is paid on a commission or other compensation basis and who pays his business expense from his commissions or other compensation, without reimbursement from his employer, may deduct from his gross commissions or other compensations, business expenses allowed by the Internal Revenue Service for federal income tax purposes but only to the extent said expenses are incurred in earning commissions or other compensations subject to the tax imposed by the chapter. Business expenses allowed shall be those expenses allowed to be claimed on the federal Form 2106 and upon the request of the Tax Commissioner, verifiable with supporting schedules and/or receipts. Failure to produce the supporting schedules and/or receipts upon request of the Tax Commissioner shall result in disallowance of the expenses in question. No expenses claimed on federal Form Schedule A, Itemized Deductions shall be allowed.
9. Income from the sale of, or lease of mineral rights are not taxable and expenses or loss in connection therewith are not deductible for tax purposes except in cases where taxpayer conducts the activities by which the minerals are extracted from the land.
10. Funds allocated by employers to qualified plans of employees are not taxable to the employees if the employees have no vested right in the money so allocated.

11. 401(k), IRA, SEP, KEOGH plans or any other type of deferred compensation plans shall not be allowed as a deduction against income for unincorporated entities or the like as allowed for federal purposes.
12. Deductions shall not be allowed for self-employed health insurance against income as allowed for federal or state tax purposes for unincorporated entities or the like.
13. Expenses incurred while attending educational courses may not be deducted from wages.
14. Moving expenses included in gross earnings shall be an allowance as a deductible expense. No deduction will be allowed if the taxpayer does not provide the federal Form 3903 for his moving deductions. Only moving expenses incurred, as part of income included in gross earnings, will be allowed.
15. In general, all business expense recognized and to the extent allowed as such for the purpose of determining federal income tax will be recognized and allowed for determining Village income tax under the provisions of this chapter. However, contributions are not considered as an ordinary and necessary expense of doing business and are disallowed as an expense.

(7) Rentals From Real Property.

- A. The rental of real estate is ordinarily a business activity, and the income from such rentals are taxable, provided, however, where the taxpayer's entire rental activity produces gross rentals of less than two hundred fifty dollars (\$250.00) per month, it will be *prima facie* evidence that such rental activities are not a business activity. If gross rentals equal or exceed two hundred fifty dollars (\$250.00) per month, the entire net income from rentals is taxable. In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.
- B. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- C. Real property shall include commercial property, residential property, farm property, and any and all types of real estate.
- D. In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for federal income tax purposes.
- E. Residents of the Village are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned. However, if any such property is located outside the Village, and is subject to another municipal income tax, credit shall be claimed in accordance with Section 171.14.

- F. Nonresidents of the Village are subject to such taxation only if the real property is situated within the Village.
 - G. To be considered non-taxable as ground rents, the property must be under perpetual leasehold by the terms of which the lessor performs no services of any type, including the payment of taxes on the property.
 - H. Businesses owning or managing real estate are taxed only on that portion of income derived from property located in the Village.
- (8) **Royalties.** Income in the form of royalties is taxable if taxpayer's activities produced the publication or other product, the sale of which produces the royalties.
- (9) **Gambling Winnings.** On all income received as gambling winnings as reported on Internal Revenue Service Form W-2G, Form 5754 and/or any other form required by the Internal Revenue Service that reports winnings from gambling. Gambling includes but is not limited to bingo, keno, slot machines, casino games, horse racing, dog racing, jai alai, sweepstakes, wagering pools, lotteries, prizes and any other wagering transactions.
- (10) Non-employee compensation.
- (11) Fellowships, scholarships, stipends and grants, to the extent that they are taxable for federal income tax purposes.

(b) **Apportionment of Business Profits for Businesses Both In and Outside the Village Boundaries.** This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in subsection (c) hereof, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- (1) **Business Apportionment Percentage Formula.** Multiply the entire net profits of the business by a business apportionment percentage formula to be determined by:
- A. STEP 1. Ascertain the percentage which the average original cost of the real and tangible personal property, including leasehold improvements, owned or used by the taxpayer in the business or profession and situated within the Village during the taxable period is to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
1. As used in the preceding subsection, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight (8). The percentage of taxpayer's real and tangible personal property within the Village is determined by dividing the average original cost of such property within the Village (without deduction of any encumbrances) by the average original cost of all such property within and without the Village.

2. Gross rents means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of property and includes:
 - a. Any amount payable for the use or possession of real and tangible personal property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales profits or otherwise;
 - b. Any amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs, or other amounts required to be paid by the terms of a lease or other arrangement.
 - c. A residence may not be considered an office unless a portion thereof is used exclusively for business purposes and is reached by a separate entrance in an exterior wall which does not serve as the entrance to the balance of the building.
- B. STEP 2. Ascertain the percentage which the total wages, salaries, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan and other forms of compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village is to the total wages, salaries, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan and other forms of compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code.
1. Salaries, wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan and other forms of compensation subject to the Village income tax paid owners or credited to the account of owners or partners during the period covered by the return are considered wages for the purpose of this computation.
 2. Salaries, wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan and other forms of compensation subject to the Village income tax shall be computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.

3. In the case of an employee who performs services both within and without the Village the amount treated as compensation for services performed within the Village shall be deemed to be:
 - a. In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for the business attributable to his efforts within the Village.
 - b. In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation received which the value of his services, within the Village bears to the value of all his services; and
 - c. In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within the Village is of his total working time.
 - d. Provided, however, all employees regularly connected with or working out of a place of business maintained by the taxpayer in the Village who perform seventy-five percent (75%) or more of their services within the Village be considered employees within the Village.
 4. Nonresident professional persons shall use the factor of days spent within the Village to total working days. All employees regularly connected with or working out of a place of business maintained by the taxpayer outside the Village who perform twenty-five percent (25%) or less of their services within the Village shall be considered employees outside the Village. (The provisions of this subsection are not applicable in determining the tax liability of a nonresident who works in and outside the Village.)
- C. STEP 3. Ascertain the percentage which the gross receipts of the business or profession from sales made and services performed during the taxable period in the Village is to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
1. The following sales shall be considered Village sales:
 - a. All sales made through retail stores located within the Village to purchasers within or without the Village except such of said sales to purchasers outside the Village that are directly attributable to regular solicitations made outside the Village personally by taxpayer's employees.

- b. All sales of tangible personal property delivered to purchasers within the Village regardless of where title passes if shipped or delivered from a stock of goods at an office, store, warehouse, factory, or place of storage located within the Village.
 - c. All sales of tangible personal property delivered to purchasers within the Village regardless of where title passes even though transported from a point outside the Village if the Taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village and the sales directly or indirectly result from such solicitation or promotion.
 - d. All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the Village to purchasers outside the Village if the taxpayer is not, through its own employees regularly engaged in the solicitation or promotion of sales at the place of delivery.
 - e. Charges for work done or services performed incident to a sale, whether or not included in the price of the property shall be considered gross receipts from such sale.
 - f. In the application of the foregoing subsections a carrier shall be considered the agent of the seller, regardless of the FOB point or other conditions of the sale, and the place at which orders are accepted or contracts legally consummated shall be immaterial. Solicitation of customers outside the Village by mail or phone from an office, or place of business within the Village shall not be considered a solicitation of sales outside the Village.
 - g. Nonresident professional persons shall use the factor of the Village billings over total billings.
- D. STEP 4. Adding together the percentages determined in accordance with Section 171.03(b)(1)A., B. and C. herein or such of the aforesaid percentages as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentages used in deriving such total. The result so obtained is the business apportionment percentage.
1. A factor is applicable even though it may be apportioned entirely in or outside the Village. A factor is excluded only when it does not exist anywhere.

2. Provided, however, that in the event a just and equitable result cannot be obtained under the business apportionment percentage formula provided for herein, the Tax Commissioner, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

E. STEP 5. The business apportionment percentage determined in Step 4 above shall be applied to the entire taxable net profits of the taxpayer wherever derived to determine the net profits apportioned to the Village.

(2) Substitute Method.

A. In the event a just and equitable result cannot be obtained under the business apportionment percentage formula, the Tax Commissioner, upon application of the taxpayer, shall have the authority to substitute other factors in the business apportionment percentage formula or prescribe other methods of apportioning net income calculated to effect a fair and proper apportionment.

B. Application to the Tax Commissioner to substitute other factors in the business apportionment percentage formula or to use a different method to apportion net profits must be made in writing before the end of the tax year and shall state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought to be obtained. A copy thereof shall be served at the time of filing upon the taxpayer or Tax Commissioner as the case may be. No specific form need be followed in making such application. Once a taxpayer has filed under a substitute method, he must continue to so file until given permission to change by the Tax Commissioner.

C. The decision of the Tax Commissioner on subsections (b)(2)A. and (b)(2)B. hereof may be appealed by the taxpayer to the Board of Review, which shall have the power to affirm, reverse or modify such decision of the Tax Commissioner.

(3) Professional And Personal Service. In the case of professional people and others furnishing personal services, if their only place of business is within the Village all their net profits shall *prima facie* be attributable to the Village.

(c) Except as otherwise provided in subsection (d) hereof, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.

(d) This section does not apply to individuals who are residents of the Municipality and, except as otherwise provided in Section 718.01 of the Ohio Revised Code, the Municipality may impose a tax on all income earned by residents of the Municipality to the extent allowed by the United States Constitution.

(e) Net Operating Loss (NOL).

- (1) The municipality does not allow a net operating loss carryback or carryforward.
- (2) Nothing contained in Section 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryback or carryforward.

(f) Consolidated Returns.

- (1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
- (2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless:
 - A. Permission in writing is granted by the Tax Commissioner to file separate returns.
 - B. A new corporation other than a corporation created or organized by a member of the group has become a member of the group during the taxable year.
 - C. A corporation member of the group is sold or exchanged. Liquidating a corporation or merging one of the corporations of the group into another will not qualify the group for filing separate returns.

(g) Exceptions. The following shall not be considered taxable:

- (1) Military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio National Guard.
- (2) Income of any religious, fraternal, charitable, scientific, literary, or educational institutions enumerated in Section 718.01 of the Ohio Revised Code to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
 - A. Any association or organization falling in the category listed in the preceding paragraph is required to file declarations and final returns and remit the taxes levied under this chapter on all net profits from activities, the income from which is not specifically exempt from taxation in Section 718.01 of the Ohio Revised Code.
 - B. Where such non-profit association or organization conducts income-producing business both within and without the corporate limits, it shall calculate its profits apportioned to the Village under the method or methods provided above.
- (3) Income from intangibles by way of dividends, interest and the like, if such income is subject to taxation under the intangible personal property laws of the State of Ohio, are specifically exempt from municipal taxation under said law.

- (4) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subject to taxation. The payer of such compensation is not required to withhold Village tax from that compensation.
- (5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Village, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the Village, or the headquarters of the authority or commission is located within the Village.
- (6) The income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:
 - A. The income of an electric company or combined company;
 - B. The income of a telephone company.
 - C. As used in subsection (g)(6) hereof, "combined company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.
- (7) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
- (8) Compensation earned by occasional entrants as defined in Section 171.03(a)(2)C.
- (9) An S corporation shareholder's distributive share of net profits of the S corporation, other
- (10) Compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.
- (11) Proceeds from welfare benefits, unemployment insurance benefits or similar payments received from local, state or federal government or charitable or religious groups.
- (12) Proceeds of social security benefits, qualified retirement plans as defined by the Internal Revenue Service, annuities, insurance, worker's compensation, permanent disability benefits, compensation for non-punitive damages for physical personal injuries and like reimbursement, not including damages for loss of profits.
- (13) Compensation for damage to property by way of insurance or otherwise.
- (14) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio from which the Village 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).

- (15) Alimony is not taxed to the recipient if exempt for federal income tax purposes nor is it allowed as a deduction by the payer.
- (16) If exempt for federal income tax purposes, fellowship and scholarship grants are also exempt from the Village tax.
- (17) Generally, the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation would be assumed to be taxable.
- (18) All income and earnings under six hundred dollars (\$600.00) per annum of individuals under 18 years of age, whether resident or non-resident.
(Ord. 2004-18. Passed 9-20-04.)

171.04 EFFECTIVE PERIOD.

The tax imposed by this chapter shall be levied, collected and paid with respect to the qualifying wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan and other compensation paid by an employer or employers, with respect to gambling winnings and with respect to the net profits of businesses, professions or other activities subject to the tax, earned on or after September 1, 1987.
(Ord. 2004-18. Passed 9-20-04.)

171.05 RETURN AND PAYMENT OF TAX.

(a) Dates and Requirements for Filing.

- (1) On or before April 15th of each year, every person subject to the provisions of Section 171.03, except as hereinafter provided, and every resident, shall make and file with the Tax Commissioner, a return on a form prescribed by and obtainable upon request from the Tax Commissioner, or on an acceptable generic form whether or not a tax be due.
- (2) When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period.
- (3) The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers showing the amount of Village tax deducted by such employer or employers from the qualifying wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan, other compensation, and other taxable income of an employee, and paid by him or them to the Tax Commissioner may be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such qualifying wages, including sick and vacation pay, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan or other compensation.
- (4) The return shall be accompanied by payment of any taxes due thereon.

- (5) An employee who is paid on a qualifying wage, commission or other compensation basis and who pays his business expense from his qualifying wage, commission or other compensation, without reimbursement from his employer, may deduct from his qualifying wage, commission or other compensation, business expenses allowed by the Internal Revenue Service for federal income tax purposes but only to the extent said expenses are incurred in earning commissions or other compensations subject to the tax imposed by the Ordinance. The employee must file a return in order to claim such deductions even though all or parts of such qualifying wage, commission or other compensation are subject to withholding. Business expenses allowed shall be those expenses allowed to be claimed on the federal Form 2106 and upon the request of the Tax Commissioner, verifiable with supporting schedules and/or receipts. Failure to produce the supporting schedules and/or receipts upon request of the Tax Commissioner shall result in disallowance of the expenses in question. No expenses claimed on federal Form Schedule A, Itemized Deductions shall be allowed.
- (6) Moving expenses included in gross earnings shall be an allowance as a deductible expense. No deduction will be allowed if the taxpayer does not provide the federal Form 3903 for his moving deductions. Only moving expenses incurred, as part of income included in gross earnings, will be allowed.
- (7) Except as provided for herein, the tax is on the association, unincorporated business, pass-through entity, profession or other unincorporated entity as an entity whether resident or nonresident and a return is required disclosing the net profits apportioned to the Village and the tax paid thereon. However, any resident partner or resident member is required to make a return and pay the tax in accordance with this chapter and Rules and Regulations.
- (8) Any taxpayer who received taxable income not subject to withholding under this chapter must file a return.
- (9) Any taxpayer having income, wages, or other compensation for which a return must be filed, and also having net profits from a business is required to file only one return.
- (10) Executors, administrators and trustees are required to file returns on the trusts, are liable for the payment of any taxes due by a deceased from an estate of such deceased and are required to give the name and address of the beneficiaries, even though the latter individually pays the tax.
- (b) Joint Returns.
- (1) A husband and wife may file either separate returns or a joint return for Village purposes, even though one of the spouses has neither taxable income nor deductions included on the Village return regardless of whether their federal and state returns were filed separately or jointly. If a joint Village return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.
- (2) A husband and wife may file a joint return either when engaged in the same or separate businesses, but may not deduct business losses of either from compensation paid by an employer.

(c) **Returns, Information Required and Reconciliation with Federal Returns.** The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from such Commissioner, or an acceptable generic form that contains all of the information required to be submitted with the Village's prescribed form setting forth:

- (1) The aggregate amounts of qualifying wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan, other compensation earned, received, apportioned or set aside from each employer, gambling winnings, and the net profits from any business, profession or other activity, including the rental from use of real and personal property, distributive shares from pass-through entities and other income defined by statute as taxable, received for the period covered by the return and such other pertinent facts and information in detail as the Tax Commissioner may require.
- (2) The amount of the tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules or other information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under the provisions of this chapter.
- (4) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this chapter. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Commissioner, or his authorized representative, to file the items required by this paragraph.
- (5) The Tax Commissioner shall accept a generic form of any return, report, or document required to be filed if the generic form once completed and filed contains all of the information required to be submitted with the Village's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with this chapter and Rules and Regulations governing the filing of returns, reports or documents.
- (6) Where figures of total income, deductions, and net profits are included, as shown by a federal return, any items of income that are not subject to the Village tax and unallowable expenses shall be eliminated in determining net income subject to the Village tax. The fact that any taxpayer is not required to file a federal tax return does not relieve him from filing a Village tax return.
- (7) If a change in federal income tax liability, made by the Internal Revenue Service, or by a judicial decision, results in an additional amount of tax payable to the Village, a report of such change shall be filed by the taxpayer within three (3) months after receipt of the final notice from the Internal Revenue Service or final court decision.

- (8) If a change in federal income tax liability results in a reduction of taxes owed and paid to the Village, a claim for refund shall be filed with the Tax Commissioner as prescribed in Section 171.11.
- (d) Extensions.
- (1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of the Village's tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Commissioner.
- (2) Any taxpayer not required to file a federal income tax return may request an extension for filing the Village's tax return in writing.
- (3) The request for extension shall be filed not later than the last day for filing the Village's tax return as prescribed by this chapter and Rules and Regulations.
- (4) A valid extension request extends the due date for filing a return to the last day of the month following the month to which the due date of the federal income tax return has been extended.
- (5) The Tax Commissioner may deny a taxpayer's request for extension if the taxpayer:
- A. Fails to timely file the request;
 - B. Fails to file a copy of the federal extension request (if applicable);
 - C. Owes the Village any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax;
 - D. Has failed to file any required income tax return, report, or other related document for a prior tax period.
- (6) The granting of an extension for filing a Village income tax return does not extend the due date for paying of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 171.10. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Village Tax Code have been met. Any extension by the Tax Commissioner shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.
- (7) Information returns, schedules and statements needed to support tax returns are to be filed within the time limits set forth for filing the tax returns.

(e) Payment with Returns.

- (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due thereon. However, where any portion of the tax so due shall have been deducted at the source, pursuant to the provisions of Section 171.06, where any portion of such tax shall have been paid by the taxpayer, pursuant to the provisions of Section 171.07, or where an income tax, creditable against the Village tax pursuant to Section 171.14 has been paid to another taxing municipality, credit for the amount so paid 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) Subject to the limitations contained in Section 171.11(b), a taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(f) Amended Returns.

- (1) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Sections 171.11 and 171.14. Such amended returns shall be on a form obtainable on request from the Tax Commissioner or upon an acceptable generic form that contains all of the information required to be submitted with the Village's prescribed form. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
 - (2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village 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.
- (Ord. 2004-18. Passed 9-20-04.)

171.06 COLLECTION OF TAX AT THE SOURCE.

(a) Duty of Withholding and Payment of Tax Withheld by Employer.

- (1) It is the duty of each employer within, or doing business within the Village, who employs one or more persons, whether as an employee, officer, director or otherwise, on a salary, wage, commission or other personal service compensation basis to deduct, each time any such compensation is paid, allocated or set aside to an employee the tax at the rate provided in Section 171.03 hereof on the qualifying wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan or other compensation due by such employer to each such employee and shall, on or before the fifteenth (15th) day of the month following such

withholding, make a return and pay to the Tax Commissioner the amount of taxes so deducted. However, the Tax Commissioner shall have the authority to grant to employers with three or less resident employees permission for said employees to file individually. The return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the Rules and Regulations prescribed by the Tax Commissioner. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages. The tax shall be deducted by the employer from:

- A. The gross amount of all salaries, wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan or other forms of compensation subject to the Village income tax paid, allocated or set aside to residents of the Village, regardless of the place where services are rendered; and
 - B. The gross amount of all salaries, wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan or other forms of compensation subject to the Village income tax paid, allocated or set aside to nonresidents for work done or service performed or rendered in the Village or as a result of employment in the Village or other activities engaged in within the Village.
 - C. An employer is liable for the payment of the tax required to be deducted and withheld, whether or not such tax in fact has been withheld.
- (2) All employers within or doing business within the Village are required to make the collections and deductions specified, regardless of the fact that the services on account of which any particular deduction is required, as to residents of the Village, were performed outside the Village.
- (3) Employers who do not maintain a permanent office or place of business in the Village, but who are subject to tax on net profits attributable to the Village, under the method of allocation provided for in this chapter, are considered to be employers within the Village and subject to the requirements of withholding.
- (4) Commissions and fees paid to professionals, brokers and others who are independent contractors, and not employees of the payer, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file a declaration and return and pay the tax pursuant to the provisions of this chapter and Rules and Regulations.
- (5) Where a nonresident receives compensation for personal services rendered or performed partly within and partly without the Village, the withholding employer shall deduct, withhold and remit the tax on that portion of the compensation which is earned within the Village in accordance with the following rules of apportionment:

- A. If an employer is located within the Village, all non-resident employees who report to the Village location are taxable to the Village unless the employer is withholding tax for other taxing municipalities where the employee's work is performed.
 - B. If the nonresident is a salesman, agent or other employee whose compensation depends directly on the volume of business transacted or chiefly effected by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted or chiefly effected by the employee within the Village bears to the total volume of business transacted by him within and outside the Village.
 - C. The deducting and withholding of personal service compensation of other nonresident employees, including officers of corporations shall attach to the proportion of the personal service compensation of such employee which the total number of his working hours within the Village is of the total number of working hours.
 - D. The fact that nonresident employees are subject to call at any time does not permit the apportionment of pay for time worked within the Village on a seven-day per week basis. The percentage of time worked in the Village will be computed on the basis of a forty-hour week unless the employer notifies the Tax Commissioner that a greater or lesser number of hours per week is worked.
 - 1. The determination of tax liability of nonresidents working in and out of the corporate limits is to be computed on the formula of the total number of days worked in the Village divided by the total number of days worked during the year and the resulting percentage applied to the total annual income from qualifying wages including sick leave, holiday pay, vacation pay and other wage continuation plans during periods of disability, sickness or absence from work. Where no record can be substantiated of the number of days worked, the figure 260 is to be used as the total number of days worked.
 - E. Wages of occasional entrants as defined in Section 171.03(a)(2)C. are not subject to withholding.
 - F. Wage continuation plans paid by the employer or third party agent on behalf of the employer for the purpose of health, rest, recuperation or other reward are deemed to have the same tax situs as the primary job assignment or job location of the employee and are taxable on the same ratio as the normal earnings of such employee for this primary job assignment.
- (6) An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions.

- (7) An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services, provided such expenses are incurred in earning compensation, including commissions, and are not deducted as a business expense by the employee.
- (8) An employer whose records show that an employee is a nonresident of the Village and has no knowledge to the contrary shall be relieved of the responsibility of withholding the tax on personal service compensation paid to such employee for services rendered or work done outside the Village by such employee, provided, however, that such employer must withhold the tax on all personal service compensation paid such employee after the Tax Commissioner notifies said employer in writing that such employee is a resident of the Village. All employees are required to notify the employer of any change of residence and the date thereof.
- (9) An employer shall not be required to withhold the Village tax from the qualifying wages earned by a resident of the Village for work done or services performed in another taxing municipality which imposes a tax upon such qualifying wages of such Village resident if such employer withholds the tax on such resident's wages or other compensation for such other taxing municipality. Except, where such municipal tax is for a smaller amount than the tax imposed by this chapter, the employer shall withhold and remit the difference to the Village.
- (10) The Tax Commissioner shall have authority to enter into agreement with other taxing municipalities permitting an employer to withhold the entire tax on the qualifying wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan or other forms of compensation subject to the Village income tax of a floater either for the taxing municipality in which the employer has his principal place of business or the taxing municipality in which the employee resides.

(b) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

- (c)
 - (1) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.
 - (2) The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(d) Compensation deferred before the effective date of this amendment is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(e) So long as the taxes withheld by an employer for the Village during the measurement period are less than three hundred dollars (\$300.00) per month, payments may be made quarterly on or before the last day of the month following the end of the quarter, subject to the approval of the Tax Commissioner. The Tax Commissioner may revoke the approval of quarterly filing and payments whenever the Tax Commissioner has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Village to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section.

(f) Employer Considered as Trustee.

- (1) Each employer in collecting the tax shall be deemed to hold the same, until payment is made by such employer to the Village, as a trustee for the benefit of the Village, and any such tax collected by such employer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.
- (2) Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax in fact has been withheld.

(g) Personal Liability for Collection and Payment of Tax. Any person who is required to withhold tax from qualifying wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan or other compensation, shall pay all such tax to the Village in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Village in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Village as well as any related interest and penalties, and are also criminally liable under the provisions of Section 171.12. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

(h) Withholding Return; List of Employees.

- (1) Each employer shall file a withholding tax reconciliation form showing the sum total of all compensation paid all employees, the portion of which, if any, was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include Form W-2 for each employee or a list of employees containing W-2 information concerning each employee from whom the Village tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Village tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another taxing municipality, the amount of same shall be separately shown on the return of information to the Village concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year.
- (2) If more than the amount of tax required to be deducted by this chapter is withheld from the employee's pay, the excess shall be refunded by the employer to the employee. If less than the amount of tax required to be deducted is deducted and withheld by the employer in any pay period or pay periods, the deficiency shall be deducted in subsequent pay periods.
- (3) When an employer has withheld the tax from all wages of a nonresident of the Village and such nonresident has been employed outside the Village for all or a part of the time and has been withheld for or has paid taxes due another municipality as a result of that employment, such employee shall file a claim with the Tax Commissioner covering such erroneous withholding and the Tax Commissioner shall, upon verification thereof by the employer, refund to the employee the amount of such withholding paid to another municipality, subject to the requirements and limitations contained in Sections 171.11 and 171.14.

(i) Form 1099 Reporting. In addition to the wage reporting of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payment to the Village when the services were performed in the Village. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal Form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28.

(j) Domestic Servants. However, no person shall be required to withhold the tax on the qualifying wages, commissions, other compensation and other taxable income paid to domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

(k) Fractional Parts Of Cents. In deducting and withholding tax at the source and in payment of any tax due under this chapter, a fractional part of a cent shall be disregarded unless it amounts to one-half cent (.005) or more in which case it shall be increased to one cent (.01). (Ord. 2004-18. Passed 9-20-04.)

171.07 DECLARATIONS.**(a) Requirement for Filing.**

- (1) Every person who anticipates any taxable income which is not or will not be withheld by an employer or employers subject to Section 171.06, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 171.03, 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. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to this Village in accordance with Sections 171.03, 171.06 and 171.14, such person need not file a declaration.
- (2) A taxpayer's final return for the preceding year may be used as the basis for computing his declaration of estimated tax for the current year. In the event a taxpayer has not previously been required to file a return, a declaration of estimated tax on anticipated income shall be filed in good faith.

(b) Dates for Filing.

- (1) Such declaration shall be filed on or before April 15th of each year during the effective period of this chapter, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer first becomes subject to the provisions of this section.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

(c) Forms: Credit for Tax Withheld or Paid Another Taxing Municipality.

- (1) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Commissioner, or upon an acceptable generic form that contains all of the information required to be submitted with the Village's prescribed form. Credit shall be taken in such declaration for Village tax to be withheld from any portion of such income and for income taxes to be paid to another taxing municipality for which credit is allowed against Village tax under Section 171.14.
- (2) For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated tax liability for the current year and at least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th) and thirteenth (13th) months after the beginning of the taxable year.
- (3) For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated tax liability for the current year and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth (6th), ninth (9th) and twelfth (12th) months after the beginning of the taxable year.
- (4) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

(d) Amended Declaration.

- (1) A declaration may be amended at any time, provided, however, that in case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (2) An amended declaration must be filed on or before the last day of the month following the close of the taxpayer's tax year, if it appears that the original declaration made for such year underestimated the taxpayer's income by ten percent (10%) or more. At such time a payment, which together with prior payments, is sufficient to pay the taxpayer's entire estimated liability, shall be made. If, upon the filing of the return required it appears that the taxpayer did not pay ninety percent (90%) of his tax liability, as shown on such return, on or before the last day of the month following the close of the tax year, the difference between ninety percent (90%) of such taxpayer's tax liability and the amount of estimated tax he actually paid on or before such date shall be subject to the interest and penalty provisions of Section 171.10.
- (3) In the event an amended declaration has been filed the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.

(e) Annual Return Required. On or before the fifteenth (15th) day of the fourth (4th) month following the end of the calendar or fiscal year an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of Section 171.05. (Ord. 2004-18. Passed 9-20-04.)

171.08 DUTIES OF THE TAX COMMISSIONER.

- (a) (1) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this chapter in the manner prescribed herein, to keep an accurate record thereof and to report all monies so received.
- (2) It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the Village, to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.

(b) Enforcement Provisions.

- (1) Such Commissioner is hereby charged with the enforcement of the provisions of this chapter, including the interpretation and enforcement of the Rules and Regulations, if any, and is hereby empowered to enforce this chapter and the Rules and Regulations, if any, authorized or required by this chapter, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

- (2) Any taxpayer or employer desiring a special ruling on any matter pertaining to this chapter and Rules and Regulations should submit to the Tax Commissioner in writing all the facts pertinent to the matter on which the ruling is sought.
- (3) This chapter and Rules and Regulations, if any, together with all amendments and supplements hereto and all changes herein, will be on file at the office of the Tax Commissioner and will be open to public inspection.
- (4) The Tax Commissioner is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Tax Commissioner that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until the proper returns are filed by the taxpayer for all amounts owed by him under this chapter.
- (5) Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 171.11 and 171.12 shall apply.

(c) Estimation of Tax by the Tax Commissioner.

- (1) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the Village from the taxpayer, may assess the taxpayer upon the basis of such determination and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- (2) Such determination of tax may be adjusted upon submission by the taxpayer of actual records from which his tax may be computed.

(d) Upon the demonstration and documentation of good cause, the Tax Commissioner shall have the power to compromise penalty and interest liabilities imposed by this chapter, consistent with this chapter and Rules and Regulations.

(e) Subject to the consent of the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this chapter.

(f) It shall be the duty of the Tax Commissioner to monitor the application of this chapter and to report to both the Board of Review and Council any recommendations for additions, deletions or adjustments.

(Ord. 2004-18. Passed 9-20-04.)

**171.09 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER;
PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a) Investigations by Tax Commissioner.

- (1) The Tax Commissioner or any of his authorized agents is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer or any person subject to, or whom the Tax Commissioner 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 the tax or withholding due under this chapter.

(2) Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, within ten (10) days following a written request of the Tax Commissioner or his duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

(b) Subpoena of Records and Persons.

- (1) The Tax Commissioner is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Commissioner and to examine such person, under oath, concerning any income which was or should have been reported for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal, state, county, school district and municipal 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.
- (2) The Tax Commissioner's order to examine any document mentioned in the preceding paragraph shall state whether the examination is to be at the office of the taxpayer or at the office of the Tax Commissioner.
- (3) The Tax Commissioner may order the appearance before him, or his duly authorized agent(s), of any party whom he believes to have any knowledge of a taxpayer's income or withholdings, or any information pertaining to the taxpayer under investigation, whether or not the individual so ordered has actual custody of the records of the taxpayer being investigated. The Tax Commissioner is specifically authorized to order the appearance of the local manager or representative of any taxpayer.
- (4) Persons required to attend any hearings shall be notified not less than ten (10) days prior to the time of the hearing. The notice shall show the time and place of the hearing and what books, papers or records the witness is to make available at such hearing.
- (5) The notice shall be served by the Tax Commissioner, or his duly authorized agent, by delivering it to the person named personally, or by leaving the notice at his usual place of business or residence, or by mailing it to the person by regular mail addressed to his usual place of business or residence, or by registered or certified mail, return receipt requested, addressed to his usual place of business or residence.

(c) Penalty for Non-Compliance. The failure or refusal to produce books, papers, records and federal income tax returns, the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Commissioner authorized hereby shall be deemed a violation of this chapter punishable as provided in Section 171.12.

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

(e) **Information by Landlords.**

- (1) Within thirty (30) days after a new tenant occupies rental property of any kind within the Village, all owners of rental property who rent to tenants of apartments, rooms, office complexes, warehouse operations and other rental accommodations shall file with the Tax Commissioner a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Village.
- (2) Within thirty (30) days after a tenant vacates an apartment, room or other rental property located within the Village, the owner of such vacated rental property shall file with the Tax Commissioner a report showing the date of vacation from the rental property and a forwarding address, if known.

(f) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential and no person shall disclose such information except in accordance with proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this chapter.

(g) Any person divulging such information in violation of this section shall be fined not more than fifty dollars (\$50.00) for the first offense or imprisoned not more than six (6) months, or both, for each subsequent offense. Each disclosure shall constitute a separate offense.

(h) In addition to the above penalty, any employee of the Village who violates the provisions of this section relative to the disclosure of confidential information shall be charged with an act of insubordination subject to immediate dismissal.

(Ord. 2004-18. Passed 9-20-04.)

171.10 INTEREST AND PENALTIES.

(a) All taxes imposed and 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 and one-half percent ($1\frac{1}{2}\%$) or fraction thereof.

(b) In addition to interest as provided in subsection (a) hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this chapter 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; minimum penalty for failure to file annual returns when due shall be fifty dollars (\$50.00).
- (2) For failure to remit taxes withheld from employees: ten percent (10%) per month or fraction thereof.
- (3) For failure to file tax returns, informational reports or any filing as required by this chapter: fifty dollars (\$50.00) if not more than 160 days late; one hundred dollars (\$100.00) if late by 160 days or more.

(c) Exceptions.

- (1) A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner. In the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.
- (2) Upon recommendation of the Income Tax Commissioner, the Board of Review may abate penalty, interest or both or upon appeal from the refusal to recommend abatement of penalty the Board may nevertheless abate penalty or interest or both for good cause shown.
(Ord. 2004-18. Passed 9-20-04.)

171.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) Unpaid Sums – A Civil Debt.

- (1) All taxes imposed by this chapter and not paid when due shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. Employers who are required, under Section 171.06, to withhold or remit the taxes required to be withheld at the source and who fail to withhold or remit, become liable to the Village in a civil action to enforce the payment of the debt created by such failure.
- (2) No additional assessment shall be made by the Tax Commissioner after three (3) years from the time the tax was due or the return was filed, whichever is later. Provided, however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return.
- (3) In those cases in which the Commissioner of Internal Revenue Service 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 Tax Commissioner shall be extended one (1) year from the time of the final determination of the federal tax liability.

(b) Refunds and Overpayments.

- (1) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.
- (2) No refund shall be made to any taxpayer until he has complied with all provisions of this chapter and has furnished all information required by the Tax Commissioner.
- (3) Overpayments will be either refunded or credited to the taxpayer's current liability at his option. Where the taxpayer has made no election, overpayments of any year's taxes shall be applied as follows:

- A. To taxes owed for any previous years in the order in which such taxes become due.
- B. To current estimated tax liability.

(c) Interest shall be allowed and paid on any overpayment by a taxpayer of any Village income tax obligation from the date of the overpayment, except that if any overpayment is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later, no interest shall be allowed on the refunded overpayment. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio Revised Code 5703.47.

(d) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 2004-18. Passed 9-20-04.)

171.12 VIOLATIONS; PENALTIES.

- (a) Any person who shall:
 - (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
 - (2) Make an 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 and remit such withholding tax to the Tax Commissioner; or
 - (5) Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or his employer's books, records, papers and federal income tax returns; or
 - (6) Fail to appear before the Tax Commissioner and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Commissioner; or
 - (7) Refuse to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits; or
 - (8) Willfully give to an employer by an employee false information as to his true name, correct social security number and/or residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
 - (9) Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and/or Village tax withheld, or to knowingly give the Tax Commissioner false information; or
 - (10) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Commissioner; or
 - (11) Fail, neglect or refuse to make any payment on the estimated tax for any year or part of any year as required by Section 171.07; or

- (12) Fail to cause the tax withheld from the qualifying wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan or any other compensation of employees pursuant to this chapter to be paid to the Village in accordance with the provisions of Section 171.06; or
- (13) 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, shall be guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both, for each offense as provided for in the Village of Carey Codified Ordinances.

(b) Statute of Limitations.

- (1) Civil actions to recover Village income taxes and penalties and interest on Village income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.
- (2) Prosecutions for an offense made punishable under this chapter shall be commenced within three (3) 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 (6) years after the commission of the offense.

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

(d) "Person" as used in this section shall, in addition to the meaning prescribed in Section 171.02, include in the case of an association or corporation not having any partner, member or officer within the Village, any employee or agent of such association or corporation who can be found within the corporate limits of the Village.

(Ord. 2004-18. Passed 9-20-04.)

171.13 BOARD OF REVIEW.

(a) There shall be a Board of Review that shall consist of three (3) members as follows: The Village Administrator, Village Solicitor and Fiscal Officer. The Chairperson of the Board of Review shall be the Village Administrator. The resident members of the Board of Review shall receive such compensation as Council may determine and as may be restricted by the laws of the State of Ohio.

(b) A majority of the members of the Board of Review shall constitute a quorum. The Board of Review created and maintained to hear appeals pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before the Board of Review are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code. The provisions of Section 171.09, with reference to the confidential character of information required to be disclosed by this section, shall apply to such matters as may be heard before the Board of Review on appeal.

(c) Whenever the Tax Commissioner issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in this chapter and Rules and Regulations, the Tax Commissioner shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

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

(e) The imposition of penalty and interest as prescribed in this chapter is not a basis for an appeal.

(f) The Board of Review shall schedule a hearing within forty-five (45) 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 of Review and may be represented by an attorney at law, certified public accountant or other representative.

(g) The Board of Review may affirm, reverse, or modify the Tax Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Commissioner may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.

(h) The Board of Review shall be empowered to recommend to Council for their consideration modifications to, additions to or deletions from this chapter, with or without the concurrence of the Tax Commissioner.

(Ord. 2004-18. Passed 9-20-04.)

171.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR JOINT ECONOMIC DEVELOPMENT ZONE OR DISTRICT.

(a) Where a resident of the Village is subject to and pays a municipal income tax in another municipality, joint economic development zone or district, he shall be entitled to a tax credit equal to:

- (1) Either the amount actually paid on the income taxed by the other municipality, JEDZ or JEDD, or
- (2) The maximum of one percent (1.0%) of the total amount paid on the income taxed by the other municipality, JEDZ or JEDD; whichever is less.

(b) Except as provided in subsection (d) hereof, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.

(c) If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in subsection (a) hereof shall be calculated using the tax rate in effect in the second municipal corporation.

(d) Notwithstanding the provisions contained in Section 171.11 or any other provisions consistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide.

- (1) No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from such taxpayer's qualifying wages including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan or other compensation for other municipalities.
- (2) A refund must be claimed by the taxpayer or his employer within three (3) years of the due date of filing the final return for the year for which such refund is claimed. The Tax Commissioner shall prescribe rules for verification.

(e) A statement satisfactory to the Tax Commissioner from the taxing authority of the taxing municipality to which the taxes are paid that a Village resident or his employer is paying the tax shall be considered as fulfilling the requirement of this section.
(Ord. 2004-18. Passed 9-20-04.)

171.15 INCOME TAX DEPARTMENT CONFIDENTIALITY.

(a) All employees of the Village Income Tax Department shall maintain complete confidentiality over all data and statistical information compiled by them in their capacity as Village employees of the Village Income Tax Department, subject to the exceptions provided for in this chapter. This chapter shall apply only to the Village income tax, and not to any other tax data gathered by such employees in the normal course of their employment. All confidential information may be subject to Court Order or subpoena, or may be disclosed upon a proper release executed by the affected taxpayer.

(b) The following statistical data may be transmitted to another Village Department for internal administrative purposes: information that may be obtained from a separate source, including names, addresses and telephone numbers.

(c) The following statistical data may be transmitted to another Village Department for internal administrative purposes: data regarding the collective payroll withholding taxes of a business entity located within the Village, as long as such business entity involves more than one individual for whom the withholding tax payments are being generated.

(d) The following statistical data may be transmitted to another Village Department for internal administrative purposes: data regarding the number of employees and the total payroll taxes generated by all employees of a business entity located within the Village as long as the business entity employs more than one individual at any time. This data shall only include the total number of employees and the combined total payroll taxes, and shall not include earnings or payroll taxes of individual employees of such business entity.

(e) No employee of the Village Income Tax Department shall disclose to the general public or to any other Village Department data concerning individual earnings or profits earned by an individual or by a business entity. No statistical or administrative data shall be disseminated or disclosed to members of the general public.

(f) Upon proper release [i.e. court order, etc.] individual data, including confidential data, may be released. The Village Income Tax Department shall maintain a copy of the release after such data has been disclosed.

(Ord. 2004-18. Passed 9-20-04.)

171.16 SEVERABILITY.

This chapter shall not apply to any person, firm or corporation or to any property as to whom or which it is beyond the power of Council to impose the tax provided for herein. Any sentence, clause, section or part of this chapter, any tax against or exception granted any individual or any of the several groups of persons or forms of income specified herein found to be unconstitutional or 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, or part thereof, not been included therein.

(Ord. 2004-18. Passed 9-20-04.)

171.17 SAVINGS CLAUSE.

The Rules and Regulations, if any, as adopted and authorized or required by this chapter and which are incorporated as the rules of interpretation of the chapter contain changes from the Rules and Regulations adopted for previous years in an effort to affect uniform administration of municipal income taxes throughout Ohio. Changes in these Rules and Regulations from those of previous years do not imply intent to effect a substantial change in the Rules and Regulations, but are merely changes in form.

(Ord. 2004-18. Passed 9-20-04.)

171.18 PENALTY.

(a) Any person divulging information in violation of Section 171.09(f) shall be fined not more than fifty dollars (\$50.00) for the first offense and imprisoned no more than six months, or both, for each subsequent offense. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Village who violates the provisions of this section relative to the disclosure of confidential information shall be charged with an act of insubordination subject to immediate dismissal.

(b) Whoever violates any of the provisions of Section 171.12(a) is guilty of a misdemeanor of the third degree punishable as provided in Section 501.99 of the Village of Carey Codified Ordinances.

(Ord. 2004-18. Passed 9-20-04.)

171.19 AMENDMENTS AND SUPPLEMENTS.

From time to time amendments and supplements to this chapter and Rules and Regulations, if any, may be recommended by the Board of Review and/or the Tax Commissioner for consideration by Council.

(Ord. 2004-18. Passed 9-20-04.)

171.20 ALLOCATION OF FUNDS.

(a) To the extent that the funds collected under the provisions of this chapter are derived from the imposition of the tax provided by Section 171.03 at the rate of one and one-half percent (1 ½ %) those funds shall be allocated for the following purposes and in the following order:

- (1) Such part thereof as shall be necessary to defray all costs and expenses of collecting the tax levied by this chapter and costs at the rate of administering and enforcing the provisions hereof.
- (2) An amount equal to the gross funds that would have been collected if the tax imposed by Section 171.03 has been imposed at the rate of one-half percent (1/2 %), and assuming for this purpose that no credit(s) were available against such tax pursuant to Section 171.14, shall be allocated exclusively for the purpose of paying costs of improving and extending the municipal sewerage system, including the payment of principal of, interest on and other charges in connection with obligations for money borrowed by the municipality to pay any such costs; and
(Ord. 2010-03. Passed 2-16-10.)
- (3) The balance of the funds collected shall be allocated as follows:
 - A. Eighty percent (80%) to the General Fund to meet current expenses and other expenditures;
 - B. Ten percent (10%) to the Park Fund to meet current expenses and for other expenditures; and
 - C. Ten percent (10%) to the Capital Improvement Fund.
(Ord. 2015-29. Passed 1-18-16.)

(b) To the extent that the funds collected under the provisions of this chapter are derived from imposition of the tax provided by Section 171.03 at the rate of one percent (1%), those funds shall be allocated for the following purposes and in the following order:

- (1) Such part thereof as shall be necessary to defray all costs and expenses of collecting the tax levied by this chapter and costs at the rate of administering and enforcing the provisions hereof.
- (2) The balance of the funds collected shall be allocated as follows:
 - A. Ninety percent (90%) to the General Fund to meet current expenses and other expenditures;
 - B. Ten percent (10%) to the Park Fund to meet current expenses and for other expenditures; and
 - C. Zero percent (0%) to the Capital Improvement Fund.
(Ord. 2010-03. Passed 2-16-10.)

CHAPTER 172
Income Tax Effective January 1, 2016

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| <p>172.01 Authority to levy tax; purposes of tax; rate.</p> <p>172.011 Authority to levy tax.</p> <p>172.012 Purposes of tax; rate.</p> <p>172.013 Allocation of funds.</p> <p>172.014 Statement of procedural history; state mandated changes to municipal income tax.</p> <p>172.02 Effective date.</p> <p>172.03 Definitions.</p> <p>172.04 Income subject to tax for individual.</p> <p>172.041 Determining municipal taxable income for individuals.</p> <p>172.042 Domicile.</p> <p>172.043 Exemption for member or employee of general assembly and certain judges.</p> <p>172.05 Collection at source.</p> <p>172.051 Collection at source; withholding from qualifying wages.</p> <p>172.052 Collection at source; occasional entrant.</p> <p>172.053 Collection at source; casino and VLT.</p> <p>172.06 Income subject to net profit tax.</p> <p>172.061 Determining municipal taxable income for taxpayers who are not individuals.</p> <p>172.062 Net profit; income subject to net profit tax; alternative apportionment.</p> <p>172.063 Consolidated federal income tax return.</p> <p>172.064 Tax credit for businesses that foster new jobs in Ohio.</p> <p>172.065 Tax credits to foster job retention.</p> <p>172.07 Declaration of estimated tax.</p> <p>172.08 Credit for tax paid.</p> | <p>172.081 Credit for tax paid to another municipality.</p> <p>172.082 Refundable credit for qualifying loss.</p> <p>172.083 Credit for person working in joint economic development district or zone.</p> <p>172.084 Credit for tax beyond statute for obtaining refund.</p> <p>172.09 Annual return.</p> <p>172.091 Return and payment of tax.</p> <p>172.092 Return and payment of tax; individuals serving in combat zone.</p> <p>172.093 Use of Ohio Business Gateway; types of filings authorized.</p> <p>172.094 Extension of time to file.</p> <p>172.095 Amended returns.</p> <p>172.096 Refunds.</p> <p>172.10 Penalty, interest, fees and charges.</p> <p>172.11 Audit.</p> <p>172.12 Rounding.</p> <p>172.13 Authority and powers of the Tax Administrator.</p> <p>172.131 Authority of Tax Administrator; administrative powers of the Tax Administrator.</p> <p>172.132 Authority of Tax Administrator; compromise of claim and payment over time.</p> <p>172.133 Authority of Tax Administrator; right to examine.</p> <p>172.134 Authority of Tax Administrator; requiring identifying information.</p> <p>172.14 Confidentiality.</p> <p>172.15 Fraud.</p> <p>172.16 Opinion of the Tax Administrator.</p> <p>172.17 Assessment; appeal based on presumption of delivery.</p> |
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172.18	Local Board of Tax Review; appeal to Local Board of Tax Review.	172.97	Collection after termination of chapter.
172.19	Actions to recover; statute of limitations.	172.98	Savings clause.
172.20	Adoption of rules.	172.99	Violations; penalty.
172.21	Information by landlords.		

CROSS REFERENCES

Power to levy income tax – see Ohio Const., Art. XII, Sec. 8
Payroll deductions – see Ohio R.C. 9.42
Municipal income taxes – see Ohio R.C. Ch. 718

172.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE.

172.011 AUTHORITY TO LEVY TAX.

(A) The tax on income and the withholding tax established by this Chapter 172 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 172 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

(Ord. 2015-21. Passed 11-30-15.)

172.012 PURPOSES OF TAX; RATE.

(A) To provide funds for the purchase of general municipal operations, including wages and salaries of employees, purchase of new equipment, maintenance, extension and enlargement of municipal services and facilities and capital improvements of the Village of Carey and for necessary debt service, there shall be, and is hereby, levied a tax on Municipal Taxable Income, as herein defined in Section 172.03 division 20(A).

(B) Subject to the provisions of this ordinance, an annual tax for the purposes specified above shall be imposed on and after January 1, 2016, at the rate of one and one-half percent (1 1/2%) per annum. (Ord. 2015-21. Passed 11-30-15.)

172.013 ALLOCATION OF FUNDS.

The funds collected under the provisions of this Ordinance shall be deposited in the General Fund and shall be allocated and disbursed by the Council of the Village of Carey, as follows:

- (a) To the extent that the funds collected under the provisions of this chapter are derived from the imposition of the tax provided by Section 171.03 at the rate of one and one-half percent (1 ½ %) those funds shall be allocated for the following purposes and in the following order:
- (1) Such part thereof as shall be necessary to defray all costs and expenses of collecting the tax levied by this chapter and costs at the rate of administering and enforcing the provisions hereof.
 - (2) An amount equal to the gross funds that would have been collected if the tax imposed by Section 171.03 has been imposed at the rate of one-half percent (1/2%), and assuming for this purpose that no credit(s) were available against such tax pursuant to Section 171.14, shall be allocated exclusively for the purpose of paying costs of improving and extending the municipal sewerage system, including the payment of principal of, interest on and other charges in connection with obligations for money borrowed by the municipality to pay any such costs; and
 - (3) The balance of the funds collected shall be allocated as follows:
 - A. Ninety percent (90%) to the General Fund to meet current expenses and other expenditures;
 - B. Ten percent (10%) to the Park Fund to meet current expenses and for other expenditures; and
 - C. Zero percent (0%) to the Capital Improvement Fund.
- (b) To the extent that the funds collected under the provisions of this chapter are derived from imposition of the tax provided by Section 171.03 at the rate of one percent (1%), those funds shall be allocated for the following purposes and in the following order:
- (1) Such part thereof as shall be necessary to defray all costs and expenses of collecting the tax levied by this chapter and costs at the rate of administering and enforcing the provisions hereof.
 - (2) The balance of the funds collected shall be allocated as follows:
 - A. Ninety percent (90%) to the General Fund to meet current expenses and other expenditures;
 - B. Ten percent (10%) to the Park Fund to meet current expenses and for other expenditures; and
 - C. Zero percent (0%) to the Capital Improvement Fund.
- (Ord. 2015-21. Passed 11-30-15.)

172.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX.

(A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(B) As mandated by H.B. 5, municipal income tax Ordinance 2015-21, effective January 1, 2016, comprehensively amends Chapter 172 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.

(Ord. 2015-21. Passed 11-30-15.)

172.02 EFFECTIVE DATE.

(A) Ordinance 2015-21, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 172 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 2015-21 does not repeal the existing sections of Chapter 171 for any taxable year prior to 2016, but rather amends Chapter 172 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016.

(Ord. 2015-21. Passed 11-30-15.)

172.03 DEFINITIONS.

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

For purposes of this Section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this chapter:

- (1) "**ADJUSTED FEDERAL TAXABLE INCOME**," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - (A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (B) Add an amount equal to five per cent of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
 - (C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (D)
 - (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

- (ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- (E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;
- (H)
 - (I) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017. The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
 - (ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.
 - (iii)
 - (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.
 - (b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section.
 - (iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (1)(H) of this section.
 - (v) Nothing in division (1)(H)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(H)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (1)(H)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(H)(iii)(a) of this section shall apply to the amount carried forward.

- (I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 172.063 of this Chapter.
- (J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 172.063 of this Chapter.
- If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(D) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.
- Nothing in division (1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.
- (2) (A) "**ASSESSMENT**" means any of the following:
- (i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;
 - (ii) A full or partial denial of a refund request issued under Section 172.096 (B)(2) of this Chapter;
 - (iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 172.062(B)(2) of this Chapter; or
 - (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 172.062(B)(3) of this Chapter.
 - (v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 172.18 of this Chapter, and shall have "**ASSESSMENT**" written in all capital letters at the top of such finding.

- (B) "**ASSESSMENT**" does not include notice(s) denying a request for refund issued under Section 172.096 (B)(3) of this Chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.
- (3) "**AUDIT**" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.
- (4) "**BOARD OF REVIEW**" has same meaning as "Local Board of Tax Review".
- (5) "**CALENDAR QUARTER**" means the three-month period ending on the last day of March, June, September, or December.
- (6) "**CASINO OPERATOR**" and "**CASINO FACILITY**" have the same meanings as in section 3772.01 of the Ohio Revised Code.
- (7) "**CERTIFIED MAIL**," "**EXPRESS MAIL** ,"**UNITED STATES MAIL**","**POSTAL SERVICE**," and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.
- (8) "**COMPENSATION**" means any form of remuneration paid to an employee for personal services.
- (9) "**DISREGARDED ENTITY**" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (10) "**DOMICILE**" means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.
- (11) "**EXEMPT INCOME**" means all of the following:
- (A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;
- (B) (i) Except as provided in division (11)(B)(ii) of this section, intangible income;
(ii) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.
- (C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

- (D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (E) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
- (F) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
- (G) Alimony and child support received;
- (H) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;
- (I) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (11)(1) of this section does not apply for purposes of Chapter 5745. of the Ohio Revised Code.
- (J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;
- (K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;
- (L) Employee compensation that is not qualifying wages as defined in division (34) of this section;
- (M) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
- (N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.
- (O) INTENTIONALLY LEFT BLANK.
- (P)
 - (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of Section 172.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.

- (ii) The exemption provided in division (11)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 - (iii) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 172.052 of this Chapter
 - (iv) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:
 - (a) For qualifying wages described in division (B)(1) of Section 172.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 172.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
 - (b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.
- (Q) (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.
- (ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:
 - (a) The individual's base of operation is located in the Municipality.
 - (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 172.052 of this Chapter.
- (iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
- (iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

- (R) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
- (S) Income the taxation of which is prohibited by the constitution or laws of the United States.
Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.
- (12) "**FORM 2106**" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (13) "**GENERIC FORM**" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.
- (14) "**INCOME**" means the following:
- (A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(D) of this section.
- (ii) For the purposes of division (14)(A)(i) of this section:
- (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section;
- (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

- (iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N) or division 14(E) of this Section.
 - (iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
- (B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (C) For taxpayers that are not individuals, net profit of the taxpayer;
- (D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 172.081 of this Chapter.
- (E) INTENTIONALLY LEFT BLANK
- (15) "**INTANGIBLE INCOME**" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (16) "**INTERNAL REVENUE CODE**" means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.
- (17) "**LIMITED LIABILITY COMPANY**" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (18) "**LOCAL BOARD OF TAX REVIEW**" and "**BOARD OF TAX REVIEW**" means the entity created under Section 172.18 of this Chapter.

- (19) "**MUNICIPAL CORPORATION**" means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.
- (20) (A) "**MUNICIPAL TAXABLE INCOME**" means the following:
- (i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Municipality under Section 172.062 of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.
 - (ii) (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
(b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.
 - (iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Municipality under Section 172.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
- (B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal

- income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.
- (21) **"MUNICIPALITY"** means the Village of Carey.
- (22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.
- (23) (A) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income.
- (B) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.
- (C) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- (D) (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.
- (ii) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.
- (iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.

- (iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.
 - (v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (O) of this section applies to all municipal corporations in which an individual owner of the partnership resides.
 - (vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.
- (24) "**NONRESIDENT**" means an individual that is not a resident of the Municipality.
- (25) "**OHIO BUSINESS GATEWAY**" means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (26) "**OTHER PAYER**" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (27) "**PASS-THROUGH ENTITY**" means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (28) "**PENSION**" means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (29) "**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.
- (30) "**POSTAL SERVICE**" means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

- (31) "**POSTMARK DATE**," "**DATE OF POSTMARK**," and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.
- (32) (A) "**PRE-2017 NET OPERATING LOSS CARRYFORWARD**" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.
- (B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.
- (33) "**QUALIFIED MUNICIPAL CORPORATION**" means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.
- (34) "**QUALIFYING WAGES**" means wages, as defined in section 3121 (a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (A) Deduct the following amounts:
- (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
- (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
- (iii) INTENTIONALLY LEFT BLANK.
- (iv) INTENTIONALLY LEFT BLANK.
- (v) Any amount included in wages that is exempt income.
- (B) Add the following amounts:
- (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
- (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.
- (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division(34)(B)(iii) of this section applies only to employee contributions and employee deferrals.

- (iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
 - (vi) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division(34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (35) **"RELATED ENTITY"** means any of the following:
- (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - (B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - (C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;
 - (D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.
- (36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

- (37) "**RESIDENT**" means an individual who is domiciled in the Municipality as determined under Section 172.042 of this Chapter.
- (38) "**S CORPORATION**" means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (39) "**SCHEDULE C**" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) "**SCHEDULE E**" means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (41) "**SCHEDULE F**" means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) "**SINGLE MEMBER LIMITED LIABILITY COMPANY**" means a limited liability company that has one direct member.
- (43) "**SMALL EMPLOYER**" means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.
- (44) "**TAX ADMINISTRATOR**" means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:
 - (A) A municipal corporation acting as the agent of another municipal corporation;
 - (B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
 - (C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.
- (45) "**TAX RETURN PREPARER**" means any individual described in section 7701(a)(36) of the Internal Revenue CODE AND 26 C.F.R. 301.7701-15.
- (46) "**TAXABLE YEAR**" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (47) (A) "**TAXPAYER**" means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.

- (B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
- (a) The limited liability company's single member is also a limited liability company.
 - (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.
 - (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
- (ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.
- (48) "**TAXPAYERS' RIGHTS AND RESPONSIBILITIES**" means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.
- (49) "**VIDEO LOTTERY TERMINAL**" has the same meaning as in section 3770.21 of the Ohio Revised Code.
- (50) "**VIDEO LOTTERY TERMINAL SALES AGENT**" means a lottery sales agent licensed under Chapter 3770 of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code. (Ord. 2015-21. Passed 11-30-15.)

172.04 INCOME SUBJECT TO TAX FOR INDIVIDUAL.**172.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS.**

(A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

- (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 172.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 172.03 (14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 172.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 172.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 172.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 172.062(E).
 - (iii) Section 172.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).
 - (iv) "Pass Through Entity" is defined in Section 172.03(27).
 - (b) "Exempt Income" is defined in Section 172.03(11) of this Chapter.
 - (c) Allowable employee business expense deduction is described in (20)(B) of Section 172.03 of this Chapter, and is subject to the limitations provided in that section.
 - (d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 172.03(32) of this Chapter

(B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:

- (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or situated to the Municipality as provided in Section 172.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 172.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 172.03(14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 172.03(34).

- (ii) "Net profit" is included in "income", and is defined in Section 172.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 172.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident 172.03(27).
- (b) "Exempt Income" is defined in Section 172.03(11) of this Chapter.
- (c) "Apportioned or situated to the Municipality as provided in Section 172.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 172.062(E).
- (d) "Allowable employee business expense deduction" as described in (20)(B) of Section 172.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.
- (e) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 172.03(32) of this Chapter.
(Ord. 2015-21. Passed 11-30-15.)

172.042 DOMICILE.

(A) As used in this section:

- (1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.
- (2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.
- (3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

(B) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

- (1) The individual's domicile in other taxable years;
- (2) The location at which the individual is registered to vote;
- (3) The address on the individual's driver's license;
- (4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;

- (5) The location and value of abodes owned or leased by the individual;
- (6) Declarations, written or oral, made by the individual regarding the individual's residency;
- (7) The primary location at which the individual is employed.
- (8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;
- (9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

(C) All applicable factors are provided in Ohio Revised Code Section 718.012.
(Ord. 2015-21. Passed 11-30-15.)

172.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES.

(A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(B) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.

(Ord. 2015-21. Passed 11-30-15.)

172.05 COLLECTION AT SOURCE.

172.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

(A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under Section 172.052 of this Chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

- (2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.
- (B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
- (a) Any employer, agent of an employer, or other payer not required to make payments under division (13)(1)(b) of this section of taxes required to be deducted and withheld MAY make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.
- (b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars (\$2,399), or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars (\$200). Payment under division (13)(1)(b) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.
- (C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under Section 172.091 of this Chapter,
- (D) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.
- (E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(G) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section.
(Ord. 2015-21. Passed 11-30-15.)

172.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

(A) The following terms as used in this section:

- (1) "Employer" includes a person that is a related member to or of an employer.
- (2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- (5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.
- (7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer. If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (B)(1)(a) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.
For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

(B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:

- (a) The employee's principal place of work is located in the Municipality.
- (b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:
 - (i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.
- (c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 172.051 of this Chapter.
- (d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.

(2) For the purposes of division (13)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

- (a) Traveling to the location at which the employee will first perform services for the employer for the day;
- (b) Traveling from a location at which the employee was performing services for the employer to any other location;
- (c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;

- (d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
- (e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

- (D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.
- (2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.
- (3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 172.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (13)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 172.051 of this Chapter.

(Ord. 2015-21. Passed 11-30-15.)

172.053 COLLECTION AT SOURCE; CASINO AND VLT.

(A) The Municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.

(B) If a person's winnings at a casino facility are an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.

(C) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.

- (1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the Municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the Municipality all amounts deducted and withheld during the preceding month.
- (2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period that information shall be indicated on the annual return.
- (3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.
- (4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

- (5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:
- (a) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
- (b) A certificate from the Tax Administrator indicating that no amounts are due.
- If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.
- (6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.

(D) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.

(E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

- (1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.
- (2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.
- (3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.

- (4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period that information shall be indicated on the annual return.
- (5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.
- (6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

- (1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
- (2) A certificate from the Tax Administrator indicating that no amounts are due. If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(G) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.

(H) If a casino operator or lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:

- (1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;

(2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of Section 172.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section. (Ord. 2015-21. Passed 11-30-15.)

172.06 INCOME SUBJECT TO NET PROFIT TAX.

172.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS.

"Municipal Taxable Income" for a taxpayer who is not an individual for the Municipality is calculated as follows:

- (A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
- (1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.
- (i) "Net Profit" for a person other than an individual is defined in Section 172.03(23).
- (ii) "Adjusted Federal Taxable Income" is defined in Section 172.03(1) of this Chapter.
- (2) "Exempt Income" is defined in Section 172.03(11) of this Chapter.
- (3) "Apportionment" means the apportionment as determined by Section 172.062 of this Chapter.
- (4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 172.03 (32) of this Chapter.
- (Ord. 2015-21. Passed 11-30-15.)

172.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.

This section applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

- (A) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:
- (1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

- (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 172.052 of this Chapter;
 - (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
- (a) Separate accounting;
 - (b) The exclusion of one or more of the factors;
 - (c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;
 - (d) A modification of one or more of the factors.
- (2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of Section 172.19 of this Chapter.
- (3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 172.19 of this Chapter.
- (4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

- (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (a) The employer;

- (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.
- (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
- (3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:
- (1) Gross receipts from the sale of tangible personal property shall be sitused to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:
 - (a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
 - (b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
 - (c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
 - (2) Gross receipts from the sale of services shall be sitused to the municipal corporation to the extent that such services are performed in the municipal corporation.
 - (3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be sitused to the municipal corporation.
 - (4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be sitused to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be sitused to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused under this division to the municipal corporation in which the property is located.

(F) (1) Except as provided in division (17)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 172.081 of this Chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 172.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity. (Ord. 2015-21. Passed 11-30-15.)

172.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.

(A) As used in this section:

- (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
 - (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
 - (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions.
"Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.
 - (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
 - (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.
- (B) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.
 - (a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.
 - (b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or
 - (c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.- (2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
- (3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

- (E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 172.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
- (2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 172.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
- (3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
- (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 172.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

- (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 172.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
- (a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 172.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;
- (b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 172.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(G) Each corporation filing a consolidated municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by a municipal corporation in accordance with this chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(H) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.

(Ord. 2015-21. Passed 11-30-15.)

172.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO.

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit. (Ord. 2015-21. Passed 11-30-15.)

172.065 TAX CREDITS TO FOSTER JOB RETENTION.

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the Municipality derives from the retained employees of the taxpayer, and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance allowing such a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit. (Ord. 2015-21. Passed 11-30-15.)

172.07 DECLARATION OF ESTIMATED TAX.

(A) As used in this section:

- (1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.
 - (2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.
- (B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:
- (a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.
 - (b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
 - (c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

- (d) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes-
- (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 172.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.
- (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.
- (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.
- (C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:
- (a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year;
- (b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;
- (c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;
- (d) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.
- (2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.
- (3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 172.091 of this Chapter.
- (a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.

- (b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.
- (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
- (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 172.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
- (a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

- (1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
- (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 172.091 of this Chapter for that year.
- (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

(F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

(Ord. 2015-21. Passed 11-30-15.)

172.08 CREDIT FOR TAX PAID.

172.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the Village is subject to and pays a municipal income tax in another municipality, joint economic development zone or district, he shall be entitled to a tax credit equal to:

- (1) Either the amount actually paid on the income taxed by the other municipality, JEDZ or JEDD, or
- (2) The maximum of one percent (1.0%) of the total amount paid on the income taxed by the other municipality, JEDZ or JEDD; whichever is less.

(b) Except as provided in subsection (d) hereof, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.

(c) If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in subsection (a) hereof shall be calculated using the tax rate in effect in the second municipal corporation.

(d) Notwithstanding the provisions contained in Section 171.11 or any other provisions consistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide.

- (1) No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from such taxpayer's qualifying wages including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan or other compensation for other municipalities.
- (2) A refund must be claimed by the taxpayer or his employer within three (3) years of the due date of filing the final return for the year for which such refund is claimed. The Tax Commissioner shall prescribe rules for verification.

(e) A statement satisfactory to the Tax Commissioner from the taxing authority of the taxing municipality to which the taxes are paid that a Village resident or his employer is paying the tax shall be considered as fulfilling the requirement of this section.

(Ord. 2015-21. Passed 11-30-15.)

172.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

(A) As used in this section:

- (1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121 (v)(2)(C) of the Internal Revenue Code.
 - (2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.
(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
(c) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
 - (3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.
- (B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

- (3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
 - (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
- (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.
- (D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
- (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation. (Ord. 2015-21. Passed 11-30-15.)

172.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE.

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 172.081 of this Chapter. (Ord. 2015-21. Passed 11-30-15.)

172.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

(A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 172.096 of this Chapter.

(B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in Section 172.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 172.096 of this Chapter.

(D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 172.081 of this Chapter regarding any limitation on credit shall prevail. (Ord. 2015-21. Passed 11-30-15.)

172.09 ANNUAL RETURN.

172.091 RETURN AND PAYMENT OF TAX.

- (A) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.
- (2) The Tax Administrator shall accept on behalf of each nonresident individual taxpayer a return filed by an employer, agent of an employer, or other payer located in the Municipality under division 172.051(C) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.
- (3) Each resident individual, sixteen years of age and older, is required to file an annual municipal income tax return with the Municipality, regardless of income or liability.
- (a) The Tax Administrator is authorized to accept a final income tax return from a resident individual who has no income that is subject to the tax. The final return must be accompanied by the Internal Revenue Service Form 1040 or its equivalent or, in the event the individual is not required to file an income tax return with the Internal Revenue Service, a signed affidavit declaring the sources of income and stating the resident no longer expects to have any income subject to the tax.
- (b) In the event the resident individual subsequently earns or receives income that is subject to the tax, the taxpayer will be subject to the filing requirement specified in division (A)(3) of this section for any year in which the income is earned or received.
- (c) For resident individuals who are sixteen and seventeen years of age, the filing requirement specified in division (A)(3) shall extend only to those who have income that is subject to the tax.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

- (E) This Municipality shall not deny spouses the ability to file a joint return.
- (F)
 - (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's Social Security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.
 - (2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service Form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2 Form (Copy B), as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service Form 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.
 - (3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service Form 1041, Form 1065, Form 1120, Form 1120-REIT, Form 1120-F, or Form 1120-S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.
 - (4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway or a portal provided by Municipality.

- (5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
- (6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.
- (G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality.
- (b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality.
- (c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars (\$10) or less.
- (2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.
- (3) With respect to taxpayers to whom Section 172.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 172.092 of this Chapter, the provision in Section 172.092 of this Chapter prevails.
- (H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars (\$10) or less.
- (2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under divisions (F)(3) and (F)(4) of this section.

(I) This division shall not apply to payments required to be made under division (B)(1)(b) or division (B)(1)(c) of Section 172.051 of this Chapter.

- (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Section 172.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

- (N) (1) As used in this division, "worksit location" has the same meaning as in Section 172.052 of this chapter.
- (2) A person may notify the Tax Administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:
- (a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksit location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The Tax Administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.
 - (b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year. The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksit location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.
 - (c) If a person submits an affidavit described in division (N)(2) of this section, the Tax Administrator shall not require the person to file any tax return for the taxable year unless the Tax Administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the Tax Administrator for the taxable year. Nothing in division (N) of this section prohibits the Tax Administrator from performing an audit of the person.
- (Source: Ohio Revised Code 718.05) (Ord. 2019-30. Passed 12-2-19.)

172.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE.

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this chapter during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

- (B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.
- (2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.
- (3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.
- (2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year. (Ord. 2015-21. Passed 11-30-15.)

172.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED.

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (Ord. 2015-21. Passed 11-30-15.)

172.094 EXTENSION OF TIME TO FILE.

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(B) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(D) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return. (Ord. 2015-21. Passed 11-30-15.)

172.095 AMENDED RETURNS.

- (A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.
- (2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.
- (3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.
- (B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (13)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under Section 172.19 of this Chapter has not expired for a previously filed return.
- (2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

- (C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of Section 172.19 of this Chapter for the filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in Section 172.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.
- (2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. (Ord. 2015-21. Passed 11-30-15.)

172.096 REFUNDS.

(A) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

- (1) Overpayments of more than ten dollars;
- (2) Amounts paid erroneously if the refund requested exceeds ten dollars.
- (B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and/or disallowance of undocumented credits or losses.
- (2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
- (3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 172.18 of this Chapter.

(C) A request for a refund that is received after the last day for filing specified in division (B) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

- (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
- (2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.
- (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of Section 172.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 172.10 of this Chapter. (Ord. 2015-21. Passed 11-30-15.)

172.10 PENALTY, INTEREST, FEES, AND CHARGES

(A) As used in this section:

- (1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.
- (2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.
- (3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.
- (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

- (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
 - (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
 - (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
 - (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
 - (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.
- (B) (1) This section shall apply to the following:
- (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
 - (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016
- (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules,, as adopted from time to time before January 1, 2016 of this Municipality.
- (C) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.
- (1) Interest shall be imposed at the rate defined as 'interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.
 - (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent (15%) of the amount not timely paid shall be imposed.
 - (3) With respect to any unpaid withholding tax, a penalty equal to fifty percent (50%) of the amount not timely paid shall be imposed.

(4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars (\$25) for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars (\$150) in assessed penalty for each failure to timely file a return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The Municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees. (Ord. 2015-21. Passed 11-30-15.)

172.11 AUDIT.

(A) At or before the commencement of an audit, as defined in Section 172.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

- (D) A taxpayer may record, electronically or otherwise, the audit examination.
- (E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.
- (F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.
- (Ord. 2015-21. Passed 11-30-15.)

172.12 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

(Ord. 2015-21. Passed 11-30-15.)

172.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

172.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR.

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

- (A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this Chapter;
- (B) Appoint agents and prescribe their powers and duties;
- (C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this Chapter;
- (E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

- (F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 172.062 of this Chapter;
 - (G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, re-determine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
 - (H) Destroy any or all returns or other tax documents in the manner authorized by law;
 - (I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 172.051.
- (Ord. 2015-21. Passed 11-30-15.)

172.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME.

(A) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.

(B) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:

- (1) Compromise a claim;
- (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.

- (E) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.
- (2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement. (Ord. 2015-21. Passed 11-30-15.)

172.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

(A) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax 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 filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.

(C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply. (Ord. 2015-21. Passed 11-30-15.)

172.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION.

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

- (B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 172.10 of this Chapter, in addition to any applicable penalty described in Section 172.99 of this Chapter.
- (2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 172.10 of this Chapter.
- (3) The penalties provided for under divisions (1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 172.99 of this Chapter for a violation of 172.15 of this Chapter and any other penalties that may be imposed by the Tax Administrator by law.

(Ord. 2015-21. Passed 11-30-15.)

172.14 CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(Ord. 2015-21. Passed 11-30-15.)

172.15 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator.

(Ord. 2015-21. Passed 11-30-15.)

172.16 OPINION OF THE TAX ADMINISTRATOR.

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

- (1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.
- (2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.
- (3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

- (1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;
- (2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;
- (3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;

- (4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;
- (5) The effective date of any change in the taxpayer's material facts or circumstances;
- (6) The effective date of the expiration of the opinion, if specified in the opinion.
- (D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.
- (2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of Section 172.15 of this Chapter
- (E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:
- (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;
- (2) It is the duty of the taxpayer to be aware of such changes.
- (F) A Tax Administrator may refuse to offer an opinion on any request received under this section.
- (G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.
- (H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.
- (I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.
- (J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (F) may not be appealed.
(Ord. 2015-21. Passed 11-30-15.)

172.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

- (A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code.

- (2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.
 - (3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is *prima facie* evidence that delivery is complete and that the assessment is served.
- (B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.
- (2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.
(Ord. 2015-21. Passed 11-30-15.)

172.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW.

- (A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.
- (2) The Local Board of Tax Review shall consist of three members. The three members of the Local Board of Tax Review may be domiciled in the Municipality.

Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, 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.

- (3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.
- (4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.
- (5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.
- (7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.
- (8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.
- (9) A member of a Local Board of Tax Review shall not be appointed to or serve on another such board simultaneously.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful and shall be filed within sixty days after the taxpayer receives the assessment.

(D) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(E) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in section 5717.011 of the Ohio Revised Code.

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.
(Ord. 2015-21. Passed 11-30-15.)

172.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

- (A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:
- (i) Three years after the tax was due or the return was filed, whichever is later; or
 - (ii) One year after the conclusion of the qualifying deferral period, if any.
- (b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.
- (2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

- (a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 172.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.
- (b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 172.096 of this Chapter.

- (D)
 - (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.
 - (2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 172.18 of this Chapter, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or 172.096 of this Chapter, with interest on that amount as provided by division (D) of this section.

(E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

- (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
 - (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.
- (Ord. 2015-21. Passed 11-30-15.)

172.20 ADOPTION OF RULES.

(A) Pursuant to Section 718.30 of the Revised Code, the Municipality, pursuant to this Chapter, grants authority to the Tax Administrator, to adopt rules to administer the income tax imposed by the Municipality subject to approval of the legislative authority.

(B) All rules adopted under this section shall be published and posted on the internet. (Ord. 2015-21. Passed 11-30-15.)

172.21 INFORMATION BY LANDLORDS.

(a) Within thirty (30) days after a new tenant occupies rental property of any kind within the Village, all owners of rental property who rent to tenants of apartments, rooms, office complexes, warehouse operations and other rental accommodations shall file with the Tax Commissioner a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Village.

(b) Within thirty (30) days after a tenant vacates an apartment, room or other rental property located within the Village, the owner of such vacated rental property shall file with the Tax Commissioner a report showing the date of vacation from the rental property and a forwarding address, if known.

(c) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential and no person shall disclose such information except in accordance with proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this chapter.

(d) Any person divulging such information in violation of this section shall be fined not more than fifty dollars (\$50.00) for the first offense or imprisoned not more than six (6) months, or both, for each subsequent offense. Each disclosure shall constitute a separate offense.

(e) In addition to the above penalty, any employee of the Village who violates the provisions of this section relative to the disclosure of confidential information shall be charged with an act of insubordination subject to immediate dismissal.
(Ord. 2015-21. Passed 11-30-15.)

172.97 COLLECTION AFTER TERMINATION OF CHAPTER.

(A) This chapter shall continue in full force and effect insofar as they of taxes is concerned until repealed, and insofar as the collection of taxes levied here under and actions and proceeding s for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of a tax or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 172.19.

(b) Annual returns due for any part of the last effective year of this chapter shall be due on the date provided in Section 172.091 as though the same were continuing.
(Ord. 2015-21. Passed 11-30-15.)

172.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income 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 so found 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 the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

(Ord. 2015-21. Passed 11-30-15.)

172.99 VIOLATIONS; PENALTY.

(A) Except as provided in division (B) of this section, whoever violates Section 172.15 of this Chapter, division (A) of Section 172.14 of this Chapter, or Section 172.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of Section 172.14 of this Chapter constitutes a separate offense.

(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the 4th degree on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the 3rd degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the 2nd degree. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 172.051; or
- (5) Neglect or refuse to withhold or remitmunicipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or

- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or
- (13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.
- (14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.
- (15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 172.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.
(Ord. 2015-21. Passed 11-30-15.)

CHAPTER 181 Motor Vehicle License Tax

181.01	Tax levy and rate.	181.05	Copies.
181.02	Annual continuation of tax.	181.06	Non-liability of Village.
181.03	Payment time of application for registration.	181.07	Severability.
181.04	Moneys to be used for street maintenance, repairs, construction.		

181.01 TAX LEVY AND RATE.

(a) There is hereby levied an annual license tax upon the operation of motor vehicles on the public roads or highways pursuant to Ohio R.C. 4504.171, for the purposes of paying the costs and expenses of enforcing and administering the tax provided for in this section; to supplement revenue already available to the Village under Ohio R.C. 4503.04, 4504.06, 4504.06, 4504.17 or 4504.172, and to provide additional revenue for the purposes set forth in those revised code sections.

(b) Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on each and every motor vehicle in the district of registration of which, as defined in Ohio R.C. 4503.10, is in the Village of Carey, Ohio.

(c) As used in this chapter, the term "motor vehicle" means any and all vehicles included within the definition of motor vehicle in Ohio R.C. 4501.01 and 4505.01.
(Ord. 2006-18. Passed 11-6-06.)

181.02 ANNUAL CONTINUATION OF TAX.

The tax imposed by this chapter shall apply to and be in effect for the registration year commencing January 1, 2008, and shall continue in effect and application during each registration year thereafter.
(Ord. 2006-18. Passed 11-6-06.)

181.03 PAYMENT TIME OF APPLICATION FOR REGISTRATION.

The tax imposed by this chapter shall be paid to the Registrar of Motor Vehicles of the State of Ohio or to a Deputy Registrar at the time application for registration of a motor vehicle is made as provided in Ohio R.C. 4503.10.

(Ord. 2006-18. Passed 11-6-06.)

181.04 MONEY TO BE USED FOR STREET MAINTENANCE, REPAIRS, CONSTRUCTION.

(a) All moneys derived from the tax hereinbefore levied shall be used by the Village of Carey for the purposes specified in this chapter.

(b) All moneys received by the Village arising from the enactment of this chapter shall be placed in a special fund to be titled by the Village, and such fund shall be used exclusively for maintenance, repairs and construction of streets in the Village of Carey, Ohio. (Ord. 2006-18. Passed 11-6-06.)

181.05 COPIES.

The Fiscal Officer of Council of the Village is hereby directed to certify a true and certified copy of this chapter to the State of Ohio Registrar of Motor Vehicles upon its adoption by Council. (Ord. 2006-18. Passed 11-6-06.)

181.06 NON-LIABILITY OF VILLAGE.

Nothing in this Chapter shall be construed as imposing liability upon the Village for injury to persons or property, as a result of any defect in a street or road within the Village. (Ord. 2006-18. Passed 11-6-06.)

181.07 SEVERABILITY.

If any sections or portions of this Chapter are found and determined to be illegal or unenforceable by a court of competent jurisdiction, such finding or determination shall not affect the remainder of this chapter. (Ord. 2006-18. Passed 11-6-06.)

