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PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

Chapter 101. Codified Ordinances
Chapter 103. Official Standards
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CHAPTER 101: CODIFIED ORDINANCES

Section

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

§ 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 Marion, Ohio 1994, 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. (R.C. § 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 § followed by the number, such as § 101.01. ('70 Code, § 101.01)

Cross-reference:

Ordinances and resolutions, see Ch. 113

Statutory reference:

Codification in book form, see R.C. § 731.23

§ 101.02 GENERAL DEFINITIONS.

As used in the codified ordinances, unless otherwise expressly provided or the context otherwise requires:

(A) ***AND*** may be read ***OR,*** and ***OR*** may be read ***AND,*** if the sense requires it. (R.C. § 1.02(F))

(B) ***ANOTHER*** or ***PERSON.*** 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. (R.C. § 1.02(B))

(C) ***COUNCIL.*** The legislative authority of the municipality.

(D) ***COUNTY.*** Marion County, Ohio.

(E) ***KEEPER*** or ***PROPRIETOR.*** Includes all persons, whether acting by themselves or as a servant, agent or employee.

(F) ***LAND*** or ***REAL ESTATE.*** Includes rights and easements of an incorporeal nature. (R.C. § 701.01(F))

(G) ***MUNICIPALITY*** or ***CITY.*** The City of Marion, Ohio.

(H) ***OATH.*** Includes an affirmation. (R.C. § 701.01(C))

(I) ***OWNER.*** When applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.

(J) ***PERSON*** or ***WHOEVER.*** Includes all persons, natural and artificial, and includes but is not limited to private corporations, partners, principals, agents and employees, and all officials, public or private. (R.C. § 1.02(A))

(K) ***PREMISES.*** As applied to property, includes land and buildings.

(L) ***PROPERTY.*** Includes real, personal, mixed estates and interests. (R.C. § 701.01(E))

PERSONAL PROPERTY. All property except real.

REAL PROPERTY. Includes lands, tenements and hereditaments.

(M) ***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.

(N) ***PUBLIC PLACE.*** 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.

(O) ***REGISTERED MAIL.*** Includes certified mail. (R.C. § 1.02(G))

(P) ***SIDEWALK.*** That portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

(Q) ***STATE.*** The State of Ohio, or any department, division, commission, board, educational or other institution of the State of Ohio.

(R) ***STREET.*** Includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the municipality.

(S) ***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.

(T) ***WRITING.*** Includes printing. ('70 Code, § 101.02)

§ 101.03 RULES OF CONSTRUCTION.

(A) *General rule.* All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(B) As used in the codified ordinances, unless the context otherwise requires:

(1) ***TENSE.*** Words in the present tense include the future tense.

(2) ***GENDER.*** Words in the masculine gender include the feminine and neuter genders.

(3) ***PLURAL.*** Words in the plural number include the singular number, and words in the singular number include the plural number. (R.C. §§ 1.42, 1.43)

(C) *Calendar - computation of time.* 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.

(1) 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. (R.C. § 1.14)

(2) When an act is to take effect or become operative from and after a day named, no part of that day shall be included. (R.C. § 1.15)

(3) 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. ('70 Code, § 101.03)

§ 101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(A) When a law which repealed a former law is repealed, the former law is not thereby revived. (R.C. § 1.57)

(B) The reenactment, amendment, or repeal of a provision of the codified ordinances does not, except as provided in division (C) of this section:

(1) Affect the prior operation of the provision 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 provision had not been repealed or amended.

(C) If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment or amendment of a state statute, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the state statute as amended. (R.C. § 1.58) ('70 Code, § 101.04)

§ 101.05 CONSTRUCTION OF SECTION REFERENCES.

(A) When reference is made to any section or group of sections of the codified ordinances, such reference shall extend to and include any amendment of or supplement to the section or group of sections so referred to or any section or sections hereafter enacted in lieu thereof; and unless otherwise provided, whenever a reference to a section or group of sections is made in any amendment or supplement to any section of the codified ordinances hereafter enacted, such reference shall be deemed to refer to the section or sections as the same shall then stand or as thereafter amended.

(B) Whenever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in such reference.

(C) 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. (R.C. § 1.23) ('70 Code, § 101.05)

§ 101.06 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters or sections of the codified ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.
('70 Code, § 101.06)

§ 101.07 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 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. (R.C. § 1.50) ('70 Code, § 101.07)

§ 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 **$150.00**. A separate offense shall be deemed committed on each day during or on which a continuing violation occurs. ('70 Code, § 101.99)(Ord. 2010-108, passed 11-22-2010)

Statutory reference:

Imprisonment until fine and costs are paid, see R.C. §§ 1905.30 and 2947.14

CHAPTER 103: OFFICIAL STANDARDS

EDITOR'S NOTE: The State of Ohio operates on Eastern Daylight Savings Time from 2:00 a.m. of the first Sunday in April until 2:00 a.m. of the last Sunday in October. Congress on March 22, 1966, passed the Uniform Time Act requiring uniform observance throughout the nation of Daylight Savings Time starting in 1967, except that a state legislature could exempt the entire state from Daylight Savings Time or divide a state into not more than two parts, each with a different time standard. The Ohio legislature through inaction has elected to observe Eastern Daylight Savings Time throughout the State of Ohio.

Section

103.01 Official city flag adopted

§ 103.01 OFFICIAL CITY FLAG ADOPTED.

The following described flag shall be adopted as the flag for the municipality. Such flag shall be rectangular in shape, three units in height and five units in width. On the side thereof to be attached to a standard there shall be located a field of blue consisting of an isosceles triangle, the base of which shall be the vertical side of the flag which is attached to the standard and the elevation of which shall be two and seven-eighths units. The remaining portion of the flag shall consist of two fields, the upper half being a field of red and the lower half being a field of white. There shall be located in the field of red, in white letters one-quarter of a unit in height the word Marion. There shall be located in the field of white, in blue letters one-quarter of a unit in height, the word Ohio. There shall be located in the field of blue, in white, a depiction of the Harding Memorial, approximately one-half of a unit high and one-half of a unit wide. ('70 Code, § 103.01) (Res. 4395, passed 9-12-60)

Statutory reference:

State standard of time, see R.C. § 1.04
State legal holidays, see R.C. §§ 1.14 and 5.20
State flag and motto, see R.C. §§ 5.01 and 5.06

CHAPTER 105: WARDS AND BOUNDARIES

Section

105.01 Division into six wards
105.02 First Ward
105.03 Second Ward
105.04 Third Ward
105.05 Fourth Ward
105.06 Fifth Ward
105.07 Sixth Ward

§ 105.01 DIVISION OF SIX WARDS.

The municipality is hereby divided into six wards which are equal in number to the members in Council who are to be elected from the wards according to law, and the six wards are hereby created and established within the municipality. The boundaries of the six wards shall be such as are set forth in the six following sections, which boundaries are so fixed so that each ward shall contain as near as practicable an equal number of inhabitants. ('70 Code, § 105.01) (Ord. 1981-107, passed 11-9-81; Am. Ord. 1991-150, passed 1-1-92; Am. Ord. 2001-140, passed 12-10-2001; Am. Ord. 2002-66, passed 06-10-2002; Am Ord. 2011-81, passed 12-27-2011)

Statutory reference:

Division into wards, see R.C. § 731.06
Voting precincts, see R.C. § 3501.18

§ 105.02 FIRST WARD.

The First Ward shall be bounded and described as follows:

Beginning at the intersection of the north line of Marion Township and the south line of Grand Prairie Township and the west right-of-way line of U.S. 23, (also known as the northeast corporate border of the City of Marion); thence southerly along the west boundary of the U.S. 23 right-of-way to a point on the centerline intersection of Likens Road at a railroad spike set at the south line of Section Two of Marion Township; thence west along the centerline of Likens Road to the centerline of Victory Road; thence south along the centerline of Victory Road to a point approximately 1646.79 feet south of the intersection to a railroad spike, thence along the annexed parcel 151300001300 known as United Mobile Homes containing 28.397 acres as described in Ordinance 2003-103 and following this description along the north, east and southern border of said parcel until returning to the centerline of Victory Road at a point approximately 467 feet due south of the railroad spike found above thence south along the center line of Victory Road, where Victory Road intersects with the northwest corner of the Marion-Hardin Corrections Facility property, this being a point some 690 feet north of the existing survey nail located at the centerline of Marion-Williamsport Road and Victory Road; thence east to the northeast corner of the Marion-Hardin Corrections Facility property; thence south along the Marion-Hardin Corrections Facility property line to a point on the centerline of Marion-Williamsport Road; thence west along the centerline of Marion-Williamsport Road and along the corporate border of the City of Marion to a point where the centerline of Marion-Williamsport road and the east corporate border intersect. Such point being on the existing corporation line of the City of Marion, Ohio; thence south along the corporate boundary line to a point; thence west along the corporate border to a point; thence south along the corporate line to a point; thence east to a point which intersects the centerline of Likens-Chapel Road; thence south along the centerline of Likens Chapel Road to a point on the centerline of Fairground Street; thence west along the centerline of Fairground Street to a point on the centerline of the existing corporate line formerly known as Grand Avenue; thence south along the centerline of the existing Corporate line formerly known as Grand Avenue to a point at the centerline of Kentucky Ave. thence West along the centerline of Kentucky Ave. to a point which intersects with the centerline of Jefferson St. thence along said centerline of Jefferson St. South to

the point which intersects with the north right-of-way line of Conrail Railroad (now known as CSX Railroad); thence southwest along the north right-of-way line of Conrail Railroad (now known as CSX Railroad) to a point on the centerline of Greenwood Street; thence north along the centerline of Greenwood Street to a point on the centerline of Fairground St thence east along the centerline of Fairground Street to a point at the intersection of the west lot line of 14396 in the Fairpark Addition to the City of Marion; thence north along the west side of Lots 14396 through 14650 to a point where the west lot line of Lot 14650 (also known as 791 Richmond Avenue) and the south lot line of Lot 14681 (also known as 459 Fairlane Avenue) intersect; thence west along the south lot lines of Lots 14681 through 14686 including the parcel designated as "Fairlane Place" to the intersection of Lot 14687; thence north along the west lot lines of Lots 14687 and Lot 14688 to a point where Lot 14688 (also known as 426 Fairlane Avenue) and Lot 14700 (also known as 375 Lynn Drive) intersect; thence west along the south lot lines of Lots 14700 and 14701 to the southwest corner of 14701; thence north along the west lot lines of Lots 14701 through lots 14706 (also known as 408 Lynn Drive) to a point where the lot line intersects with the southwest corner of Lot 14718 (also known as 399 Fairview Street); thence east along the north lot lines of Lots 14706 through 14709 to a point where Lot 14709 and Lot 14711 intersect; thence northeast along the northwest lot line of Lot 14711 (also known as 877 Fairwood Avenue) to a point which intersects with the west lot line of Lot 14712; thence north along the west lot line of Lot 14712 to the centerline of Fairview Street; thence west along the centerline of Fairview Street to a point where the west lot line of Lot 14811 intersects; thence north along the west lot lines of Lots 14811 through 14822, 15003 through 15016, and 15175 through 15147 to a point where west lot line of Lot 15147 intersects with the centerline of Marion-Williamsport Road; thence east along the centerline of Marion-Williamsport Road to point where the existing corporate boundary intersects; thence south along the existing corporate boundary, thence east along the existing corporate boundary, thence north along the existing corporate boundary to a point on the centerline of Marion-Williamsport Road; thence east along the centerline of Marion-Williamsport Road to a point where Section 10 and Section 11 of Marion Township intersect with the centerline of Marion-Williamsport Road; thence north along the Section Line between Sections 10 and 11 of Marion Township and Sections 2 and 3 of Marion Township to the corporate limits of the City of Marion; thence northeast along the corporate boundary to the north line of Marion Township and the south line of Grand Prairie Township; thence east along the north line of Marion Township and the south line of Grand Prairie Township to the place of beginning. (Population 6251)

('70 Code, § 105.02) (Ord. 1981-107, passed 11-9-81; Am. Ord. 1991-150, passed 1-1-92; Am. Ord. 2001-140, passed 12-10-2001; Am. Ord. 2002-66, passed 06-10-2002; Am Ord. 2011-81, passed 12-27-2011)

§ 105.03 SECOND WARD.

The Second Ward shall be bounded and described as follows:

Beginning at the intersection of the centerline of Marion Williamsport Road with a point where the Northwest Corner of Lot 15147 in Fairpark 9th Addition to the City of Marion intersect, thence south along the north south line which runs along the back or west line of Lots 15147 to Lot 14811 in Fairpark 7th, 8th and 9th Additions to the City of Marion, thence south to the point on the south side of Fairpark St. where it intersects with Lot 14713 in Fairpark 6th Addition. Thence East along the south side of Fairview St. to a point that intersects with the Northwest corner of Lot 14712 in Fairpark 6th Addition, thence south along the west side of said lot to the point where it intersects Lot 14711 of Fairpark 6th and thence southwest along the back line of said Lot to a point where it intersects the Northeast corner of Lot 14709 in Fairpark 6th addition. Thence due west along the north line of Lots 14709 to lots 14706 in the Fairpark 6th addition. Thence south along the west side of lots 14706 to Lot 14701 to a point. Thence east along the south line of Lot 14701and Lot 14700 to the point where the northwest corner of Lot 14688 intersects. Thence south along the west side of lots 14688 and Lot 14687 to a point where the Southwest corner of Lot 14686 intersect. Thence East along the south lot lines of Lots 14686 through lots 14681 to a point where Lot 14650 in Fairpark 6th intersects. Thence south along the west lot lines of Lots 14650 to Lot 14425 in Fairpark 5th and 6th Additions to the point where it intersects the north lot line of Lot 14402 also known as the Fairpark Enterprises Property thence West along the north lot line of said lot to a point where it reaches the West lot line of said Lot and then along the west lot

line of said lot which moves south and then west and south again to a point which intersects the center line of Fairground St. thence East along the centerline of Fairground St. to the point where it intersects with the Centerline of Greenwood thence south along the centerline of Greenwood St. to the point which intersects the centerline of Mark St. thence West along the centerline of Mark St. to a point where it intersects the centerline of North Prospect St. thence south along the centerline of Prospect St. to a point which intersects Silver St. thence West along the centerline of Silver St. to a point which intersects the east right of way line of the Norfolk and Western Railroad thence northwest along the east right of way line of the Norfolk and Western Railroad line to a point which intersects the existing Corporate Boundary as established by the Dual Rail Industrial Park Annexation dated September 3, 1997 and thence northerly along said corporate border to a point which intersects the centerline of Hillman Ford Rd. 1192.80 feet south of the intersection of Hillman-Ford Rd. and the centerline of Marion Williamsport Rd.; thence easterly along the Corporate boundary 1277.76 feet to a point on the north south section line of Section 16 and Section 17 in Marion Township; thence north along said section line to a point on the Centerline of Marion Williamsport Rd. also being the corporation line of the City of Marion, Ohio; thence along said Corporate border of the City of Marion in a generally easterly direction (diverting to the south a distance of 660 feet at the square parcel of land immediately adjacent to the Road now known as Kellogg Parkway and back to the north 660 feet, along the centerline of Marion Williamsport Rd. to a point where the intersection of the Norfolk and southern Railroad right of way intersects: thence south along the corporation line of the City of Marion, Ohio, to the centerline of Fairground Street, thence east along the centerline of Fairground Street to a point where to southern boundary of Lot Number 748 also known as Marion Homeless Shelter and thence along the west side of said lot and thence along the north side and east side of said lot south to the centerline of Fairground St. and thence east to where the southern boundary of Lincoln Park and Fairground St. intersect, thence north along the existing corporate boundary of the City of Marion to the a point on the centerline of Copeland Ave., thence east along the centerline of Copeland Ave. to the point at the southwest corner of a parcel known as Northwoods Mobile Home Park Parcel Number 160030000900 and being also known as Outlot 729, thence north along said parcel and the existing corporate boundary and then east and north again to a point which intersects the centerline of Marion Williamsport Rd. thence west along the centerline of Marion Williamsport Rd. also known as County Rd. 162 to a point 162.65 feet due east of the centerline of State Route 4 which is the east line of a property owned by Citicasters and also known as Parcel 12310000300 and known as Outlot 747, thence south along the East line of said lot a distance of 470.48 to a point, thence west 567.76 along the south line of said parcel to a point which intersects with the centerline of State Rt. 4 thence north along the centerline of State Rt. 4, to a point which intersect the south right of way of the Norfolk and Southern right of way line, thence northeast along the Norfolk and Southern right of way line and the existing Corporate boundary to a point where the Section Lines of Section 10 and Section 11 intersect, thence south along said Section Line to a point which intersects the Centerline of Marion Williamsport Rd. thence West along the centerline of Marion Williamsport Rd. to a point which intersects the Northwest Corner of Lot 15147 in Fairpark 9th Addition to the City of Marion intersects, which is the place of beginning. (Population 6251).

('70 Code, § 105.03) (Ord. 1981-107, passed 11-9-81; Am. Ord. 1991-150, passed 1-1-92; Am. Ord. 2001-140, passed 12-10-2001; Am. Ord. 2002-66, passed 06-10-2002; Am Ord. 2011-81, passed 12-27-2011)

§ 105.04 THIRD WARD.

The Third Ward shall be bounded and described as follows:

Beginning at the intersection of the centerline of Fairground St. and the east right of way line of the CSX Railroad thence west along the centerline of Fairground St. to a point where it intersects the west side of an north south alley which runs parallel to lot 11252 in Evans subdivision to the city of Marion also known as 665 Lee St. also known as the north south line that divides Section 20 and Section 21, Marion Township thence south along said west side of said alley line to a point which intersects the centerline of Silver St. thence south along the west side of Lot 1261 in Love Henry N. 1st addition to the City of Marion also known as 968 Kenton Ave. to a point which intersects the centerline of Kenton Ave.; continuing along said line to a point which intersects the northeast corner of Lot 3669 in Dwyers 4th Addition also known as 960 W. Center St. thence west along the north

lot line of said lot and continuing along the north lot lines of Lots 3703 through 3711 and the north lot lines of lots in Dwyers 5th Lots 4207 through lots 4217 and continuing along the north lot lines of lots 6731 in Rosewoods Addition through lots 6714 and continuing along the north lot line of Outlot 710 and 711 and thence south along the west lot line of Outlot 711 and continuing across Center St. and along the west line of Lot 709 south to a point that intersects the north right of Way line of the New York Central Lines LLC and thence East along the north ROW line to a point which intersects the centerline of Bennett St. Thence East along the centerline of Bennett St. to a point that intersects the Northeast corner of lot 9 in Parkwood subdivision to the city of Marion and thence due south along the west line of that parcel and continuing in a straight line south to a point which intersect the southwest corner of Outlot 621 and thence East along the south lot line of Outlot 621 to a point that intersects with the Northwest corner of Outlot 699 and thence south along the west lot line of Outlot 699 to a point which intersects the south lot line of Outlot 699 and thence east along the south lot line of said lot to a point which intersects with the West lot line of Outlot 471 and thence south along the west lot line of Outlot 471 continuing south through and along the west lot line of outlot 703 and lot 9178 in Oakland Heights subdivision and lots 12935 and 12934 through lots 12940 to lots 12951 and south across Merkel Ave. along the west lot lines of lots 12952 through lots 12958 an along the west lot line of lot 12961 to a point which intersects the south side of Glendale Ave. thence west along the south side of Glendale Ave. to a point which intersects the northwest corner of lot 15395 in colonial Acres 1st subdivision thence south along the west lot line of said lot to a point which intersects the northeast corner of Outlot 643 and thence west along the north lot line of Outlot 643 to a point which intersects the northwest corner of said lot and thence southwest along the west lot line of said lot and continuing southwest along the west lot line of outlot 643 across Campbell Rd. and east along the south side of Outlot 643 and north and east to a point which intersects the west lot line of lot 15369 in Colonial Acres 1st thence south along the west side of said lot line touching lots 15368 and lot 15362 to a point which intersects the centerline of Bellefontaine Ave. thence northeast along the center line of Bellefontaine Ave. to a point which intersects the northwest corner of parcel number 133350300201 which is part of Sawyer Ludwig Park and adjacent to parcel 133350300200 which is also part of Sawyer Ludwig Park and thence south along the west side of both parcels to the point where the south lot line of parcel 133350300200 connects and thence East along said south parcel line to a point where the parcel line turns south and thence south along said parcel line to the point where the parcel line turns east and thence east along said parcel line to a point which intersects the east right of way of the CSX Railroad right of way thence north along said CSX Railroad right of way to the place of beginning. (Population 6174)

('70 Code, § 105.03) (Ord. 1981-107, passed 11-9-81; Am. Ord. 1991-150, passed 1-1-92; Am. Ord. 2001-140, passed 12-10-2001; Am. Ord. 2002-66, passed 06-10-2002); Am Ord. 2011-81, passed 12-27-2011)

§ 105.05 FOURTH WARD.

The Fourth Ward shall be bounded and described as follows:

Beginning at the intersection of the centerline of Prospect Street with the centerline of Barks Rd. which is also the south corporation line of the City of Marion, Ohio; thence northeasterly and northerly along the centerline of Prospect Street to a point where the southwest corner of Parcel 143830604400 also known as Outlot 683 and now owned by Ohio Edison intersect; thence southeast along said lot to a point that intersects Outlot 697 also known as parcel 14310103300 now owned by Foundations LLC, thence south along the western lot line of said lot, and continuing south along the western lot line of Outlot 730 also known as parcel 180060000300 now owned by Health Care Corporation of America, to a point which intersects the centerline of Barks Rd. thence East along the centerline of Barks Rd. to a point which intersects the southwest corner of the property now owned by the US post Office at 234 Barks Rd. and also known as 2.45 acre parcel and known as parcel number 180110003401 thence north along said western parcel line and thence east along the northern parcel line and thence south along the eastern parcel line to a point which intersects the centerline of Barks Rd. thence East along said centerline of Barks Rd. to a point which intersects the southwest corner of a parcel known as 1351 Delaware Ave. now owned by Speedway and known as parcel 180100014100 thence northwest along the western line of said parcel and thence east along the northern line of said parcel to a point which intersects the centerline of

Delaware Ave. thence northwest- along the centerline of Delaware to a point which intersects the centerline of Hill St. thence west along said centerline to a point which intersects the centerline of Prospect St. thence north along said centerline of Prospect St. to a point which intersects the centerline of Silver St. thence west along said centerline of Silver St. to a point on the CSX Railroad east right of way line; thence southerly along the centerline of the CSX right of way to a point on the centerline of Barks Rd.; thence east along the centerline of Barks Rd. to the place of beginning.(population ***6135***).

('70 Code, § 105.03) (Ord. 1981-107, passed 11-9-81; Am. Ord. 1991-150, passed 1-1-92; Am. Ord. 2001-140, passed 12-10-2001; Am. Ord. 2002-66, passed 06-10-2002; Am Ord. 2011-81, passed 12-27-2011)

§ 105.06 FIFTH WARD.

The Fifth Ward shall be bounded and described as follows:

Beginning at the intersection of the centerline of State Street and the centerline of Mark Street; thence east along the centerline of Mark Street to a point that intersects with the centerline of Greenwood Street; thence south along the centerline of Greenwood Street to a point that intersects with the Conrail Railroad (now known as the CSX Railroad) north right-of-way line; thence northeasterly along the Conrail Railroad north right-of-way line to a point that intersects with the centerline of Jefferson Street; thence north along the centerline of Jefferson Street to a point that intersects with the centerline of Kentucky Avenue; thence east along the centerline of Kentucky Avenue to a point that intersects with the east corporate boundary of the City of Marion; thence south, east, and south along the east corporate boundary to a point that intersects with the Conrail Railroad (now known as the CSX Railroad) north right-of-way line; thence northeast along the Conrail Railroad north right-of-way line to a point that intersects with the west right-of-way line of Madison Avenue; thence south along the west right-of-way line of Madison Avenue to a point on the south right-of-way line of the Conrail Railroad (now known as the CSX Railroad); thence northeast along the south right-of-way line of the Conrail Railroad (now known as the CSX Railroad) to a point that intersects with the centerline of Madison Avenue; said point is also being the north westernmost corner of property owned by the City Board of Education; thence northeasterly, southerly, southwesterly, northerly, and westerly along said boundary of the property owned by the City Board of Education (also being the corporate boundaries of the City of Marion) to the point where the property boundary (corporate boundary) returns to the west right-of-way line of Madison Avenue; thence southerly, easterly, and southerly along the corporate boundary of the City of Marion to a point that intersects with the centerline of Center Street (also known as S.R. 309); thence west along the centerline of Center Street to a point that intersects with the centerline of Seffner Street; thence south along the centerline of Seffner Street to a point that intersects with the centerline of Mt. Vernon Avenue (also known as S.R. 95); thence northwest along the centerline of Mt. Vernon Avenue to a point that intersects with the centerline of Brightwood Drive; thence southerly along the centerline of Brightwood Drive to a point that intersects with the centerline of Vernon Heights Boulevard; thence west along the centerline of Vernon Heights Boulevard to a point that intersects with the centerline of Delaware Avenue; thence northwesterly along the centerline of Delaware Avenue to a point that intersects with the centerline of Main Street; thence north along the centerline of Main Street to a point that intersects with the centerline of Hill Street; thence west along the centerline of Hill Street to a point that intersects with the centerline of Prospect Street; thence north along the centerline of Prospect Street to a point that intersects with the centerline of Mark Street; thence east along the centerline of Mark Street to the place of beginning; (Population 6145)

('70 Code, § 105.03) (Ord. 1981-107, passed 11-9-81; Am. Ord. 1991-150, passed 1-1-92; Am. Ord. 2001-140, passed 12-10-2001; Am. Ord. 2002-66, passed 06-10-2002)

§ 105.07 SIXTH WARD.

The Sixth Ward shall be bounded and described as follows:

Beginning at the intersection of the centerline of the centerline of Barks Rd. and the centerline of Crescent Heights Rd.; thence west along the centerline of Barks Rd. to a point which intersects the centerline of Delaware Ave. thence north along said centerline of Delaware Ave to a point which intersects the centerline of Vernon Heights Blvd. thence east along said center line of Vernon Heights Blvd. to a point which intersects the centerline of Brightwood Ave. thence north along said centerline of Brightwood Ave. to a point which intersects the centerline of Mt Vernon Ave. thence southeast along said centerline of Mt. Vernon Ave. to a point which intersects the centerline of Seffner Ave. thence north along said centerline of Seffner Ave. to a point which intersects the centerline of Center St. thence east along the centerline of said Center St. to a point which intersect the back lot lines of properties of Kensington Ave. thence south along the back lot lines of Kensington Ave. to a point which intersects Indiana Ave. thence west along said centerline to a point which intersects the centerline of Kensington Ave. thence south along said centerline of Kensington Ave. to a point which intersects the northwest corner of parcel known as 416 Kensington Place now owned by Marion Plaza Associates and also known as parcel number 154490001900 thence east along the north border of said parcel and continuing north along the adjacent parcel known as 1544900001900 and known as 1290 & 1292 Mt. Vernon Ave. also owned by Marion Plaza Associates and continuing along the north border of the adjacent parcel known as 1278-1366 Mt. Vernon Ave. and also known as parcel 1544900002100 also owned by Marion Plaza Associates and continuing thence along the east border of said lot to the point which intersects the centerline of Mt. Vernon Ave. and thence continuing along the southern lot lines of above mentioned lots now owned by Marion Plaza Associates to a point which intersects the north lot line of Number 2 in Gilmores subdivision also known as the Marion Mausoleum and now constituting the current border of the City, (including the remainder of the land known as Marion Plaza which completely surrounds the parcels known as 460 Kensington Place, 482 Kensington Place, and the three parcels owned by the American Community Bank known 1200 Mt. Vernon Ave. which are excluded as islands within the City limits) thence east along said northern line of said lot and thence south along the east border of said lot to a point which intersects Lot 1 in Gilmores Subdivision and continuing south along said lot 1 in Gilmores subdivision to a point which intersects the north border of Lot 21 In Royal Oaks subdivision and thence west along the north lot line of said lot and continuing west along the north lot lines of lot 20 and 19 to a point which intersects the east border of Lot J in Reidenbaughs Tracts Rear also known as lot 124530100102 and now owned by Michael Mastro, thence south along the west lot line of Lot 19 in Royal Oaks subdivision and continuing south along the west lot lines of Lots 18, 17, 16, 15,14,13, 12,11,10, 9, 8, 7, 6, 5, 4, 3 and 1 in Royal Oaks subdivision to a point which intersect the centerline of Richland Rd. also known as Marion Edison Rd. and State Rt. 529 thence southeast along the centerline of Richland Rd. to point which intersects the northwest corner of a parcel known as 535 Richland rd also known as Outlot 684 and parcel number 154260107300 thence south along the east lot line of said parcel and continuing west along the south lot line of said parcel to the point where it intersects the east line of parcel known as Lot 16037 in Chateau Ridge 2nd Addition thence along said east lot line of parcel Lot 16037 and continuing along this line along the east lot line of parcel lot 16038 to a point which intersects the north lot line of Lot 16623 in Chateau Ridge 6th addition thence east along the north lot lines of lots 16623, 16624, 16625, 16634,16635, 16636, in Chateau 6th and continuing along the north lot lines of lots 16647 in Chateau 7th to lot 16653, thence south along said east lot line of Lot 16653 and continuing along the lots adjacent due south passing Amboise Dr. and Chenoneaux Dr. and continuing along the east side of the lots adjacent due south passing Willow Oak dr. and continuing to a point which intersects the centerline of Barks Rd. thence West along the centerline of Barks Rd. to a point which intersects the southeast corner of a lot known as parcel 180100007700 now owned by Marjorie Grover thence north along the east lot line of said parcel and thence west along the north lot line of said parcel and thence south along the west line of said parcel to a point which intersects the northeast corner of a parcel known as 768 Barks Rd. thence west along the north lot line of said parcel and continuing along the north lot line of the adjacent parcel known as 754 Barks Rd. thence south along the west lot line of said 754 Barks Rd. to a point which intersects the centerline of Barks Rd. thence east along the centerline of Barks Rd. to a point which intersects the northwest corner of a parcel known as Outlot 734 now owned by Church of Christ and also known as parcel 144510005000 thence south along the east lot line of said parcel and continuing west along the south lot line of said parcel and continuing along the adjacent parcel along the south lot line of Outlot 734 along the parcel known as 144510004000 now owned by the YMCA and thence turning south at the center point of the roadway which exists and connects the back lot line of said parcel with the back lot line of a parcel known as 1445100003000

and now owned by First Merit Bank thence south along the east lot line of said parcel to a point which intersect the parcel known as 1480 Center Park Ct. and continuing south along the east lot line of said parcel and continuing west along the south lot line of said parcel and continuing west along the adjoining lot known as 1550 Wellness Dr. and continuing west along the adjoining lot line now owned by the Villas of Union Park and then turning northwest along the west lot line of said parcel and north along the lot line of said parcel and continuing north along the adjoining parcels to a point which intersects the south lot line of a parcel now owned by Center Park of Marion Ltd, and known as Outlot 733 and parcel 144510001000 thence west along the south lot line of said parcel and turning north along the west lot line of said parcel to a point that intersects the centerline of Barks Rd. thence east along the centerline of Barks Rd. to a point that intersects the southwest corner of a parcel now owned by Henzel Zachman Development and known as parcel 144100008103 thence north along the west lot line of said parcel and turning west as the lot line turns along the west lot line and then north continuing along the west lot line of said parcel and then continuing north along the adjoining lot to the north also owned by Henzel Zachman Development known as outlot 716 and parcel 180100008100 and continuing north along the west lot line of the adjoining lot know as 144100008100 and continuing north along the west lot line of a parcel known as 1021 Forest Lawn Dr. to a point which intersects the southeast corner of a parcel known as 14633 in Firstenbergers 2nd Addition thence west along the north lot line of said parcel and continuing along the north line vacant lot which is dedicated for a street and thence along the lot known as Lot 14637 in Firstenbergers 2nd, thence south along the east lot line of said parcel and continuing south along the east lot line of the adjoining lot to the south known as lot 14638 in Firstenbergers 2nd thence turning west along the north lot line of lot 14639 in Firstenbergers 2nd to a point which intersects with the southwest lot line of a parcel known as outlot 728 and now owned by Hickman You Development and known as parcel 180100008800 thence southwest along the south lot line of said parcel and continuing south and west along said lot line and along the lot line of the parcel known as parcel 180100008900 now owned by Patricia Pua south to the centerline of Barks Rd. and thence continuing south along the east lot line of a parcel known as 144000000000 and adjacent to a parcel known as 1452 Lake Blvd. and thence south along the east lot line of said parcel and continuing south along the east lot line of the adjacent parcel to the south known as parcel 144582000600 now owned by Management Expansion and turning west along the south lot line of said parcel and continuing west along the south lot line of said lot to a point which intersects the southwest corner of parcel known as 1524 Marion Waldo Rd. and then turning northwest along the east lot line of said lot and also the west lot line of parcel 144582000600 now owned by Management Expansion and continuing along the west lot line of the adjoining parcel to the north known as 144582000402 now owned by Ellen Kirkham and north along the west lot line of said lot and turning east along the north side of said lot and continuing east along the parcel known as 1456 Marion Waldo Rd. now owned by OMSC Marion to a point that intersects the west lot line of parcel known as parcel 144582000300 now owned by Management Expansion and continuing north along the west lot line of a parcel known as 233 Barks Rd. to a point which intersects the south right of way of Barks Rd. thence west along said right of way to a point in which the right of way turns north to the centerline of Barks Rd. thence west along the centerline of Barks Rd. to the point of Beginning. Said description does not include the island located in the area of Laura Drive and Harvey Drive which is located in Marion Township. (Population ***6002***).

('70 Code, § 105.03) (Ord. 1981-107, passed 11-9-81; Am. Ord. 1991-150, passed 1-1-92; Am. Ord. 2001-140, passed 12-10-2001; Am. Ord. 2002-66, passed 06-10-2002; Am Ord. 2011-81, passed 12-27-2011)

CHAPTER 107: PUBLIC MEETINGS

Section

107.01 Public bodies affected
107.02 Public notification
107.03 Personal notification
107.04 Minutes of meetings

§ 107.01 PUBLIC BODIES AFFECTED.

(A) Unless otherwise provided in these codified ordinances, all meetings of Council, Council committees, commissions, boards, citizen advisory committees to Council and other similar public bodies of the municipality shall be held at the city hall or at such other location as provided in the public notification.

(B) All meetings of the described public bodies shall be open to the public, unless an executive session is expressly authorized under the applicable provisions of state law. ('70 Code, § 107.01) (Res. 1976-23, passed 6-14-76)

§ 107.02 PUBLIC NOTIFICATION.

(A) *Regular meetings.* The time and place of all regular meetings of Council, Council committees, commissions, boards, citizen advisory committees to Council and other similar public bodies of the municipality shall be noted in a calendar of monthly meetings. This calendar shall be posted at the city hall.

(B) *Special meetings.* The time, place and purpose of all special meetings of Council, Council committees, commissions, boards, citizen advisory committees to Council and other similar public bodies of the municipality shall be noted in a calendar of monthly meetings. This calendar shall be posted at the city hall. Notification of any special meeting of the public bodies referred to above shall be made to any news media requesting such notification 24 hours prior to the time of such meetings. This notification shall include the time, place and purpose of the special meeting.

(C) Emergency meetings. In the event of an emergency meeting, notice of such emergency meeting shall be communicated to the news media that have requested notification of the time, place and purpose of the emergency meeting. ('70 Code, § 107.02) (Res. 1976-23, passed 6-14-76)

§ 107.03 PERSONAL NOTIFICATION.

(A) Any person, organization or group of persons is entitled to receive by regular U.S. Mail or by fax transmittal the calendar of monthly meetings, so long as said person, persons or organizations have requested said notice in writing. Any person requesting to be provided notice by fax transmittal shall, at the discretion of the person providing said notice, compensate the provider the reasonable value of the fax transmission.

(B) Any requesting person, organization or group of persons shall receive advance notice of all meetings at which any specific type of public business will be discussed and/or acted upon. To obtain this notice, such persons are required to fill out a form provided by the Clerk of Council for such purpose and to provide self-addressed stamped envelopes for the number of notifications requested. Any person requesting to be provided notice by Fax Transmittal shall, at the discretion of the person providing said notice, compensate the provider the reasonable value of the fax transmission. ('70 Code, § 107.03) (Res. 1976-23, passed 6-14-76; Ord. 1996-49, passed 4-22-96)

§ 107.04 MINUTES OF MEETINGS.

(A) *Minutes.* Minutes of all regular and special meetings of Council, commissions, boards, citizen advisory committees to Council and other similar public bodies of the municipality shall promptly be recorded in writing

and open to the public for inspection. Minutes of executive sessions of public bodies need only reflect the general subject matter of discussion in such executive session.

(B) *Location of minutes books.* The Clerk of Council and clerk of each public body shall keep a minute book for each such body taking formal action. The minute books shall contain the minutes of all meetings of each public body. The public may inspect the minute books at all reasonable times. ('70 Code, § 107.04) (Res. 1976-23, passed 6-14-76)

Cross-reference:

Meetings of Council, see § 111.01

Meetings of Planning Commission, see § 153.03

Statutory reference:

Public meetings, see R.C. § 121.22

CHAPTER 109: CONTRACTS AND PURCHASES

Section

109.01 Credit to local bidders
109.02 City improvement projects; local labor required; exception

§ 109.01 CREDIT TO LOCAL BIDDERS.

(A) **LOCAL BIDDER**. A local bidder is defined as, if a person or unincorporated business entity, as an individual domiciled within the County of Marion, Ohio or as maintaining a permanent place of abode or principal place of business within the County of Marion, Ohio in the aggregate for more than three hundred thirty-vie (335) days of the taxable year or if a corporation as having listed in its Articles of Incorporation, filed with the Ohio Secretary of State, its principal place of business address of the corporation within the County of Marion, Ohio.

Any person, corporation or business entity who does not meet the requirements set forth above may apply the credit contained in Section B to that portion of their bid, utilizing the appropriate discount based upon the total expenditure for that portion only, in which a sub-contractor is included in their bid where the sub-contractor meets any of the aforementioned requirements.

(B) In all situations when the municipality is required by the provisions of the Ohio Revised Code to advertise for competitive bids prior to awarding a contract, a local bidder, as defined in division (A) shall receive a credit based upon the following scale:

(1) In contracts requiring a total expenditure of not less than $5,000 and not more than $25,000 a local bidder shall receive a credit equal to 3% of the lowest bid where the lowest bidder is a non-local bidder.

(2) In contracts requiring a total expenditure of more than $25,000 and not more than $100,000, a local bidder shall receive a credit equal to 2% or $750 whichever is greater, of the lowest bid where the lowest bidder is a non-local bidder.

(3) In contracts requiring a total expenditure of more than $100,000 a local bidder shall receive a credit equal to 1% of the lowest bid, or $2,000 whichever is greater, where the lowest bidder is a non-local bidder.

(C) In order for the credit to local bidders, as set forth in division (B) of this section, to be awarded by the municipality, the preference for local bidders shall be stated in the bid specifications. ('70 Code, § 109.01) (Ord. 1985-28, passed 5-14-85; Ord. 1999-110, passed 9-13-99; Ord. 2000-153, passed 12-26-2000)

§ 109.02 CITY IMPROVEMENT PROJECTS; LOCAL LABOR REQUIRED; EXCEPTION.

(A) All capital construction contracts with the municipality involving employment of skilled and non-skilled labor shall include a clause requiring the contractor to employ not less than 50% of the required labor from bona fide residents of Marion County, with the exception of the supervision and key personnel upon whom the contractor must rely for the direction of his/her effort, or if it is impossible to train sufficient local labor to provide the required labor force.

(B) Upon the occurrence of any emergency situation with city government that affects the health, safety and welfare of this municipality and which requires the immediate attention on the part of the executive members of city government and renders compliance with division (A) of this section impractical, the appropriate city official, such as the Mayor or the Safety/Service Director, making such determination, shall submit a written report to the Clerk of Council detailing the need for the emergency action and explaining the scope of action

taken. Once the emergency is in a controlled status, the conditions of division (A) again apply.
('70 Code, § 109.02) (Ord. 1985-92, passed 1-6-86)

Cross-reference:

Unlawful interest in public contract, see § 606.17

Statutory reference:

Contracts for work on buildings and improvements, see R.C. § 153.50 et seq.
Police protection, see R.C. §§ 505.43 and 737.04
Restrictions, see R.C. §§ 715.68 and 731.48

TITLE THREE - Legislature

Chapter 111. Council
Chapter 113. Ordinances and Resolutions

CHAPTER 111: COUNCIL

Section

111.01 Meetings; place and time of convening, quorum, order of business, reading of journal
111.02 Officers and employees of Council
111.03 Committees of Council
111.04 Duties, privileges and decorum of members
111.05 Motions
111.06 Ordinances and resolutions
111.07 Administrative officers
111.08 Council chambers
111.09 Miscellaneous rules
111.10 Live broadcasting of meetings

§ 111.01 MEETINGS; PLACE AND TIME OF CONVENING, QUORUM, ORDER OF BUSINESS, READING OF JOURNAL.

(A) *Rule 1. Meeting place.* All meetings of Council shall be held in the Council Chamber in city hall, unless otherwise ordered by Council.

(B) *Rule 2. Meetings - public.* All meetings of Council, or committees thereof, shall be public, and upon request of any citizen desiring to be heard on any matter then under consideration by Council, Council may, on motion, resolve itself into a Committee of the Whole and hear such citizen at such time and for such period as Council may determine. Persons desiring to be heard by any committee of Council on any matter then under consideration may by consent of such committee be given an opportunity to be heard thereon. All minutes and records of Council shall be open to the public at all reasonable times.

(C) *Rule 3. Meetings - regular.* Council, following its election, shall hold its first meeting at an hour set by Council following such election and it shall organize pursuant to law. After Council has met and organized, pursuant to law, regular meetings of Council shall be held in the Council Chambers on the second and fourth Monday of each month at 7:30 p.m. unless otherwise ordered by motion, resolution or ordinance. When the day fixed for any regular meeting of Council falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday or on a day fixed by Council. No member of Council shall be required to remain in the Council Chambers longer than one-half hour after the regular time for calling the meeting and to which Council stands adjourned unless there is a quorum present and Council is called to order and proceeds to business.

(D) *Rule 4. Meetings - special.* Special meetings may be called at any time by the Mayor, the President of Council in the absence of the Mayor, or any three members of Council, upon at least twenty four hours written notice to each member of Council, served personally on each member or left at his/her usual place of residence. Such notice shall state the subjects to be considered at the meeting and no other subjects shall be then considered unless all members of Council are present. The order of business of a special meeting of Council shall be transacted in an order to be fixed by the President of Council or the Presiding Officer unless Council by majority vote suspends this rule and changes the order.

(E) *Rule 5. Quorum.* A majority of all members elected to Council shall be a quorum to do business, but a less number may adjourn from day to day and compel the attendance of absent members in the manner and under such penalties as shall be prescribed by ordinance. (Res. 1968-42, passed 10-28-68)

(F) *Rule 6. Order of business.* The business of all regular meetings of Council shall be transacted in the following order unless Council, by a majority vote, suspends the rules and changes the order:

(1) Roll call;

(2) Prayer;

(3) Pledge of allegiance;

(4) Disposal of journal of the preceding meeting;

(5) Introduction and adoption of resolutions and ordinances;

(6) Petitions, remonstrances and communications;

(7) Reports of officers, boards and committees;

(8) Other business;

(9) Introduction and recognition of persons and groups visiting Council;

(10) Introduction and recognition of persons desiring to address Council on any subject not on the agenda;

(11) Adjournment.

The Presiding Officer may at any time by a majority vote of all members elected to Council permit a member to introduce an ordinance, resolution or motion out of the regular order or not on the agenda. (Res. 1973-11, passed 4-23-73.)

(G) *Rule 7. Reading of journal.* Unless a reading of the journal of a Council meeting is requested by a member of Council such journal may be approved and accepted as recorded without reading if the Clerk of Council has previously furnished each member with an opportunity to review the journal of such meeting. (Res. 1968-42, passed 10-28-68) ('70 Code, § 111.01) (Am. Ord. 1992-24, passed 4-27-92)

§ 111.02 OFFICERS AND EMPLOYEES OF COUNCIL.

(A) *Rule 8. President of Council - Presiding Officer - who shall act.* The President of Council, and in his/her absence the President Pro Tempore, shall preside over the meetings of Council. In the absence of the President of Council and the President Pro Tempore of Council, the Clerk of Council shall call Council to order, and if, after the roll call is called, a quorum is present, Council shall choose one of its members as Presiding Officer, who shall preside until the President of Council or the President Pro Tempore appears, but in no event beyond such meeting, and shall discharge all of the duties and be clothed with all the powers of the President of Council as such Presiding Officer during his/her absence. Any such member of Council as may be presiding may move, second and debate from the chair subject only to such limitations of debate as are by this chapter imposed on all members and shall not be deprived of any of the rights and privileges of a councilman by reason of this acting as Presiding Officer.

(B) *Rule 9. Presiding Officer - duties.* As used in this chapter, presiding officer means the President of Council, President Pro Tempore or the person empowered to act pursuant to Rule 9. The Presiding Officer shall call the meeting of the Council to order at the hour appointed and shall proceed with the order of business. If a quorum is present he/she shall give the members an opportunity for correcting the journal of the previous meeting. In the absence of any objections or corrections the minutes shall stand approved. He/she shall preserve order and decorum, prevent personalities or the impugning of members' motives, confine members in debate to the question under discussion and decide all points of order subject to an appeal to Council. The President of Council shall determine the committee or committees to which ordinances, resolutions or other matters shall be referred, and when required to do so, pursuant to this chapter shall so refer such ordinances, resolutions or other matters. (Ord. 1982-2, passed 1-6-82)

(C) *Rule 10. The vote necessary for election of President Pro Tempore, Clerk, Clerk Pro Tempore and other employees of Council and filling vacancies in the membership of Council.* No candidate for President Pro Tempore or Clerk or Clerk Pro Tempore shall be declared elected unless he/she has received a majority vote of all members elected to Council and no person shall be employed by Council except pursuant to a majority vote of all the members elected to Council. No vacancy which Council is authorized to fill shall be filled except pursuant to a majority vote of all the members elected to Council.

(D) *Rule 11. Roll call upon election of President Pro Tempore, Clerk, Clerk Pro Tempore and other employees of Council and filling vacancies in the membership of Council.* Upon the roll call for the election of President Pro Tempore of Council, Clerk, Clerk Pro Tempore or employee of Council, or for filling any vacancy in the membership of Council, each member shall respond by stating the name of the candidate of his/her choice eligible for such office or appointment, which candidate shall not be required to be a person duly nominated and whose nomination has been duly seconded, provided, however, that no member shall be excused from voting thereon except by unanimous consent. (See Rule 11) (Res. 1968-42, passed 10-28-68)

(E) *Rule 11a. Political party of replacements.* In the selection of a person to fill a vacancy on Council due to death, resignation or operation of law, the person selected shall be a member of the same political party as the Councilman being replaced. (Res. 1968-49, passed 10-28-68)

(F) *Rule 12. Clerk of Council - duties.* The Clerk of Council, and in his/her absence the Clerk Pro Tempore, shall be responsible to City Council for the accurate and timely completion of all legal and non legal paperwork; attend and record the proceedings of all City Council meetings, regular and special, and committee meetings and transcribe said proceedings as requested or assigned; Prepare the agendas for all Marion City Council Meetings including any special meetings of Council or Committee of the Whole; prepare the agendas for all Council Committee Meetings; Prepares minutes of Council Meetings and Committee Meetings and takes all necessary steps to memorialize and preserve meetings by use of audio/video or such other medium available and ensures the product is delivered for broadcast; post all meeting dates giving timely notification; type, record and index all Ordinances and Resolutions, obtaining designated signatures for approved Ordinances and Resolutions and sign as Attester for each approved Ordinance and Resolution and distribute same to the appropriate official; Initiated timely publication of Ordinances, Resolutions and Notices according to law; initiate timely notification of vacancies of elected officials; attend to all correspondence incidental to his/her office and answer all official correspondence; attend to the codification of the ordinances and update the Codified Ordinance Book on a semi-annual basis; Maintains and updates the Council website on a regular basis; Certifies all necessary tax assessments to the County Auditor; Responsible for recording all necessary legal documents passed by Ordinance or Resolution with the appropriate authorities. Maintains and updates the Zoning Map; keep a proper file of all documents which are part of the transactions and order of Council and make such records available to the public; keep fiscal records, prepare purchase orders and voucher accounts; prepare and certify transcript of all annexation proceedings; adhere to correct procedures pertaining to notices to property owners, publication and objection procedures; serves as secretary to City Planning Commission, adhering to all duties directed by the by-laws and forwarding any necessary information and legislation on to city council; compose, type and deliver required legal advertisement to newspapers for City Council and City Planning Commission; Prepare Annual Budget for City Council and Clerk of Council.

In addition, the Clerk of Council and in his/her absence the Clerk Pro Tempore, shall report to Council the reasons advanced by members for absence from Council meetings and shall perform such other and further duties as may be assigned to him/her by a majority vote of Council. The Clerk Pro Tempore, to serve in the absence of the Clerk of Council, shall be chosen by Council. The Clerk of Council, or in his/her absence, the Clerk Pro Tempore, shall utilize "Flex-time" for his/her time used to attend meetings. Flex-Time to be given its' universally defined definition, being one hour for each hour attended at a meeting being taken off his/her 40 hour work week obligation to the City of Marion. (Ord. 2002-2, passed 01-07-2002)

(G) *Rule 13. Sergeant-at-Arms.* The Council may appoint a Sergeant-at-Arms, who, under the direction of the Presiding Officer, shall preserve order and compel the attendance of absent members in the manner to be prescribed by ordinance. The Sergeant-at-Arms shall be a police officer assigned by the Chief of Police, with the approval of Council to be in attendance at meetings of Council when requested. (Res. 1968-42, passed 10-28-68) ('70 Code, § 111.02) (Am. Ord. 1992-24, passed 4-27-92; Ord. 1998-108, passed 7-13-98)

§ 111.03 COMMITTEES OF COUNCIL.

(A) *Rule 14. Committees.* Not later than 30 days after the organization of Council, Council by a majority vote of all members elected shall select nine standing committees of three or more members for each of whom the first selected member shall be Chairman and the second selected member shall be the Vice-Chairman. In the absence of the Chairman, the Vice-Chairman shall preside until the Chairman appears, and shall discharge all the duties and be clothed with all the powers of the Chairman during such absence. The names of the committees and the subject matters which shall be referred to them shall be as follows:

(1) Committee on finance. To which shall be referred all ordinances, resolutions and other matters relating to finances, indebtedness, appropriations, the payment of moneys not provided for by previous legislation, taxation and all matters pertaining to the City Auditor's office, the standardization of salaries and wages and the sale or purchase of real estate.

(2) Committee on streets and sewers. To which shall be referred all ordinances, resolutions and other matters pertaining to the construction, repair, maintenance, inspection, cleaning, improvement, assessment and vacations of streets, alleys and sidewalks, and matters relating to that area between the curb line and the private property line, and all matters pertaining to traffic regulation and to the sewage disposal system and to the construction, repair, maintenance, inspection, cleaning, improvement, assessment, vacation and cross-connections of storm and sanitary sewers.

(3) Committee on public utilities. To which shall be referred all ordinances, resolutions and other matters pertaining to rates to be paid by the municipality to any public utility for street lighting or other utility services, and to existing or proposed franchises with any public utility, including CATV, bus and taxicab operations.

(4) Committee on municipal services, parks and recreation. To which shall be referred all ordinances, resolutions and other matters relating to the Public Safety/Service Department, Police Division, Fire Division, Health Board, workmen's compensation, employees' relations, civil service and civil defense and other matters relating to parks and recreation.

(5) Committee on legislation and codes and regulations. To which shall be referred all ordinances, resolutions and other matters pertaining to County, State or Federal legislation affecting the City; rules apportionment; redistricting; all initiative, referendum and recall petitions; all matter relating to courts; enforcement ordinances imposing fines, penalties, forfeiture or imprisonment; and civil rights and other matters relating to curfew, liquor permits, obscenity, air pollution, water pollution, building codes, housing codes, plumbing codes, slum clearance, dangerous buildings and excavations, subdivision regulations, weeds, noise, signs, peddlers, solicitors, junk yards, fortune tellers, advertising, coin-operated devices, entertainment, bingo,

lotteries and other matters relating to the regulation of lands, buildings, businesses, professions and persons.

(6) Committee on lands, buildings and airport. To which shall be referred all ordinances, resolutions and other matters pertaining to all public buildings and grounds owned, leased or operated by the municipality, including parking lots, and all ordinances, resolutions and other matters relating to the Marion Municipal Airport.

(7) Committee on zoning and annexation. To which shall be referred all ordinances, resolutions and other matters pertaining to zoning and annexation.

(8) Committee on jobs and economic development. To which shall be referred all ordinances, resolutions and all other matters relating to industrial and economic development of the municipality, present jobs and future employment opportunities.

(9) Committee on regional planning.

(10) Committee on Information Systems.
To which shall be referred all Ordinances, Resolutions and all other matters relating to information systems, computer networks, computer issues, telephone issues, and those other matters related to any electronic media not already referred to any other standing committee. (Ord. 2002-37, passed 03-25-2002)

(B) The members of Council by a majority vote of all members elected may choose the members of select committees as may be authorized by Council from time to time, except in those cases where the resolution authorizing such select committees specifically names the membership thereof. Nothing in this Rule 14 shall apply to any ordinance, resolution or legislation the subject matter of which has been before a proper committee. (Ord. 1982-1, passed 1-6-82)

(C) *Rule 15. Committee meetings.* A majority of the members of a committee shall constitute a quorum for the transaction of business. Each committee shall hold its meetings at such time and place as fixed by the chairman of the respective committees, and each committee or chairman thereof shall have the right to require the attendance at its meetings of such administrative officers as in its judgment are needed to properly dispose of the matter under consideration. Absence of a member of a committee from three consecutive meetings, unless authorized by the chairman of such committee, may, upon the recommendation of such committee, cause the removal of such member from such committee by the Council. No legislation shall be amended while in committee and it shall be the duty of the committee to recommend to Council the approval, disapproval or amendment of any legislation pending before the committee. A majority of the members of a committee shall be necessary for the recommendation of approval, disapproval or amendment of any legislation pending before a committee. All other motions shall require only a majority vote of the members of committee shall be necessary for the recommendation of approval, disapproval or amendment of any legislation pending before a committee. All other motions shall require only a majority vote of the members of committee present. (Ord. 2000-50, passed 05-08-2000)

(D) *Rule 16. Committees open to public.* All committee meetings shall be open to the public.

(E) *Rule 17. Rules of committees.* Except in case of obvious inconsistency or inapplicability committee hearings shall be governed by the rules applicable to Council proceedings.

(F) *Rule 18. Reports of committees.* If any matter referred by Council to any committee, director or officer is not reported upon within six months of the time of such reference, such matter shall be brought by the Clerk of Council to the attention of Council, and if no report is made by such committee, officer or director within four weeks after such reference, Council shall take such further action in the premises as it may deem best.

(G) *Rule 19. Reference to more than one committee.* Whenever any pending matter is referred to more than one committee for consideration and report, such committees may consider the same in joint session as a joint

committee if the chairmen of the committees consent thereto. The Chairman of the committee first named shall preside at such joint session, and each member of the joint committee shall have one vote for each committee of which he/she is a member composing the joint committee. A majority of the individual members of the several committees shall constitute a quorum of such joint committee. Its reports shall be made in the same manner and under the same rules as reports are made by standing committees.

(H) *Rule 20. Committee of the whole.* When Council decides to go into a Committee of the whole, the President Pro Tempore of Council may preside. A Committee of the whole may be called in accordance with Rule 4, and in addition may be called by a Committee Chairman. The rules of Council, insofar as practicable, shall be observed in the Committee of the whole, except that no limit shall be placed on the frequency of speaking, that the yeas and nays shall not be taken and that a motion to rise and report progress shall always be in order and shall be decided without debate. The Clerk of Council shall be required to attend all meetings of Council as a Committee of the whole. (Res. 1968-42, passed 10-28-68) ('70 Code, § 111.03) (Am. Ord. 1989-110, passed 11-13-89; Am. Ord. 1992-24, passed 4-27-89; Am. Ord. 1995-128, 11-27-95; Ord. 2000-50, 5-8-2000)

§ 111.04 DUTIES, PRIVILEGES AND DECORUM OF MEMBERS.

(A) *Rule 21. Seating arrangement.* The President of Council shall number the seats in the Council Chamber consecutively from one through nine. Each member of Council elected from a ward shall occupy the seat which has the same number as the number of the ward from which he/she was elected.

(1) Members of Council elected at large shall occupy Seats 7, 8 and 9 on the basis of seniority, insofar as possible, (such seniority being the number of months of prior service on Council) as follows: the member with the least seniority shall occupy Seat 7; the member with the next seniority shall occupy Seat 8; and the member with the greatest seniority shall occupy Seat 9.

(2) In the event all of seats 7, 8 and 9 are not occupied on the basis of seniority, as set out above, then the remaining seats still to be occupied shall be occupied on the basis of alphabetical order of the first letter in the last name of the remaining members, starting with the unoccupied seat with the lowest number, that is, the member of those remaining whose first letter of his/her last name is first in the alphabet shall occupy the unoccupied seat with the lowest number and the member of those remaining whose first letter of his/her last name is next in the alphabet shall occupy the unoccupied seat with the next highest number. The last member, if any, shall occupy the last remaining unoccupied seat.

(B) *Rule 22. Duty to vote.* Every member present shall vote on all questions upon the call of the yeas and nays, unless excused by the unanimous consent of Council; except that no member shall vote on any question in which he/she is financially interested or which in any way involves personal or private rights. Any member present, unless so excused or excepted as above, who refuses to vote upon any question relating to the city government upon which he/she may vote, when the yeas and nays are being taken, shall be guilty of contempt of Council and may, for such contempt, be censured by a majority vote of Council.

(C) *Rule 23. Yeas and nays.* On the passage of every ordinance or resolution and on the appointment of every officer the vote shall be taken by yeas and nays, entered in full upon the records and published in the official journal. On any other question the yeas and nays shall be entered upon the records on the request of any member. Upon the call of the yeas and nays the Clerk of Council shall call the names of members by seat numbers in ascending numerical order and record the vote. When once begun, voting shall not be interrupted and it shall not be in order for members to explain their votes during the call of the roll.

(D) *Rule 24. Change of vote.* Before the announcement of the vote on any question the Clerk of Council shall read the vote of each member so taken upon the demand of any member, at which time any councilman on account of error or for any other reason may change his/her vote, but no councilman shall be permitted to change his/her vote as recorded after the roll call has been verified and the result declared.

(E) *Rule 25. Recording of vote of absent member.* Any member, having been unavoidably absent, may at the next meeting be permitted to have his/her vote recorded upon any question acted upon during such absence, provided such vote shall not change the result, and provided further that such member shall not be entitled to move a reconsideration of the question to be voted upon.

(F) *Rule 26. Right of floor.* When any member is about to address Council, he/she shall respectfully address himself/herself to the Presiding Officer and, when recognized by the chair, confine himself/herself to the question under debate, avoid personalities and refrain from impugning the motives of any other member's argument or vote. When two or more members ask recognition at the same time, the Presiding Officer shall name the member who is first to speak and the exercise of such discretion by the Presiding Officer shall not be subject to appeal under Rule 29.

(G) *Rule 27. Time limitation of speaking.* No member shall be allowed to speak for a longer time than ten minutes at any one time without permission of Council. No member shall speak more than once on the same motion until every other member desiring to speak on that motion has had an opportunity to do so, nor shall the Mayor nor any director speak longer than fifteen minutes upon the same motion, ordinance or question without the consent of Council.

(H) *Rule 28. Members called to order.* If any member is speaking or otherwise transgresses the rules of Council, the Presiding Officer shall call the offending member to order. The member so called to order shall immediately take his/her seat unless permitted by the Presiding Officer to explain. Any member may, by raising the point of order, call the attention of the Presiding Officer to such transgression. The point of order shall be decided by the Presiding Officer without debate. Every such decision of the Presiding Officer shall be subject to appeal to Council.

(I) *Rule 29. Right of appeal.* Any member may appeal to Council from a ruling of the Presiding Officer. The member making the appeal may briefly state his/her reason for the same and the Presiding Officer may briefly explain his/her ruling, but there shall be no debate on the appeal and no other member shall participate in the discussion. The Presiding Officer shall then put the question: "Shall the decision of the chair be sustained?" If a majority of the members present vote yea, the ruling of the chair is sustained; otherwise it is overruled.

(J) *Rule 30. Member may read from books, etc.* Any member, while discussing a question, may read from books, papers or documents any matter pertinent to the subject under consideration without asking leave, provided however, that such reading shall be subject to and included within the time limitation prescribed in Rule 27.

(K) *Rule 31. Division of question.* If the question contains two or more divisible propositions, the Presiding Officer may, and upon request of a member, divide the same, but a motion to strike out a provision and insert a substitute is not divisible.

(L) *Rule 32. Personal privilege.* Any member may rise to explain a matter personal to himself/ herself, and on stating that it is a matter of personal privilege, he/she shall be recognized by the Presiding Officer, but shall not discuss a question or issue in such explanation. Such explanation shall not consume more than five minutes of time unless extended by consent of Council. Matters of personal privilege shall yield only to a motion to recess or adjourn.

(M) *Rule 33. Clerk of Council's desk.* No person other than the Clerk of Council and his/her assistants shall be permitted at the Clerk of Council's desk while the yeas and nays are being taken.

(N) *Rule 34. Voice vote.* All questions shall be stated and put by the Chair. The results of a voice vote shall be declared by the Chair without reference to the Clerk of Council. Where the result of a voice vote is in doubt, the Chair may, and on demand of any member, shall, call for a division of Council, which shall be taken by a roll call.

(O) *Rule 35. Excusing absent members of Council.* Any member not present at any regular or special meeting of Council may be excused by Council. (Res. 1968-42, passed 10-28-68) ('70 Code, § 111.04) (Am. Ord. 1992-24, passed 4-27-92)

§ 111.05 MOTIONS.

(A) *Rule 36. Purpose and form.* Motion shall be used only to expedite the orderly transaction of the business of Council and shall not be substituted for resolutions or ordinances. The form of all motions shall be "I move that" followed by the substance of the motion. A second shall be required for any motion, except as specifically provided for in a rule, but upon demand of any member any motion shall be reduced to writing. Any such motion may be withdrawn by the maker before it has been amended or voted upon. When a motion is made it shall be stated by the Presiding Officer before any debate shall be in order. All motions which have been entertained by the Presiding Officer shall be entered upon the minutes.

(B) *Rule 37. Precedence of motions.* When a question is before Council no motion shall be entertained except the following:

(1) To adjourn.
(2) To fix the hour of adjournment.
(3) For the previous question. (To request that discussion end and that any motion being considered be voted on.)
(4) To lay on the table.
(5) To postpone to a day certain.
(6) To postpone indefinitely.
(7) To refer to a committee.
(8) To amend.

These motions shall have precedence in the order indicated. The motion to adjourn and the motion for the previous question shall be put to a vote without debate; the motion to fix the hour of adjournment shall be debatable only as to the time of such adjournment; and all other motions shall be debatable.

(C) *Rule 38. Motion to adjourn - when not in order - not debatable.* A motion to adjourn shall be in order at any time, without a second, except as follows:

(1) When repeated without intervening business or discussion.
(2) When made as an interruption of a member while speaking.
(3) When the previous question has been ordered.
(4) While a vote is being taken.

(D) *Rule 39. The previous question.* The motion for the previous question shall require a majority vote of all members elected to Council; shall be considered only once; may be renewed after intervening business; shall take precedence over all debatable questions and shall be in order to prevent amendment of undebatable questions. When the previous question is moved and seconded by one other member it shall be put as follows: "Shall the main question be now put?" There shall be no further amendment or debate, but pending amendments shall be put in their order before the main question. If the question "Shall the main question be now put?" is decided in the negative the main question remains before Council.

(E) *Rule 40. Motion to lay on the table.* The motion to lay on the table shall dispose finally of the legislation against which it is invoked but a motion to lay a pending amendment to an ordinance or resolution shall not carry the ordinance or resolution with it. The motion to lay on the table shall require a majority vote of all members elected to Council.

(F) *Rule 41. Motion to postpone to a day certain.* The motion to postpone to a day certain shall require a majority vote of the members present; shall be subject to reconsideration; may be renewed after intervening business; shall be debatable as to the propriety of the postponement but not upon the merits of the legislation; and may be amended by changing the date. Upon the arrival of the date to which postponed, the legislation shall be considered in the regular order of business of that day.

(G) *Rule 42. Motion to postpone indefinitely.* The motion to postpone indefinitely shall have the same effect as the motion to lay on the table and shall require a majority vote of all members elected to Council. The motion to postpone indefinitely shall not be reconsidered, shall be debatable and shall open the legislation to debate, may be renewed after intervening business and may not be amended or laid on the table, and shall be subject to the previous question.

(H) *Rule 43. Reconsideration.* After the decision of any question any member who voted with the majority may move a reconsideration of any action at the same or the next succeeding meeting, provided, however, that an ordinance or resolution authorizing or relating to any contract may be reconsidered at any time before the final execution thereof. A motion to reconsider shall require a majority vote of all the members elected to Council. After a motion for reconsideration has once been acted upon, no other motion for reconsideration thereof shall be made without unanimous consent of the members present.

(I) *Rule 44. Suspension of statutory rule.* A motion to suspend the statutory rule requiring three readings on separate days shall not be debatable, and upon such motion, the main question shall open to debate.

(J) *Rule 45. Suspension of rule.* Except as controlled by statute, any rule may be suspended by the vote of a majority of all members elected to Council and shall be debatable.

(K) *Rule 46. Motion to amend.* A motion to amend shall be susceptible of but one amendment. An amendment once rejected may not be moved again in the same form.

(L) *Rule 47. Special order.* To make any subject a special order shall require the consent of a majority of the members present.

(M) *Rule 48. Procedure in absence of rule.* In the absence of a rule to govern a point of procedure, reference shall be had to the approved practice according to Roberts Rules of Order. (Res. 1968-42, passed 10-28-68) ('70 Code, § 111.05) (Am. Ord. 1992-24, passed 4-27-92)

§ 111.06 ORDINANCES AND RESOLUTIONS.

(A) *Rule 49. Agenda.* All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to Council shall, not later than 12:00 noon on the Thursday preceding a regular meeting, be delivered to the Clerk of Council, whereupon the Clerk of Council shall immediately arrange a list of such matters according to the order of business and furnish each member of Council, the Mayor and Law Director with a copy of the agenda and copies of ordinances and resolutions on such agenda, prior to the Council meeting and as far in advance of the meeting as time for preparation will permit. The Clerk of Council may furnish a copy of the agenda to any other person who may request same.

(B) *Rule 50. Preparation.* All ordinances and resolutions, when ordered by the Mayor, or any three members of Council, or a committee of Council, or Council, or the Law Director, on his/her own initiative, shall be prepared by the Law Director, or his/her authorized representative, provided, however, that nothing herein shall preclude any city official or any interested party from preparing an ordinance or resolution.

(C) *Rule 51. Placing on the agenda.* All ordinances or resolutions shall be placed on the agenda by the Clerk of Council when ordered by the Mayor, or three members of Council, or a committee of Council, or Council, and no ordinance or resolution shall be placed on the agenda by the Clerk of Council unless ordered by

the Mayor, or three members of Council, or a committee of Council, or Council. Any items placed on the agenda which do not comply with Rule 56, shall not be acted upon by Council unless Rule 56 is suspended by a majority vote of all members elected to Council.

(D) *Rule 52. Prior submission to Law Director and administration.* All ordinances, resolutions and contract documents shall before presentation to Council, have been submitted as to form and legality to the Law Director or his/her authorized representative, and shall have been submitted to the Mayor or his/her authorized representative where there are substantive matters of administration involved.

(E) *Rule 53. Numbering.* All ordinances and resolutions shall be numbered consecutively for a period of one year. All ordinances and resolutions placed upon the agenda or acted upon by Council, whether passed or not, shall be identified as follows: Ordinance No. or Resolution No.; then the year of the ordinance or resolution; then a dash; then the number of the ordinance or resolution.

(F) *Rule 54. Form-subject-title-revised-amended.* The enacting clause of all ordinances shall be "Be it Ordained by the Council of the City of Marion, Marion County, Ohio" and the enacting clause of all resolutions shall be "Be it Resolved by the Council of the City of Marion, Marion County, Ohio." All ordinances and resolutions, before introduction, shall be in typewritten form as prescribed by the Clerk of Council and on paper prescribed by such Clerk of Council. No ordinance or resolution shall relate to more than one subject, which shall be clearly expressed in its title. No ordinance or resolution or sections thereof shall be revised or amended unless the new ordinance or resolution contains the entire ordinance, resolution or section revised and amended, and the original ordinance, resolution, section or sections so amended are repealed. (Res. 1968-42, passed 10-28-68)

(G) *Rule 55. Readings; motions.*

(1) The following procedures shall apply to the passage of ordinances and resolutions:

(a) Each ordinance and resolution shall be read by title only, provided that the legislative authority may require, by a majority vote of its members, that any reading be in full.

(b) Each ordinance and resolution shall be read on three different days, provided that the legislative authority may dispense with this rule by a vote of at least three-fourths of its members.

(c) The vote on the passage of each ordinance or resolution shall be taken by yeas and nays and entered upon the journal.

(d) Each ordinance or resolution shall be passed, except as otherwise provided by law, by a vote of at least a majority of all the members of the legislative authority.

(2) Action by the legislative authority, not required by law to be by ordinance or resolution, may be taken by motion approved by at least a majority vote of the members present at the meeting when the action is taken. (Res. 1975-28, passed 10-27-75)

(H) *Rule 56. Committee consideration.* No ordinance or resolution shall be acted upon without prior consideration and a report from a proper committee or committees of Council, except Mayoral appointments may be taken directly to Council without prior reference to Committee, unless this requirement shall be suspended by a majority vote of all members elected to Council. The vote on each suspension shall be taken by yeas and nays and entered on the record. (Res. 1968-42, passed 10-28-68; Am. Res. 1968-55, passed 12-9-68)

(I) *Rule 57. Vacation of streets and alleys-Planning Commission.* No ordinance or resolution pertaining to the vacation of streets or alleys shall be acted upon without prior consideration and a report from the Planning Commission, unless this requirement is suspended by a majority vote of all members elected to Council. The vote on each suspension shall be taken by yeas and nays and entered on the record.

(J) *Rule 58. Amending.* It shall be in order to amend a resolution or ordinance at any time, but if such ordinance or resolution is of a general or permanent nature, and such amendment is made after the first reading, it shall again be read as amended, as the first reading.

(K) *Rule 59. Passage or adoption.* All ordinances and resolutions shall require for their passage or adoption the concurrence of a majority of all members elected to Council unless a greater number is required by law or the rules of Council, and the vote on their passage or adoption shall be taken by yeas and nays and recorded in the journal.

(L) *Rule 60. Signing - Presiding Officer; Clerk of Council, Mayor; Mayor's Veto.* All ordinances passed and resolutions adopted by Council shall be signed by the Presiding Officer and attested by the Clerk of Council. Every ordinance or resolution of Council shall, before it goes into effect, be presented to the Mayor for approval. The Mayor, if he/she approves such ordinance or resolution, shall sign and return it forthwith to Council. If he/she does not approve it, he/she shall, within ten days after its passage or adoption, return it, with his/her objection, to Council, or if it is not in session, to the next regular meeting thereof, which objections shall be entered upon its Journal. The Mayor may approve or disapprove the whole or any item of an ordinance appropriating money. If he/she does not return such ordinance or resolution within the time limited in this section, it shall take effect in the same manner as if he/she had signed it, unless Council, by adjournment, prevents its return. When the Mayor disapproves an ordinance or resolution, or any part thereof, and returns it with his/her objections, Council shall meet within ten calendar days after notification to the Clerk of Council to reconsider it and if such ordinance, resolution or item, upon reconsideration, is approved by a two-thirds vote of all the members elected, it shall then take effect as if signed by the Mayor.

(M) *Rule 61. Report on status of pending measures.* The Clerk of Council shall keep the members of Council informed regarding the status of pending ordinances and resolutions and other matters.

(N) *Rule 62. Mutilation of legislation.* No alteration, change, erasure or mark shall be made upon the original of any piece of legislation by any person except the Clerk of Council.

(O) *Rule 63. Reconsideration of legislation.* The reconsideration of any ordinance or resolution shall be in accordance with Rule 43.

(P) *Rule 64. Vote-eligibility-number defined.* Until changed according to law, Council shall be composed of nine members; one member elected from each of the six wards and three members elected at large.

(1) Whenever the word **majority** is used in this chapter, unless otherwise expressly indicated, it means five of the members elected to Council. Whenever **two-thirds** is used in this chapter, unless otherwise expressly indicated, it means six of the members elected to Council. Whenever **three-fourths** is used in this chapter, unless otherwise expressly indicated, it means seven of the members elected to Council.

(2) The President of Council's right to vote shall be governed by R.C. §§ 731.17, 733.09 and other applicable statutes and law. (Res. 1968-42, passed 10-28-68) ('70 Code, § 111.06) (Am. Ord. 1992-24, passed 4-27-92; Am. Ord. 1992-75, passed 8-24-92)

§ 111.07 ADMINISTRATIVE OFFICERS.

(A) *Rule 65. Attendance required.* The Mayor, Law Director, Safety/Service Director, City Auditor and Human Resources Director shall be required to attend the regular and special meetings of Council and shall be provided with seats on the floor of Council. Other city officials may be requested to attend upon notice being given to them. They shall be required, at any such meeting, to answer such questions relating to the affairs of the municipality under their respective supervision and control as may be put to them by any member of Council. The Mayor shall be entitled to take part in the discussion on all questions before Council. The directors shall be

entitled to take part only in the discussions on questions relating to their respective departments.

(B) *Rule 66. Reports of city officers.* All ordinances, resolutions and communications pertaining to matters that come under the supervision and control of the Mayor and directors of departments shall, in addition to being referred to the proper committees, be also referred to such respective administrative officers for recommendation and report. Every such officer to whom any such matter is referred shall report the same to Council, as the case may be, with recommendations, within 30 days after such reference. All reports from city officers suggesting or recommending action by Council shall, unless otherwise ordered by Council, be referred to the appropriate committee for consideration and report, which shall be made without unnecessary delay. (Res. 1968-42, passed 10-28-68) ('70 Code, § 111.07) (Am. Ord. 1989-131, passed 12-28-89; Am. Ord. 1992-24, passed 4-27-92)

§ 111.08 COUNCIL CHAMBERS.

(A) *Rule 67. Council Chambers.* The Council Chambers shall be the Municipal Court Room at city hall and at other places as Council shall agree by majority vote of Council and shall be used for meetings of Council or committees thereof.

(B) *Rule 68. Privileges of floor.* No person except members of Council, officers named in this chapter and persons invited by the Presiding Officer or by vote of Council shall be admitted within the bar of the Council Chamber and the Sergeant-at-Arms shall cause this rule to be rigidly enforced. (Res. 1969-38, passed 8-25-69) ('70 Code, § 111.08) (Am. Ord. 1992-24, passed 4-27-92)

§ 111.09 MISCELLANEOUS RULES.

(A) *Rule 69. Appointment by Mayor.* All appointments to Council for confirmation shall be taken up for consideration at the meeting of Council at which they are presented unless Council, by vote, orders them to be referred. The Mayor shall provide a resume of the appointee in advance in accordance with Rule 49.

(B) *Rule 70. Petitioners to pay costs.* Whenever application is made for the grant of a franchise right, the change of a street name, amendment of zoning map, a street vacation, or for any other grant, right, franchise or privilege, resulting in special benefit to the applicant, the Clerk of Council shall require the Applicant or the Agent for the Applicant to deposit with the City Treasurer the designated amount contained upon the fee schedule maintained by the Clerk of Council, as approved by the President of Council, said schedule being posted and available in the Clerk of Council's office, said deposit being sufficient to pay the costs of any advertising, recording, printing, mimeographing, notice requirements pursuant to M.C.C. 903(A), costs paid to the Safety/Service Director required under M.C.C. 903(B) or other special services arising by reason of such application. Any unused balance of such deposit shall be refunded to the Applicant or the Agent for the Applicant on the voucher of the Auditor. (Ord. 2000-95, passed 07-24-2000)

(C) *Rule 71. Law Director.* The Law Director shall, when requested by any member of Council or any administrative officer, give a verbal opinion on any question of law concerning municipal affairs. He/she may, if he/she deems the matter of importance, take a reasonable time to submit his/her opinion in writing.

(1) The Law Director, when requested by the Chairman of a committee to which any ordinance or resolution has been referred, shall assist in the examination of such ordinance or resolution.

(2) The Law Director shall prepare ordinances and resolutions pursuant to Rule 50.

(D) *Rule 72. Amending rules.* These rules may be amended or new rules adopted by a majority vote of all members elected to Council, provided the proposed amendments or new rules have been referred to the Committee on legislation at a preceding meeting. (Res. 1968-42, passed 10-28-68) ('70 Code, § 111.09) (Am. Ord. 1992-24, passed 4-27-92)

§ 111.10 LIVE BROADCASTING OF MEETINGS.

(A) City Council meetings and committee meetings shall be open to the public and these meetings shall be made accessible for broadcasting or recording by electronic means. The President of Council shall consult with the media and shall specify the place or places in the Council Chambers where the operator and equipment are to be positioned. Use of more than one portable video camera shall be allowed only with the permission of the President of Council. The use of electronic or photographic equipment which produces distracting sound or light shall be prohibited by the President of Council. Photographers and other media shall be afforded a clear view of the proceedings, but shall not be permitted to move about in the Council Chambers so as to distract or disrupt Council Proceedings.

(B) These rules shall not be construed to grant media representatives any greater rights than permitted by law whenever public or media access or publication is prohibited, restricted or limited. Upon the failure of any media representative to comply with any reasonable condition imposed by these rules or by the President of Council, permission to broadcast may be revoked. ('70 Code, § 111.10) (Ord. 1979-57, passed 5-29-79; Am. Ord. 1992-24, passed 4-27-92; Ord. 2000-95, passed 7-24-2000)

Statutory reference:

Composition, see R.C. §§ 731.01 and 731.06
Qualifications, see R.C. §§ 731.02 and 731.44
Election and term, see R.C. §§ 731.03 and 733.09
President Pro Tempore, see R.C. §§ 731.04 and 733.08
Legislative powers, see R.C. § 731.05
Vacancy, see R.C. § 731.43

CHAPTER 113: ORDINANCES AND RESOLUTIONS

Section

113.01 Application to city land beyond corporate limits
113.02 Effective date

§ 113.01 APPLICATION TO CITY LAND BEYOND CORPORATE LIMITS.

All ordinances and resolutions heretofore or hereafter to be passed by Council shall have application to property owned by the municipality beyond the corporate limits.
('70 Code, § 113.01) (Res. 3858, passed 3-22-54)

§ 113.02 EFFECTIVE DATE.

Any ordinance or resolution becomes effective 30 days after the Mayor signs such legislation. The exception to this clarification is in the case where "emergency" or "emergency clause" is stated in the title and/or text of the ordinance or resolution. When this procedure is followed, the ordinance or resolution becomes law immediately upon the signature of the Mayor. ('70 Code, § 113.02)

Cross-reference:

Codified ordinances, see also Ch. 101

Statutory reference:

Newspaper publication, see R.C. §§ 7.12, 701.04 and 731.21 et seq.
Adoption and style, see R.C. §§ 715.03 and 731.17
Authentication, see R.C. § 731.20
Posting, see R.C. § 731.25
Initiative and referendum, see R.C. § 731.28
Emergency measures, see R.C. § 731.30

TITLE FIVE - Administrative

Chapter 121	Mayor
Chapter 123	Auditor
Chapter 125	Treasurer
Chapter 127	Director of Law
Chapter 129	Clerk of Council
Chapter 133	Department of Public Safety/Service
Chapter 135	Department of Human Resources
Chapter 137	Division of Police
Chapter 139	Division of Fire
Chapter 141	Division of Engineering
Chapter 143	Division of Sanitation
Chapter 145	Division of Sewage Disposal Works
Chapter 147	Division of Streets
Chapter 149	Employees Generally

CHAPTER 121: MAYOR

EDITOR'S NOTE: There are no sections in Chapter 121. This chapter has been established to provide a place for cross references and any future legislation.

Statutory reference:

Veto power, see R.C. § 731.27
Mayor of cities, see R.C. §§ 733.02 – 733.08
General provisions, see R.C. §§ 733.30 – 733.34
Delinquent officers, see R.C. §§ 733.40 and 733.41
Approval of Mayor's bond, see R.C. § 733.70
Salary, see R.C. § 1905.21

CHAPTER 123: AUDITOR

Section

123.01 Treasury Investment Board established; Treasury Investment Account

§ 123.01 TREASURY INVESTMENT BOARD ESTABLISHED; TREASURY INVESTMENT ACCOUNT.

(A) In accordance with R.C. §§ 731.56 through 731.58, there is hereby created an account to be known as the Treasury Investment Account which shall be maintained by the Auditor and in which there shall be entered all transactions related to the investment of treasury funds under R.C. §§ 731.56 and 731.57. The Treasury Investment Account shall be maintained in accordance with the applicable provisions of R.C. § 731.58.

(B) The Mayor, Auditor and Director of Law of the municipality shall constitute the Treasury Investment Board provided that the Chairman of the Finance Committee of Council shall act as an ex-officio, but nonvoting, member of the Treasury Investment Board and shall be entitled to attendance at all meetings, to notice of meetings and to participate in the discussions of the Board with respect to investments to be made by that Board.

(C) In accordance with R.C. § 731.56, Council hereby determines that whenever there are moneys in the treasury of the municipality which will not be required to be used by the municipality for a period of six months or more, such moneys may in lieu of being deposited in a bank, be invested in obligations of the municipality as well as in those additional obligations which are authorized by the provisions of R.C. § 731.56, and such investments shall be made in accordance with R.C. §§ 731.56 and 731.57 and the provisions of the section.
('70 Code, § 123.01) (Ord. 1983-83, passed 9-26-83)

Cross-reference:

Coin-operated devices, see Ch. 720

Statutory reference:

Uniform Bond Law, see R.C. Ch. 133
Uniform Depository Act, see R.C. Ch.135
Investment of city funds, see R.C. § 731.56
General provisions, see R.C. §§ 733.10 – 733.20
Appropriations; expenditures, see R.C. § 5705.41

CHAPTER 125: TREASURER

EDITOR'S NOTE: There are no sections in Chapter 125. This chapter has been established to provide a place for cross references and any future legislation.

Statutory reference:

Uniform Depository Act, see R.C. Ch. 135

General provisions, see R.C. §§ 733.42 – 733.47

CHAPTER 127: DIRECTOR OF LAW

Section

127.01 Director of Law
127.02 Assistant City Law Director
127.03 Second Assistant Law Director
127.04 Third Assistant Law Director
127.06 Defense of Police and Fire Division personnel and auxiliary police officers

§ 127.01 DIRECTOR OF LAW.

(A) There is hereby established the position of Director of Law. The City Director of Law shall be elected for a term of four years, commencing on the first day of January after his/her election. He/she shall be an elector of the city. (R.C. § 733.49)

(B) No person shall be eligible to the office of City Director of Law who is not an attorney at law, admitted to practice in this state. (R.C. § 733.50)

(C) The City Director of Law shall prepare all contracts, bonds and other instruments in writing in which the municipality is concerned, and shall serve the municipality as legal counsel and attorney. The Director of Law shall be prosecuting attorney of the Municipal Court. When City Council allows assistants to the Director of Law, he/she may designate the assistants to act as prosecuting attorneys of the Municipal Court. The person designated shall be subject to the approval of City Council. (R.C. § 733.51)

Statutory reference:

Other powers; duties, see R.C. §§ 733.52 – 733.62
Preparing bonds, see R.C. § 733.70

§ 127.02 FIRST ASSISTANT CITY LAW DIRECTOR

Whereby the work of the City Law Director has become so voluminous, it is hereby declared necessary to provide an assistant to the City Law Director to perform such duties as the City Law Director may require and to specifically assist in the prosecution of law violators in the municipality. ('53 Code, § 2.110)

(A) There is hereby created the position of First Assistant Law Director, who shall be compensated as determined from time to time by Council.

(B) The duties of the First Assistant Law Director shall be as follows:

(1) To prosecute those maters which involve violence against women, including but not limited to interviews, investigation, consultation, pre-trial hearing, trials and all necessary follow-up or related matters;

(2) In addition to those duties as listed above, said First Assistant shall also be responsible for all matters which may from time to time be assigned by the Law Director which may include all matters which may come before the Office of the law Director; and

(3) To assume, in the absence of the Assistant Law Director, the duties performed in the Marion Municipal Court or in cases appealed therefrom. (Ord. 1998-83, passed 5-26-98; Am. Ord. 2002-117, passed 10-29-2002)

§ 127.03 SECOND ASSISTANT LAW DIRECTOR.

(A) There is hereby created the position of Second Assistant Law Director, who shall be compensated as determined from time to time by Council.

(B) The duties of the Second Assistant Law Director shall be as follows:

(1) To attend, upon request, meetings of the Board of Zoning Appeals, the Board of Building Appeals, the Planning Commission, the Recreation Board, the Health Board, the Civil Service Commission, the Board of Airport Commissioners and Council in the absence of the Law Director;

(2) To assist the Law Director in litigation involving the municipality and to act for and on behalf of the Law Director in the event of his/her absence; and

(3) To assume, in the absence of the Assistant Law Director, the duties performed in the Marion Municipal Court or in cases appealed therefrom. ('70 Code, § 127.02) (Ord. 1972-11, passed 2-14-72; Am. Ord. 1973-4, passed 1-8-73)

§ 127.04 THIRD ASSISTANT LAW DIRECTOR.

(A) There is hereby established the position of Assistant Law Director for prosecution in the Municipal Court. Such position shall be effective as of January 1, 1979.

(B) The Assistant Law Director shall assist in the prosecution of criminal cases in the Municipal Court. (Ord. 1979-3, passed 1-8-79)

§ 127.06 DEFENSE OF POLICE AND FIRE DIVISION PERSONNEL AND AUXILIARY POLICE OFFICERS.

(A) Any claim or suit brought against any member of the Division of Police, the Division of Fire or Auxiliary Police, not otherwise covered by present insurance coverage obtained on their behalf by the municipality, shall be defended by the office of the City Director of Law as hereinafter limited, until the final determination of the litigation, if any, therein.

(B) The municipality shall save such member of the Police Division, the Fire Division or Auxiliary Police harmless from any personal liability not covered by insurance or any judgment not covered by insurance resulting from such claim or suit defended by the office of the Director of the Law.

(C) The Director of Law shall not be obligated to defend any member of the Police or Fire Division or Auxiliary Police and the municipality shall not indemnify any judgment in the following instances:

(1) Actions filed under federal civil rights statutes.

(2) Actions filed for any criminal misconduct;

(3) Actions filed which, in the opinion of the Director of Law, do not arise as a result of duties imposed in the furtherance of duties required by law, or in which the officer was not attempting to discharge his/her official duties when the claim arose or was not acting in good faith at all times during the discharge of his/her duties;

(4) Actions filed which are covered by liability, professional liability or malpractice liability insurance;

(5) Actions filed wherein any member of the Division of Police or Fire or Auxiliary Police directs in writing by certified mail, the Director of Law not to intervene on his/her behalf prior to answer day as prescribed

by law; or

(6) Actions filed pertaining to discipline under applicable civil service laws.

(D) The municipality shall not defend or indemnify any member of the Division of Police or Fire or Auxiliary Police for any judgment where notice of the litigation is not given by certified mail to the office of the Director of Law prior to answer day as prescribed by law. ('70 Code, § 127.03) (Ord. 1973-148, passed 10-22-73)

CHAPTER 129: CLERK OF COUNCIL

Section

129.01 Photocopies
129.02 Establishment of position

§ 129.01 PHOTOCOPIES.

(A) There is hereby established a fee of five (5) cents, tax included, for each copy provided to any person who requests more than twenty-five (25) copies during any one day. A single copy shall be defined to include both sides of a two sided document. A person shall be entitled to only one copy of any one public record during any one day. Public Officers shall ensure O.R.C. 149.43 is fully complied with including but not limited to requests made via us mail service and limits imposed upon commercial activities. O.R.C. 149.43 is hereby adopted as the City's Policy and Procedure relating to public record requests. ('70 Code, § 129.01) (Ord. 1980-116, passed 11-24-80; Am. Ord. 1995-50, passed 6-26-95; Ord. 1996-143, passed 10-29-96; Am. Ord. 1999-138, passed 10-26-99)

§ 129.02 ESTABLISHMENT OF POSITION.

(A) There is hereby established the position of Clerk of Council.

(B) The job description for such position of Clerk of Council is attached to original Ordinance 1978-22, passed February 27, 1978, and incorporated herein by reference and shall, by reference, become a part of the personnel classification schedule heretofore adopted by Council as fully as if the same were rewritten in such personnel classification grade schedule.

(C) The salary for the position of Clerk of Council shall be determined from time to time by Council.
('70 Code, § 129.02) (Ord. 1978-22, passed 2-27-78; Ord. 1998-107, passed 7-13-98; Ord. 2000-9, passed 1-24-2000; Ord. 2002-2, passed 01-07-2002)

Cross-reference:

Duties, see § 111.02

CHAPTER 133: DEPARTMENT OF PUBLIC SAFETY/SERVICE

Section

133.01 Creation; Director
133.02 Compensation
133.03 Zoning Inspector
133.04 Sale of zoning code

§ 133.01 CREATION; DIRECTORS.

There is created a Department of Public Safety/Service which shall be administered by a Director of Public Safety/Service. ('70 Code, § 133.01) (Ord. 67-121, passed 10-9-67; Am. Ord. 1991-145, passed 12-9-91)

Cross-reference:

Administration of auxiliary police unit, see § 137.14

Statutory reference:

Approval of contracts, see R.C. § 733.22
Department of Public Service, see R.C. Ch. 735
Department of Public Safety, see R.C. Ch. 737

§ 133.02 COMPENSATION.

(A) Such annual salary shall be subject to adjustment on each anniversary of the appointee's date of appointment to this office. The Mayor may authorize such annual adjustment, based on merit within a salary range of $50,205 minimum and $67,128 maximum, not to exceed a 5% increase in the annual salary. The salary range remains subject to revision by Council.

(B) In addition to the stated compensation, the Director shall be entitled to the working conditions and employee benefits as provided for full-time permanent employees, excluding overtime, compensatory time, holidays, vacation and sick leave. (Ord. 1991-145, passed 12-9-91; Am. Ord. 1995-142, passed 11-27-95; Am. Ord. 2002-101, passed 09-09-2002)

§ 133.03 ZONING INSPECTOR.

(A) There is created the position of Zoning Inspector in the Department of Public Safety/Service.

(B) The job description for such position is attached to original Ordinance 1973-24, passed March 12, 1973, and incorporated herein by reference and shall by reference become a part of the personnel classification schedule heretofore adopted by Council as fully as if the same were rewritten in such personnel classification schedule.

(C) The compensation for the position of Zoning Inspector shall be as determined from time to time by Council. ('70 Code, § 133.02) (Ord. 1973-24, passed 3-12-73; Am. Ord. 1991-145, passed 12-9-91)

§ 133.04 SALE OF ZONING CODE.

(A) The updated 1991 edition of the zoning code for the municipality shall be placed on sale at the Safety/Service Director's office for a charge of $25 per copy.

(B) The proceeds received from this sale shall be paid into the General Fund. ('70 Code, § 133.03) (Ord. 1970-144, passed 3-12-73; Am. Ord. 1982-44, passed 4-12-82; Am. Ord. 1991-145, passed 12-9-91)

CHAPTER 135: DEPARTMENT OF HUMAN RESOURCES

Section

135.01 Creation; Director
135.02 Compensation; job description

§ 135.01 CREATION; DIRECTOR.

There is created a Department of Human Resources which shall be administered by a Director of Human Resources. (Ord. 1991-147, passed 12-19-91)

§ 135.02 COMPENSATION; JOB DESCRIPTION.

(A) Such annual salary shall be subject to adjustment on each anniversary of the appointee's date of appointment to this office. The Mayor may authorize such annual adjustment, based on merit within a salary range of $40,615 minimum and $56,410 maximum, not to exceed a 5% increase in the annual salary. The salary range remains subject to revision by Council.

(B) In addition to the stated compensation, the Director shall be entitled to the working conditions and employee benefits as provided for full-time permanent employees, excluding overtime pay, compensatory time, holidays, vacation and sick leave.

(C) The job description for the position of Human Resources Director is attached to Ordinance No. 1991-147, upon which this section is based, and incorporated herein by reference and shall by reference become a part of the personnel classification schedule heretofore adopted by the Council as fully as if the same were rewritten in the personnel classification schedule.

(D) The Yarger Report (i.e., the personnel classification schedule) shall be amended to substitute the title of Human Resources Director for the term Personnel Director wherever it appears therein. (Ord. 1991-147, passed 12-19-91; Am. Ord. 1995-143, passed 11-27-95; Am. Ord. 2002-102, passed 09-09-2002)

CHAPTER 137: DIVISION OF POLICE

Section

137.01 Composition
137.02 Fees for copies of accident reports, police reports, arrest record checks and fingerprint cards
137.03 Traffic Violations Bureau
137.14 Reserve Unit
137.19 Authorization for Provision of Police Protection to other Jurisdictions upon the authorization of the Police Chief
137.20 Parking Enforcement Unit
137.23 Alarm System Registration and Duties

§ 137.01 COMPOSITION.

The Division of Police shall be composed of a Chief of Police and such other officers and personnel as Council shall from time to time determine.

A newly appointed Chief of Police shall serve a probationary period of six months. During the probationary period, the base rate of pay for the Chief of Police shall be maintained at a level 17% above the annualized top base rate of pay of a Major in the Marion Police Department.

After satisfactory completion of the probationary period, the base rate of pay for the Chief of Police shall be adjusted to and maintained at a level 22% above the annualized top base rate of pay of a Major in the Marion Police Department.

Except for overtime pay, the Chief of Police shall be eligible for all other benefits for which a Major in the Marion Police Department is eligible. ('70 Code, § 137.01)(Am. Ord. 94-29, passed 3-28-94; Ord. 1977-69, passed 5-27-97; Ord. 1997-69, passed 5-27-97)

Cross-reference:

Failure to aid officer, see § 606.13
Resisting arrest, see § 606.16

Statutory reference:

Reductions, suspensions and removals, see R.C. §§ 124.34 and 737.12
Police Chief suspension, see R.C. § 124.40
Composition and control, see R.C. §§ 715.05 and 737.05
General duties, see R.C. § 737.11

§ 137.02 FEES FOR COPIES OF ACCIDENT REPORTS, POLICE REPORTS, ARREST RECORD CHECKS AND FINGERPRINT CARDS.

(A) Police accident reports and other police reports shall be furnished to applicants by means of photostatic copy and by other means necessary to comply with A.D.A.

(B) There is hereby established a fee of five (5) cents, tax included, for each copy provided to any person who requests more than twenty-five (25) copies during any one day. A single copy shall be defined to include both sides of a two sided document. A person shall be entitled to only one copy of any one public record during any one day. Public Officers shall ensure O.R.C. 149.43 is fully complied with including but not limited to requests made via us mail service and limits imposed upon commercial activities. O.R.C. 149.43 is hereby adopted as the City's Policy and Procedure relating to public record requests.

(C) There is hereby established a fee of five (5) cents, tax included, for each copy provided to any person who requests more than twenty-five (25) copies during any one day. A single copy shall be defined to include both sides of a two sided document. A person shall be entitled to only one copy of any one public record during any one day. Public Officers shall ensure O.R.C. 149.43 is fully complied with including but not limited to requests made via us mail service and limits imposed upon commercial activities. O.R.C. 149.43 is hereby adopted as the City's Policy and Procedure relating to public record requests.

(D) Photos reproduced at cost of reproduction.

(E) Audio tapes reproductions are to be provided at cost.

(F) Fingerprint cards prepared are to be provided at cost. ('70 Code, § 137.02) (Ord. 1982-16, passed 2-8-82; Ord. 1999-138, passed 10-26-99)

Cross-reference:

False reports to Division of Police, see §§ 606.10, 648.07 and 606.08

§ 137.03 POLICE RECORDS BUREAU.

(A) *Establishment; purpose.* A Police Records Bureau shall be established to provide the necessary clerical work for the proper disposition of traffic violations within the municipality and the preparation and preservation of police records.

(B) *Police records.* The Police Records Bureau shall assist in the preparation and preservation of police files and records and perform all stenographic work required by the Chief of Police in pursuance of his/her duties. ('70 Code, § 137.03)

Cross-reference:

Resisting traffic official, see § 303.03

Maintaining Traffic Control Map and File, see § 307.03

§ 137.14 RESERVE UNIT.

(A) *Organization.*

(1) A volunteer unit to be known as the Marion Police Reserve Unit is established and organized. The primary purpose of this unit shall be to assist full-time sworn personnel in the day-to-day delivery of law enforcement services and for emergencies, consistent with Ohio law.

(2) All members shall serve only after being duly granted membership after making application on a form prescribed by the Chief of Police and shall be considered volunteers.

(B) *Membership.*

(1) The membership shall be limited to a number to be determined by the Chief of Police and approved by the Director of Public Safety/Service. Each member of the Reserve shall make application on a form prescribed by the Chief of Police and only thereafter shall be considered a member of this volunteer unit. In order to be eligible to make application, the person be Ohio Police Officer's Training Academy certified. All reserve officers must be approved by the Chief of Police. Additional qualifications may be required as the Chief of Police sees fit. (Ord. 2014-32, passed 5-27-2014)

(2) Prior to being granted membership the applicant shall demonstrate that he/she is 21 years of age, has a high school diploma or its' equivalent, is certified through the Ohio Peace Officers Training Council. Each applicant shall provide a copy of his/her birth certificate, copy of a valid Ohio Drivers License, copy of a high school diploma or equivalent, and a copy of OPOTA certification.

(3) Those applicants for membership who successfully complete all of the above shall subscribe to the oath of office pursuant to G.O.1.1.1 and thereafter will be assigned a unit number for identification and seniority within the Unit purposes only.

(4) In order to continue to be a member of the Reserve Unit, each member shall remain as an active member by performing the number of hours of volunteer service per month as determined by the Chief of Police. Less than this minimum determined shall be cause for removal from the unit immediately at the sole discretion of the Chief of Police. A member may request to be placed on temporary inactive status due to business or personal reasons. The request must be made in writing and approved by the Chief of Police. (Ord. 2014-32, passed 5-27-2014)

(5) Members shall receive, as compensation for their volunteerism, One Dollar ($1.00) per year. As additional consideration, members shall be permitted to work in a capacity which may entitle them to retain their OPOTA Certification, receiving valuable experience which may assist them in obtaining appointment as a full-time officer within the Department or at some other agency. Members shall not receive any medical, dental or pension benefits for their volunteer service. They shall be covered by the State's Workman's Compensation Program.

(6) The Director of Safety/Service is authorized and directed to promulgate such executive orders, rules and regulations as, in his/her discretion, are either necessary or desirable in the administration of the Reserve Unit. In addition, the Chief of Police is authorized and directed to promulgate such executive orders, rules and regulations as, in his/her discretion, are either necessary or desirable in the administration of the Reserve Unit.

(7) The Director of Law may defend any Reserve member in any claim or suit arising out of or in the course of the duties of the office held by law. The Director of Law shall not be obligated to defend any Reserve member, and the City of Marion shall not indemnify any judgment in any of the following instances: a) actions filed under federal civil rights statutes; b) action field for any criminal misconduct; c) action field which, in the opinion of the Law Director do not arise as the result of the duties imposed in the furtherance of duties as is required by law, the Reserve Member was not attempting to discharge his/her official duties when the claim arose or was not acting in good faith; d) actions filed wherein any member of the Reserve directs, in writing by certified mail, to the Office of the Director of Law not to intervene on his/her behalf prior to the answer day, however if the Director of Law determines the City is best served by intervention, then he shall have such discretion; e) actions filed pertaining to discipline in any case. The City shall not defend or indemnify any member of the Reserve Unit where notice of the litigation is not given by actual service to the office of the Law Director at least seven (7) days prior to the answer date.

(C) *Training and Duties.*

(1) Each member shall conduct and complete all actions necessary to remain OPOTA certified.

(2) Each member shall complete field training as prescribed by the Chief of Police. After successful completion of said training, each member shall continue to work in tandem with a full-time sworn officer and at no time shall work solo. A Reserve officer shall be used only to supplement, but not replace, full-time, sworn personnel.

(3) Each member will be required to complete all in-service training provided to the full-time sworn officers. In addition, each member shall receive all necessary training in the use of departmental vehicles in order to allow them to operate same only in the presence of a real emergency under the direction of a full-time sworn officer. The vehicle shall be driven in the manner prescribed by State law and local ordinances for emergency and public safety vehicles.

(4) Each member will also receive advanced training and have opportunities to attend schools or

seminars in order to keep in compliance with Ohio law which may be mandatory to retain certification.

(5) Each member may be assigned to the Operations, Investigative, Administrative or Special Services, at the discretion of the Chief of Police. Assignments shall be based upon knowledge, skill and abilities necessary for the effective operation of the Department. In any assignment, each member shall have arrest powers.

(6) Each member shall be considered a sworn peace officer while conducting the duties of the Reserve Unit which may include, but are not limited to: Assisting full-time officers in patrolling designated areas to ensure the public's compliance with Federal, State and Local laws, they shall assist in answering calls when a crime is suspected or an emergency exists. They shall assist in conducting investigations to determine who is committing crimes and shall take such actions necessary to prevent crime, to apprehend criminals and to maintain safety. They may be assigned to uniform and non-uniform special events.

(7) Each member shall comply with all departmental Orders, rules, regulations, policies, procedures, and written directives. As a member of the volunteer Reserve Unit they shall not be members of the State's Civil Service and shall not be subject to the protections afforded therein. Each member's service in the Unit shall be subject to the protections afforded therein. Each member's service in the Unit shall be subject to termination, at the sole discretion of the Chief of Police with or without cause, without the right to appeal in any manner. Their service to the Unit shall be considered outside the FOP bargaining unit.

(8) Each member shall be under the general direction of a full-time officer and the supervision of a lieutenant. A member shall not work any duty, excepting supplemental services, without the presence of a sworn full-time officer and shall not work any assignment unless every sworn full-time officer is given the first opportunity to bid for that assignment, whether it be special duty detail or otherwise.

(D) *Uniform and Equipment.*

(1) Uniforms and equipment shall be furnished by the Department through the quartermaster process, or as otherwise directed by the Chief of Police. All shall remain the property of the City of Marion, Ohio.

(2) Members uniforms shall be similar to those of full-time officers and they shall be issued similar equipment. The Uniform shall clearly designate on all insignia that the wearer is a member of the Reserve Unit. The Badge shall contain the words, in plain view, Reserve Police Officer. The uniform shall be worn in a neat and proper manner.

(E) *Use of Force and Firearm Qualification.*

(1) Each member shall receive training in departmental General Orders, policy and procedures, rules and regulations, and written directives as prescribed and directed by the Chief of Police. This shall include G.O.1.3 Use of Force.

(2) Each member shall annually qualify with departmental issued firearms or similar personal firearms as approved by the Chief of Police in the same manner as sworn full-time officers in accordance with the Departments policies. (Ord. 2014-32, passed 5-27-2014)

(F) *Bonding.*

(1) The Chief of Police shall ensure that each Reserve member is bonded and covered by the Departments public liability protection with similar coverage to that of sworn full-time officers.

(G) *Off Duty Rules.*

(1) A member shall not use his/her badge, wear the uniform or engage in Reserve work when not assigned to regular, special or emergency duty.

(2) When reporting for any type of duty, a member shall drive a personal or privately owned vehicle in the normal and lawful manner, and not as an emergency or public safety vehicle.

(3) When reporting for any type of duty, a member shall report to the regular officer or dispatcher.

(H) *Disciplinary Action.* Reserve officers shall be governed by the same rules as regular police officers, except that they do not have the right of appeal of any discipline, including but not limited to discharge from the Unit.

(I) *Officers.* The Reserve Unit shall have such Officers positions as the Chief of Police finds necessary.
('70 Code, § 137.14) (Ord. 1970-134, passed 7-13-70; Am. Ord. 1974-134, passed 11-11-74; Auxiliary Unit Repealed and Reserve Unit established by Ord. 2000-130, passed 9-25-2000)
Statutory reference:
To appoint and remove auxiliary police officers, see R.C. 737.051

§ 137.19 AUTHORIZATION FOR PROVISION OF POLICE PROTECTION TO OTHER JURISDICTIONS UPON THE AUTHORIZATION OF THE POLICE CHIEF.

(A) The City of Marion Chief of Police is authorized to enter into agreement to send Police Officers outside the City of Marion, Ohio to render emergency Police services to any political subdivision of the State of Ohio that may be in emergency need of such services and that do not have a mutual aid police protection agreement with the City of Marion, Ohio. (Ord. 1999-72, passed 5-24-99)

§ 137.20 PARKING ENFORCEMENT UNIT.

(A) *Establishment, Organization and Purpose.*

(1) The Parking Enforcement Unit shall be established with its' primary purpose being the regulation and control of parking within the City of Marion, Ohio.

(2) The Parking Enforcement Unit shall be governed by the rules and regulations adopted by the Safety/Service Director who shall be the executive head of the parking enforcement unit. The Safety/Service Director shall make appointments, with the consent of the Chief of Police, and he shall make all removals. Appointees shall not be considered commissioned officers for any purpose, but shall instead be civilian employees whose duties are the control and regulation of parking.

(B) *Training.* The Safety/Service Director shall prescribe the necessary training required prior to appointment and continuing during any members service within the unit., which shall include training in general administrative rules and procedures, the role of the judicial system as it relates to parking regulation and enforcement, proper techniques and methods relating to the enforcement of parking Ordinances, human interaction skills and first aid.

(C) *Authority.* Members duly appointed shall be enabled and authorized to enforce all the parking regulations of the State of Ohio and the City of Marion, including but not limited to the issuance of summons. Members shall have no other powers.

(D) *Uniforms.* Members shall wear the uniform as prescribed by the Safety/Service Director as approved by the Chief of Police. The uniform shall be worn in a neat and proper manner.

(E) *Miscellaneous Rules.* Members shall not have the right of appeal upon removal or discharge, but shall

be governed by all other rules applicable to Officers within the Marion City police Department. (Ord. 2000-110, passed 8-28-2000)

Statutory reference:

Establishment of Parking Enforcement Units, see R.C. 737.051

*Editors Note: This section was passed with a duplicate title section of the code. The duplicate title was 137.19 therefore was renumbered to be 137.20. Also, Sections 137.04 to 137.13 were repealed as well as Sections 137.15 to 137.18.

§ 137.23 ALARM SYSTEM REGISTRATION AND DUTIES.

§ 137.23-01 DEFINITIONS

The following words and phrases, when used in this chapter, shall have the following meanings, if a word is not defined, its definition shall be as found in Black's Law Dictionary, latest edition, or the American Heritage Dictionary:

ALARM. A signal (audio or visual, recorded or live) transmitted to the Police Department indicating a predetermined condition. Said alarm is received either:

(1) Via a private alarm service company relayed to the Police Department telephone.

(2) Via an audible/visual signal relayed to the Police Department by a third party.

ALARM PERMIT. A permit issued by the Police Chief or his/her designee allowing the operation of an alarm system within the city.

ALARM SYSTEM. Any assembly of equipment, mechanical or electrical, designed or arranged to:

(1) Signal the occurrence of an illegal entry or other activity requiring emergency response by the police department or alert persons to respond, but does not include alarms installed in motor vehicles, or security devices carried on the person.

(2) Monitor and/or annunciate the status of alarm or supervisory devices.

ALARM USER. Any person, owner, firm, partnership, association, corporation, company, organization of any kind, or any other entity who purchases, leases, contracts for, otherwise obtains or uses an alarm system in a residence, facility, building, structure or portion thereof within the City of Marion, Ohio.

BOARD. The Appeal board as constituted in this chapter.

BURGLARY ALARM. An alarm system designated to indicate a condition of forced entry or attempted forced entry.

FALSE ALARM. The activation of an alarm system, by any means whatsoever, including but not limited to mechanical failure, malfunction, improper installation, negligence of the owner, user, custodian, employee, or lessee within the City requiring an emergency response, when an emergency situation does not exist, or the intentional activation of an alarm when the activator knows or should have known an emergency did not exist. Excluding a signal determined to have been caused by any of the following: Tornadoes, blizzards or other catastrophic acts of God or that were cancelled prior to the Police Dispatcher having dispatched an Officer.

PERMIT YEAR. Means each twenty-four (24) month period following the issue date of a permit

RECORD TITLE OWNER. The person or persons in whose name title to real property are recorded on the public records.

REVOCATION. That period of time when all rights and privileges of a permit have been abolished for noncompliance with provisions of this chapter. Reinstatement of the permit shall occur when all provisions of this chapter have been met.

ROBBERY ALARM. An alarm system designated to indicate a robbery (holdup) is in progress immediately proceeding or simultaneously with the alarm.

SERVICE FEE. Means the penalty charges assessed for false alarms.

TERM. Means length of license validity.

§ 137.23-02 PERMIT REQUIRED.

(A) No alarm user shall operate, monitor or have in place an alarm system without prior registration with the Police Department and possessing a valid permit issued by the Chief of Police or his/her designee.

(1) All requested information shall be accurately and fully completed. Any change in registration information as provided shall be reported to the Police Department within fourteen (14) calendar days of such change.

(2) All alarm user permits shall be valid for two (2) years from date of issue. A permit fee of $ 20.00 shall be paid at the time of registration and upon each successive renewal period. All permits shall be renewed prior to their date of expiration. An alarm user permit may be transferred by named users to their new location during a permit period. Said permit is not transferable from one user to another user. No fee shall be imposed upon any federal, state, county or municipal government agency.

(B) Each person or company, which operates, monitors or has responsibility for alarm systems, who notify the city of an alarm activation, shall at the time of notification, disclose name, address, telephone number and contact persons of the alarm user to the city.

§ 137.23-03 DUTY OF ALARM USERS

(A) Prior to the installation, substantial modification or use of an alarm system the owner, manager, person, or other responsible party shall furnish the Marion Police Chief or his/her designee with such information as the Chief deems necessary to provide adequate response to the alarm.

(B) Owners, managers, persons, lessees or other responsible parties of existing alarm systems shall have 30 days from the effective date of this chapter to comply with the mandates herein, including but not limited to the above notice requirements and permit fee payment.

(C) Owners, managers, persons, lessee or other responsible parties of any alarm system shall provide access to the alarm location, when requested by any agent, employee or Officer of the City's safety forces, in order to reset or deactivate the alarm system within 15 minutes of notification. Failure to provide such access shall result in a false alarm subject to the sanctions provided in herein.

(D) Prior to the installation or use of any type of general alarm device of alarm system, the owners, managers, persons, lessee or other responsible parties of the premises shall furnish to the Marion Police Chief or his/her designee, information regarding the full names, addresses, telephone numbers and at least three persons who can be reached at all times and who are authorized and have the capability to enter the premises and deactivate the alarm device and allow access. Owners, managers, persons, lessee or other responsible parties of the premises with alarm devices or alarm systems already installed shall have 30 days from the effective date of the ordinance enacting this chapter to comply with the mandates herein, including but not limited to the above notice requirement. It shall be the responsibility of the owners, managers, persons, lessee or other responsible parties of the premises to keep this list updated with the Marion Police Chief. Failure to do so may result in a false alarm assessment subject to the sanctions of § 137.23-05.

(E) All alarm systems, including but not limited to burglary alarms having an audible or visual signal at the premises shall be so equipped so as to automatically shut off the audible or visual signal after 15 minutes, except those systems required by law to have a longer operating period, in which case said system shall be so equipped so as to automatically shut off the audible or visual signal at the conclusion of said longer required operating time.

(F) All alarm systems shall be properly maintained. System malfunction due to faulty maintenance shall not be grounds for an excused false alarm. False alarms definitively attributed to power outages and/or power surges may be excused.

§ 137.23-04 RESPONSE TO ALARMS, DETERMINATION OF VALIDITY.

(A) Whenever an alarm is activated in any way within the city, indicating a need for an emergency response to the location by the Police Department and the management of the alarm site does not respond, a police officer or Police Department agent, personnel or employee on the scene of the activated alarm system shall visually inspect the area protected by the system and shall exercise prudent judgment and due care to determine whether the emergency response was in fact required as indicated by the alarm system or whether in some way the alarm system malfunctioned and thereby activated a false alarm.

(B) If said police officer or Police Department agent, personnel or employee at the scene of the activated alarm system determines the alarm to be false, said officer shall make a report of the false alarm, a notification of which shall be mailed or delivered to the alarm user and/or record title owner at the address on file with the Police Chief, advising the alarm user and/or record title owner of the false alarm. In addition, said police officer or Police Department agent, personnel or employee shall have the authority to dismantle or disarm the alarm system in a reasonable manner. If the officer or Police Department agent, personnel or employee determines that it is necessary to summon an alarm specialist or any other individual to dismantle or disarm the system, said owner, manager or lessee shall be responsible for the payment of any bills or expenses incurred.

(C) The City Safety/Service Director, Chief of Police, or their designees shall have the right to inspect any alarm system on the premises to which a response has been made and he/she may cause an inspection of such system to be made at any reasonable time thereafter to determine whether it is being used in conformity with the terms of this chapter.

§ 137.23-05 CLASSIFYING ALARMS; FEES CHARGED.

(A) For each response by any emergency unit of the city to an alarm, the responding police officer or Police Department agent, personnel or employee will cause a report to be filed, classifying the alarm as one of the following:

(1) False alarm, system test with no notification or system malfunction.

(2) Valid alarm for cause designated.

(B) There shall be a service fee charged for false alarms according to the following schedule:

(1) First response (none in last year) - no fee.

(2) Second response (within calendar year) - No fee.

(3) Third response (within calendar year) – No fee.

(4) Fourth response (within calendar year) - $ 25 fee.

(5) Fifth response (within calendar year) - $ 25 fee.

(6) Sixth, response (within calendar year) - $50 fee.

(7) Seventh response (within calendar year) - $ 50 fee.

(8) Eighth response (within calendar year) $ 100 fee.

(9) Ninth response (within calendar year) - $100 fee.

(10) Tenth or more responses shall result in a $ 150 fee and a written notification to the alarm user that upon activation of the next false alarm, the alarm user's permit shall be revoked. There will be no response from the police department any subsequent alarm until said alarm has been inspected and certified that it is in good working order.

(C) Failure of the alarm user or record title owner to correct the malfunction or pay such service fee within 30 days from the date of receipt of the invoice for the service fee as applicable by this chapter shall result in the automatic revocation of alarm permit. In addition, the alarm user or record title owner shall be responsible to pay all costs incurred in collecting the service fee including attorney fees. A certified copy of the service fee imposing the service fees may be recorded in the Public Records and thereafter shall constitute a lien against the land on which the permit is issued and upon any other real or personal property owned by the alarm user or record title owner.

(D) The service fee provided for herein shall not be imposed upon any school district composed under O.R.C. 3311.

§ 137.23-06 REVOCATION OF ALARM USER PERMIT.

(A) An alarm user permit may be revoked for any of the following reasons:

(1) Any false alarms in excess of ten (10) false alarms in a permit year;
(2) Failure to remit the permit fee required herein, within thirty (30) calendar days of the date it is due.
(3) Failure to remit renewal fee and information change required by Section 137.23-02, within thirty (30) days of invoice date shall result in an automatic revocation of an alarm user permit.
(4) Falsification of any information on an alarm user permit application;
(5) Failure to appear at any hearing as provided in this chapter;
(6) Failure to notify the license section of changes in permit information as required by Section 137.23-02 & 03;
(7) Programming any dialer to connect with the 911 emergency system;
(8) Failure to cooperate with safety service personnel inspecting alarm systems;
(9) Failure to disconnect or reset an alarm system when ordered to do so by the Chief of Police, his/her agent or City Safety/Service Director or his/her designee.

(B) A hearing shall be conducted by the Safety/Service Director or his/her designee to determine if an alarm user permit should be revoked. The holder of the alarm user permit shall be notified by certified mail or personal service at least fourteen (14) calendar days in advance of such hearing. The holder of the alarm user permit shall have the right to present evidence and testimony.

§ 137.23-07 REINSTAMENT OF AND APPEAL PROCEDURES.

Reinstatement procedures:

(A) All permits named in this chapter that have been revoked for any reason shall be assessed a reinstatement fee of $ 20.00.

(B) In addition to the reinstatement fee, all outstanding service fees shall be paid prior to reinstatement.

(C) In addition to (A) and (B) above, a corrective action plan submitted by the alarm user, may also be required by the director of public safety or designee prior to reinstatement.

Appeal procedures and Appeal Board:

(A) All revocation orders issued by the license section shall be subject to appeal to the board of license appeals pursuant to the following terms:

Any person aggrieved by an order or determination herein with respect to denying the issuance or renewal of a license, or revoking or suspending a license, may appeal from such order or determination to the board. The Board shall be composed of the Safety/Service Director, the Chief of Police, the Fire Chief, the Law Director and the Police Department's Major assigned to Operations. All appeals shall be perfected in the following manner:

(1) The appellant must file a written notice of appeal to the Safety/Service Director , on a form approved by the said Director, within twenty (20) days after receipt by him of the order or determination from which he appeals.

(2) The appellant must deposit with the Safety/Service Director a fee of thirty dollars ($30.00), which sum shall be refunded to the appellant only if the board renders a decision in his favor. Otherwise, the deposit shall be forfeited and placed into the general fund of the city.

(3) Within five (5) days after receipt by the Safety/Service Director of the notice of appeal, he/she shall cause a true copy of the notice of appeal to be docketed.

(4) Within twenty (20) days after receipt the Safety/Service Director shall cause a meeting of the board to be convened for the purpose of hearing the appeal.

(5) The decisions of the Board shall be by simple majority after each member having been provided two day written notice and the presence of a quorum of no less than three members present. The decision shall be binding upon all parties.

(6) The appellant and the section may appeal from a decision of the board by perfecting such as provided in Ohio Revised Code Chapter 2506. The cost of acquiring a transcript for such appeal shall be borne by the party seeking to appeal.

§ 137.23-08 LIABILITY OF CITY.

The issuance of any permit in conjunction with this chapter shall not constitute acceptance by the city of any liability for anything in connection therewith.

§ 137.23-09 SEVERABILITY.

If any portion of this chapter, or any portion of a section is declared to be invalid by a court of competent jurisdiction, such declaration of invalidity shall be limited to that portion and be declared invalid. This declaration of invalidity shall not affect or impair the remainder of this chapter, and to this end, the provisions are severable.

§ 137.23-99 PENALTIES.

(A) Whoever violates any provision herein shall be guilty of a minor misdemeanor and shall be fined not more than one hundred fifty dollars ($150.00). Upon subsequent conviction within one year, such person shall be deemed guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars ($500.00) or imprisoned for not more than sixty (60) days or both. Any violation shall constitute a separate offense for each successive day continued. (Ord. 2005-8, passed 3-14-2005)

CHAPTER 139: DIVISION OF FIRE

Section

139.01 Composition
139.02 Leave for attending conferences and the like
139.03 Injury leave

§ 139.01 COMPOSITION.

(A) The Division of Fire shall be composed of a Fire Chief and such other officers and personnel as Council shall from time to time determine.

(B) A newly appointed Fire Chief shall serve a probationary period of six months. During the probationary period the base rate of pay for the Fire Chief shall be maintained at a level 5% above the annualized top base rate of pay of the Assistant Fire Chief in the Marion City Fire Department.

(C) After successful completion of the probationary period, the base rate of pay for the Fire Chief shall be adjusted to and maintained at a level 10% above the annualized top base rate of pay of the Assistant Fire Chief in the Marion City Fire Department.

(D) Except for overtime pay, the Fire Chief shall be eligible for all other benefits for which an Assistant Chief of the Marion City Fire Department is eligible.
('70 Code, § 139.01) (Am. Ord. 1994-29, passed 3-28-94)

§ 139.02 LEAVE FOR ATTENDING CONFERENCES AND THE LIKE.

The president of Local 379 I.A.F.F., or his or her designee, is granted leave time, not to exceed 240 hours of paid time, for attending conferences, seminars or related union meetings.
('70 Code, § 139.02) (Ord. 1980-9, passed 1-28-80)

§ 139.03 INJURY LEAVE.

(A) Beginning January 1, 1981, the municipality shall pay to employees in the classified service of the Fire Division, who are injured, their normal rate of pay for a period not to exceed 270 calendar days under the following conditions:

(1) The Safety/Service Director determines that the injury occurred as a result of the performance of the employee's job, and

(2) The Safety/Service Director determines that the medical records indicate that the employee is unable to work.

(B) No sick leave shall be deducted during the period of time determined above by the Safety/Service Director. ('70 Code, § 139.03) (Ord. 1981-1, passed 1-12-81)

Cross-reference:

Parking near fire, see § 331.29
Driving over fire hose, see § 331.30
Resisting firefighter, see § 606.14
False fire alarm or report, see §§ 648.07, 648.08

Statutory reference:

Composition and control, see R.C. §§ 715.05, 737.08, 737.21
Schooling, buildings and equipment, see R.C. §§ 715.05, 737.23

Fire Chief, see R.C. § 737.09
Appointment of emergency firefighters, see R.C. § 737.10
General duties, see R.C. § 737.11

CHAPTER 141: DIVISION OF ENGINEERING

Section

141.01 City Engineer
141.02 Charges for inspection services

§ 141.01 CITY ENGINEER.

The Mayor shall appoint a City Engineer who shall perform such duties as the Mayor may require. ('70 Code, § 141.01) (Ord. 7085, passed 10-8-62)

§ 141.02 CHARGES FOR INSPECTION SERVICES.

For the services of the field engineer to any contractor or individual or the services of inspectors and engineering assistants who serve as inspectors to any contractor or individual who is installing improvement at his/her own expense, such contractor or individual shall be charged at the wage scale of such employee as established by Council, plus 50% for the Public Employees Retirement System, Workmen's Compensation and expenses. ('70 Code, § 141.02) (Ord. 1969-67, passed 4-14-69)

Statutory reference:

To approve plats; street inspections and acceptances, see R.C. §§ 711.08 and 711.091
To devise and form sewage plan, see R.C. § 727.44
Civil Engineer, see R.C. § 733.80
General duties, see R.C. § 735.32
Assistants, see R.C. § 735.33

CHAPTER 143: DIVISION OF SANITATION

EDITOR'S NOTE: There are no sections in Chapter 143. This chapter has been established to provide a place for cross references and any future legislation.

Statutory reference:

Health and sanitation in bakeries, see R.C. §§ 911.04 and 911.07

CHAPTER 145: DIVISION OF SEWAGE DISPOSAL WORKS

EDITOR'S NOTE: There are no sections in Chapter 145. This chapter has been established to provide a place for cross references and any future legislation.

Cross-reference:

Sewer regulations, see Ch. 911

Statutory reference:

Power to construct sewerage system, see R.C. §§ 715.40 and 717.01

Management and control of sewerage system, see R.C. § 729.50

CHAPTER 147: DIVISION OF STREETS

EDITOR'S NOTE: There are no sections in Chapter 147. This chapter has been established to provide a place for cross references and any future legislation.

Statutory reference:

Openings by the municipality, see R.C. § 723.02

Excavation liability, see R.C. § 723.49

Digging, excavating and piling earth on streets, see R.C. § 5589.10

CHAPTER 148: Aquatics Center Department

Section

148.01 Aquatics Center Director
148.02 Aquatics Center Fees and Charges

§ 148.01 AQUATICS CENTER DIRECTOR

The Mayor shall appoint a City Aquatics Center Director who shall perform such duties as the Mayor may require.

§ 148.02 AQUATICS CENTER FEES AND CHARGES

The City Aquatics Center Director shall compile a Fee and Charges Schedule which shall be sufficient to sustain the City Aquatics Center Department in the manner in which an Enterprise Fund is maintained. Department 1026 Pool within Fund 602 Aquatics Center

CHAPTER 149: EMPLOYEES GENERALLY

EDITOR'S NOTE: Provisions relating to holidays, vacations, sick leave and other employee benefits are to be found in a document entitled *Personnel Policies, Working Conditions, Employee Benefits for the City of Marion, Ohio, Second Edition*, prepared by Eugene A. Yazel, Mayor, and dated January 1, 1970, being a compilation of ordinances relating thereto. Because this document is separately published it is not codified herein. Interested persons may obtain copies from the Clerk of Council.

Section

149.01 Bonds
149.02 Affirmative Action Officer
149.03 Deferred compensation

§ 149.01 BONDS.

Effective January 1, 1964, the Auditor, Deputy Auditor, Treasurer and Deputy Treasurer shall be required to furnish a good and sufficient surety bond, conditioned upon the faithful performance of their respective duties, in the amount of $25,000 each. All other officers and employees of the municipality shall be covered by a blanket surety bond in the amount of $2,500. The premium payable on all bonds shall be paid by the municipality.
('70 Code, § 149.01) (Ord. 7247, passed 12-9-63)

§ 149.02 AFFIRMATIVE ACTION OFFICER.

(A) There is established the class title of Affirmative Action Officer of the municipality. The Affirmative Action Officer shall be a part-time employee of the municipality.

(B) The job description for such position is attached to original Ordinance 1977-140, passed December 27, 1977, and incorporated herein by reference.

(C) The salary for the position of Affirmative Action Officer shall be determined from time to time by Council. ('70 Code, § 149.02) (Ord. 1977-140, passed 12-27-77; Ord. 2004-72, passed 6-14-2004)

§ 149.03 DEFERRED COMPENSATION.

(A) The Ohio Public Employees Deferred Compensation Program is adopted and the opportunity to join the program is extended to all eligible employees.

(B) The City Auditor is authorized to execute an agreement with the Ohio Public Employees Deferred Compensation Board on terms and conditions which the City Auditor determines are in the best interest of the municipality, which agreement shall authorize the Board to offer the program to all eligible employees of the municipality and to administer the program on behalf of such employees. ('70 Code, § 149.03) (Res. 1978-38, passed 10-23-78)

Cross-reference:

Personnel Committee, see Ch. 169

Statutory reference:

Welfare, see Ohio Const., Art.II, § 34
Worker's compensation, see Ohio Const., Art.II,§ 35 and R.C. Ch. 4123
Wages and hours on public works, see Ohio Const., Art.II, § 37 and R.C. Ch. 4115
Sick leave for employees, see R.C. § 124.38
Public employees retirement system see R.C. Ch.145
Expenses for attendance at conference convention, see, R.C. § 733.39

TITLE SEVEN - Boards and Commissions

Chapter 151	Civil Service Commission
Chapter 153	Planning Commission
Chapter 155	Traffic Commission
Chapter 157	Board of Park Commissioners
Chapter 159	Board of Airport Commissioners
Chapter 160	Board of Building Appeals
Chapter 161	Board of Zoning Appeals
Chapter 163	Recreation Board
Chapter 163	Board of Control
Chapter 167	Board of Health
Chapter 169	Personnel Committee
Chapter 171	Boxing and Wrestling Commission
Chapter 173	Marion County Corrections Planning Board
Chapter 175	Community Reinvestment Housing Council

CHAPTER 151: CIVIL SERVICE COMMISSION

EDITOR'S NOTE: There are no sections in Chapter 151. This chapter has been established to provide a place for cross references and any future legislation.

Statutory reference:

Civil Service, see Ohio Const., Art. XV, § 10
Civil Service Law, see R.C. Ch. 124
Civil Service Commission, see R.C. § 124.40
Application to police and fire personnel, see R.C. § 737.11

CHAPTER 153: PLANNING COMMISSION

Section

153.01 Establishment, appointment, term and composition
153.02 Powers and duties
153.03 Meetings; rules and regulations adopted
153.04 Regional Planning Commission

§ 153.01 ESTABLISHMENT, APPOINTMENT, TERM AND COMPOSITION.

There is established a Planning Commission for the municipality, which Commission shall be composed of seven members, consisting of the Mayor, Safety/Service Director, President of the Board of Park Commissioners and four citizens of the municipality who shall serve without compensation and shall be appointed by the Mayor for terms of six years each. ('70 Code, § 153.01)

Statutory reference:

Planning Commission established, see R.C. § 713.01

§ 153.02 POWERS AND DUTIES.

The powers and duties of the Planning Commission shall be those powers and duties provided for in R.C. Ch. 713. ('70 Code, § 153.02)

Statutory reference:

Plat approval required, see R.C. § 711.09

§ 153.03 MEETINGS; RULES AND REGULATIONS ADOPTED.

The Planning Commission shall hold meetings as occasion requires and at the discretion of the Chairperson of the Commission. There shall be a fixed place of meeting and all meetings shall be open to the public. The Commission shall adopt its rules of procedure and a record of the proceedings of such meetings shall be kept, showing the action of the Commission and the vote of each member upon each question considered. ('70 Code, § 153.03)

§ 153.04 REGIONAL PLANNING COMMISSION.

By Ordinance 6649, passed May 9, 1960, the Marion City Council determines to cooperate with Marion County Commissioners and all municipalities within Marion County as may from time to time similarly cooperate in the creation and maintenance of a Regional Planning Commission. ('70 Code, § 153.04) (Ord. 7085, passed 10-8-62)

CHAPTER 155: TRAFFIC COMMISSION

Section

155.01 Composition
155.02 Powers and duties
155.03 Organization; procedures

§ 155.01 COMPOSITION.

There is created a Traffic Commission, consisting of the members of Council's Committee on street, alley, sidewalk and traffic, together with the Safety/Service Director, City Engineer, Chief of Police, and Law Director, as its members. ('70 Code, § 155.01) (Ord. 1969-73, passed 4-14-69; Am. Ord. 1989-125, passed 12-11-89)

§ 155.02 POWERS AND DUTIES.

It shall be the duty of the Traffic Commission to establish and maintain a master traffic control plan for the municipality concerning recommended width of streets, designation and location of through streets, stop streets, one-way streets, no-parking areas, the location and erection of traffic control signals, stop signs, no-parking signs, one-way street signs, fire lane signs and similar appropriate controls and other matters related to traffic flow and control, to coordinate traffic activities, to carry on educational activities in traffic matters, to supervise the preparation and publication of traffic reports, to receive complaints having to do with traffic matters and to recommend to Council and to the Safety/Service Director and other city official ways and means for improving traffic conditions and the administration and enforcement of traffic regulations. ('70 Code, § 155.02) (Ord. 1969-73, passed 4-14-69)

§ 155.03 ORGANIZATION; PROCEDURES.

(A) The Traffic Commission shall elect its own Chairman, who shall conduct the meetings, and a Secretary, who shall keep minutes and appropriate records. The Traffic Commission shall establish its own rules of procedure for the conduct of its business.

(B) The Traffic Commission is authorized to require attendance at its meetings of the Mayor, the Law Director or any other city official, and to obtain the advice of such officials relative to any matter before the Commission. ('70 Code, § 155.03) (Ord. 1969-73, passed 4-14-69)

Cross-reference:

Traffic control, see Ch. 305
Traffic control map and file, see Ch. 307

CHAPTER 157: BOARD OF PARK COMMISSIONERS

Section

157.01 Appointment; terms
157.02 Exercise of rights under state law
157.03 Assistant Parks Superintendent
157.04 Marion Parks and Recreation Advisory Council

§ 157.01 APPOINTMENT; TERMS.

The Mayor shall appoint three electors of the municipality as members of the Board of Park Commissioners. The members shall be appointed for terms of three years and their successors shall be appointed for terms of three years. In case of the death or resignation of a member of the Board, the Mayor shall immediately appoint a successor to fill the vacancy for the unexpired term. The members of the Board shall serve without compensation. ('70 Code, § 157.01)

§ 157.02 EXERCISE OF RIGHTS UNDER STATE LAW.

The Board of Park Commissioners shall exercise all rights, duties and privileges and shall act under and in accord with the provisions of R.C. §§ 755.01 through 755.11. ('70 Code, § 157.02)

§ 157.03 ASSISTANT PARKS SUPERINTENDENT.

(A) There is established the position of Assistant Parks Superintendent in the municipality.

(B) The job description for such position is attached to original Ordinance 1980-104, passed November 24, 1980, and incorporated herein by reference and shall, by reference, become a part of the personnel classification schedule adopted by Council as fully as if the same were rewritten in such personnel classification schedule.

(C) The salary for the position of Assistant Parks Superintendent shall be determined from time to time by Board of Park's Commissioners. (R.C. §§ 755.01 - 755.11)

§ 157.04 MARION PARKS AND RECREATION ADVISORY COUNCIL

That there is hereby created the Marion Parks and Recreation Advisory Council, to be found within Marion City Code Chapter 157, more specifically Section 157.04, whose members shall meet not less than one (1) time per calendar year for the purpose of gathering information and making recommendations to the Marion Board of Park Commissioners relating the improvement of the parks and recreational programs and facilities serving the citizens of the City of Marion, Ohio. The said Marion Parks and Recreation Advisory Council shall consist of six (6) members who shall be residents of the City of Marion, Ohio and who shall be appointed as follows:

1. Two (2) members appointed by the Marion City Council, one (1) of who shall be appointed from and service while serving as a member of the Marion City Council;

2. One (1) member appointed by Marion Board of Park Commissioners;

3. One (1) administrator of the Marion City Schools, as appointed by the Superintendent of the Marion City Schools; and

4. Two (2) members appointed by the Mayor of the City of Marion, Ohio.

Each member of such Advisory Council shall serve for a three (3) year term, with the initial appointments being accomplished in such manner as will result in two (2) of the members of such Advisory Council being appointed on or before January 30 of each calendar year.

5. That the City of Marion Auditor, Law Director and Superintendent of Parks and Recreation shall serve at the request of the Marion Board of Park Commissioners to offer additional advice and counsel to the said Board on matters relating to the conduct of parks and recreation programs and facilities within the city limits of Marion, Ohio.

Cross-reference:

Recreation Board, see Ch. 163
Parks and swimming pools, see Ch. 945

CHAPTER 159: BOARD OF AIRPORT COMMISSIONERS

Section

159.01 Composition; qualifications
159.02 Appointment; terms
159.03 Organization
159.04 Authority; purpose

§ 159.01 COMPOSITION; QUALIFICATIONS.

(A) For the purpose of assisting Council and the Director of Public Service, there is created a Board of Airport Commissioners which shall consist of ten persons:
one of whom shall be a member of Council;
one of whom shall be a person utilizing the Marion Municipal Airport for either private or personal business flying;
one of whom shall be a person employed or associated with a fixed base operator at the Marion Municipal Airport;
one of whom shall be a member of the Marion Chamber of Commerce, or associated with a business;
one of whom shall be associated with agriculture and farming;
one of whom shall be a person who resides within two miles of Airport;
one of whom shall be the President of Central Ohio Soaring Association at Marion Municipal Airport or one of his/her designees
three at large members residing within Marion, County, Ohio who are recommend by the Board of Airport Commissioners as having the best interest for promotion growth of Marion Municipal Airport and City of Marion, Ohio and appointed by the Mayor with the consent of Council. ('70 Code, § 159.01) (Ord. 66-66, passed 5-23-66; Ord. 1996-51, passed 4-22-96; Ord. 2003-81, passed 8-25-2003) (Ord. 2015-49, passed 6-8-2015)

§ 159.02 APPOINTMENT; TERMS.

(A) The members of the Board of Airport Commissioners shall be appointed by the Mayor, with the consent of Council, and shall serve for a term of three years, except that the members first appointed shall be appointed for such terms that the terms of two members shall expire annually thereafter.

(B) The members of such Board of Airport Commissioners shall serve without compensation and vacancies in the Board, occurring otherwise than by expiration of a term, shall be for the unexpired term and shall be filled in the same manner as original appointments. ('70 Code, § 159.02) (Ord. 64-50, passed 5-25-64)

§ 159.03 ORGANIZATION.

The members of the Board of Airport Commissioners shall elect their own Chairman and Secretary. Subject to the approval of Council, the members may select all other necessary officers to serve for a period of one year and also employ such other persons as are needed. ('70 Code, § 159.03) (Ord. 64-51, passed 5-25-64)

§ 159.04 AUTHORITY; PURPOSE.

(A) The authority of the Board of Airport Commissioners shall be to establish rules and regulations, when not repugnant to existing ordinances of the municipality or laws of the state, to have the same force and effect as Council.

(B) The Board of Airport Commissioners is authorized to establish charges for the municipal property at the Marion Municipal Airport subject to approval of Council.

(C) The Board of Airport Commissioners shall make written recommendations to Council and the Safety/Service Director relative to the full utilization, operation and maintenance of the Marion Municipal Airport.

(D) Authorization granted by this chapter to the Board of Airport Commissioners is to provide for the efficient land orderly operation of the Airport in order to provide the best possible service to the public. ('70 Code, § 159.03) (Ord. 64-51, passed 5-25-64)

Cross-reference:

Marion Municipal Airport, see Ch. 941

Statutory Reference:

Airport traffic and zoning, see R.C. Ch. 4563

CHAPTER 160: BOARD OF BUILDING APPEALS

Section

160.01 Establishment of Board
160.02 Record of proceedings
160.03 Disqualification of members
160.04 Powers of the Board
160.05 Time for appeal
160.06 Notice of hearing
160.07 Hearing
160.08 Decisions of the Board

§ 160.01 ESTABLISHMENT OF BOARD.

For the benefit of persons aggrieved by any application of the provisions of Chapter 1360 and for the other purpose hereinafter stated, there is established a Board of Building Appeals to consist of four members, three of whom shall be appointed by the Mayor for original terms of three years each. One of the members shall be a registered architect who has had experience as an architect; one shall be a registered civil engineer who has had experience in the design of structural work in buildings; and one shall be a builder or building contractor who has had experience in the construction, erection and alteration of buildings. The fourth member, to be appointed by the Mayor, shall be an employee of the Department of Public Safety/Service and shall act as Secretary of the Board but shall have no vote in any matter considered or determined by the Board. All of such members shall serve without compensation. Vacancies in the Board shall be filled by the Mayor for the unexpired term of the vacated member. ('70 Code, § 160.01) (Ord. 68-87, passed 7-8-68)

§ 160.02 RECORD OF PROCEEDINGS.

The Secretary of the Board of Building Appeals shall keep a detailed record of all proceedings had by the Board on file in the Department of Public Safety/Service, which records shall be open to public inspection at all reasonable times. The records shall be retained for at least three years before being destroyed. ('70 Code, § 160.02) (Ord. 68-87, passed 7-8-68)

§ 160.03 DISQUALIFICATION OF MEMBERS.

(A) No member of the Board shall vote on any question in which he/she has a personal interest, or render a decision in any matter in which he/she is engaged as a contractor or material dealer or concerning which he/she has prepared the plans or specifications.

(B) Where any member is disqualified by reason of the provisions of division (A) of this section, the Mayor shall designate a qualified substitute pro tempore. ('70 Code, § 160.03) (Ord. 68-87, passed 7-8-68)

§ 160.04 POWERS OF THE BOARD.

The Board of Building Appeals shall have power to:

(A) Hear and decide appeals from any order, requirement, decision or determination of any administrative officer or agency of the municipality relating to the location, design, materials, construction, alteration, repair, equipment, use or occupancy, maintenance, removal or demolition of any building or other structure or any sign, awning, marquee, canopy or any other appurtenance connected or attached to such building or structure regulated by Chapter 1360, when such appeal is based upon one of the following grounds:

(1) The interpretation or application of the particular provision of Chapter 1360 or related laws and ordinances.

(2) The strict application of the particular provision imposes an undue hardship on the appellant and a modified application is available or an alternative arrangement is available and feasible, whereby the hardship can be relieved without defeating the purpose and intent of the provisions of Chapter 1360.

(B) Draft rules concerning the interpretation of code provisions and to supplement or amend such rules from time to time.

(C) Formulate and submit to Council changes in and amendments to applicable provisions of Chapter 1360, which changes and amendments the Board deems desirable for the regulation of buildings and structures and the equipment thereof and appurtenances thereto in the municipality. ('70 Code, § 160.04) (Ord. 68-87, passed 7-8-68)

§ 160.05 TIME FOR APPEAL.

(A) Any person aggrieved by a ruling as set forth in § 160.04 may, within ten days after the pronouncement of such ruling, file an appeal with the Board of Building Appeals.

(B) The appeal shall be filed in writing in such form as the Board shall prescribe. It shall set forth in particularity the ruling appealed from and the ground on which the appellant alleges it to be invalid. ('70 Code, § 160.05) (Ord. 68-87, passed 7-8-68)

§ 160.06 NOTICE OF HEARING.

The Board of Building Appeals shall meet to hear such appeal upon written notice of the Chairman on a date not less than ten days after the date of such notice. ('70 Code, § 160.06) (Ord. 68-87, passed 7-8-68)

§ 160.07 HEARING.

All hearings of the Board of Building Appeals shall be public, and the appellant, his/her representative, the official of the municipality and any other person whose interests may be affected by the matter on appeal shall be given an opportunity to be heard. When all members of the Board are not present to consider the appeal, either the appellant, the official of the municipality or their representatives may request a postponement until all such members may be present. On any such request, the postponement shall be granted. ('70 Code, § 160.07) (Ord. 68-87, passed 7-8-68)

§ 160.08 DECISIONS OF THE BOARD.

(A) The Board of Building Appeals shall affirm, modify or reverse the decision appealed from by a concurring vote of two of the three members. Every action taken shall be by resolution and certified copies shall be furnished to all parties to the appeal.

(B) Failure to secure two concurring votes shall be deemed a confirmation of the decision appealed from. ('70 Code, § 160.08) (Ord. 68-87, passed 7-8-68)

Cross-reference:

Dangerous buildings, see Ch. 1360

CHAPTER 161: BOARD OF ZONING APPEALS

EDITOR'S NOTE: There are no sections in Chapter 161. This chapter has been established to provide a place for cross references and any future legislation.

Cross-reference:

Board of Zoning Appeals, see §§ 1165 through 1173

Statutory reference:

Appeals from zoning decisions, see R.C. § 713.11

CHAPTER 163: RECREATION BOARD

CHAPTER REPEALED BY ORDINANCE 2012-02, PASSED 1-2-2012

See Chapter 157 – Section 157.04

CHAPTER 165: BOARD OF CONTROL

EDITOR'S NOTE: There are no sections in Chapter 165. This chapter has been established to provide a place for cross references and any future legislation.

Statutory reference:

Composition, record and voting, see R.C. § 733.21

Approval of contracts, see R.C. § 733.22

CHAPTER 167: BOARD OF HEALTH

Section

167.01 Membership; powers and duties
167.02 Quarantine and Isolation Delegation of Authority

§ 167.01 MEMBERSHIP; POWERS AND DUTIES.

(A) There is created a City District Board of Health. The Board shall be composed of five members appointed by the Mayor, subject to confirmation by Council. The members of the Board shall serve without compensation. The Mayor shall be the President of the Board. A majority shall constitute a quorum.

(B) All other matters as to the Board of Health, its organization and powers, with special reference to its powers and duties relative to nuisances, dangerous communicable diseases, quarantine, hospitals, food and supplies, shall be determined by R.C. §§ 3709.05 through 3709.36.

§ 167.02 QUARANTINE AND ISOLATION DELEGATION OF AUTHORITY.

Pursuant to the authority granted the Board by O.R.C. 3707.34 the duly appointed Health Commissioner, the Board's Executive Officer, shall be authorized to take all necessary action in regard to quarantine and isolation under the authorities granted the Board under O.R.C. 3707.04 through 3707.32, as follows:

(I) FINDINGS OF THE COMMISSIONER: In order to act, the Commissioner must make a written finding of fact that each of the following circumstances are present:

(a) a serious threat to the public health exists due to the act or acts of a person or persons considered to be terrorist,

(b) the action of quarantine or isolation enacted under 3707.04 through 3707.32 is necessary to protect the public health,

(c) the act cannot wait for a special meeting of the Board of Health to be conducted due to specified emergent circumstances rendering a meeting impractical or impossible and waiting until conducting a special meeting would seriously compromise the public health.

(II) SCOPE OF DELEGATION: Upon the Health Commissioner issuing the written findings enumerated in Section I above, the authority granted herein shall be effective immediately. The Health Commissioner shall be delegated all authority possessed by the Board under 3707.04 through 3707.32 regarding quarantine and isolation. Any action taken by the Health Commissioner taken pursuant to the provisions herein shall be considered as if the action was taken by the Board.

(III) EXPIRATION/RENEWAL OF AUTHORITY BY BOARD: The authority granted herein shall continue until the earlier of:

(a) a written finding by the Health Commissioner that such delegation of authority is no longer necessary; or

(b) within then (10) days of the imposition of any Order of the Health Commissioner under the authority delegated herein the Board shall meet and must either:

(1) Ratify and extend the action of the Commissioner.

(2) Ratify and terminate the action of the Commissioner.
(3) Modify as it determines necessary the action of the Commissioner.
(4) Terminate the action of the Commissioner.
(5) Suspend the delegation of authority.

The Health Board having found the above to be necessary for the protection of the health of the people of the community in the event of a bioterrorism or other like emergent public health event related to a terrorist attack. ('70 Code, § 167.01) (Ord. No. 2004-62, passed 05-24-2004)

Cross-reference:

Safety, Sanitation and Heath, see Ch. 660

Statutory reference:

Board of Health, see R.C. Ch. 3707
Health Districts, see R.C. Ch. 3709

CHAPTER 169: PERSONNEL COMMITTEE

EDITOR'S NOTE: Provisions relating to the Personnel Committee are to be found in the Position Classification and Pay Plans for the City of Marion, prepared by Yarger and Associates, Inc., in April, 1969, as adopted by Ordinance 1969-29, passed February 24, 1969, as amended. There are no sections in Chapter 169. This chapter has been established to provide a place for cross references and any future legislation.

Cross-reference:

Employees generally, see Ch. 149

CHAPTER 171: BOXING AND WRESTLING COMMISSION

EDITOR'S NOTE: By Ordinance 1982-103, passed August 9, 1982, the municipality reaffirmed the creation of the Marion Boxing and Wresting Commission and incorporated by reference the provisions of Ohio R.C. 3773.31 to 3773.57.

Section

171.01 Definition
171.02 Commission created; qualifications and appointments
171.03 Compensation and terms of members
171.04 Removal of members; appeal
171.05 Election and duties of Chairman and Secretary; submission of rules
171.06 Commission's duties generally
171.07 Compulsory attendance at exhibitions
171.08 Rules and regulations; license fees and funds
171.99 Penalty

§ 171.01 DEFINITION.

BOXING AND WRESTLING EXHIBITION. Any boxing or wrestling exhibition, match or contest to which admission may be had by payment of a fee or by the purchase, possession or presentation of a ticket or token obtained for money or any valuable thing or in connection with which a charge is made for caring for clothing or other property. ('70 Code, § 171.01) (Ord. 1970-81, passed 4-13-70)

§ 171.02 COMMISSION CREATED; QUALIFICATIONS AND APPOINTMENTS.

There is created a Boxing and Wrestling Commission consisting of not less than three nor more than five members. All members of the Commission shall be qualified electors of the municipality, shall be nonpartisan, insofar as possible, and shall be selected for their capability, knowledge and ability to supervise boxing and wrestling exhibitions. They shall be appointed by the Mayor. ('70 Code, § 171.02) (Ord. 1970-81, passed 4-13-70)

§ 171.03 COMPENSATION AND TERMS OF MEMBERS.

All members of the Boxing and Wrestling Commission shall serve without compensation for a term of five years, provided that the original members shall be appointed for shorter terms so that the term of one member shall expire on December 31 of each year. ('70 Code, § 171.03) (Ord. 1970-81, passed 4-13-70.)

§ 171.04 REMOVAL OF MEMBERS; APPEAL.

Any member of the Boxing and Wrestling Commission may be removed by the Mayor for cause. In the case of such removal, the Mayor shall give written notice, at least ten days prior thereto, together with a written statement of the reasons, to such member who shall have the right to a hearing thereon by Council.
('70 Code, § 171.04) (Ord. 1970-81, passed 4-13-70)

§ 171.05 ELECTION AND DUTIES OF CHAIRMAN AND SECRETARY; SUBMISSION OF RULES.

Upon its appointment, the Boxing and Wrestling Commission shall elect a Chairman and a Secretary. It shall be the duty of the Chairman to preside at all meetings of the Commission and to submit at least once per year a report to the Mayor of the activities of the Commission. It shall be the duty of the Secretary to keep minutes of all meetings and proceedings of the Commission. ('70 Code, § 171.05) (Ord. 1970-81, passed

4-13-70)

§ 171.06 COMMISSION'S DUTIES GENERALLY.

It shall be the duty of the Boxing and Wrestling Commission to carry out and enforce the provisions of this chapter, to supervise all public boxing and wrestling exhibitions to be held in the municipality, to make and enforce rules and regulations governing such exhibitions, to provide for the prevention of any indecent, immoral or disorderly conduct, to preserve peace and good order and to make provisions governing the arrangement, conditions and size of rooms or buildings in which such exhibitions are held. ('70 Code, § 171.06) (Ord. 1970-81, passed 4-13-70)

§ 171.07 COMPULSORY ATTENDANCE AT EXHIBITIONS.

The members of the Boxing and Wrestling Commission shall have the right to attend boxing and wrestling exhibitions and it shall be the duty of at least one commissioner to be present at each of such exhibitions.
('70 Code, § 171.07) (Ord. 1970-81, passed 4-13-70)

§ 171.08 RULES AND REGULATIONS; LICENSE FEES AND FUNDS.

(A) The Boxing and Wrestling Commission shall make and adopt such rules and regulations as it may deem necessary and proper for the government and regulation of boxing and wrestling exhibitions and shall make provisions governing the proper construction of rings, mats, gloves, equipment and facilities for boxing and wrestling exhibitions. The Commission may also make any order deemed necessary for the regulation of boxing and wrestling exhibitions.

(B) In addition to such rules and regulations as the Commission may adopt, the following provisions and requirements are established for governing the Commission exhibitions and shall be a part of the rules and regulations of the Commission:

(1) *License required.* Every person desiring to conduct or promote a boxing or wresting exhibition in the municipality shall first obtain a license to do so from the Director of Public Safety/Service.

(2) *Application for license.* Every person desiring a license for holding a boxing or wrestling exhibition shall make application to the Commission. The application shall contain the name of the person promoting or giving such exhibition, together with the name and address of the promoter or, if a society, club, firm, partnership or corporation, the names and addresses of the two principal officers thereof, the time and place where such exhibition is to be held and such other information as the Commission may prescribe.

(3) *Issuance of license; fees.* The license shall be issued by the Director of Public Safety/Service on the filing in his/her office of the application, properly endorsed by the Chairman, Secretary or other duly authorized officer or member of the Commission, showing the approval of the Commission for the holding of such boxing or wrestling exhibition and the payment of a fee of $10 for the first boxing or wrestling exhibition and $5 for each and every subsequent exhibition promoted or to be held by the applicant in the same calendar year. In the event that any boxing or wrestling exhibition is held on an elimination basis, it shall only be necessary to file one application stating the times and place of such elimination.

(4) *Use of funds; appropriations and expenditures.* All sums collected by the Director of Public Safety/Service shall be turned into the General Fund of the municipality. Council shall appropriate from time to time such moneys as may be needed to defray the incidental expenses of the Commission.

(5) *Tickets and passes.* Any member of the Commission may supervise the sale of tickets at the door or gate in order to avoid shortage or fraud in the sale of tickets.

(6) *Withholding endorsements of exhibitions; stopping bouts.* The Commission shall have the power to withhold for cause its endorsement of any exhibition and, when withheld, no license shall be issued for such exhibition and the holding of such exhibition shall be illegal. When endorsement and permission are withheld for cause by the Commission, such cause must be certified in writing to the Director of Public Safety/Service. The Commission shall have the power for cause to refuse permission for any boxer or wrestler to participate in any exhibition. In addition, any members of the Commission present at any exhibition shall have the power, for cause and upon the concurrence of any and all members of the Commission present, to stop any bout at any time or to prevent any boxer or wrestler from participating in any bout.

(7) *Certificates of physical fitness and training.* Under such rules as the Commission may prescribe, no boxer or wrestler may participate in any exhibition without having first filed with the Commission a certificate of physical fitness by a practicing physician. Such certificate must be in manner and form as prescribed by the Commission and be by a physician approved by the Commission. A certificate of training by the manager or trainer or by an accredited officer of the club or gymnasium at which such boxer or wrestler has trained shall be filed with the Commission in manner and form as prescribed by the Commission.

(8) *Regulation of dates of exhibitions.* No wrestling or boxing exhibition shall be held upon the same date as any other boxing or wrestling exhibition. The Commission shall regulate the dates upon which boxing and wrestling exhibitions may be held.

(9) *Physician to attend exhibitions.* The Commission may require a physician to be present at each exhibition and the Commission shall require the person promoting or holding any exhibitions to pay to such physician a reasonable fee.

(10) *Conduct at exhibitions.* No person shall conduct himself/herself in or about a building or place, during the time such building or place is open or being used for a boxing or wrestling exhibition, in an indecent, immoral or disorderly manner. ('70 Code, § 171.08) (Ord. 1970-81, passed 4-13-70)

§ 171.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be fined more than $50. Any such violation shall constitute a separate offense on each successive day continued. ('70 Code, § 171.99) (Ord. 1970-81, passed 4-13-70)

CHAPTER 173: MARION COUNTY CORRECTIONS PLANNING BOARD

Section

173.01 Establishment; function and goal
173.02 Membership; terms
173.03 Bylaws; comprehensive plan

§ 173.01 ESTABLISHMENT; FUNCTION AND GOAL.

In accordance with the provisions of R.C. § 5149.34, the Marion County Corrections Planning Board is established, with the function and goal of placing nondangerous offenders under community supervision rather than within prison institutions. ('70 Code, § 173.01) (Ord. 1980-54, passed 4-28-80)

§ 173.02 MEMBERSHIP; TERMS.

(A) The Marion County Corrections Planning Board shall consist of 11 members who are designated as follows:

(1) The Sheriff of the County;

(2) The Chief of Police of the municipality;

(3) The Chief Probation Officer of the County;

(4) The Prosecuting Attorney of the County;

(5) The First Deputy Probation Officer of the County;

(6) The Second Deputy Probation Officer of the County;

(7) The Judge of the Common Pleas Court;

(8) The Probation Officer of the Municipal Court; and

(9) Three members of the public at large who are knowledgeable or have experience or education in the field of corrections. The members of the public at large shall be appointed jointly by the Mayor and the County Commissioners.

(B) The terms of service of the members of the Board shall be for the duration of the Board, except as provided in division (A) of this section.

(C) Nothing in this section shall limit the ability of Council or the County Board of Commissioners to reappoint members for additional years. ('70 Code, § 173.02) (Ord. 1980-54, passed 4-28-80)

§ 173.03 BYLAWS; COMPREHENSIVE PLAN.

The Marion County Corrections Planning Board shall establish bylaws and a comprehensive plan focusing on the development, implementation and priorities for the operation of correctional services in the county. Such comprehensive plan shall be designated to unify or coordinate correctional services and to reduce state institutional commitments from the County and is subject to approval by the Director of the State Department of

Rehabilitation and Corrections. ('70 Code, § 173.03) (Ord. 1980-54, passed 4-28-80)

Statutory reference:

Criteria for probation; conditions of probation, see R.C. § 2951.02

Conditional probation for drug dependent persons, see R.C. § 2951.04

Drug treatment in lieu of conviction, see R.C. § 2951.041

CHAPTER 175: COMMUNITY REINVESTMENT HOUSING COUNCIL

EDITOR'S NOTE: By Ordinance 1989-55, passed September 25, 1989, the municipality created the Community Reinvestment Area #1 and by Ordinance 1996-75, passed July 8, 1996, the municipality created the Community Reinvestment Housing Council and incorporated by reference the provisions of Ohio R.C. 3735 et sec and 5709.85.

THIS SECTION IS CURRENTLY BEING REVISED PLEASE CONTACT THE CLERK OF COUNCIL FOR ADDITIONAL INFORMATION.

TITLE NINE – Judicial

EDITOR'S NOTE: There are no chapters in Title Nine. This title has been established to provide a place for any future legislation.

TITLE ELEVEN – Finance

Chapter 191 Reserved
Chapter 193 Municipal Income Tax
Chapter 194 Municipal Income Tax (New January 1, 2016)

CHAPTER 191: RESERVED

EDITOR'S NOTE: Former Chapter 191: Admissions Tax was repealed by Ordinance 1977-94, passed September 12, 1977.

CHAPTER 193: MUNICIPAL INCOME TAX *(See Chapter 194, New January 1, 2016)*

Section

193.01 Adoption of tax rules and regulations by reference
193.02 Definitions
193.03 Levy of tax; rate established
193.04 Imposition of tax
193.05 Levied, collected and paid
193.06 Return and payment of tax
193.07 Collection at source
193.08 Declarations
193.09 Credit for tax paid to other municipalities
193.10 Duties of City Auditor; City Treasurer
193.11 Inquisitorial powers; disclosure of confidential information prohibited
193.12 Interest on unpaid taxes
193.13 Collection of unpaid taxes
193.14 Allocation of funds
193.15 Nonapplicability
193.16 Exemptions
193.17 Refunds
193.18 Emergency measure
193.19 Board of Review
193.99 Penalty

§ 193.01 ADOPTION OF TAX RULES AND REGULATIONS BY REFERENCE.

The municipality hereby adopts and incorporates by reference Resolution 1971-58, passed November 22, 1971, which establishes rules and regulations for the administration and enforcement of the municipality's income tax ordinance as set forth in this chapter. Copies of Res. 1971-58 are on file in the office of the City Clerk. (Res. 1971-58, passed 11-22-71)

§ 193.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

(B) ***ADJUSTED FEDERAL TAXABLE INCOME***. A C Corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(1) 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.

(2) Add an amount equal to five percent of intangible income deducted under division (B)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in § 1221 of the Internal Revenue Code.

(3) 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 § 1221 or § 1231 of the Internal

Revenue Code.

(4) (a) Except as provided in division (B)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income or gain is income or gain directly relate to the sale, exchange or other disposition of an asset as described in § 1221 or § 1231 of the Internal Revenue Code.

(b) Division (B)(4)(a) of this section does not apply to the extent the income or gain is income or gain as described in § 1245 or § 1250 of the Internal Revenue Code.

(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

(6) In the case of real estate investment trust and regulated investment company, add all amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.

(7) 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:

(a) 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.

(b) 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 for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (B) 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.

(C) ***BUSINESS.*** An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, co-partnership, limited partnership, corporation, association or any other entity.

(D) ***CORPORATION.*** A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, foreign country or dependency and any entity electing to be taxed as a corporation for federal income tax purposes under the Internal Revenue Code.

(E) ***C CORPORATION.*** A corporation that has not made an election under subchapter S of Chapter 1 of the Internal Revenue Code for its taxable year.

(F) ***COMPENSATION.*** Includes, but is not limited to salaries, wages, vacation pay, sick pay, commissions, bonuses, tips severance pay, supplemental unemployment pay, or any other remuneration, that is paid to or constructively received by the recipient, and whether paid in cash or in property. Any portion of gross wages which may be deferred or deducted for federal income tax purposes under the Internal Revenue Code are still included in compensation for purposes of this chapter.

(G) ***DISREGARDED ENTITY.*** An entity which is disregarded as an entity separate from its owner for federal income tax purposes under the Internal Revenue Code.

(H) ***EMPLOYEE.*** An individual as defined in § 3121 (d) of the Internal Revenue Code.

(I) ***EMPLOYER.*** An individual, co-partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity who or that employs one or more persons on a salary, wage, commission or other compensation basis.

(J) ***FISCAL YEAR.*** An accounting period of twelve (12) months or less ending on any day other than December 31. Only fiscal years accepted for reporting federal income tax under the Internal Revenue Code may be used for Municipal Income Tax.

(K) ***FORM 2106***. Internal Revenue Service Form 2106 or form 2106-EZ filed by taxpayer pursuant to the Internal Revenue Code.

(L) ***INCOME TAX DEPARTMENT***. The employees of the City Auditor's Office responsible for the administration and enforcement of this chapter.

(M) ***INTANGIBLE INCOME***. 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 as defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation.

(N) ***INTERNAL REVENUE CODE***. The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(O) ***LIMITED LIABILITY COMPANY.*** A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(P) ***MUNICIPAL INCOME TAX.*** The tax levied by § 193.03 of this chapter.

(Q) ***NET PROFITS.***

(1) For taxable years beginning before January 1, 2004, the net gain from the operation of a business, profession or enterprise after provision for all expenses incurred in the conduct thereof, either paid or accrued in accordance with the method of accounting regularly employed by the taxpayer for federal income tax purposes, without deduction of federal taxes based on income, without deducting taxes imposed by this chapter, and otherwise adjusted for the requirements of this chapter. For tax years beginning on and after January 1, 2003, no deduction will be allowed for other taxes (including, but not limited to, federal, state and municipal taxes) based on income, and compensation paid to the owner of an unincorporated entity.

(2) For taxable years beginning on or after January 1, 2004:

(a) Net profit for a taxpayer other than an individual means adjusted federal taxable income.

(b) Net profit for an individual means the individual's profit, other than amounts described in § 193.16 of this chapter, required to be reported on schedule C, schedule E, or schedule F. Net profits will not include qualifying wages earned by an individual. Net profits will include compensation for personal services received by an individual as a non-employee whether reported on schedule C or not.

(c) In the case of an owner's distributive share of net profits from a pass-through entity (other than S corporation), the adjusted federal taxable income of the pass-through entity will be used to determine net profits.

(R) ***NON-RESIDENT.*** An individual, co-partnership, limited partnership, corporation, association or other entity domiciled outside the municipality.

(S) ***OTHER ENTITY.*** Any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the municipality from business conducted within the municipality.

(T) ***PASS THROUGH ENTITY.*** A partnership, S corporation, limited liability company, or any class of entity (other than sole proprietorships) the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(U) ***PERSON.*** Includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

(V) ***QUALIFYING WAGES.***

(1) Wages, as defined in § 3121 (a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(a) Deduct any amount included in wages if the amount constitutes compensation attributable to a plan or program described in § 125 of the Internal Revenue Code.

(b) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer prior to 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, or other disposition of stock purchased under a stock option. Division (V) (1) (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 § 401(k) or 457 of the Internal Revenue Code. Division (V) (1) (b) (iii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in § 3402 (o) (2) of the Internal Revenue Code and not included in wages.

Qualifying wages are expressly defined to include all income derived from prizes, awards, gaming, wagering, lotteries or other similar games of chance by a resident from whatever source and from anywhere derived; (Ord. 2012-52, passed July 23, 2012)

(2) Except for the exemptions from wages provided in Internal Revenue Code § 3121 (a), no other provisions of the Internal Revenue Code (such as Internal Revenue Code § 3121 (b)) shall be construed to exclude remuneration paid by an employer to an employee from the definition of "qualifying wages" for the purposes of this chapter (Ord. 2012-52, passed 7-23-2012)

(W) ***RESIDENT.*** An individual, co-partnership, limited partnership, corporation, association or other entity domiciled in the municipality.

(X) ***S CORPORATION.*** A corporation that has made an election under subchapter S of Chapter 1 of the Internal Revenue Code for its taxable year.

(Y) ***SCHEDULE C.*** Internal Revenue Service Schedule C or Schedule C-EZ filed by an individual taxpayer pursuant to the Internal Revenue Code.

(Z) ***SCHEDULE E***. Internal Revenue Service Schedule E filed by an individual taxpayer pursuant to the Internal Revenue Code.

(AA) ***SCHEDULE F.*** Internal Revenue Service Schedule F filed by an individual taxpayer pursuant to the Internal Revenue Code.

(BB) ***SOLE PROPRIETORSHIP.*** Any business, including the renting of property, conducted by an individual or by an Individual through his/her disregarded entity.

(CC) ***STATUTORY EMPLOYEE.*** An individual defined in § 3121 (d) (3) of the Internal Revenue Code.

(DD) ***STATUTORY STOCK OPTION***. A stock option plan described in § 422 or § 423 of the Internal Revenue Code.

(EE) ***TAX COMMISSIONER***. The employee of the City Auditor's Office responsible for the operation of the Income Tax Department per the personnel classification report (Yarger Report).

(FF) ***TAXABLE YEAR.*** The corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(GG) ***TAXPAYER.*** A person subject to the Municipal Income Tax. "Taxpayer" does not include any person that is a disregard 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.
(Ord. 1971-130, passed 7-26-71; Ord. 2000-131, passed 10-23-2000; Ord. No. 2002-119, passed 12-09-2002; Ord. No. 2003-110, passed 11-24-2003)

§ 193.03 LEVY OF TAX; RATE ESTABLISHED.

(A) To provide funds for the purpose of general municipal operations and other municipal purposes of the municipality, there be and hereby is levied a tax upon those classes of earnings and income set forth in § 193.04 at the rate of .85% from the effective date of this chapter through December 31, 1971, and at the rate of 1% from and after January 1, 1972; and salaries, wages, commissions and other compensation, and net profits referred to in § 193.04 earned on and after January 1, 1972 shall be subject to such 1% tax.

(B) To provide additional funds for the municipal operations as set forth hereafter, there be and is hereby levied an additional income tax upon those classes of earnings and income as are set forth in § 193.04 of this chapter at the rate of .275% for the Police Department; at the rate of .375% for the fire department; at the rate of .05% for street and alley improvements; at the rate of .05% for municipal capital improvements; the total of which is .75%, from and after the first day of January, 1989. Ordinance 1988-58 was approved by the voters at the November 8, 1988 General Election as per the certification of the Marion County Board of Elections.
(Ord. 1971-130, passed 7-26-71; Am. Ord. 1988-92, passed 11-28-88)

§ 193.04 IMPOSITION OF TAX.

The tax levied pursuant to § 193.03 of this chapter and any amendment to such § 193.03 shall be levied upon the following:

(A) (1) For taxable years ending before January 1, 2004 on compensation earned by resident individuals of the municipality.

(2) For taxable years beginning on or after January 1, 2004, on all qualifying wages earned by resident individuals of the municipality.

(B) (1) For taxable years ending before January 1, 2004, on all compensation earned by non-resident individuals of the municipality, for work done or services performed or rendered in the municipality.

(2) For taxable years beginning on or after January 1, 2004, on all qualifying wages earned by non-resident individuals of the municipality, attributable to work done or services performed or rendered in the municipality.

(C) On the net profits of sole proprietorships owned by residents.

(D) On the net profits attributable to the municipality of sole proprietorships owned by non-residents derived from work done or services performed or rendered or other activities conducted in the municipality.

(E) If the tax has not been levied on the pass-through entity pursuant to paragraph (I) of this section, on a resident owner's distributive share of the net profits of a pass-through entity (other than an S corporation).

(F) If the tax has not been levied on the pass-through entity pursuant to paragraph (I) of this section, on a non-resident owner's distributive share of the net profits of a pass-through entity (other than an S corporation) attributable to the municipality derived from work done or services performed or rendered and business or other activities conducted within the municipality.

(G) On the net profits earned of all C corporations and S corporations derived from work done or services performed or rendered and business or other activities conducted in the municipality.

(H) On the net profits earned of any entity not enumerated in paragraphs (C), (D), (E) (F) and (G) of this section from work done or services performed or rendered and business or other activities conducted in the municipality.

(I) For the taxable years ending on or before December 31, 2002,

(1) On the net profits attributable to the municipality, earned by all resident unincorporated business, professions and other activities derived from work done or services rendered or performed and business or other activities conducted in the municipality.

(2) On the net profits attributable to the municipality earned of all non-resident unincorporated business, professions and other activities derived from work done or services rendered or performed and business or other actives conducted in the municipality.

(J) Disregarded entities will be taxed as if the disregarded entity and its owner were one and the same.

(K) For purposes of subsections (D), (F), (g), (H), and (I)(2) of this section, the portion of the net profit of a taxpayer or pass-through entity to be allocated as having been made within and attributable to the municipality shall be determined by multiplying the net profit of the taxpayer or the pass-through entity by a business allocation percentage to be determined by:

(1) Ascertaining the percentage which the average original cost of the taxpayer's real and tangible personal property within the municipality during the period covered by its report bears to the average original cost of all the taxpayer's real and tangible personal property wherever situated during such period. As used in this 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;

(2) Ascertaining the percentage which the gross sales of the taxpayer within the municipality plus the gross credits or charges for work done and performed or services rendered in the municipality, bears to the total gross sales wherever made, plus the total gross credits or charges for work done and performed or services

rendered. “Within the City” sales shall be deemed to include:

(a) All sales of tangible personal property delivered to purchasers within the municipality if shipped or delivered from an office, store, warehouse, factory, or place of storage, located within the municipality;

(b) All sales of tangible personal property delivered to purchasers within the municipality, even though transported from a point outside the municipality, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the municipality, and the sale is directly or indirectly the result of the taxpayer's activities within the municipality in soliciting or promoting sales.

(c) All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the municipality to purchasers in other cities or villages, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales in such other cities or villages, or even if it is so engaged, if the sales are not directly or indirectly attributable to such activities.

(d) Gross sales shall be considered to mean gross receipts from sales in the case of a “cash basis” taxpayer;

(3) Ascertaining the percentage which the total wages, salaries, and other personal service compensation, similarly computed during such period, of employees within the City, bears to the total wages, salaries, and other personal service compensation, similarly computed, during such period of all the taxpayer's employees within and without the City, excluding compensation described in § 193.16 (N) of this chapter; and

(4) Adding together the percentages determined in accordance with subsections (1) through (3) above, or such of the aforesaid percentages as shall be applicable to the particular taxpayer's business, and dividing the total so obtained by the number of percentages used in deriving said total. Provided, however, that in the event a just and equitable result cannot be obtained by the use of the factors set forth above, the City Auditor shall have the authority to substitute factors calculated to effect a fair and proper allocation. If the taxpayer’s books and records provide with reasonable accuracy what portion of the taxpayer’s business was attributable to activities within the Municipality, the taxpayer may use such books and records to provide a separate accounting to determine income subject to the Municipal Income Tax.

(L) If a taxpayer’s income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer’s form 2106, the taxpayer may deduct expenses reported on form 2106 in the following manner:

(1) If the expenses giving rise to the deduction were incurred while a resident, the total expenses reported on form 2106 shall be deducted from taxable income.

(2) If the expenses giving rise to the deduction were incurred while a non-resident, the taxpayer shall deduct only the portion of the expenses on form 2106 directly related to the income subject to the tax imposed by this chapter. In the absence of actual records or a separate accounting, the taxpayer may calculate the deduction by:

(a) ascertaining the percentage which the income earned within the municipality against the expenses are claimed bears to the total income earned and without the municipality against which the expenses are claimed, and

(b) multiply the percentage obtained in subsection (a) by the total deduction reported on form 2106.

(M) If the taxpayer is a statutory employee whose income includes qualifying wages against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer’s schedule C instead

of form 2106, the taxpayer may deduct expenses reported on schedule C in the same manner as expenses reported on form 2106 are deducted in division (L) of this section. (Ord. 1971-130, passed 7-26-71; Ord. 2000-131, passed 10-23-2000; Am. Ord. 2002-119, passed 12-9-2002; Ord. 2003-110, passed 11-24-2003)

§ 193.05 LEVIED, COLLECTED AND PAID.

The Municipal Income Tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on or after January 1, 1971, and with respect to the net profit of businesses, professions and other activities earned on and after January 1, 1971. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be earned on and after January 1, 1971, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis. (Ord. 1971-130, passed 7-26-71) Penalty, see § 193.99

§ 193.06 RETURN AND PAYMENT OF TAX.

(A) Each taxpayer whose earnings or profits are subject to the Municipal Income Tax shall, on the 15th day of the fourth month following the end of a taxable year, make and file a final return ***whether or not a tax be due thereon*** with the Income Tax Department on a form obtainable from the Income Tax Department, setting forth the aggregate amount of salary, wages, or other compensation and net profits earned by him/her during the preceding year or period and subject to said tax, together with other pertinent information as the Income Tax Department may require. The return shall also show the amount of the tax imposed on such earnings and profits/losses. Taxpayers may file a substitute tax returns provided the substitute return includes all the information and supporting documents required by the Income Tax Department.

(B) The taxpayer making the said return shall, by the 15th day of the fourth month following the end of a taxable year, pay to the Income Tax Department the amount of taxes shown as due thereon. Any portion of said tax shall have been paid by such taxpayer pursuant to the provisions of §§ 193.07 and 193.08 of this chapter, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable on the 15th day of the fourth month following the end of a taxable year.

(C) (1) Deduction for business and rental losses may be claimed only to the extent of the profit on each tax return. Deduction for business and rental losses on each tax return may be consolidated in the case of one or more businesses and/or one or more rental properties to arrive at a combined profit or loss.

(2) Loss deduction shall not be transferred from one taxable year to another.

(3) Business and rental losses will not be deducted against compensation or qualifying wages taxed under § 193.04 (A) and § 193.04 (B) of this chapter.

(D) ~~The return of an employer or employers showing the amount of tax deducted by said employer or employers from the salaries, wages or compensation of any employee, and paid by him/her or them to the City Treasurer, shall be accepted as the return required of any employee whose sole income subject to the Municipal Income Tax is such salary, wages or compensation.~~

(E) (1) for taxable years beginning before January 1, 2004, upon written request of the taxpayer, the Income Tax Department may extend the time for filing the annual return for a period of not more than six months or not more than 30 days beyond any extension requested of and granted by the Bureau of Internal Revenue for the filing of the Federal Income Tax Return. A taxpayer may request an extension by filing a copy of the federal filing extension with the Income Tax Department. Extension requests shall

include a remittance to the Income Tax Department of any remaining tax which the taxpayer estimates is due. The due date for payment of the tax shall not be extended.

(2) For taxable years beginning on or after January 1, 2004, upon written request of the taxpayer, the Income Tax Department may extend the time for filing the annual return. A taxpayer may request an extension by filing a copy of the federal filing extension with the Income Tax Department. Extension requests shall include a remittance to the Income tax Department of any remaining tax which the taxpayer estimates is due. The due date for payment of the tax shall not be extended. The extended due date shall be the 1st day of the month following the month to which the due date of the federal income tax return has been extended.

(F) Any affiliated group of corporations filing a consolidated return for federal income tax purposes pursuant to § 1501 of the Internal Revenue Code may file a consolidated return for the same tax reporting period with the municipality.

(G) (1) For taxable years ending after December 31, 2002, each pass-through entity (except S corporations) conducting business within the municipality shall, on the 15th day of the fourth month following the end of a taxable year, make and file an information return with the Income Tax Department on a form obtainable from the Income Tax Department, setting forth the net profits/ losses earned by the entity during the preceding year or period and subject to tax, together with other pertinent information as the Income Tax Department may require. The return shall also include a copy of the federal schedule K-1's showing each owner's distributive share of the entity's income. Taxpayers may file substitute information returns provided the substitute return includes all the information and supporting documents required by the Income tax Department. The entity may request an extension of time to file the return pursuant to paragraph (E) of this section. The entity will be subject to the late filing penalty in § 193.12 (C).

(2) (i) For taxable years ending after December 31, 2002, a pass through entity (except S corporation) may elect to pay on behalf of the owners of the entity the tax due on the net profits of the entity earned within the municipality. The election may be made by the entity submitting the payment with the information return or by the entity submitting estimated tax payments under § 193.08.

(ii) The electing entity will be subject to the interest and penalty provisions of § 193.12.

(iii) The electing entity will be subject to the estimated tax payment requirements for non-individuals of § 193.08. § 193.08 (F) will only apply to the entity and its owners in the first taxable year the entity conducts business within the municipality. If the tax was paid by the owners in the prior year and the entity elects to pay the current year tax directly, the prior year tax liability for the entity will be determined by calculating the tax due from the entity's prior year's information return. If the entity elected to pay the tax in the prior year and owners pay the current tax year, the prior year tax liability for the owners will be determined by calculating the tax due on their distributive share of the entity's prior year income.

(iv) Each owner will be liable for his/her/its distributive share of any unpaid tax, penalty and interest of the entity.

(v) If the owner has other business activities subject to the municipal income tax, the owner's distributive share of income from and tax paid by the electing entity shall be included on the owner's return.

(H) Any group of S corporations filing as a single S corporation for federal income tax purposes pursuant to § 1361 (b)(3) of the Internal Revenue Code shall file as a single S corporation for the same reporting period with the municipality.

(Ord. 1971-130, passed 7-26-71; Am. Ord. 1981-59, passed 6-8-81; Ord. 2000-131, passed 10-23-2000; Am. Ord. 2002-119, passed 12-9-2002; Ord. No. 2003-110, passed 11-24-2003; Ord. No. 2012-26, passed 4-23-2012)

Penalty, see § 193.99

§ 193.07 COLLECTION AT SOURCE.

(A) Each employer within the municipality who employs within the municipality one or more persons on a salary, wage, commission or other compensation basis, excluding exempted incomes set forth in § 193.16 of this chapter, shall deduct the Municipal Income Tax at the time of the payment of such salary, wage, commission or other compensation due by the said employer to the said employee and shall make a return and pay to the City Treasurer the amount of taxes so deducted as follows:

(1) For the three months ending March 31st, on or before April 30th;

(2) For the three months ending June 30th, on or before July 31st;

(3) For the three months ending September 30th, on or before October 31st;

(4) For the three months ending December 31st, on or before January 31st.

(B) Those employers, whose payment of withheld taxes that are determined to exceed $4,000 annually, based on the preceding December 31, year-end report, shall make a return and pay to the City Treasurer the amount of the taxes on a monthly basis. These taxes withheld from their employees shall be payable on or before the last day of the month following the month of collection. Nothing in the above is intended to preclude any employer from placing his/her firm on the monthly reporting system or from payment of withheld taxes in a more rapid sequence than indicated above. It will be the responsibility of the City Auditor and the task of the City Income Tax Department to administer the program and provide each account with the necessary reporting forms not later than 20 days prior to the due dates prescribed above.

(C) Said return shall be on a form prescribed by the City Auditor and furnished by the City Treasurer. Such employer, in collecting said tax, shall be deemed to hold the same as trustee for the benefit of the municipality until payment is made by such employer to the municipality, and any such tax collected by such employer from his/her employees shall, until the same is paid to the municipality, be deemed a trust fund in the hands of such employer.

(D) (1) Except as provided in paragraph (D)(2) of this section, beginning January 1, 2001, employers not situated in the municipality whose withholding otherwise required by this section for a calendar year beginning on or after that date is $150.00 or less will not be required to withhold the tax.

(2) For any calendar year beginning on or after January 1, 2001, employers not situated within the municipality whose withholding required by this section exceeds $150.00 for a calendar year will be required to withhold the tax for that calendar year and the next three calendar years.

(3) Division (D) of this section shall apply only to taxable years beginning on or after January 1, 2001, and ending on or before December 31, 2003.

(E) For taxable years beginning on or after January 1, 2004, an employer is required to deduct the Municipal Income Tax only from qualifying wages.

(F) An employer is not required to make any withholding with respect to an individual's disqualifying

disposition of a statutory 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 was issued.

(G) (1) An employee is not relieved from liability for the Municipal Income 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 Municipal Income Tax.

(2) The failure of an employer to remit the Municipal Income Tax withheld relieves the employee from liability for the Municipal Income Tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld. (Ord. 1971-130, passed 7-26-71; Am. Ord. 1981-59, passed 6-8-81; Ord. 2000-131, passed 10-23-2000; Ord. No. 2003-110, passed 11-24-2003)

§ 193.08 DECLARATIONS.

(A) As used in this Section:

(1) "Tax Liability" means the taxpayer's liability for the tax imposed by this chapter for a taxable year prior to applying any credits or estimated tax payments under this section, or taxes withheld under § 193.07 and/or credit for taxes paid to another municipality under § 193.09.

(2) "Required Amount" means the lesser of:

(a) ninety percent (90%) of the current taxable years tax liability, or

(b) one hundred percent (100%) of the prior taxable years tax liability as shown on the return filed under § 193.06 by the taxpayer for the preceding year. If such return does not reflect a twelve-month period, the prior years tax liability shall be annualized by dividing the prior taxable years tax liability by the fraction of a year reflected by such return.

(B) For taxable years beginning on or after January 1, 2003, individuals whose estimated tax liability less taxes withheld under § 193.07 and/or credit for taxes paid to another municipality under § 193.09 is two hundred dollars ($200.00) or more must remit estimated tax payments for the current taxable year as follows:

(1) twenty-five percent (25%) of the required amount by April 15 of the current taxable year.

(2) fifty percent (50%) of the required amount by July 31 of the current taxable year.

(3) seventy-five percent (75%) of the required amount by October 31 of the current taxable year.

(4) one hundred percent (100%) of the required amount by January 31 of the year following the current taxable year.

(C) Any tax withheld under § 193.07 for the taxable year and any credit for taxes paid to other municipalities under § 193.09 shall be considered as estimated taxes paid in equal amounts on each of the payment dates prescribed in § 193.08 (B).

(D) Beginning January 31, 2003, taxpayers who are not individuals whose estimated tax liability is two hundred dollars ($200.00) or more must remit estimated tax payments for the current taxable year as follows:

(1) twenty-five percent (25%) of the required amount by fifteenth day of the fourth month of the taxpayers current taxable year.

(2) fifty percent (50%) of the required amount by the fifteenth day of the sixth month of the taxpayers

current taxable year.

(3) seventy-five percent (75%) of the required amount by the fifteenth day of the ninth month of the taxpayers current taxable year.

(4) one hundred percent (100%) of the required amount by the fifteenth day of the twelfth month of the taxpayers current taxable year.

(E) Estimated payments not made by the due date shall be charged interest at the rate prescribed in § 193.12. Interest will be calculated from the due date of the payment to the earlier of:

(1) the date of the estimated payment is made, or

(2) the due date, excluding extensions, for filing the return under § 193.07.

(F) No estimated payments will be required the first taxable year that a taxpayer is required to file a return under § 193.06. (Ord. 1971-130, passed 7-26-71; Am. Ord. 2002-119, passed 12-9-2002; Ord. No. 2003-110, passed 11-24-2003) Penalty, see § 193.99

§ 193.09 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(A) Every resident individual taxpayer who receives net profits, salaries, wages, commissions or other personal service compensation, for work done, or services performed or rendered outside of the municipality, if it be made to appear that he/she has paid a municipal income tax on such net profits, salary, wages, commission or other compensation to another municipality(ies), shall be allowed a **50 % (fifty percent)** credit on the Municipal Income Tax of the amount so paid by him/her or in his/her behalf to such other municipality. The credit shall not exceed the tax assessed by the Municipal Income Tax on such net profit, salary, wages, commission or compensation earned in such other municipality(ies) where such tax is paid. Credit will not be allowed to the extent the individual is entitled to a refund of the municipal income tax paid to such other municipality(ies). (Ord. 2005-80, passed 10-24-2005; Ord. 2012-27, passed 4-23-2012)

(B) (1) As used in division (B) of this section:

(a) Nonqualified deferred compensation plan means a compensation plan described in § 3121 (v)(2)(C) of the Internal Revenue Code.

(b) (i) Except as provided in division (B)(1)(b)(ii) 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.

(ii) 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 (B)(1)(b)(i) of this section computed without regard to division (B)(1)(b)(ii) 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.

(iii) 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.

(c) "Qualifying tax rate" means the applicable tax rate for the taxable year for which the taxpayer paid income tax to the municipality 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 Municipal Income Tax paid each year with respect to the nonqualified deferred compensation plan.

(2) (a) Except as provided in division (B)(3) of this section, if a taxpayer has paid Municipal Income Tax in one or more taxable years on compensation deferred pursuant to a nonqualified deferred compensation plan and the taxpayer sustains a qualifying loss with respect to such nonqualified plan, the taxpayer shall be allowed a refundable credit for each qualifying loss.

(b) If a taxpayer has paid income tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the credit shall be calculated on the basis the proportion the total Municipal Income tax paid bares to the income tax paid to all municipal corporations with respect to the nonqualified deferred compensation plan.

(c) In no case shall the credit exceed the cumulative Municipal Income Tax paid for all taxable years by the taxpayer with respect to the nonqualified deferred compensation plan.

(3) The credit allowed under division (B) of this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(i) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(ii) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

(C) A taxpayer shall be allowed a credit against the Municipal Income Tax for income tax paid to a joint economic development zone created under §715.691 or a joint economic development district created under §715.70, §715.71 or §715.72 of the Ohio Revised Code. The credit shall not exceed the tax assessed by the Municipal Income Tax on such net profit, salary, wages, commission or compensation earned in such joint economic development zone or joint economic development district where such tax is paid. Credit will not be allowed to the extent the individual is entitled to a refund of the income tax paid to such joint economic development zone or joint economic development district.

(D) If income tax or withholding tax is erroneously paid to anther municipality(ies) and refund of the erroneous payment by the other municipality(ies) is barred by the passage of time, the taxpayer or withholding agent will be given credit for the erroneous payment. The credit shall not exceed the tax assessed by the Municipal Income Tax on the income or wages on which the erroneous payment was made.
(Ord. 1971-130, passed 7-26-71; Ord. 2000-131, passed 10-23-2000; Ord. No. 2003-110, passed 11-24-2003; Ord. 2012-27, passed 4-23-2012)

§ 193.10 DUTIES OF CITY AUDITOR; CITY TREASURER.

(A) The Municipal Income Tax shall be administered by such deputies and clerks within the City Auditor's Department as may be from time to time determined by the Council of the municipality.

(B) The City Auditor shall prescribe the form of accounts and reports to be rendered to his/her office, the form and method of keeping accounts within the income tax office. The City Auditor shall be charged with the

internal audit of all accounts and returns, including the correction of the returns.

(C) The City Treasurer shall demand, collect and receive the Municipal Income Tax. The City Treasurer shall keep an accurate record showing the amount received from each taxpayer and the date of said receipt. The City Treasurer shall make a written report to Council each quarter of all monies collected hereunder during the preceding quarter. (Ord. 1971-130, passed 7-26-71)

§ 193.11 INQUISITORIAL POWERS; DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED.

(A) The City Auditor, or any authorized employee, is authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is directed and required to furnish to the City Auditor or his/her duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations as are authorized.

(B) The City Auditor, or his/her duly authorized agent or employee, is authorized to examine any person, employee or employees under oath concerning any income which was or should have been returned for taxation and for this purpose may compel the production of books, papers and records and the attendance of all persons before him/her, whether as parties or witnesses, wherever he/she believes such persons have knowledge of such income. The refusal of such examination by any employer, employee or person subject or presumed to be subject to the tax shall be deemed a violation of this chapter.

(C) Tax returns and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the municipality for official purposes.

(D) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for the official purposes of enforcement of this chapter and except in accordance with proper judicial order. Any person divulging such information shall upon conviction thereof be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than Five Hundred Dollars $500 or imprisoned for not more than six months in the county jail, or both such fine and imprisonment for such offense. In addition to the above penalties, any employee of the municipality who violates the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the municipality.

(E) If a taxpayer has income on which an apparently insufficient amount of tax has been paid and a return as prescribed in § 193.06 has not been filed, the Income Tax Department may assess the tax, penalty and interest due against the taxpayer after providing two notices to the taxpayer. Notices shall indicate the source and amount of income on which insufficient tax has been paid. Notices shall be mailed to the taxpayer's last known address by regular mail. Notices, including the assessment notice, shall be mailed at least fifteen (15) calendar days apart. The late filing penalty on assessments shall be the maximum Fifty Dollar ($50.00) penalty.
(Ord. 1971-130, passed 7-26-71; Ord. 2000-131, passed 10-23-2000)
Penalty, see § 193.99

§ 193.12 INTEREST ON UNPAID TAXES.

(A) Beginning December 1, 2000, the Municipal Income Tax, including taxes withheld from wages by an employer, remaining unpaid after it has become due, shall bear interest on the amount of the unpaid tax at the rate of ten percent (10%) per annum. Initially, for interest not yet computed, partial years shall be prorated in whole and/or half months. Beginning January 1, 2002, the rate of interest for unpaid taxes will be adjusted annually as provided in paragraph (B) of this section.

(B) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the united States with remaining periods of maturity of three years or less, as determined under section 1274 of the Internal Revenue Code for July of the current year. By the fifteenth day of October of each year, the Tax Commissioner shall determine the federal short-term rate. The rate determined by the Tax Commission, rounded to the nearest whole number percent, plus three percent shall be the interest rate per annum used in computing interest for the following year.

(C) A taxpayer filing a return required under § 193.06 of this Ordinance after the due date, including extensions, shall be liable for a late filing penalty. The penalty shall be five dollars ($5.00) per month or any part of a month that the return is late. The maximum penalty per return will be Fifty Dollars ($50.00). Taxpayers under the age of 18 years shall be liable for a late filing penalty and interest of no more than five dollars ($5.00) for each return filed late.

(D) A withholding agent filing a return required under § 193.07 of this Ordinance after the due date shall be liable for a late filing penalty of ten dollars ($10.00) for each return filed late.

(E) Taxpayers, including withholding agents, paying tax after the prescribed due date will be subject to a late payment penalty of Five Dollars ($5.00). Only one late payment penalty will be assessed per taxable year or withholding period. The late payment penalty will not be assessed on taxable years or withholding periods on which a late filing penalty has been assessed.

(F) The Tax Commissioner may compromise penalties and interest at this discretion. The Tax Commissioner will issue written guidelines for the compromise of penalties and interest so that this section is administered in a uniform manner. (Ord. 1971-130, passed 7-26-71; Am. Ord. 1982-22, passed 10-11-82; Am. Ord. 1985-115, passed 12-23-85; Ord. 2000-131, passed 10-23-2000)
Penalty, see § 193.99

§ 193.13 LIMITATION PERIODS ON UNPAID TAXES AND REFUNDS.

(A) (1) The Municipal Income Tax any penalties and interest on the Municipal Income tax shall be collectible, by suit, as other debts of like amount are recoverable. Civil actions to recover the Municipal Income Tax and penalties and interest on the Municipal Income Tax shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

(2) With regard to underpayments resulting from a recomputation or redetermination, whether initiated by the Internal Revenue Service or by the taxpayer, of the taxpayer's federal taxable income that increases the taxpayer's tax liability under this Ordinance, an amended return must be filed and the additional tax paid within one hundred twenty (120) days of the final determination of the federal taxable income. The amended return will not reopen issues not directly or indirectly affected by the adjustment of the taxpayer's federal taxable income. Civil actions to recover the Municipal Income tax and penalties and interest on the Municipal Income Tax shall be brought within three (3) years of the filing of the amended return.

(B) Prosecutions for violations of this Ordinance 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 the income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

(C) A claim for a refund of the Municipal Income Tax must be filed:

(1) within three (3) years of the overpayment.

(a) Employees who have taxes withheld under § 193.07 of this chapter will be deemed to have paid the tax withheld on the due date, including any valid extension of time, for filing a return for that taxable year under § 193.06 of this chapter.

(b) Estimated tax payments under § 193.08 of this chapter will be deemed paid on the due date, including any valid extension of time, for filing a return for that taxable year under § 193.06 of this chapter provided the payment is received on or before said due date.

(c) Employers who have withheld taxes under § 193.07 of this chapter will be deemed to have paid the tax withheld on the due date for filing an annual reconciliation as provided by Resolution 1971-58, Article XIII (§ 193.01) provided the payment is received on or before said due date.

(2) With regard to overpayments resulting from a recomputation or redetermination, by the Internal Revenue Service or due to litigation initiated by the taxpayer, of the taxpayer's federal taxable income that reduces the taxpayer's tax liability under this Ordinance, the refund claim must be filed within one hundred twenty (120) days of the final determination of the federal taxable income. A refund claim filed under division (C)(2) of this section shall claim a refund based only on those items of the taxpayer's annual return that are affected directly or indirectly by the changes to the taxpayer's federal taxable income. It shall not reopen issues not directly or indirectly affected by the taxpayer's federal taxable income. (Ord. 1971-130, passed 7-26-71; Ord. 2000-131, passed 10-23-2000) Penalty, see § 193.99

§ 193.14 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be disbursed each calendar year for the period from January 1, 1998 in the following order, to wit:

(A) Debt Service Fund…….Variable (the amount necessary to cover the annual G.O. Debt Retirement and related bond registrar expenses: not to exceed $180,000)

(B) Street, Construction, Maintenance and Repair Fund …….5% of Unvoted Municipal Income Tax (For street and alley construction, reconstruction, maintenance, repairs, resurfacing, seal treatment, traffic control devices, sidewalks, curbs, gutters, sewers, drains, and other appurtenant improvements.)

(C) SCMR……..5% of Unvoted Municipal Income Tax

In 2003 an additional $300,000.00 of unvoted municipal income tax shall be allocated for street resurfacing projects; In 2005 the 5% unvoted municipal income tax shall be reduced by $300,000.00. (For Street Resurfacing Projects Only)

(D) The balance of any monies received from income tax receipts shall be credit to the General Fund for disbursement by Order of Council. (Ord. 1971-130, passed 7-26-71; Ord. 1998-41, passed 4-27-98; Ord. 2003-60, passed 07-14-2003)

In 2012 an additional one quarter of one percent (.25%) was voted in for the municipal operations as set forth hereafter and distributed in the following order, to wit:

(A) 40% of the one-quarter of one percent for the Police Department;

(B) 40% of the one-quarter of one percent for the Fire Department;

(C) 10% of the one-quarter of one percent for dispatch services/disaster services;

(D) 10% of the one-quarter of one percent for the Provision of Street Improvements from and after the first

day of January, 2013. (Ordinance 2012-54 was approved by the voters at the November 6, 2012 General Election as per the certification of the Marion County Board of Elections.)

§ 193.15 NONAPPLICABILITY.

This chapter shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of City Council of the municipality to impose the Municipal Income Tax. (Ord. 1971-130, passed 7-26-71)

§ 193.16 EXEMPTIONS.

The provisions of this chapter shall not be construed as levying a tax upon the following:

(A) The military pay or allowances of members of the armed forces of the Untied States and of members of their reserve components, including the Ohio National Guard.

(B) Poor relief, pensions, unemployment compensation or similar payments, including disability benefits received from private industry or local, state or federal governments, or from charitable, religious or educational organizations.

(C) Alimony received.

(D) Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.

(E) Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.

(F) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(G) Gains from involuntary conversions, cancellation of indebtedness and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(H) Earnings and income of all persons under 16 years of age, whether residents or non-residents.

(I) Intangible Income as defined by §718.01(A)(4) of the Ohio Revised Code.

(J) Compensation paid under §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 annually.

(K) 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 municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the municipality, or the headquarters of the authority or commission is located within the municipality.

(L) (1) Except as provided in division (L)(2) and (L)(3) of this section, the income of a public utility when that public utility is subject to the tax levied under §5727.24 or §5727.30 of the Ohio Revised Code.

(2) Beginning January 1, 2002, the income of an electric company or combined company, as defined in § 5727.01 of the Ohio Revised Code will be subject to the tax levied by this chapter subject to Chapter 5745 of

the Ohio Revised Code.

(3) Beginning January 1, 2004, the income of a telephone company, as defined in § 5727.01 of the Ohio Revised Code will be subject to the tax levied by this chapter subject to Chapter 5745 of the Ohio Revised Code.

(M) Items excluded from federal gross income pursuant to §107 of the Internal Revenue Code. Reimbursements or allowances in excess of actual expenses will be subject to the tax.

(N) On or after January 1, 2001, compensation paid to an individual if all of the following apply:

(1) The individual is a non-resident. (Ord. 2005-80, passed 10-24-2005)

(2) the compensation is paid for personal services performed by the individual in the municipality on twelve or fewer days in the calendar year.

(3) If the individual is an employee of another person, the principal place of business of the individual employer is located in another municipality in this state that imposes a tax applying to the compensation paid to the individual for services performed on those days, and the individual is liable to that other municipality for tax on the compensation paid for such services. (Ord. 1971-130, passed 7-26-71; Am. Ord. 1982-22, passed 10-11-82; Am. Ord. 1984-41, passed 5-14-84; Ord. 2000-131, passed 10-23-2000; Ord. No. 2003-110, passed 11-24-2003; Ord. 2005-80, passed 10-24-2005)

§ 193.17 REFUNDS.

Should it appear that any taxpayer has paid more than the amount of the tax to which the municipality is entitled under the provisions of this chapter, a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer. (Ord. 1971-130, passed 7-26-71)

§ 193.18 EMERGENCY MEASURE.

This chapter is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety in the City of Marion and for the further reason that the Council, after careful and deliberate consideration of the need for and the cost of essential municipal services, has heretofore approved a budget for the year 1971 which requires additional municipal revenues to maintain such services for the safety and welfare of the city and its inhabitants, that it is necessary to provide such additional revenues by increasing the existing municipal income tax from 0.85% to 1.00%, and that provision for such increase should be immediately effective to support such 1971 budget, to permit this Council and the administrative officials of the city to develop appropriate actions and plans to implement such budget and proceed with further detailed planning of municipal operations and the financing thereof for 1971, and to permit an efficient transition from the tax of 0.85% presently in effect and continued in effect by this ordinance through December 31, 1971, to a tax of 1% imposed hereby from and after January 1, 1972, and as an emergency measure shall take effect and be in force immediately upon its approval by the Mayor, provided it receives a majority vote of two-thirds of the members elected to Council; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

§ 193.19 BOARD OF REVIEW.

(A) The Board of Review, consisting of three electors of the City, one appointed by the Mayor, one appointed by the City Treasurer and one appointed by the City Director of Law, is created. No member shall be appointed to the Board of Review who is employed by the City or holds other public offices or appointments. The members of the Board of Review shall service without compensation.

(B) A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules, and shall keep a record of its transactions. Such records are not public records available for public inspection under §149.43 of the Ohio Revised Code.

(C) All hearings of the Board of Review shall be conducted privately and the provisions of Section 193.11 (D) with reference to the confidential character of information required to be disclosed by this chapter shall not apply to such matters as may be heard before the Board of Review on appeal. Hearings requested by a taxpayer before the Board of Review pursuant to this section are not meetings of a public body subject to §121.22 of the Ohio Revised Code.

(D) Any person (petitioner) dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision of the Tax Commissioner. The appeal shall be made in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Commissioner issues the decision leading to the appeal.

(E) Unless the petitioner waives a hearing, the Board of Review shall schedule a hearing within forty-five (45) days after receiving the request. The petitioner may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative.

(F) The Board of Review may affirm, reverse or modify the Tax Commissioner's decision or any part of that decision, shall issue a decision on the appeal within ninety (90) days after the Board of Review's final hearing on the appeal, and the Board of Review shall notify the petitioner of its decision by ordinary mail within fifteen (15) days after issuing the decision.

(G) Any ruling or decision of the Board of Review may be appealed, as provided in § 5717.011 of the Ohio Revised Code, by the taxpayer or the Tax Commissioner to the Board of Tax Appeals or a court of common pleas as otherwise provided by law.

(H) The initial terms of the members of the Board of Review will be as follows:

Appointed by the Mayor expires December 31, 2001
Appointed by the Director of Law expires December 31, 2002
Appointed by the Treasurer expires December 31, 2003

(Ord. 2000-131, passed 10-23-2000; Ord. No. 2003-110, passed 11-24-2003)

§ 193.20 OHIO BUSINESS GATEWAY

Pursuant to Ohio Revised Code § 718.051:

(A) For tax years beginning on or after January 1, 2005, a taxpayer may use the Ohio Business Gateway to:

(1) File an income tax return and make payment of any income tax under § 193.06.

(2) File for an extension of time to file an income return required by § 193.06.

(3) File and make payment of estimated tax due under § 193.08.

(B) For tax years beginning on or after January 1, 2007, an employer may use the Ohio Business Gateway to file a withholding return and make payment of any withholding tax due under § 193.07. (Ord. No. 2003-110, passed 11-24-2003)

§ 193.21 REGISTRATION OF EMPLOYERS, CONTRACTORS AND SUBCONTRACTORS

(A) All employers, contractors or subcontractors who do work in the City of Marion, Ohio shall register with the Tax Commissioner, on a form the Tax Commissioner prescribes, within 30 days after the first work is performed or February 15th of the year following the year the worked was performed whichever is later. Said entities shall have a continuing duty to update said information no less than annually on the anniversary date of their initial filing. The Tax Commissioner may request a list of all employees, subcontractors, contractors or others who perform work in the City of Marion, Ohio.

(B) All employers, contractors or subcontractors, in addition to any other penalties for non-compliance contained within M.C.C. 193, shall be assessed an additional penalty of $5 per month for each month it remains non-compliant, up to a maximum of $1,000, for failure to comply with division (A) of this section.(Ord. No. 2012-26, passed 4-23-2012)***(Renamed to Section 193.21 on May 16, 2012)***

§ 193.99 PENALTY.

Any person, firm or corporation who shall fail, neglect or refuse to make any return, questionnaire or declaration required by this chapter, or any taxpayer who shall refuse to pay the Municipal Income Tax, penalties and interest imposed by this chapter, or any person who shall refuse to permit the City Auditor or any duly authorized agent or employee, to examine his/her books, records and papers, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the payment of the whole or any part of the tax, shall be guilty of a misdemeanor and shall be fined not more than $150.00 or imprisoned for not more than 60 days, or both. The failure of any employer or taxpayer to receive or procure a return, questionnaire or declaration form shall not excuse him/her from making a return, questionnaire or declaration or from paying the tax. (Ord. 1971-130, passed 7-26-71)(Ord. 2010-108, passed 11-22-2010)

CHAPTER 194
Municipal Income Tax

Effective January 1, 2016
For taxable years beginning with taxable year 2016
(Ord. 2015-93, passed 12-20-2015)

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194.011 AUTHORITY TO LEVY TAX

(A) The tax on income and the withholding tax established by this Chapter 194 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 194 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.

(Source: ORC 718.04)

194.012 PURPOSES OF TAX; RATE

The purpose of the tax shall be for general municipal operations, maintenance, equipment, service, facilities, capital improvements and such other municipal purposes of the municipality.

The rate of the tax shall be:

(A) To provide funds for the purpose of general municipal operations and other municipal purposes of the municipality, there be and hereby is levied a tax upon those classes of earnings and income set forth in this Chapter 194 at the rate of .85% from the effective date of this chapter through December 31, 1971, and at the rate of 1% from and after January 1, 1972; and salaries, wages, commissions and other compensation, and net profits referred to in § 193.04 earned on and after January 1, 1972 shall be subject to such 1% tax.

(B) To provide additional funds for the municipal operations as set forth hereafter, there be and is hereby levied an additional income tax upon those classes of earnings and income as are set forth in this Chapter 194 at the rate of .275% for the Police Department; at the rate of .375% for the fire department; at the rate of .05% for street and alley improvements; at the rate of .05% for municipal capital improvements; the total of which is .75%, from and after the first day of January, 1989. Ordinance 1988-58 was approved by the voters at the November 8, 1988 General Election as per the certification of the Marion County Board of Elections.
(Ord. 1971-130, passed 7-26-71; Am. Ord. 1988-92, passed 11-28-88)

(C) To provide additional funds for the municipal operations as set forth hereafter, there be and is hereby levied an additional income tax upon those classes of earnings and income as are set forth in this Chapter 194 at the rate of an additional one-quarter of one percent, being distributed: 40% of the one-quarter of one percent for the Police Department; 40% of the one-quarter of one percent for the Fire Department; 10 % of the one-quarter of one percent for dispatch services/disaster services; 10% of the one-quarter of one percent for the Provision of Street Improvements, from and after the first day of January, 2013. Ordinance 2012-54 was approved by the voters at the November 6, 2012 General Election as per the certification of the Marion County Board of Elections.
(Ord. 2012-78, passed 12-11-12)

(Source: ORC 718.04)

194.013 ALLOCATION OF FUNDS

The funds collected under the provisions of this chapter shall be disbursed each calendar year for the period from January 1, 1998 in the following order, to wit:

(A) Debt Service Fund..... Variable
(the amount necessary to cover the annual G.O. Debt Retirement and related bond registrar expenses: not to exceed $180,000)

(B) Street, Construction,
Maintenance and Repair Fund.....5%
of Unvoted Municipal Income Tax

(For street and alley construction, reconstruction, maintenance, repairs, resurfacing, seal treatment, traffic control devices, sidewalks, curbs, gutters, sewers, drains, and other appurtenant improvements.)

(C) SCMR.....5%
of Unvoted Municipal Income Tax

In 2003 an additional $300,000.00 of unvoted municipal income tax shall be allocated for street resurfacing projects; In 2005 the 5% unvoted municipal income tax shall be reduced by $300,000.00.

(For Street Resurfacing Projects Only)

(D) The balance of any monies received from income tax receipts shall be credit to the General Fund for disbursement by Order of Council. (Ord. 1971-130, passed 7-26-71; Ord. 1998-41, passed 4-27-98; Ord. 2003-60, passed 07-14-2003)

194.014 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 2015-90, effective January 1, 2016, comprehensively amends Chapter 194 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.

194.02 EFFECTIVE DATE

(A) Ordinance 2015-90, 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 194 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 2015-90 does not repeal the existing sections of Chapter 193 for any taxable year prior to 2016, but rather implements and creates Chapter 194 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.

(Source: Uncodified Section 2 of Am Sub HB 5, passed Dec 2014; ORC 718.04)

194.03 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 194.063 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 194.063 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 194.096 (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 194.062(B)(2) of this Chapter; or

(iv) A Tax Administrator’s requirement for a taxpayer to use an alternative apportionment method, issued under Section 194.062(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 194.18 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 194.096 (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)(I) 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.

(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 194.052 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 194.052 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 194.052 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 194.052 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 194.052 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 194.081 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, trade names, 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 194.18 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 718.691, 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 194.062 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 194.062 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 City of Marion, Ohio,**

(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 (23)(A) of this section, 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 not withstanding 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 (D) 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 if 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 194.042 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.

(Source: Most definitions can be found in ORC 718.01)

194.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS

194.041 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 194.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 194.03 (14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 194.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 194.03 (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 194.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 194.062(E).

(iii) Section 194.03(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 194.03(27).

(b) "Exempt Income" is defined in Section 194.03 (11) of this Chapter.

(c) Allowable employee business expense deduction is described in (20)(B) of Section 194.03 of this Chapter, and is subject to the limitations provided in that section.

(d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 194.03 (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 sitused to the Municipality as provided in Section 194.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 194.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 194.03(14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 194.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 194.03(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 194.03. "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.

(iii) "Pass Through Entity" is defined in Section 194.03(27).

(b) "Exempt Income" is defined in Section 194.03(11) of this Chapter.

(c) "Apportioned or sitused to the Municipality as provided in Section 194.062 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 194.062(E).

(d) "Allowable employee business expense deduction" as described in (20)(B) of Section 194.03 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 194.03(32) of this Chapter.

194.042 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.

(Source: ORC 718.012)

194.043 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.

(Source: ORC 718.50)

194.05 COLLECTION AT SOURCE

194.051 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 194.052 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 (B)(1)(b) **or (B)(1)(c)** of this section of taxes required to be deducted and withheld shall 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, 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. Payment under division (B)(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) Taxes required to be deducted and withheld shall be remitted semimonthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted on behalf of the Municipality in the preceding calendar year exceeded eleven thousand nine hundred ninety-nine dollars, 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 receding calendar year exceeded one thousand dollars. The payment under division (B)(1)(c) of this section

shall be made so that they payment is received by the Tax Administrator not later than one of the following:

(i) If the taxes were deducted and withheld or required to be deducted and withheld during the first fifteen days of a month, the third banking day after the fifteenth day of that month;

(ii) If the taxes were deducted and withheld or required to be deducted and withheld after the fifteenth day of a month and before the first day of the immediately following month, the third banking day after the last day of that month.

(d) An employer, agent of an employer or other payer is required to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agents, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality shall be remitted to the Municipality at the same time that the federal tax withholding payment is due.

(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 194.091 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.

(Source: ORC 718.03)

194.052 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 194.051 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 (B)(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 194.03 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 (B)(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 194.051 of this Chapter.

(G) In the case of a person performing personal services at a petroleum refinery located in a municipal corporation that imposes a tax on income, an employer is not required to withhold municipal income tax on the qualifying wages of such a person if the person performs those services on twelve or fewer days in a calendar year, unless the principal place of work of the employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the person for services performed on those days and the person is not liable to that other municipal corporation for tax on the compensation paid for such services. For the purposes of this division, a petroleum refinery is a facility with a standard industrial classification code facility classification of 2911, petroleum refining.

Notwithstanding division (D) of this section, if, during a calendar year, the number of days an individual performs personal services at a petroleum refinery exceeds twelve, the employer shall withhold tax for the municipal corporation for the first twelve days for which the employer paid qualifying wages to the individual and for all subsequent days in the calendar year on which the individual performed services at the refinery.

(Source: ORC 718.011; ORC 718.01)

194.053 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 terminal~~s~~ 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 194.07 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.

(Source: ORC 718.031)

194.06 INCOME SUBJECT TO NET PROFIT TAX

194.061 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 194.03(23).

(ii) "Adjusted Federal Taxable Income" is defined in Section 194.03(1) of this Chapter.

(2) "Exempt Income" is defined in Section 194.03(11) of this Chapter.

(3) "Apportionment" means the apportionment as determined by Section 194.062 of this Chapter.

(4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 194.03 (32) of this Chapter.

Source: ORC 718.01)

194.062 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 194.052 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 194.19 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 194.19 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 (F)(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 194.081 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 194.03 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.

(Source: ORC 718.02)

194.063 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 194.03(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 194.03 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 194.062 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 194.062 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 sitused 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 194.062 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;

(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 194.062 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.

(Source: ORC 718.06)

194.064 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.

(Source: ORC 718.15)

194.065 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.

(Source: ORC 718.151)

194.07 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 194.091 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 194.091 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 194.10 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 194.091 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.

(Source: 718.08)

194.08 CREDIT FOR TAX PAID

194.081 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(A) Every resident individual taxpayer who receives net profits, salaries, wages, commissions or other personal service compensation, for work done, or services performed or rendered outside of the municipality, if it be made to appear that he/she has paid a municipal income tax on such net profits, salary, wages, commission or other compensation to another municipality(ies), shall be allowed a 50 % (fifty percent) credit on the Municipal Income Tax of the amount so paid by him/her or in his/her behalf to such other municipality. The credit shall not exceed the tax assessed by the Municipal Income Tax on such net profit, salary, wages, commission or compensation earned in such other municipality(ies) where such tax is paid. Credit will not be allowed to the extent the individual is entitled to a refund of the municipal income tax paid to such other municipality(ies). (Ord. 2005-80, passed 10-24-2005)

194.082 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.

(Source: ORC 718.021)

194.083 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 194.081 of this Chapter.

(Source: ORC 718.16)

194.084 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 194.096 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 194.096, 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 194.096 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 194.081 of this Chapter regarding any limitation on credit shall prevail.

(Source: ORC 718.121)

194.09 ANNUAL RETURN

194.091 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 all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 194.051(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) All resident individual taxpayers, 16 years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.

(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) No municipal corporation shall 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, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio IT 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 1120F, or form 1120S, 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. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(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 or Tax Administrator.

(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 or Tax Administrator.

(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 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 194.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 194.092 of this Chapter, the provision in Section 194.092 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 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 division (F)(3) and (4) of this section.

(I) This division shall not apply to payments required to be made under division (B)(1)(b) or (c) of Section 194.051 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 194.051 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, "worksite location" has the same meaning as in section 194.052 of this chapter.

(2) A person may notify a 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 worksite 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 worksite 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: ORC 718.05)

194.092 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.

(Source: ORC 718.052)

194.093 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.

(Source: ORC 718.051)

194.094 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.

(Source: ORC 718.05)

194.095 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 (B)(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 194.19 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 (E) of section 194.19 of this Chapter for 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 194.096 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.

(Source: ORC 718.12, 718.41)

194.096 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 194.18 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 194.10 of this Chapter.

(E) As used in this section, “withholding tax” has the same meaning as in section 194.10 of this Chapter.

(Source: ORC 718.19. Also see 194.09(E), Amended Returns.)

194.10 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 of the amount not timely paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty equal to fifty percent 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 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 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.

(Source: ORC 718.27)

194.11 AUDIT

(A) At or before the commencement of an audit, as defined in Section 194.03(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.

(Source: ORC 718.36)

194.12 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.

(Source: ORC 718.25)

194.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR

194.131 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 194.062 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 194.051 of this Chapter.

(Source: ORC 718.24)

194.132 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.

(Source: 718.28)

194.133 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.

(Source: ORC 718.23)

194.134 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 194.10 of this Chapter, in addition to any applicable penalty described in section 194.99 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 194.10 of this Chapter.

(3) The penalties provided for under divisions (B)(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 194.99 of this Chapter for a violation of 194.15 of this Chapter~~,~~ and any other penalties that may be imposed by the Tax Administrator by law.

(Source: ORC 718.26)

194.14 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.

(Source: ORC 718.13)

194.15 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.

(Source: ORC 718.35)

194.16 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 194.15 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.

(Source: ORC 718.38)

194.17 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.

(Source: ORC 718.18)

194.18 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 must 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 194.43 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.

(Source: ORC 718.11)

194.19 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 194.18 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 194.096 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 194.18 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 legal representative a refund in the amount of the overpayment as provided by Section 194.096 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.

(Source: ORC 718.12)

194.20 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.

(B) All rules adopted under this section shall be published and posted on the internet.

(Source: ORC 718.30)

194.97 COLLECTION AFTER TERMINATION OF CHAPTER

(A) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings 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 taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 194.19.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 194.091 as though the same were continuing.

194.98 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.

194.99 VIOLATIONS; PENALTY

(A) Except as provided in division (B) of this section, whoever violates Section 194.15 of this Chapter,, division (A) of Section 194.14 of this Chapter,, or Section 194.051 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 194.14 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 2nd degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the 1st 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 194.051; or

(5) Neglect or refuse to withhold or remit municipal 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 194.03, 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.

*(Source: ORC 718.99)**(Ord. 2015-93, passed 12-20-2105)***