

CODIFIED ORDINANCES OF MANTUA
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TITLE ONE - General Provisions

Chap. 101. Codified Ordinances.
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CHAPTER 101
Codified Ordinances

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

See sectional histories for similar State law

Statute of limitations on prosecutions - see Ohio R.C. 718.06; GEN. OFF. 501.06

Codification in book form - see Ohio R.C. 731.23

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

Citation issuance for minor misdemeanors - see Ohio R.C. 2935.26 et seq.

Ordinances and resolutions - see ADM. Ch. 123

Rules of construction for offenses and penalties - see GEN. OFF. 501.04

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Mantua, Ohio, 1992 for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances.
(ORC 1.01)

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

101.02 GENERAL DEFINITIONS.

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

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

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

101.03 RULES OF CONSTRUCTION.

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

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

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

(c) Calendar; Computation of Time.

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

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

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

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

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

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

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

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

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

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

(d) If the penalty, forfeiture or punishment for any offense is reduced by a re-enactment or amendment of an ordinance, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the ordinance as amended.
(ORC 1.58)

101.05 CONSTRUCTION OF SECTION REFERENCES.

(a) A reference to any portion of the Codified Ordinances applies to all re-enactments or amendments thereof.
(ORC 1.55)

(b) If a section refers to a series of numbers or letters, the first and the last numbers or letters are included.
(ORC 1.56)

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

References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances.
(ORC 1.23)

101.06 CONFLICTING PROVISIONS.

(a) If there is a conflict between figures and words in expressing a number, the words govern.
(ORC 1.46)

(b) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.
(ORC 1.51)

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

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

101.07 DETERMINATION OF LEGISLATIVE INTENT.

- (a) In enacting an ordinance, it is presumed that:
 - (1) Compliance with the constitutions of the State and of the United States is intended;
 - (2) The entire ordinance is intended to be effective;
 - (3) A just and reasonable result is intended;
 - (4) A result feasible of execution is intended.
(ORC 1.47)
- (b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective.
(ORC 1.48)
- (c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:
 - (1) The object sought to be attained;
 - (2) The circumstances under which the ordinance was enacted;
 - (3) The legislative history;
 - (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
 - (5) The consequences of a particular construction;
 - (6) The administrative construction of the ordinance.
(ORC 1.49)

101.08 SEVERABILITY.

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

101.99 GENERAL PENALTY.

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

CHAPTER 103
Official Standards

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

CROSS REFERENCES

State standard of time - see Ohio R.C. 1.04
State legal holiday - see Ohio R.C. 1.14, 5.20 et seq.
State flag - see Ohio R.C. 5.01

**CHAPTER 105
Public Records Policy**

105.01	Introduction.	105.04	Definition of public records.
105.02	Hours and costs.	105.05	Records that will not be released.
105.03	How to make a public records request.	105.06	Limitations.

105.01 INTRODUCTION.

We are an open government. We welcome participation by our citizens. We believe openness leads to a better informed public, which leads to more transparent government and better public policy. Citizens are entitled to access government records and the Public Records Act should be interpreted liberally in favor of disclosure.
(Ord. 2007-48. Passed 1-15-08.)

105.02 HOURS AND COSTS.

(a) You may make public records request in Mantua Village Police Department between the hours of 9:00 a.m. and 4:00 p.m. on weekdays, excluding government holidays.

(b) For copies of public records on 8.5 x 11 inch one sided paper in black ink, the copy costs is five cents per page. We may require you to pay the estimated copy costs before copies are made. All other copies (photos, disks, etc.) will be provided at actual cost. If records are mailed to you, we may charge you, in advance, postage and the cost of mailing materials.
(Ord. 2007-48. Passed 1-15-08.)

105.03 HOW TO MAKE A PUBLIC RECORDS REQUEST.

We will provide prompt inspection of public records and copies of public records in a reasonable period of time. When you make a request, we will ask you to complete a "Public Records Request Form," which will help us locate the records and expedite your request. You are not legally required to fill out the form, identify yourself, or give the purpose of your request. If the records cannot be provided will you wait, we will contact your when the records are available.
(Ord. 2007-48. Passed 1-15-08.)

105.04 DEFINITION OF PUBLIC RECORDS.

(a) Under Ohio law, public records are those items that meet all of the following elements:

- (1) Any document, device, or item, regardless of physical form or characteristic, including an electronic record;
- (2) That is created or received by, or coming under the jurisdiction of a public office; and
- (3) That documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. This does not include records kept for our administrative convenience.

(b) You may ask for a copy of our records retention schedule, which will familiarize you with the types of records available.
(Ord. 2007-48. Passed 1-15-08.)

105.05 RECORDS THAT WILL NOT BE RELEASED.

Under Ohio law, some records that meet the above three elements will still be withheld from release because state or federal law makes the record confidential. Some commonly-requested records that are confidential include:

- (a) Attorney-client privileged information and trial preparation records.
- (b) Social Security numbers.
- (c) Records of ongoing investigations.
- (d) Medical records.
- (e) BMV records.
- (f) Records that a judge ordered to be sealed per a statute.
- (g) Peace Officer, firefighter, EMT, prosecutor, assistant prosecutor, children's services worker, or corrections officer, Residential and Familial Information (R.C. 149.43(A)(7)).
(Ord. 2007-48. Passed 1-15-08.)

105.06 LIMITATIONS.

(a) We may limit to ten the number of public records mailed to you, unless you certify in writing that you do not intend to use the records for commercial purposes.

(b) We will not provide copies of public records that we create or receive after your original request is completed. (Ord. 2007-48. Passed 1-15-08.)

TITLE THREE - Legislative

Chap. 121. Council.

Chap. 123. Ordinances and Resolutions.

CHAPTER 121

Council

121.01 Meetings.

121.02 Bids, contracts and purchasing.

121.03 Rules.

121.04 Hours; compensation.

CROSS REFERENCES

Open meetings - see Ohio R.C. 121.22

Composition and term - see Ohio R.C. 731.09

President pro tempore - see Ohio R.C. 731.10 et seq., 733.25

Qualifications - see Ohio R.C. 731.12, 731.44

Vacancy - see Ohio R.C. 731.43

Meetings - see Ohio R.C. 731.44, 731.46

Rules and journal - see Ohio R.C. 731.45

Misconduct - see Ohio R.C. 733.72 et seq.

Contract interest - see GEN. OFF. 525.10

121.01 MEETINGS.

Council shall conduct their regular and special meetings at such times and in such manners as are provided for in Council's Rules. See Section 121.03. Article IV. (Ord. 2011-81. Passed 11-7-11.)

121.02 BIDS, CONTRACTS AND PURCHASING.

(a) In the preparation of any bid or other contract on behalf of the Village, Council herewith expresses their preference that the document not mandates that the Village participate in any alternative dispute resolution process.

(b) In obtaining any type of construction or other contract work for the Village in the amount of not less than three thousand dollars (\$3,000.00) nor more than fifty thousand dollars (\$50,000.00), the Village must obtain written quotes on the work from not less than three contractors to be submitted on standard form information quote forms promulgated and provided by the Village.

(c) No purchase or construction or other contract involving an expenditure of more than fifty thousand dollars (\$50,000.00), other than contracts for professional services, shall be made except from or with the lowest or best bidder as determined by Council after advertising for bids once a week for a period of at least two weeks in a newspaper of general circulation within the Municipality, provided, however, that Council may authorize purchases or enter into contracts involving an expenditure of more than fifty thousand dollars (\$50,000.00) without advertising for bids if it determines and declares by affirmative vote of more than two-thirds of the total number of its members that it is in the best interests of the Village, or that an emergency exists affecting the public health, safety or welfare, specifying the nature thereof in its minutes.

(d) Expenditures exceeding twenty-five thousand dollars (\$25,000.00) for the performance of professional design services shall be exempt from the competitive bidding requirement but shall require Council approval following selection of the design professional to whom such contract is to be awarded in accordance with the statutory procedures of Ohio R.C. 153.65- 153.71.

(e) The policy described in subsection (b) hereof may be waived by Council upon a vote by the majority of members elected thereto that there exists an emergency requiring immediate action to preserve the public health, safety, and welfare of the citizens of the Village. (Ord. 2011-81. Passed 11-8-11.)

121.03 RULES.

Introduction

Ohio R.C. 731.45 authorizes the Council to determine its own rules.

Such rules may not conflict with statutory procedures for the enactment of municipal legislation.

The Village of Mantua Council Rules need not be, but may be adopted by ordinance or resolution form. If adopted by motion, they do not continue from term to term, but are readopted by succeeding councils.

ARTICLE I. Presiding Officer

- (1) The Mayor is the President of the Legislative Authority of the Village of Mantua, and presides at all regular and special meetings of Council, however, has no vote except in the case of a tie. Ohio R.C. 733.24.
- (2) The President Pro-Tempore of the Council of the Village of Mantua is generally referred to as the President of Council. The President Pro-Tempore may vote upon measures coming before Council while he/she is presiding in the absence of the Mayor.

ARTICLE II. Rules of Conduct

- (1) All meetings of Council shall be called, held and conducted as prescribed by:
 - (a) The Ordinances and Resolutions of the Village of Mantua;
 - (b) The Rules of Council.

- (2) Council may, by a two-thirds vote of its members, suspend the operation of any rules either as to any meeting or any measure pending before it. Except as otherwise provided, the proceedings of Council shall be governed by Robert's Rules of Order.

ARTICLE III. Council Officers

- (1) At the first meeting in January of each year, Council shall immediately elect from its own members, a President Pro-Tempore of Council who serves for a one-year term. The President Pro-Tempore is the acting Mayor upon the absence of the Mayor, and becomes the Mayor upon the office being vacant. In the absence of the President of Legislative Authority (Mayor), and the President Pro-Tempore of Council, the Council member who has the longest consecutive tenure of office shall preside. The presiding officer of Council shall have the right to participate in the proceedings, and shall have the same voting rights as all other regular members of Council.
- (2) The President of Council shall preserve order and decorum, prevent involvement of personalities or the impugning of member's motives, confine members in debate to the question under discussion, shall decide all points of order subject to an appeal to the Council.
- (3) Expulsion of Councilperson: Council may punish or expel any member for disorderly conduct or violation of its rules, and declare his seat vacant for absence without valid excuse, where such absence has continued for two months, and has not been excused by a majority vote of Council. No expulsion shall take place without the concurrence of two-thirds of all the members elected, and until the delinquent member has been notified of the charge against him and has had an opportunity to be heard.

ARTICLE IV. Council Meetings

- (1) Dates and Times: Except as otherwise provided, regular meetings of Council shall be on the third Tuesday of each month at 7:00 p.m.; however, when such meeting date falls on a holiday, such meetings shall be held on an alternative date as determined by Council, unless otherwise announced in accordance with law.
- (2) Workshops: Council may hold a workshop as needed, which may be called for the purpose of education and acquaintance with issues that may or may not come before Council in regularly scheduled session. They are open to the public, governed by the sunshine law, and no binding decisions may be made during these workshops. Such workshops shall be announced as early as possible, preferably at the preceding month's regular scheduled meeting, or as part of the yearly calendar.

- (3) Special Meetings: Special meetings of Council may be called in order to address matters which, by their nature or issues of timeliness, should not be postponed until the regular monthly meeting of Council. Such meetings shall at all times be open to the public. Special meetings of Council may be called by the Mayor, or any three members of Council, upon at least twelve hours' notice to each member, served personally or left at his usual place of residence. It is the preference of this Council that special Council meetings be announced and published as early as possible, but in no event shall any special Council meeting be held unless at least twenty-four hours' advance notice has been given to the news media that have requested notification. No issue shall be addressed at any special Council meeting unless that issue has been included in the required notification to the news media and on the advance-prepared agenda for such meeting.
- (4) Emergency Meetings: Emergency Council meetings are only those of such an urgent nature that the regular procedure for calling a Special Council meeting cannot be followed. Such meeting may only be called in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately or the time, place, and purpose of the meeting.
- (5) Rescheduling of Regular Meetings: From time to time it may be necessary and expedient to reschedule the regular monthly meeting of Council and/or of any of its sub-committees. In such cases, the news media having requested such notification shall be notified no less than five (5) business days in advance of the new date or the regular date, whichever is earlier. Notice of the rescheduling shall also be caused to be published on the Village's Website, mantuavillage.com. (Ord. 2011-81. Passed 11-8-11.)

ARTICLE V. Order of Business

- (1) The business of regular meetings of the Council of the Village of Mantua shall be transacted in the following order:
- (a) *Pledge of Allegiance;*
 - (b) *Roll call;*
 - (c) *Mayor's report;*
 - (d) *Citizens;*
 - (e) *Clerk's report;*
 - (f) *Correspondence;*
 - (g) *Bills of Resolution;*
 - (h) *Reading and disposal of minutes of previous meetings;*
 - (i) *Legislation;*
 - (j) *Reports of Committees of Council (reports on file with the Clerk of the Village of Mantua);*
 - (k) *Any other business;*
 - (l) *Adjournment.*
- (Ord. 2013-43. Passed 5-21-13.)

- (2) The President of Council may permit any matter to be introduced out of regular order unless objected to by a majority of the members present.
- (3) When the Mayor of the Village of Mantua is present the President Pro-Tempore of Council shall yield to the Mayor (President), and allow him or her to preside over regular scheduled Council meetings; in accordance with and enforcement of Council Rules, as provided herein, and as provided by law in accordance with Ohio R.C. 733.24.
- (4) These Rules shall serve as the Agenda in the absence of a prepared agenda for the regularly scheduled meetings of Council.

ARTICLE VI. Division of Question

Any question shall be divided if it comprehends a question so distinct that if one is taken away, the other will stand as an entire question for decision. Any member may call for, or the President may direct, division of any question when it is believed such division will make for expedition or clarity.

ARTICLE VII. Official Reports

- (1) Whenever any officer or employee of the Village of Mantua makes any report or communication to Council, such report or communication shall be typed or prepared in a manner suitable for reproduction on document reproduction equipment in use by the Village of Mantua. Committee Chairpersons should distribute agendas and reports to committee members, two days prior to the committee meeting. Amendments may follow.
- (2) The Clerk shall refuse to transmit to Council or to receive on its behalf, any such report or communication which is not so submitted by 5:00 p.m. on the Thursday prior to the Council meeting.
- (3) The original report or communication shall be retained by the Clerk and placed on the permanent record of Council.

ARTICLE VIII. Permitting Non-Member to Speak

The President may recognize any non-member for the purpose of addressing Council on any questions then pending, or on any matter on which Council action is desired. In such cases, the person recognized shall address the chair, state his or her name and address the subject matter he or she desires to discuss. Remarks must be confined to the merits of the subject at issue. Speakers must be courteous and avoid discussion of personalities.

Except by permission of Council, speakers shall be limited to five minutes, unless profanity is used, or personality challenged, in which case, the non-member's time shall cease immediately, and the President and/or the President Pro-Tempore shall intervene. Upon exception, the President Pro-Tempore will delineate the additional time allotted. No citizen shall be heard more than once.

The time allotted will be monitored by the Clerk, or his/her appointee, or monitored by the speaker himself, or herself, as deemed necessary by the President of Council. A non-member may yield the floor to another; however, in contrast to Robert's Rules of Order, a non-member who yields the floor to another, only yields the floor for the remainder of his or her allotted original speaker's time.

No person who has had the floor shall be recognized until all others desiring an opportunity to speak have been given the opportunity to do so.

ARTICLE IX. Emergency Ordinances

If an emergency ordinance or resolution fails to receive a two-thirds (2/3rds) affirmative vote of all members elected or appointed to Council, such a measure shall cease to be before Council as an emergency measure, and shall have the standing that such measure would have had if it had been similarly read or voted upon as an ordinary measure instead of an emergency measure.

ARTICLE X. Reading of Legislation

As required by Ohio R.C. 731.17, no ordinance or resolution shall be passed until it has been read by title on three (3) separate days, unless the reading on three (3) separate days has been dispensed with by a three-fourths (3/4ths) vote of all members of Council.

ARTICLE XI. Amendments to Council Rules

The Council Rules set forth may be amended or altered, or new rules adopted, by a vote of the majority of all members elected or appointed to Council, present at any meeting of the Council. In the absence of a special committee appointed by the President of Council, the issue shall be referred to, and report to the Finance Committee.

ARTICLE XII. Committees

It is usual for Council to divide itself into committees to study matters that come before Council; however action must be taken on proposed legislation by the Council as a whole.

- (1) Committees. At no later than the first regular meeting of Council after its organization, the President Pro-Tempore of Council, with approval of a majority of Council, shall appoint standing committees of the following named subjects.
 - (a) Service Committee, which will consider the topics of water, sewer, streets and maintenance of Village Properties, as well as the evaluation as per Section 2.5 of the employee handbook. The Service Committee shall consist of three (3) members of Council appointed by the President Pro Tempore unless otherwise determined by vote of Council, and approved by Council.
 - (b) Finance Committee, which will consider the topics of finance, debt, rules and ordinances. The Finance Committee will also serve as the Audit Committee. The Finance Committee shall consist of three (3) members of Council appointed by the President Pro-Tempore unless otherwise determined by vote of Council, and approved by Council.
 - (c) Safety Committee, which will consider the topics of traffic and safety within the Village, dispatch services provided by the Village, the interrelation of the Village and the Joint Fire District serving Mantua Village, as well as the evaluation as per Section 2.5 of the Village Employee Handbook. The Safety Committee shall consist of three (3) members of Council appointed by the President Pro-Tempore unless otherwise determined by vote of Council, and approved by Council, as well as one representative appointed by the Mantua-Shalersville Fire Department and one representative appointed by the Village of Hiram. (Ord. 2011-81. Passed 11-8-11.)
 - (d) MSFD Fire District Board member appointed by Council President Pro Tempore, who shall attend all Fire Board meetings and submit all approved minutes, and agendas, to the Clerk of Council for the Council meeting packets. An alternate representative shall also be appointed in the same manner as the primary Board Member, who shall perform the aforementioned duties at any time the appointed Board Member is absent or unavailable. (Ord. 2012-03. Passed 1-17-12.)
 - (e) The Village Administrator and Chief of Police shall attend committee meetings as needed.
 - (f) The President Pro-Tempore of Council shall also appoint such other committees with the approval of a majority of Council as he/she deems necessary for the efficient handling of Council business.
- (2) Termination of Committee Referrals. All referrals to committees which are more than six (6) months old shall be automatically terminated and considered discharged at the end of each biennium or term of Council.
- (3) Committee Reports. The committee to which any ordinance, resolution, petition or other matter has been referred for consideration shall report to Council the status of such referral by the following regular Council meeting from such referral. Such status report shall be given by the chairperson of the committee and may be either oral or written, including solicitor and zoning reports.

- (4) Committee Meetings. All committee meetings shall be held in the Council Chambers of the Village Hall. Committees shall determine the time of day of their own committee meetings. (Ord. 2011-81. Passed 11-8-11.)
- (5) Committee Alternates.
- (a) The President Pro-Tempore of Council with the approval of Council may name alternate members to the Service Committee, the Finance Committee and the Safety Committee.
 - (b) Alternate committee member shall be appointed annually, and must be members of Council.
 - (c) In the event a regular member of a committee is absent for any reason, the alternate member shall serve during such absence. When serving in the place of a regular member of a committee, an alternate member shall have the same powers and perform the same duties as a regular member of the committee. (Ord. 2012-10. Passed 3-1-12.)

**ARTICLE XIII.
Other Boards and Commissions
(for clarity only)**

(The following is provided for clarity only.)

- (1) Planning Commission, in accordance with the Village of Mantua Code of Ordinances Section 143.01, was established in accordance with Ohio R.C. 713.01.
- The Planning Commission shall consist of the Mayor, one member of Council, to be elected thereto for the remainder of the term of such member of Council, and three citizens of the Village, as provided for in Section 143.01(b), which three citizens of the Village are appointed by the Mayor with the approval of Council.
- (2) Cemetery Board is in accordance with Ohio Revised Code and Village of Mantua Code of Ordinances Chapter 145.
- (3) Shade Tree Commission is in accordance with Codified Ordinances of the Village of Mantua, Chapter 147.
- In accordance with Mantua Code of Ordinances Section 147.03, the Shade Tree Commission shall be made up of five (5) persons, as follows:
- (a) Three (3) citizens of the Village of Mantua appointed by the Mayor with the approval of Council;
 - (b) One (1) member of Village Council appointed by Council President; and
 - (c) A member of the Parks Board designated by that Board.
- (4) Parks Board of Commissioners is in accordance with the Village of Mantua Code of Ordinances Chapter 951.

The Parks Board of Commissioners in accordance with Village of Mantua Code of Ordinances Section 951.01 shall consist of five (5) members appointed by Council, two (2) of whom shall be members of Council, with the other three (3) members being residents of the Village.

The Parks Board of Commissioners shall have the control and management of the Village Park and its facilities and all improvements and additions thereto, in accord with Section 951.02 of the Village of Mantua Code of Ordinances.

(Ord. 2011-81. Passed 11-8-11.)

(5) Alternate Members.

- (a) The Mayor with the approval of Council may name alternate members to the Shade Tree Commission and the Board of Park Commissioners.
- (b) Alternate members shall be appointed annually, and shall be residents of the Village of Mantua. Alternates may be members of Council.
- (c) In the event a regular member of a commission is absent for any reason or a seat otherwise vacant, the alternate member shall serve during such absence or vacancy. When serving in the place of a regular member of a commission, an alternate member shall have the same powers and perform the same duties as a regular member of the Commission.

(Ord. 2012-10. Passed 3-1-12.)

**ARTICLE XIV.
Clerk of Council**

- (1) Assistant. The Assistant Clerk-Treasurer, or the Administrative Services Officer if no Assistant Clerk-Treasurer is employed by the Village, shall perform any duties of Clerk of Council as directed by the Clerk-Treasurer. The Assistant Clerk-Treasurer shall also be subject to all general rules and regulations governing employees of the Village of Mantua.
- (2) Absence from Meetings. In the absence of the elected or appointed Clerk of Council, the duties of the Clerk shall be assumed by the Assistant Clerk-Treasurer, or the Administrative Services Officer if no Assistant Clerk-Treasurer is employed by the Village. In the absence of both the Clerk and his/her designee, the Council shall appoint one of its members to perform the Clerk's duties as provided in Section 733.27 of the Ohio Revised Code. Said member shall have at his/her disposal, within reason, all facilities and personnel available to assist him/her in the taking, preparation, and submittal of minutes of the Council of the Village of Mantua. (Ord. 2014-46. Passed 10-21-14.)
- (3) Duties.
 - (a) In addition to the duties usually and customarily performed by the Clerk of Council, and as such further duties may be required by law or by resolution of Council, it shall be the duty of the Clerk-Treasurer's Office to prepare a docket and agenda of the business proposed to be transacted at any regular or special Council meeting, and to cause a copy thereof to be delivered to the mailbox of each member of Council, the Mayor, and each department head, not less 5:00 p.m. on the Friday before the meeting. No document

not included in the docket or otherwise called to the attention of all members of Council at least 12 hours before the meeting, shall be submitted to Council if objected by two (2) present.

- (b) In preparing the docket and agenda for each regular Council meeting, the Clerk's Office shall only place thereon all matters received for such purpose by 5:00 p.m. the Thursday prior to the meeting for which the docket and agenda pertain. The Clerk's Office shall save until the next regular meeting, all matters received after 5:00 p.m. of the previous Thursday. The docket and agenda for special meetings shall only include those matters designated by the person calling the meeting. Supplemental dockets will only be prepared upon the approval and instructions of the President Pro-Tempore of the Village of Mantua Council.
- (c) The Clerk of Council and/or Clerk-Treasurer shall be responsible for attesting to posting, publishing, advertising, and certifying any legislation as required by law.
- (d) The following kinds of meeting notice shall be given by the Clerk of Council: Notice of the time and place of all regularly scheduled meetings; notice and time, place and purpose of all special meetings. A special meeting may not be held unless at least twenty-four (24) hours advance notice is given to the news media that have requested notification. In the event of an emergency requiring immediate official action, the member or members calling the meeting shall notify the news media (requesting notification of special meetings) immediately of the time, place and purpose of the meeting. Notice to the news media requesting notification should be considered as being jurisdictional. Any person upon request and payment of a reasonable fee, may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed. Provisions for advance notice include, but are not limited to, mailing the agenda of meetings to all subscribers in self-addressed stamped envelopes provided by the person. The Clerk of Council will establish the reasonable fee and minimum quantity of self-addressed, stamped envelopes required to effect efficient operations of his/her office.
- (e) The Clerk of Council shall be responsible for the custody, maintenance, distribution and sale according to the instructions of Council, of all copies of the Codified Ordinances, and for the sale of copies of ordinances, resolutions, and other public documents of the Village where no provision for sale is otherwise made by ordinance.
- (f) The Clerk of Council shall be responsible for recording Council meetings and for the care and custody of the recordings which shall be kept for a period of four (4) years. These minutes shall list within the body thereof, an accurate tracking of all legislation either before Council, in committee, tabled or otherwise awaiting activity before it returns to Council for consideration.
- (g) The Clerk of Council may receive funds for services and sales offered by the office of Council and shall account therefor to the Clerk-Treasurer of the Village of Mantua and the chairperson of the Finance Committee at least monthly.

- (4) Inclusion of Verbatim Transcripts. Any Council person or Village official desiring specific remarks to be included verbatim in the minutes must make such request therefore by motion at the meeting at which the remarks were made. A majority vote of Council shall be sufficient to authorize such verbatim transcript. Members of the audience shall not be permitted to request that their comments be included verbatim in Council minutes.
(Ord. 2011-81. Passed 11-8-11.)

121.04 HOURS; COMPENSATION.

- (a) The position of Village Council Member and Village Council President are designated as part-time positions.
- (b) All elected or appointed Council Members and Council President are exempted from eligibility for employee medical benefits set forth in Section 9.03 of the Village of Mantua Employee Handbook.
- (c) Regardless of the number of meetings of Council or of Committees of Council attended, compensation for the position of Council Member shall be fifty dollars (\$50.00) per month and for the position of Council President, ninety-five dollars (\$95.00) per month.
- (d) The Village of Mantua shall also contribute the appropriate employer's contribution towards OPERS. (Ord. 2011-81. Passed 11-8-11.)

CHAPTER 123
Ordinances and Resolutions

123.01 Posting of legislation.

CROSS REFERENCES

Adoption and style - see Ohio R.C. 715.03, 731.17 et seq.
Subject and amendment - see Ohio R.C. 731.19
Authentication - see Ohio R.C. 731.20
Publication in book form - see Ohio R.C. 731.23
Adoption of technical codes - see Ohio R.C. 731.231
Certification as to publication - see Ohio R.C. 731.24 et seq.
Posting - see Ohio R.C. 731.25
Initiative and referendum - see Ohio R.C. 731.28
Emergency measures - see Ohio R.C. 731.30
As evidence - see Ohio R.C. 731.42

123.01 POSTING OF LEGISLATION.

(a) Under the provisions of Ohio R.C. 731.25; the Clerk-Treasurer is hereby directed to post copies of all ordinances and resolutions required to be posted or published in the following five most public places within the Village, to-wit:

- (1) At the Mantua Police Department;
- (2) At Middlefield Bank;
- (3) At the United States Post Office;
- (4) At the Mantua Station Drug Store; and
- (5) On the Village website - @mantuavillage.com

(b) Such posting shall be for a period of fifteen days and shall be certified by the Clerk-Treasurer as to the times when and places where such posting was done.
(Ord. 2004-22. Passed 10-19-04.)

TITLE FIVE - Administrative

- Chap. 131. Mayor.
- Chap. 133. Village Administrator.
- Chap. 135. Clerk-Treasurer.
- Chap. 137. Solicitor.
- Chap. 139. Police Department.
- Chap. 141. Fire Department.
- Chap. 143. Planning Commission.
- Chap. 145. Cemetery Board.
- Chap. 147. Shade Tree Commission.
- Chap. 151. Employees Generally. (Repealed)
- Chap. 153. Audit Committee.
- Chap. 155. Records Commission.
- Chap. 157. Personal Information Collection and Protection Policies.
- Chap. 159. Historic Preservation.

**CHAPTER 131
Mayor**

131.01 Monies from marriage services.

131.02 Hours; compensation.

CROSS REFERENCES

- Acting Mayor - see Ohio R.C. 731.10 et seq., 733.25
- Election, term, qualifications and powers - see Ohio R.C. 733.24
- To be Council president - see Ohio R.C. 733.24
- Vacancy - see Ohio R.C. 733.25
- General duties - see Ohio R.C. 733.30 et seq.
- Reports to Council - see Ohio R.C. 733.32, 733.41
- Charges against delinquent officers - see Ohio R.C. 733.34 et seq.

131.01 MONIES FROM MARRIAGE SERVICES.

Council does hereby declare the following policy with reference to donations from marriage couples for services rendered by the Mayor at marriage ceremonies within the Village:

- (a) All donations shall be made to the Village of Mantua and shall be received by the Village Clerk and registered on the Village books as a donation. Said donation shall then become a part of the General Fund of the Village.
- (b) Council shall on a quarterly basis appropriate the total of said donations for additional compensation for the Mayor. (Res. 1994-2. Passed 1-10-94.)

131.02 HOURS; COMPENSATION.

- (a) The position of Village Mayor is designated as a part-time position.
- (b) He/she is exempted from eligibility for employee medical benefits set forth in Section 9.03 of the Village of Mantua Employee Handbook. (Ord. 2009-38. Passed 9-15-09.)
- (c) For the term commencing January 1, 2016, the compensation for the position of Mayor will be eight thousand, four hundred dollars (\$8,400.00) per year, payable in equal monthly installments of seven hundred dollars (\$700.00). (Ord. 2015-45. Passed 11-17-15.)
- (d) The Village of Mantua shall also contribute the appropriate employer's contribution towards OPERS. (Ord. 2009-38. Passed 9-15-09.)

CHAPTER 133
Village Administrator

133.01 Established.
133.02 Powers and duties.
133.03 Supervision.

**133.04 Board of Public Affairs
abolished.**

CROSS REFERENCES

Appointment, removal - see Ohio R.C. 735.271
Power to contract - see Ohio R.C. 731.141
Board of Trustees of Public Affairs abolished - see
Ohio R.C. 735.272
Powers and duties - see Ohio R.C. 735.271, 735.273

133.01 ESTABLISHED.

(a) In accordance with Ohio R.C. 735.271 there is hereby created the position of Village Administrator effective December 31, 1986.

(b) The compensation and benefits for the Administrator shall be as provided by Council from time to time.
(Ord. 1986-30. Passed 11-10-86.)

133.02 POWERS AND DUTIES.

The Village Administrator shall have the powers, duties and functions as provided by the general laws of the State of Ohio, including, but not limited to, the following:

- (a) The Village Administrator appointed under section 735.271 of the Revised Code shall manage, conduct, and control the water and sewer works, or other similar public utilities, furnish supplies of water, collect all water and sewer rents, and related duties as authorized under Mantua Codified Ordinances Part Nine, Title Three. The rates for service and charges for municipally owned utilities shall be determined by the legislative authority of the village.
- (b) Is responsible for the efficient and effective operation, coordination and oversight of services provided by the Village such as snow removal and street maintenance; mowing, maintenance of village governmental and public buildings and facilities, park and cemetery; brush and leaf pickup; storm and sanitary sewer systems, water treatment and distribution and waste water treatment, and shall supervise the improvement and repair of the above.
- (c) The Village Administrator may make such bylaws and regulations as he deems necessary for the safe, economical, and efficient management and protection of such works, plants, and public utilities. Such bylaws and regulations, when not inconsistent with village ordinances and resolutions or the constitution of this state, shall have the same validity as ordinances.

- (d) The Village Administrator shall have the same powers and perform the same duties as are provided in Sections 743.05 to 743.07, inclusive, 743.10, 743.11, 743.18, and 743.24 of the Revised Code, and shall perform all duties and shall have all powers of boards of public affairs and street commissioners as prescribed by law, except as otherwise provided by Sections 735.271 through 735.273 of the Revised Code.
- (e) Has authority to make contracts, purchase supplies and materials and provide labor for any work under his/her supervision involving not more than \$50,000, including but not limited to making contracts for the building of machinery, water-works buildings, reservoirs, and the enlargement and repair thereof, the manufacture and laying down of pipe, the furnishing and supplying with connections all necessary fire hydrants and keeping same in repair, provided, however, that such contracts do not exceed the sum of three thousand dollars (\$3,000). This Council deems any purchases and/or contracts exceeding \$3,000 to be non-routine transactions and are subject to the provisions of subsection (f), herein.
- (f) Any purchases exceeding three thousand dollars (\$3,000) must first be approved by the Service Committee and then by Council. Exceptions to this policy are as follows:
 - (1) Utilities as these are by their very nature routine;
 - (2) Payroll transactions as they are approved in the annual payroll ordinance approving all positions and their pay rates.
 - (3) Debt Obligations: Council approves all debt obligations and the respective payment schedule including interest.
 - (4) In the event of an emergency, the Village Administrator may consult with the Mayor and Chairperson of Finance to enter into an agreement with a vendor to eliminate the emergency. However, at the earliest possible time, the Village Administrator must provide Council with the nature of the emergency and all related expenses for retroactive express permission through resolution in conformity with relevant requirements of the Ohio Revised Code.
- (g) Contracts and purchases in excess of \$50,000 shall be made in conformance with Ohio Revised Code Sections 735.05 through 735.07 and all other relevant provisions of law.
- (h) The Village Administrator shall appoint officers, employees, agents, clerks, and assistants, provided such positions are first authorized by the legislative authority of the village; but such appointments shall be subject to approval by the Mayor. Such appointments and the Mayor's approval thereof shall be in writing, and shall be filed with the Village Clerk.
- (i) Directs, supervises and coordinates work activities of all employees under position supervision, and determines and assigns work projects as well as work schedules for said employees.
- (j) Creates a supportive and responsive work environment for employees, which includes regular staff meetings, employee evaluations and implementation of performance improvement plans as needed.
- (k) Is responsible for employee motivation and discipline including coaching, corrective counseling and oral or written reprimands, suspensions or terminations in accordance with established policies. Shall comply with all provisions of the Village of Mantua Employee Handbook and ensure that all employees under his supervision are in compliance with same.

- (l) Serves as a strong liaison between the Village of Mantua and other municipalities, Portage County and surrounding counties as necessary.
- (m) Works with the Clerk-Treasurer to establish annual balanced budget, works to control cost and increase revenue and collection. Develop, maintain, manage and control budget under position authority.
- (n) Receives residents' suggestions and complaints and works toward acceptable solutions.
- (o) Communicates with the Mayor, Service Committee and Village Council on a regular basis to advise of project status and accomplishments and when required prepares written reports.
- (p) Performs other related duties as assigned by the Mayor.
(Ord. 2013-65. Passed 7-16-13.)

133.03 SUPERVISION.

The Village Administrator shall be under the general supervision and control of the Mayor and Council.
(1986-30. Passed 11-10-86.)

133.04 BOARD OF PUBLIC AFFAIRS ABOLISHED.

After the effective date of this section, the appointment of the Village Administrator by the Mayor, and his confirmation by Council, the Board of Trustees of Public Affairs shall be abolished pursuant to Ohio R.C. 735.272.
(Ord. 1986-30. Passed 11-10-86.)

**CHAPTER 135
Clerk-Treasurer**

- | | | | |
|---------------|--|---------------|---|
| 135.01 | Clerk-Treasurer. | 135.05 | Designated accounting system. |
| 135.02 | Use of Village buildings, property, parks and equipment by non-affiliated groups. | 135.06 | Deadline for requesting purchase orders from the Clerk-Treasurer's office at the end of the fiscal year. |
| 135.03 | Fees for duplication of public documents. | 135.07 | Payment of certain monthly invoices upon receipt. |
| 135.04 | Discretion in paying bills presented late. | 135.08 | Financial correspondence. |
| | | 135.09 | Refund of deposits from Park Lodge Rentals. |

CROSS REFERENCES

- Auditing accounts - see Ohio R.C. 733.12 et seq.
- Election and term - see Ohio R.C. 733.26, 733.42
- Merger of offices of Clerk and Treasurer - see Ohio R.C. 733.261
- Powers and duties - see Ohio R.C. 733.27, 733.44
- Annual report to Council - see Ohio R.C. 733.45

135.01 CLERK-TREASURER.

(a) The position of Village Clerk-Treasurer is designated as a full-time position and will be eligible for employee medical benefits in conformity with the current policy set forth in the Village of Mantua Employee Handbook.

(b) Effective April 1, 2016, the Village Clerk-Treasurer shall be paid an annual salary of \$44,974.00. (Ord. 2015-15. Passed 5-19-15.)

- (c) (1) The person occupying this position shall serve as the Chief Fiscal Officer of the Village of Mantua, and shall be responsible for collecting and disbursing all revenues due to the Village, including the Village Income Tax and shall also serve as Clerk to the Mantua Village Council.
- (2) Additionally, the person occupying this position shall also attend all the Council meetings, keep a permanent record of all Council proceedings, as well as maintaining all enacted Village ordinances and resolutions, publishing them as required.
- (3) This person shall also serve as Chief Fiscal Officer of the Village, keeping accurate statements of monies received and expended by the Village. He/she shall keep records of all property owned by the Village, maintain accurate accounts for all funds and appropriations, in addition shall keep all records of Village Income Tax and shall settle and account with Council quarterly or as directed by ordinance or resolution.
- (4) He/she shall have the duty to deposit monies for water-work purposes.
- (5) He/she shall cause an annual audit to be completed at the end of each fiscal year, shall prohibit the overdraw of any appropriation, and require officers and departments to submit monthly reports of their receipts and expenditures. At the first Council meeting in January of each year he/she shall report on the Village financial condition, disbursements and accounts, showing the balance due on each fund. He/she shall maintain a treasury and investment account documenting the investment of funds. He/she shall also certify to the County Auditor all available sources of funds available for expenditure thus allowing the County Budget Commission to amend its certificate of estimated resources. He/she shall sign all contracts in conjunction the Mayor and provide certification that the necessary funds are available.
- (6) He/she shall also perform such other duties as directed by Council or as required by law.
(Ord. 2007-05. Passed 6-19-07.)

135.02 USE OF VILLAGE BUILDINGS, PROPERTY, PARKS AND EQUIPMENT BY NON-AFFILIATED GROUPS.

(a) Definitions.

- (1) "Village property" ("facilities") is defined as any held in total or in part through deed, use or lease.
- (2) "Non-affiliated groups" are all those in which an officer of the Village is not directed or involved in the carrying-out of his/her official duty.

(b) Usage. Non-affiliated groups requesting the use of Village facilities for educational, social, civic and recreational activities shall be subject to any and all guidelines established by the Village designed to assure the health and safety of the residents and the preservation of the facilities. No user of any Village facility may discriminate in any respect on any basis with regard to admittance, employment, or membership. There is to be no drugs used/disposed or sold on Village property. Alcohol, in the form of beer or wine requires the proper licenses and insurances as designated in ordinances.

All licenses and insurance certifications must be on file forty-eight hours prior to the event with the Chief of Police and the Clerk-Treasurer.

(c) Application Procedure. Requests for the use of Village facilities by non-affiliated groups shall be made in writing using the "Application/Agreement for Use of Village Facilities". Applications shall be submitted to the Village no later than five weeks prior to the event. In general, applications submitted by Village residents shall have precedence over others. Occasional use which does not monopolize an area, facility, or equipment is permitted without an application as long as there is no previously scheduled activity. It is the responsibility of the applicant or potential user to determine same from the Village office.

(d) Approvals and Limitations. Approvals are for the specified dates and hours. The using group shall not arrive before the time authorized and shall leave at the expiration time. No additional approvals shall be issued except by formal application.

(e) Maintenance Fees and Other Obligations.

- (1) Upon approval of a request for the use of Village facilities, the Clerk-Treasurer, or her/his designee, shall complete the fees section of the application and shall submit a copy of same as an invoice for all regular costs associated with the use of the facility. A current fee schedule covering normal and regular usage is attached to each Application/Agreement. The applicant must remit a deposit that equals or exceeds the total fees to the Clerk-Treasurer prior to the event. No waivers of fees can be authorized except by action of Council. Any additional costs associated with use or abuse as assigned after official examination of the facility must be remitted within forty-eight hours after notification. Failure to do so will mean denial of future use and a penalty fee of twenty-five dollars (\$25.00).
- (2) The Clerk-Treasurer shall provide the Police Department and the necessary service departments with a copy of the completed application no later than five days prior to the event.
- (3) Applicants are expected to become familiar with the physical condition of the facilities. The Village makes no representation as to the conditions at the time of proposed use. Authorization shall be given for entrance to and use of specific facilities only.
- (4) The applicant shall hold the Village harmless at all times from any claims or damage on account of injury using the facilities in connection with the function sponsored or operated by the applicant and/or growing out of the applicant's use and occupancy of said facilities.
- (5) Any personal property brought to the Village facilities shall be kept at the risk of the persons bringing it thereon, and the Village shall not be liable for any damage to or loss of said personal property.
- (6) No Village property shall be moved or tampered with unless permitted explicitly in the application.
- (7) All materials for decoration shall be flameproof and removed and the facility shall be left in the same condition as before the event.
- (8) Promotional and advertising materials used or distributed on Village property must be approved in advance.
- (9) The person making application and granted approval shall be responsible for the conduct of any and all participants, patrons and guests.
- (10) Approval for use of any Village facility may be revoked in an emergency, when the use will be deemed to interfere with regular Village business, when facilities are misused, or when any provision of this procedure is violated. (Ord. 1994-4. Passed 4-11-94.)

135.03 FEES FOR DUPLICATION OF PUBLIC DOCUMENTS.

(EDITOR'S NOTE: Former Section 135.03 was removed from this chapter as such fees are now set forth in the Village Personnel Policy.)

135.04 DISCRETION IN PAYING BILLS PRESENTED LATE.

The Village Clerk-Treasurer is hereby accorded discretion to pay bills not timely presented whenever the Village Clerk-Treasurer determines, in his/her sole discretion, that such payment should be issued. (Ord. 1998-42. Passed 9-14-98.)

135.05 DESIGNATED ACCOUNTING SYSTEM.

The designated accounting system, that is the official accounting system of the Village of Mantua shall be the Uniform Accounting Network (UAN). (Ord. 2001-31. Passed 9-18-01.)

135.06 DEADLINE FOR REQUESTING PURCHASE ORDERS FROM THE CLERK-TREASURER'S OFFICE AT THE END OF THE FISCAL YEAR.

As of the 1st of December in each calendar year, no Purchase Orders will be issued unless an absolute emergency has taken place and permission has been granted by the Mayor and Chairman of Finance. (Ord. 2009-9. Passed 4-21-09.)

135.07 PAYMENT OF CERTAIN MONTHLY INVOICES UPON RECEIPT.

Invoices received for the Village of Mantua's electric bills, gas bills, or any type of employee health coverage may be paid immediately by the Clerk-Treasurer upon receipt. (Ord. 2009-64. Passed 11-17-09.)

135.08 FINANCIAL CORRESPONDENCE.

(a) The Clerk-Treasurer's Office of the Village of Mantua is hereby established as the sole location in which all financial correspondence is to be directed.

(b) Original invoices shall not leave the office of the Clerk-Treasurer, however, that office shall provide copies of invoices and statements to whomever requests them.

(c) Each Department Head must sign the original invoices relevant to his/her department's expenditures prior to the monthly Council meeting as the invoices will have been placed on the Bills of Resolution for Council's approval to be paid. (Ord. 2011-44. Passed 5-17-11.)

135.09 REFUND OF DEPOSITS FROM PARK LODGE RENTALS.

Park Lodge deposits may be refunded immediately by the Clerk-Treasurer upon inspection and approval of the refund by the Park Lodge Manager. (Ord. 2011-61. Passed 7-19-11.)

CHAPTER 137
Solicitor

EDITOR'S NOTE: There are no sections in Chapter 137. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Conflict of interest - see Ohio R.C. 120.39
Legal counsel - see Ohio R.C. 733.48
Preparation of bonds - see Ohio R.C. 733.70

CHAPTER 139
Police Department

139.01 Composition.
139.02 Police officers.
139.03 Auxiliary Police Unit.

**139.04 Police Chief's policy on
routine and non-routine
transactions.**

CROSS REFERENCES

Peace officer training certificate required - see Ohio R.C. 109.77
Police protection contracts - see Ohio R.C. 505.441, 737.04
Composition - see Ohio R.C. 715.05, 737.16
General powers and duties - see Ohio 737.11, 737.18
Auxiliary police unit - see Ohio R.C. 737.161
Probationary period; final appointment - see Ohio R.C. 737.17
Removal and appeal - see Ohio R.C. 737.171

139.01 COMPOSITION.

(a) The Police Department shall be composed of the officers hereinafter set forth who shall perform the duties prescribed by law and ordinance.

- (1) A full-time Chief of Police.
- (2) A Lieutenant of Police.
- (3) One or more Sergeants of Police.
- (4) One or more part-time Officers.
- (5) One or more Auxiliary Officers.
- (6) A full-time Head Dispatcher.
- (7) One or more part-time Dispatchers.
- (8) A Cleaning Person. (Ord. 2017-03. Passed 2-21-17.)

(b) The positions of Lieutenant and Sergeant may be held by part-time officers. Appointment or promotion of officers to these positions shall be subject to approval by Council pursuant to the relevant sections of Ordinance 2010-24 as enacted and subsequently amended. (Ord. 2012-71. Passed 12-18-12.)

139.02 POLICE OFFICERS.

(a) Appointment. The Mayor shall, when such positions are authorized by Council, and subject to its confirmation, appoint all police officers. All such officers shall continue in office until removed therefrom for the cause and in the manner provided by section 737.19 of the Ohio Revised Code or pursuant to section 737.162 thereof.

(b) Medical examination. No person shall receive an appointment under this section unless the person has, not more than sixty days prior to receiving such appointment, passed a physical examination, given by a licensed physician, a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife, showing that the person meets the physical requirements necessary to perform the duties of the position to which the person is to be appointed as established by the Village Council. The appointing authority shall, prior to making any such appointment, file with the Ohio police and fire pension fund a copy of the report or findings of said licensed physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife. The professional fee for such physical examination shall be paid for by the Village.

(c) Probationary Period; Final Appointment. All appointments made under this section shall be for a probationary period of six months' continuous service, and none shall be finally made until the appointee has satisfactorily served his probationary period. At the end of the probationary period the Mayor shall transmit to the Village Council a record of such employee's service with his recommendations thereon and he may, with the concurrence of the legislative authority, remove or finally appoint the employee.
(Ord. 2012-71. Passed 12-18-12.)

139.03 AUXILIARY POLICE UNIT.

(a) Appointment of Members. There is created within the Police Department an auxiliary police unit, the members of which shall be appointed by the Mayor per Section 737.161 of the Ohio Revised Code.

(b) Auxiliary officers do not serve probationary periods and have no statutory right to continued employment. As a result, such officers serve at the Mayor's pleasure and are terminable at will.

(c) Auxiliary Police Officers shall within one year of appointment complete and receive State certification from the Ohio Peace Officer Training Commission. This is per the Ohio Administrative Code, 109:2-1-07 and 109:2-1-12. Any training required will be at their own cost.

(d) Command of Unit. The Chief of Police shall be the commanding officer and shall have control over the assignment, training, stationing and direction of all members of the Auxiliary Police Unit. The Auxiliary Police Unit shall have all police powers, but shall perform only such police duties as are assigned to them by the Chief of Police whose primary duties are to preserve the peace, protect life and property and enforce the laws of the State of Ohio and the ordinances of the Village of Mantua. Auxiliary officers shall only act in such capacity while on active duty and shall obey the chain of command of the Police Department.

(e) Rules and Regulations. The Chief of Police, under the direction of the Mayor, shall prescribe the rules and regulations for the administration, conduct and control of the Auxiliary Police Unit. Auxiliary Officers shall also comply with all personnel policies and procedures set forth in the Village of Mantua Employee Handbook.

(f) Uniforms. The Chief of Police shall determine what type of uniform or part thereof shall be worn by members of the Auxiliary Police Unit. Auxiliary Police Officers who have served one year or more shall be entitled to a uniform allowance as set forth in the Mantua Village Employee Handbook.

(g) Use of Uniform. No Auxiliary Police Officer shall appear in public in uniform unless scheduled or called to duty by the Chief of Police or officer in charge of the police department.

(h) Initial Service Period.

(1) Until State certification from the Ohio Peace Officer Training Commission is received, Auxiliary Police Officers shall not be permitted to carry firearms and shall not have arrest powers. During their in-service-training and field training, each Auxiliary Police Officer shall be assigned a training officer.

(2) Auxiliary Police Officers who have successfully completed the initial service period described in section (h)(1) may volunteer to be placed on the schedule without a training officer and shall work assigned shifts on their own.

(i) Compensation. Auxiliary Police Officers serve on a voluntary basis, and shall be paid \$10.00 per year on their anniversary date of their appointment.

(j) Required Hours to Maintain Commission. Auxiliary Police Officers will be required to volunteer at least 16 hours per month; such hours must be approved by the Chief of Police.

(k) Each member of the Auxiliary Police Unit shall give a performance bond in the sum of one thousand dollars (\$1000). Such bond shall be at Village expense. (Ord. 2012-71. Passed 12-18-12.)

139.04 POLICE CHIEF'S POLICY ON ROUTINE AND NON-ROUTINE TRANSACTIONS.

(a) The Chief of Police has the authority to purchase goods and enter into consulting contracts which do not exceed three thousand dollars (\$3,000) as we consider these to be routine transactions which may be considered day to day transactions. Any purchases exceeding three thousand dollars (\$3,000) must first be approved by the Safety Committee and then by Council in advance as this Council agrees that any expenditures exceeding three thousand dollars (\$3,000) are to be considered non-routine transactions.

- (b) Exceptions to this policy are as follows:
- (1) Utilities as these are by their very nature routine;
 - (2) Payroll transactions as they are approved in the annual payroll ordinance approving all positions and their pay rates.
 - (3) Debt obligations: Council approves all debt obligations and the respective payment schedule including interest.

(c) In the event of an emergency, the Chief of Police may consult with the Mayor and Chairperson of Finance to enter into an agreement with a vendor to eliminate the emergency. However, at the earliest possible time, the Chief must provide Council with the nature of the emergency and all related expenses for retroactive express permission through resolutions.
(Ord. 2012-71. Passed 12-18-12.)

CHAPTER 141
Fire Department

EDITOR'S NOTE: There are no section in Chapter 141. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Volunteer Firemen's Dependents Fund - see Ohio R.C. Ch. 146
Fire protection contracts - see Ohio R.C. 307.05, 505.44,
717.02
Schooling, buildings and equipment - see Ohio R.C. 715.05,
737.23 et seq.
Composition - see Ohio R.C. 715.05, 737.21 et seq.

CHAPTER 143
Planning Commission

143.01 Established.

CROSS REFERENCES

Established - see Ohio R.C. 713.01

Powers and duties - see Ohio R.C. 713.02, 713.06

143.01 ESTABLISHED.

(a) There is hereby established a Planning Commission in accordance with Ohio R.C. 713.01. (Ord. 1960-312. Passed 3-14-60.)

(b) The Planning Commission shall consist of the Mayor, one member of Council to be elected thereto for the remainder of the term of such member of Council, and three citizens of the Village to be appointed by the Mayor with the approval of Council, for terms of six (6) years each, except that the term of one of the members of the first Commission shall be for four (4) years, and one (1) for two (2) years. (Ord. 2008-30. Passed 10-21-08.)

(c) All such members shall serve without compensation.

(d) The Planning Commission shall have all the powers conferred upon Planning Commission of a Village by Ohio R.C. 713.01-713.15 inclusive including the authority to control the height, design, and location of buildings under Ohio R.C. 713.04. (Ord. 1960-312. Passed 3-14-60.)

(e) Any member of a city or village planning commission established under this section may hold any other public office and may serve as a member of a county, and a regional planning commission. (Ord. 2006-04. Passed 1-17-06.)

**CHAPTER 145
Cemetery Board**

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|---------------|--|---------------|--|
| 145.01 | Board of Cemetery Trustees established. | 145.03 | Cemetery Superintendent. |
| 145.02 | Organization of Board of Cemetery Trustees. | 145.04 | Interest on Cemetery Trust Funds. |

CROSS REFERENCES

Burials may be prohibited - see Ohio R.C. 759.05
Burial permits - see Ohio R.C. 3705.24 et seq.
Burial of indigent persons - see Ohio R.C. 5113.15

145.01 BOARD OF CEMETERY TRUSTEES ESTABLISHED.

(a) The Mayor shall appoint a Board to be known as the Board of Cemetery Trustees. Such Board shall consist of three members, whose terms of office are as follows: one member for a term expiring in January 2018, one member for a term expiring in January 2020, and one member for a term expiring in January 2022. As these terms expire and thereafter each even numbered year, the Mayor shall appoint one member for a term of six years at the first regular meeting of Council.

(b) In the case of a vacancy in the Board of Cemetery Trustees by reason of resignation, death, disability, or removal from office of a member, the Mayor shall appoint a member to fill such vacancy. An appointment to fill a vacancy shall be made at the first meeting of Council after such vacancy has been brought to the attention of the Mayor and Council. Such appointments shall be for the remainder of the unexpired term of the member so replaced.

(c) The Mayor may remove from office any member of the Board of Cemetery Trustees for misconduct, neglect of duty, or malfeasance in office.
(Ord. 2017-47. Passed 1-16-18.)

145.02 ORGANIZATION OF BOARD OF CEMETERY TRUSTEES.

(a) The Cemetery Board shall have general policy review and planning duties for Hillside Cemetery subject to the appropriations of Council, and such other powers and duties as may be conferred upon it by Council not inconsistent herewith.

(b) Rules, regulations and policies recommended by the Cemetery Board shall be submitted to the Service Committee for review and final approval by Council.

(c) Meetings of the Cemetery Board shall be held on a regularly scheduled basis in a room designated at Village Administration Building. Such meetings shall be open to the public.

(d) The Cemetery Board shall submit a report to the Mayor, Village Administrator and Council at least twice a year. These reports shall be submitted by February 1st and October 1st.

(e) The Superintendent shall be the supervisor at the Cemetery and shall be responsible for the control, management and regulation thereof, subject to the policy making and planning power vested in the Cemetery Board.

(f) Labor and equipment to perform the work shall be supplied by, and shall be under the supervision of the Superintendent, who shall also be responsible for the purchasing function.

(g) All deeds and all records pertaining to the cemetery shall be kept at the Village Hall in a fireproof safe which has been provided through the trust fund. In the event that a new safe and/or other supplies are needed, they shall be paid for through the Cemetery Trust Fund as provided herein. The books and records shall be kept by the name of the owner of the lot and the funeral home, if any.

(Ord. 2017-47. Passed 1-16-18.)

145.03 CEMETERY SUPERINTENDENT

(a) The Mantua Village Administrator shall be the Superintendent of the Hillside Cemetery. The Village Administrator will submit a report to the Mayor, Cemetery Board and Council at least twice a year by April 1st and November 1st.

(b) The Superintendent shall be notified when grave lots are sold or opened.

(c) The Superintendent shall coordinate cemetery maintenance. The Village Maintenance Department will provide opening and closing of graves and general maintenance of the cemetery. General maintenance of the cemetery, mowing, tree and brush trimming will be done on an as needed basis as determined by the Superintendent. The Superintendent shall also coordinate the filling of low lying areas and grass planting between May 1 and October 1, as the need become apparent. Damage to headstones shall be reported to the Superintendent by filling out an incident report. (Ord. 2017-47. Passed 1-16-18.)

145.04 INTEREST ON CEMETERY TRUST FUNDS.

(a) The Cemetery Trust Funds shall only be expended according to their terms, and expenses therefrom are subject to submission to the Trustee of the Funds and approval by the Probate Court.

(b) All expenditures of the Cemetery Trust Fund monies shall be approved by Village Council with notification to the Cemetery Board. The Cemetery Board may recommend expenditures to the Village Council for consideration.

(c) Cemetery Trustees are to receive an annual report on the Cemetery Trust Fund from the Village Clerk-Treasurer.
(Ord. 2017-47. Passed 1-16-18.)

CHAPTER 147
Shade Tree Commission

147.01	Short title.		
147.02	Definitions.	147.18	Abuse and/or mutilation of public trees.
147.03	Creation and establishment of a Tree Commission.	147.19	Placing materials on public property.
147.04	Compensation.	147.20	Protection of public trees.
147.05	Operation.	147.21	Public utility companies.
147.06	Duties and responsibilities.	147.22	Emergencies.
147.07	Master Tree Plan.	147.23	Moving large objects.
147.08	Tree species to be planted.	147.24	Interference with the Tree Commission.
147.09	Planting site requirements.	147.25	Registration of tree experts.
147.10	Distance from curb and sidewalk.	147.26	Permit to maintain or remove trees.
147.11	Distance from street corners and fire hydrants.	147.27	Commission as trustee.
147.12	Utilities.	147.28	Establishment of Fund.
147.13	Public tree care.	147.29	Review by Council.
147.14	Removal, replanting and replacement of public trees.	147.30	Appeal procedure.
147.15	Topping of public trees.	147.31	Violation and penalty.
147.16	Obstructions.	147.32	Severability.
147.17	Dead or diseased tree removal	147.33	Conflict.

CROSS REFERENCES

Power to regulate shade trees and shrubbery - see Ohio R.C. 715.20
Assessment for planting or maintenance - see Ohio R.C. 727.011

147.01 SHORT TITLE.

This chapter shall be known and may be cited as the Tree Ordinance of the Village of Mantua, Ohio. (Ord. 1995-15. Passed 5-18-95.)

147.02 DEFINITIONS.

As used within this chapter, the following terms shall have the meanings set forth in this section:

- (a) "Tree":
 - (1) Shall mean any living plant with needles or scale-type leaves that has a well defined stem or stems with a diameter of at least six (6) inches at 4 1/2 feet from the surface from the ground.
 - (2) Any living, self-supporting woody broad leaf plant that has a well defined stem or stems with a diameter of at least two (2) inches at 4 1/2 feet from the surface of the ground
 - (3) Any living self supporting woody plant that has a well-defined stem or stems which has been intentionally cultivated and established.
- (b) "Public Trees" shall include all trees now or hereafter growing on any street, park or any other public site.
- (c) "Streets, Alleys, Highways or Ways" shall mean the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right for purposes of vehicular and pedestrian traffic.
- (d) "Property Line" shall mean the legal boundary line between private and Village owned land.
- (e) "Tree Lawn" shall mean that part of a street not covered by a sidewalk or other paving, lying between the property line and that portion of the street usually used for vehicular traffic.
- (f) "Property Owner" shall mean that person owning such property as shown by the County Auditor's Plat of Portage County, State of Ohio.
- (g) "Large Trees" are designated as those attaining a height of fifty (50) feet or more.
- (h) "Medium Trees" are designated as those attaining a height of thirty (30) to fifty (50) feet.
- (i) "Small Trees" are designated as those under thirty (30) feet.
- (j) "Remove or Removal" shall mean the removal of all above and below ground parts, including the stump and roots.
- (k) "Diameter at Breast Height, (D.B.H.)" shall mean a tree's diameter in inches measured by a diameter tape at 4 1/2 feet from the surface of the ground. On trees having multiple stems, the largest diameter stem will be measured.
- (l) "Parks" shall include any Village public spaces designated for recreation and/or conservation.
- (m) "Public Site" shall include any other ground owned by the Village.
- (n) "Dripline" shall mean the approximately circular vertical extension to the ground of the outer most branches and/or leaves of the tree as an indication of the spread of the root system.
- (o) "Hazard Zone" of a tree is the area inside a circle whose radius is equal to the height of the tree, the center being the trunk.
(Ord. 1995-15. Passed 5-18-95.)

147.03 CREATION AND ESTABLISHMENT OF A TREE COMMISSION.

(a) There is hereby created and established a Shade Tree Commission for the Village of Mantua, Ohio, which commission shall be composed of the following five (5) citizens and residents of the Village of Mantua: Three (3) of said members shall be appointed by the Mayor with approval of Council; the fourth member shall be a member of Council appointed by the Mayor with the approval of the Council; and the fifth shall be a member of the Park Board. There shall also be one alternate member appointed annually by the Mayor, who shall serve when required to constitute a quorum in the event of member absence or vacancy of one or more seats.

(Ord. 2012-30. Passed 6-19-12.)

(b) Prior to January 31, of each year the Commission shall meet and elect a member to serve as Chairman of the Commission. The Chairman shall have the authority to call and conduct meetings of the Commission, and to receive all permit applications, correspondence, and other materials on behalf of the Commission.

(c) The term of the three (3) persons of the Shade Tree Commission to be appointed by the Mayor shall be for three (3) years, except the term of two of the members appointed to the first commission shall be one year and two years respectively. In the event that a vacancy occurs during the term of any member, his successor shall be appointed for the unexpired portion of their term. The members from the Council and Park Board shall serve on the Commission during their continuance in their respective elective/appointed offices.

(Ord. 1995-15. Passed 5-18-95.)

147.04 COMPENSATION.

Members of the Tree Commission shall serve without compensation, but shall be entitled to reimbursement for any and all necessary expenditures in carrying out the duties of said Commission and may retain the services of qualified professionals as may be necessary to facilitate the function of said Commission, providing funds are available in appropriations and the expenditure is pre-approved by the Clerk-Treasurer.

(Ord. 1995-15. Passed 5-18-95.)

147.05 OPERATION.

The Tree Commission shall meet once per calendar quarter, shall hold its first meeting in the month following enactment of this Chapter, and shall elect its officers at its January meeting each year. A majority of members shall constitute a quorum and any actions of the Tree Commission may be taken by a majority of the members present at the meeting at which the action is taken. A Special Meeting may be called by the Chairman or in his/her absence, any three Tree Commissioners. (Ord. 1998-4. Passed 2-9-98.)

147.06 DUTIES AND RESPONSIBILITIES.

(a) It shall be the responsibility of the Tree Commission to develop, administer and maintain a written plan to be known as the Master Tree Plan.

(b) The Tree Commission, when requested by Council, shall consider, investigate, make finding, report and recommend upon any special matter or question coming within the scope of its work. The Tree Commission shall study the problems and determine the needs of the Village in connection with its tree planting program.

(c) The Tree Commission shall recommend to the Village Administer the type and kind of trees to be planted upon such Village Streets or parts of Village streets or in parks or cemeteries as designated.

(d) The Tree Commission shall assist the Village Administrator, as well as the Council and citizens of the Municipality in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same be on private or public property and to make such recommendations from time to time to Council as the desirable legislation concerning tree planting program and activities for the Municipality. The Tree Commission shall work in conjunction with civic and public interest groups devoted to tree care and preservation.

(e) The Tree Commission shall convene Regular and Special Meetings at which the subject of trees, insofar as it relates to the Municipality may be discussed by members of the Tree Commission, Officers and Personnel of the Village and its several divisions and all others interested in the tree program.

(f) The Tree Commission shall have the authority to investigate and recommend "Reasonable Conditions" to the granting of a permit in accordance with the terms of this chapter. (Ord. 1995-15. Passed 5-18-95.)

147.07 MASTER TREE PLAN.

The Tree Commission shall have the authority to formulate a Master Tree Plan. The Master Tree Plan shall include the inventory of existing public trees and shall specify the requirements for the care, preservation, pruning, planting, replanting, and removal or disposition of trees in parks, along streets and on other public sites and shall specify the species of tree to be planted in these areas. The Master Tree Plan shall be updated and presented to Council annually and upon their acceptance and approval shall constitute the official comprehensive Master Tree Plan for the Village. From and after the effective date of the Master Tree Plan, or any amendment thereof, all planting shall conform thereto.

- (a) The Tree Commission shall have the responsibility of inventory (and classifying as to location, species, size, condition and evaluation) the existing public trees, as an integral part of the Master Tree Plan. This inventory shall be updated annually.
- (b) The Tree Commission shall consider all existing and proposed buildings, utilities and environmental factors when recommending the planting of a specific species or other work for all streets and public sites within the Village. (Ord. 1995-15. Passed 5-18-95.)

147.08 TREE SPECIES TO BE PLANTED.

The Tree Commission shall develop and maintain a list of desirable large, medium and small trees for planting in parks, along streets and on other public sites based on mature height. Lists of trees not suitable for planting in these areas shall also be created by the Tree Commission. (Ord. 1995-15. Passed 5-18-95.)

147.09 PLANTING SITE REQUIREMENTS.

The spacing of trees planted along streets will be in accordance with the three species size classes listed in Section 147.08. Specifications requirements will be developed and maintained by the Tree Commission. (Ord. 1995-15. Passed 5-18-95.)

147.10 DISTANCE FROM CURB AND SIDEWALK.

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in Section 147.08. No trees may be planted closer to any curb, curblines or sidewalk than the following: large trees - 4 feet; medium trees - 3 feet; and small trees - 2 feet.

(Ord. 1995-15. Passed 5-18-95.)

147.11 DISTANCE FROM STREET CORNERS AND FIRE HYDRANTS.

No trees shall be planted closer than 35 feet from any street corner, measured from the point of nearest intersecting curbs or curblines. No tree shall be planted closer than ten feet from any fire hydrant. (Ord. 1995-15. Passed 5-18-95.)

147.12 UTILITIES.

No public tree other than those species referred to as small trees in Section 147.08 may be planted under or within 10 lateral feet of any overhead utility wire.

(Ord. 1995-15. Passed 5-18-95.)

147.13 PUBLIC TREE CARE.

The Village shall have the right to plant, prune, maintain and remove all public trees, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of public sites. The Tree Commission may remove or cause to be removed, any public tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious disease, insect or fungus. This section does not prohibit the planting of a tree along streets by property owners providing that the selection of said tree is in accordance with Section 147.08 through Section 147.12. No property owner shall plant a tree within the right-of-way without first obtaining a permit from the Village Administrator.

(Ord. 1995-15. Passed 5-18-95.)

147.14 REMOVAL, REPLANTING AND REPLACEMENT OF PUBLIC TREES.

(a) Whenever it is necessary to remove a public tree in connection with the paving of a sidewalk or the widening of the portion of a street or highway, the Village shall cause to replant the tree or replace it with a species listed in Section 147.08. This requirement will be satisfied an equivalent number of trees are planted at the nearest appropriate location as determined by the Tree Commission.

(b) No person shall remove a public tree for the purpose of construction or any other reason without the written permission of Council, with the advisement of the Tree Commission. Village Council, with the advisement of the Tree Commission may require replacement of a removed tree as a condition to said Commission's approval. Such replacement shall be in accordance with the species listed in Section 147.08. The person or property owner shall bear the cost of removal and replacement of all public trees removed.

(Ord. 1995-15. Passed 5-18-95.)

147.15 TOPPING OF PUBLIC TREES.

It shall be unlawful as a normal practice for any person, firm, or Village Department to top any public tree. Topping is defined as the severe cutting back of limbs so as to remove the normal canopy and disfigure the tree. Public trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this chapter at the determination of the Village Administrator.

(Ord. 1995-15. Passed 5-18-95.)

147.16 OBSTRUCTIONS.

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct the vision of traffic signs or obstruct the view of any street intersection. Said persons shall remove all dead, diseased or dangerous trees, or broken decayed limbs which constitute a menace to the safety of the public. The minimum clearance of any overhanging portion thereof shall be eight (8) feet over sidewalks, and fourteen (14) feet over all streets except truck thoroughfares which shall have a clearance of sixteen (16) feet.

- (a) Notice to Prune. Should any person or persons owning real property bordering on any street fail to prune trees or herein above provided, Council shall order such person or persons, within thirty (30) days after receipt of written notice, to so prune such trees.
- (b) Order Required. The order herein shall be served by certified mail to the last known address of the property owner.
- (c) Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the Village to prune such trees and assess the property owner for the cost of services rendered.
(Ord. 1995-15. Passed 5-18-95.)

147.17 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The Village shall have the right to cause the removal of any trees on private property, whose Hazard Zone falls within the right-of-way or of Village property, within the Village, when such trees constitute a hazard to life and property.

- (a) Notice to Remove. Should any person or persons fail to remove trees as herein provided, Council shall order such person or persons within thirty (30) days after receipt of written notice, to remove such trees.
- (b) Order Required. The order herein shall be served by certified mail to the last known address of the property owner.
- (c) Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time it shall be lawful for the Village to cause the removal of such trees.
- (d) Costs.
 - (1) In the case of a tree voluntarily removed by a property owner pursuant to notice or order under this section, the Village and the property owner shall each obtain an estimate for the work, and the lower estimate shall be used. The Village will reimburse the property owner one-half (1/2) of the costs reflected on the lower estimate upon completion of the work, including stump-grinding.
 - (2) In the event that the Village is required to undertake the required removal itself, the Village shall bill, assess or otherwise recover from the property owner for one-half (1/2) of the costs incurred by the Village for such removal in any manner permitted by law.
 - (3) In cases under (1) or (2) above, where the tree removal can be safely undertaken by Village personnel with Village equipment, the cost to be shared between the Village and the property owner shall be the cost for any work that cannot be performed by Village personnel.
(Ord. 2011-76. Passed 12-13-11.)

147.18 ABUSE AND/OR MUTILATION OF PUBLIC TREES.

Unless specifically authorized by Council, no person or firm shall intentionally damage, cut, carve, transplant, whether above or below ground, or transplant or remove any public tree; attach any rope, wire, nails, advertising posters or other contrivance to any public tree, allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or heat therefrom will injure any portion of any public tree. No person shall pour salt water or a chemical or chemicals upon any street right-of-way in such a way as to injure any tree planted or growing thereon. The Village shall not be restricted in the use of anti-icing materials.

(Ord. 1995-15. Passed 5-18-95.)

147.19 PLACING MATERIALS ON PUBLIC PROPERTY.

No person shall deposit, place, store or maintain upon any public place of the Village, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air and fertilizer to the roots of any public tree growing therein, except by written approval of Council.

(Ord. 1995-15. Passed 5-18-95.)

147.20 PROTECTION OF PUBLIC TREES.

All public trees located near any excavation or construction of any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four (4) feet high placed at the dripline. All laborers, building material, dirt or other debris shall be kept outside this barrier. Council may permit a variance in cases where the barrier would impede the flow of traffic on a street, private street or driveway and where the dripline overhangs a building or permanent structure. No person shall excavate any ditches or trenches within the dripline of a public tree without first obtaining the written approval of Council.

(Ord. 1995-15. Passed 5-18-95.)

147.21 PUBLIC UTILITY COMPANIES.

(a) No public utility shall trim or remove trees located within the public right of way within the Village of Mantua, Ohio without first providing not less than 72 hours advance notice of said tree trimming or tree removal to the Village of Mantua, Ohio.

(b) Said notice shall be accomplished by written notice to the Village Clerk or any other duly elected Village Official.

(c) The requirement for advanced notice shall not be required in emergency service restoration work, when said emergency service restoration work is due to acts of God or acts of nature.

(d) Any public utility failing to provide advanced notice prior to removing or trimming trees located within the public right of way within the Village of Mantua, Ohio, shall be guilty of unlawful removal or trimming of trees, and upon being found guilty of such violation, shall be fined five hundred dollars (\$500.00). In addition, any unnecessary injury, mutilation or death of a tree is caused as a result of the failure to provide notice as required by this section, the cost of repair or replacement of such tree shall be ordered in addition to the fine set forth above.

(Ord. 1995-15. Passed 5-18-95.)

147.22 EMERGENCIES.

In the case of officially declared emergencies, such as windstorms, ice storms, or other disasters, the requirements shall be waived so that the requirements of this chapter would in no way hinder public and/or private work to restore order in the Village. This work shall follow maintenance standards as outlined by the Tree Commission.
(Ord. 1995-15. Passed 5-18-95.)

147.23 MOVING LARGE OBJECTS.

No person shall move any building or other large object that may injure public trees, or parts thereof, without first obtaining the written approval of the Council with the advisement of the Tree Commission.
(Ord. 1995-15. Passed 5-18-95.)

147.24 INTERFERENCE WITH THE TREE COMMISSION.

No person shall hinder, prevent, delay or interfere with the Tree Commission, or any of its agents, while engaged in carrying out the execution or enforcement of this chapter on public or private property; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the Municipality.
(Ord. 1995-15. Passed 5-18-95.)

147.25 REGISTRATION OF TREE EXPERTS.

To protect the public, the Village shall require any person or firm engaged in the business of maintenance and/or removal of public and private trees whose hazard zone falls upon public land to be licensed by the Village. Additionally, any property owner maintaining and/or removing public or private trees whose hazard zone falls upon public land shall first obtain a permit issued by the Village.

- (a) A class "A" license is required to prune, maintain or remove trees. Requirements for a class "A" license shall be as follows:
 - (1) The license fee shall be in accordance with existing rate schedule as ordained by ordinance.
 - (2) Before any license shall be issued, each applicant shall first file evidence verifying:
 - A. Coverage by Workman's' Compensation
 - B. Liability Insurance coverage in the minimum amount of five hundred thousand dollars (\$500,000) for bodily injury and damage to property to cover and save harmless the Village and its agents from all suits, claims or actions or every class and nature for or on persons or property damage caused or claimed to be caused, directly or indirectly by the conduct of the work contemplated, or by the acts of strangers, or any conditions due to the elements or any defects or insufficiencies in any method, material, ways machinery, equipment or apparatus used in connection with the work.
 - C. Work must be performed under the supervision of a certified arborist, certified by the International Society of Arboriculture.

- (b) For removal only of public trees and for removal only of private trees that fall within a hazard zone, a class "B" license is required. Requirements for a class "B" license shall be as follows:
- (1) The license fee shall be in accordance with existing rate schedule as ordained by ordinance.
 - (2) Before any license shall be issued, each applicant shall first file evidence verifying:
 - A. Coverage by Workman's Compensation.
 - B. Liability insurance coverage in the minimum amount of five hundred thousand dollars (\$500,000) for bodily injury and damage to the property to cover and save harmless the Village and its agents from all suits, claims or actions of every class and nature for or on persons or property damage caused or claimed to be caused, directly or indirectly by the conduct of the work contemplated, or by acts of strangers, or any conditions due to the elements or any defects or insufficiencies in any method, material, ways, machinery, equipment, or apparatus used in the connection of the work.
- (c) A permit issued by the Village shall be required of any private property owner maintaining or removing any public or private tree whose hazard zone falls upon public land. The requirements for said permit shall be as follows:
- (1) The permit fee shall be in accordance with existing rate schedule as ordained by ordinance.
 - (2) Before the permit is issued, each private property owner shall first file evidence verifying homeowner's insurance coverage for bodily injury or damage to property to cover and save harmless the Village and its agents from all suits, claims, or actions of every class and nature for or on persons or property damage caused or claim to be caused, directly or indirectly by the maintenance or removal of said tree.

All licensed persons and or companies shall perform work according to the National Arborist Association standards and accepted Arboricultural practices.

All licensed persons and or companies shall operate under the guidelines specified in the ANSI Z133. (Ord. 1995-15. Passed 5-18-95.)

147.26 PERMIT TO MAINTAIN OR REMOVE TREES.

(a) Any property owner maintaining and/or removing public or private trees whose hazard zone falls upon public land shall first obtain a permit issued by the Village in accordance with the requirements of this section.

(b) A permit issued by the Village shall be required of any private property owner maintaining or removing any public or private tree whose hazard zone falls upon public land. The requirements for said permit shall be as follows:

- (1) The permit fee shall be in accordance with the existing rate schedule as ordained by ordinance.
- (2) Before the permit is issued, each private property owner shall first file evidence verifying home owners insurance coverage for bodily injury or damage to property to cover and save harmless the Village and its agents from all suits, claims or actions of every class and nature for or on persons or property damage caused or claimed to be caused, directly or indirectly, by the maintenance or removal of said tree.
(Ord. 1995-15. Passed 5-18-95.)

147.27 COMMISSION AS TRUSTEE.

The Tree Commission may act as trustee for any property, assets or funds donated to the Municipality for the care and maintenance of public trees, provided the donor designates or provides for the designation of the Commission as such trustee. In such an event, the Commission shall have all those powers and duties necessary to carry out the purpose of the trust.

(Ord. 1995-15. Passed 5-18-95.)

147.28 ESTABLISHMENT OF FUND.

(a) A rotary trust fund account, within the various funds of the Village, known as the "Tree Commission Fund Account" is hereby established which is to be utilized for the receipt of license and permit fees, bond monies generally, grant monies, damages, penalties and donations. Disbursement shall be solely for the purpose of encouraging the planting, maintenance and relocation of public trees, within the Municipality under the jurisdiction of the Tree Commission.

(b) The Clerk-Treasurer of the Village is authorized and directed to receive such monies at intermittent intervals, to segregate them into the trust fund account for the purpose herein mentioned, and thereafter to periodically disburse any funds that shall be appropriated to provide for the planting, maintenance and relocation of public trees, within the Municipality under the jurisdiction of the Tree Commission.

(Ord. 1995-15. Passed 5-18-95.)

147.29 REVIEW BY COUNCIL.

Council shall have the right to review the conduct, acts and decisions of the Tree Commission. (Ord. 1995-15. Passed 5-18-95.)

147.30 APPEAL PROCEDURE.

Any adjustment of the standards required by this chapter or an appeal of a decision of the Tree Commission shall be taken to Council. Council upon receipt of a written request, shall have the authority and duty to consider and act upon the request. This application shall clearly and in detail state what adjustments or requirements are being sought, reasons such adjustments or requirements are being sought, reasons such adjustments are warranted and shall be accompanied with such supplementary data as is deemed necessary to substantiate the adjustment. Council may approve, modify or deny the requested adjustment, based upon the protection of public interest, preservation of the intent of this chapter and possible unreasonable hardships involved in the case. Council shall act on the application as expeditiously as possible and shall notify the applicant in writing within 5 days to take the action.

(Ord. 1995-15. Passed 5-18-95.)

147.31 VIOLATION AND PENALTY.

Any person or firm violating any provision of this chapter or who fails to comply with any notice issued pursuant to the provisions of this chapter, upon being found guilty of violation, shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each separate offense. Each day during which any violation of the provisions of the chapter shall occur or continue shall be a separate offense. If, as the result of the violation of any provision of this chapter, the injury, mutilation or death of a tree is caused, the cost of repair or replacement of such tree shall be borne by the party in violation. The replacement value of trees shall be determined in accordance with the latest revision of "Valuation of Landscape Trees, Shrubs and Other Plants" as published by the International Society of Arboriculture.

(Ord. 1995-15. Passed 5-18-95.)

147.32 SEVERABILITY.

Should any section, clause or provision of this chapter be declared by the Courts to be invalid, the same shall not affect the validity of the chapter as a whole, or parts thereof, other than the part so declared to be invalid.

(Ord. 1995-15. Passed 5-18-95.)

147.33 CONFLICT.

In the event of a conflict between any provision of this chapter, including any rules and regulations adopted pursuant to its provisions and any provisions of any other ordinances of the Village including any rules and regulations adopted pursuant to such ordinances, the more restrictive provision or provisions shall prevail.

(Ord. 1995-15. Passed 5-18-95.)

CHAPTER 151

Employees Generally

EDITOR'S NOTE: Pursuant to Ordinance 2010-24, passed August 17, 2010, the Village has repealed former Chapter 151 and enacted new legislation entitled Personnel Policies which establishes personnel policies and practices applicable to all Village employee. Copies of such policy is on file at Village Hall.

CROSS REFERENCES

Welfare - see Ohio Const., Art. II, Sec. 34
Worker's compensation - see Ohio Const., Art II, Sec. 35; Ohio R.C. Ch. 4123
Public Employees Retirement System - see Ohio R.C. Ch. 145
Expenses for attendance at conference or convention - see Ohio R.C. 733.79
Vacation credit - see Ohio R.C. 9.44
Ethics - see Ohio R.C. Ch. 102

CHAPTER 153
Audit Committee

153.01 Composition; term; vacancy.
153.02 Purpose; powers; duties.

153.03 Meetings.

153.01 COMPOSITION; TERM; VACANCY.

There is hereby established the Mantua Audit Committee, which shall consist of five members, as follows:

- (a) The President Pro Tempore of Village Council;
- (b) One other member of Council who is not on the Administrative, Personnel and Finance (APF) Committee of Council;
- (c) Three Mantua residents who are not members of Village Council.

Other than the President Pro-Tempore of Council, all other members of this committee shall be appointed by the Mayor and confirmed by Council for the following terms: the other member of Council shall serve a term ending December 31, 2003. Two of the other members who are not members of City Council shall serve terms ending December 31, 2002. The final Committee member who is not a member of Council shall serve a term ending December 31, 2003. Thereafter, all members appointed shall serve two (2) year terms ending December 31st. All members shall continue to serve until their successors are appointed.

Additionally, the Mayor and Clerk-Treasurer shall serve as ex officio members of this Committee.

- (d) Committee Vacancies. Any vacancies on the Committee shall be filled for the balance of the term by appointment by the Mayor and confirmed by Council. (Ord. 2001-55. Passed 2-5-02.)

153.02 PURPOSE; POWERS; DUTIES.

The purpose of the Audit Committee shall be to recommend improvement of the Village's financial activities, and provide assistance to the Village in State Audits which the Village undergoes, by doing the following:

- (a) Meet with the Audit team from the Auditor of State's Office or its appropriate representative(s) prior to the audit to review the scope and terms of the audit engagement;
- (b) Meet with the Audit team or its appropriate representative(s) to review the results of the audit. This preferably would be during the post audit conference;

- (c) Review and comment upon any material changes in the internal control systems and accounting policies/procedures addressed in the engagement letter and audit reports;
 - (d) Assist in selecting any independent professional accounting firm whenever the Village determines to pursue this option;
 - (e) Review and evaluate any potential conflict of interest and/or ethical conflict;
 - (f) Conduct meetings on an “as needed” basis; and
 - (g) Make any other inquiry assigned to it by Council or the Mayor.
- (Ord. 2001-55. Passed 2-5-02.)

153.03 MEETINGS.

The Committee shall conduct periodic meetings. A quorum shall be simple majority of the Committee’s voting members, with all proceedings to follow Robert’s Rules of Order.
(Ord. 2001-55. Passed 2-5-02.)

**CHAPTER 155
Records Commission**

**155.01 Creation; members.
155.02 Duties.**

155.03 Procedure for records disposal.

CROSS REFERENCES

Creation of Village Records Commission - see Ohio R.C. 149.39
Tampering with records - see GEN. OFF. 545.14

155.01 CREATION; MEMBERS.

- (a) There is hereby created the Village Records Commission composed of the Mayor, who shall act as chairman, the Clerk-Treasurer, the Solicitor and a citizen to be appointed by the Mayor.
- (b) The Commission shall appoint a secretary who shall not be a member of the Commission and shall serve at the pleasure of the chairman.
- (c) The Commission shall meet at least once every six months and upon call of the Commission. (Ord. 1998-27. Passed 8-10-98.)

155.02 DUTIES.

The functions of the Records Commission shall be to provide the rules for retention and disposal of records of the Village and to review records disposal lists submitted by the various municipal officers. The municipal list contains those records which have been microfilmed or no longer have administrative, legal or fiscal value to the Village or to its citizens. The records may be disposed of by the Commission pursuant to the procedure outlined in this chapter. (Ord. 1998-27. Passed 8-10-98.)

155.03 PROCEDURES FOR RECORDS DISPOSAL.

When municipal records have been approved by the Records Commission for disposal, a list of such records shall be sent to the Bureau of Inspection and Supervision of Public Offices of the Auditor of State. Should the Auditor of State disapprove of the action by the Records Commission, in whole or in part, it shall so inform the Commission within a period of sixty days and these records shall not be destroyed. Before public records are otherwise disposed of, the Ohio Historical Society shall also be informed and given the opportunity for a period of sixty days to select for its custody or disposal such public records as it considers to be of continuing historical value. Furthermore, the Mantua Historical Society shall also be informed and given the opportunity for a period of sixty days to select for its custody or disposal such public records as it considers to be of continuing historical value. (Ord. 1998-27. Passed 8-10-98.)

CHAPTER 157
Personal Information Collection and Protection Policies

157.01 Personal information system established; administration.

157.02 Purpose.

157.03 Management of personal information system.

157.04 Unauthorized disclosure through system security breach.

157.01 PERSONAL INFORMATION SYSTEM ESTABLISHED; ADMINISTRATION.

- (a) There is hereby created the Village of Mantua Personal Information System.
- (b) Such system shall control the collection of personal information by the Village, excepting therefrom activity by Municipal officials which pertains to enforcement of criminal laws, including police efforts to prevent, control or reduce crime or to apprehend criminals, including information obtained by a Municipal Prosecutor or County Prosecutor and further including information obtained by the Criminal Courts.
- (c) The Clerk/Treasurer is hereby appointed to be directly responsible for the system.
- (d) Each Department of the Village shall keep such records as are necessary for its proper functioning and under the supervision of the Mayor each department head shall be responsible for proper record keeping so as to comply with Ohio R.C. Chapter 1347 and with any ordinance adopted by the Village. Nothing in this chapter prohibits the department head from delegating authority to another person in his department.
- (e) The provisions of this chapter shall not be construed to prohibit the release of public records, or the disclosure of personal information in public records, as defined in Ohio R.C. 149.43, or to authorize a public body to hold an executive session for the discussion of personal information if the executive session is not authorized under Ohio R.C. 121.22(G). (Ord. 2011-26. Passed 6-21-11.)

157.02 PURPOSE.

Personal information records comprising the Municipal personal information system shall be kept by the following departments for the following purposes:

- (a) Water Department. For the purpose of obtaining information necessary to assure the users of the Mantua Water Distribution System with water, to allow determination of water usage, to allow for collection of rates charged for usage and such other information as necessary for the proper functioning of the Department.
- (b) Street Department. For the purpose of obtaining information necessary for maintaining a good and adequate system of streets, alleys and other public thoroughfares and for the proper functioning of the Department.

- (c) Sewer Department. To provide the Village with a good and adequate waste sewage disposal system, including information needed for determining an adequate rate system and collections procedure and all other information as is necessary for the proper functioning of the Department.
- (d) Police Department. For the purpose of obtaining information necessary for the proper functioning of the Department, however the Police Department shall be exempt to the extent permitted by Ohio R.C. 1347.04.
- (e) The Zoning Department. For the purpose of obtaining information necessary to enforce the various Zoning Codes of the Village and such other information as is necessary for the proper functioning of the Department.
- (f) Clerk-Treasurer. For the purpose of obtaining information necessary to perform the duties imposed on the office by law and all other information which is necessary for the proper functioning of the office.
- (g) The Mayor and Village Solicitor. For the purpose of obtaining necessary information to properly perform their respective duties and when applicable certain information so obtained may be exempt as provided by Ohio R.C. Chapter 1347.
- (h) Income Tax Department. For the purpose of obtaining information necessary to insure collection of the income tax due to the Village, including necessary information to determine if income tax is owed the Village.
- (i) Other. In addition to all other information permitted to be collected by this chapter, the Village, through its proper officers, employees, agencies or departments may obtain such personal information as is necessary for the following reasons:
 - (1) To comply with the various laws of the United States of America and the State.
 - (2) To employ proper officers or employees for the various departments of the Village.
 - (3) To properly compensate officers and employees of the Village.
 - (4) To properly promote, demote, dismiss or discipline officers or employees.
 - (5) For the proper functioning of Municipal affairs.
(Ord. 2011-26. Passed 6-21-11.)

157.03 MANAGEMENT OF PERSONAL INFORMATION SYSTEM.

(a) The Clerk/Treasurer is hereby appointed to be directly responsible for the personal information system.

(b) Any employee who initiates or otherwise contributes to any disciplinary or other punitive action against any individual who brings to the attention of appropriate authorities, the press, or any member of the public, evidence of unauthorized use of information contained in the system shall be deemed to have committed a "Group 2" disciplinary offense pursuant to the Village of Mantua Employee Handbook, and shall be disciplined accordingly.

(c) Prior to obtaining any personal information, other than name and address of a person, any employee of the Village covered by this chapter shall first advise such person as to whether or not such person is legally required to or may refuse to supply the information requested.

(d) No employee of the Village shall collect any personal information from any person other than is necessary and relevant to the functions of the agency or particular department of the agency as is required for the proper functioning of the Village or the particular department or which is required by laws of the United States of America, the State or by administrative ruling or regulations of either the United States of America or the State.

(e) A copy of this chapter shall be given to the Mayor, Clerk of Council, Law Director, every Department Head and each and every other person having any responsibility in the operation of the system or for the use of personal information maintained in the system.

(f) Only personal information that is necessary and relevant to the functioning of the particular department shall be collected. Such information shall be collected and such information shall be accurate, complete and timely so as to assure fairness in any determination with respect to the person on the basis of the information.

(g) Personal information no longer necessary for the proper functioning of a particular department shall be eliminated as authorized by the Village's Records Retention Policy, and all personal information with the system shall be kept in a safe place accessible only to authorized personnel.

(h) No personal information from the Municipal personal information system shall be released to any person or agency outside the Municipal personal information system, unless one or more of the following applies:

- (1) Such disclosures as are consistent with newly developed programs, or where the health, safety or welfare of the public is involved.
- (2) Such disclosure is with the consent of or at the request of the person involved.
- (3) The information has been requested pursuant to a Public Records Request as governed by Ohio R.C. 149.43.
- (4) For any other purpose consistent with the intent and purpose of Ohio R.C. Chapter 1347.

(i) The Rights of any person who is the subject of personal information maintained by the Village, and methods of resolving disputes concerning personal information therein will be as set forth in Ohio R.C. Chapter 1347. (Ord. 2011-26. Passed 6-21-11.)

157.04 UNAUTHORIZED DISCLOSURE THROUGH SYSTEM SECURITY BREACH.

(a) As used in this section, "Breach of the security of the system" means unauthorized access to and acquisition of computerized data that compromises the security or confidentiality of personal information maintained by the Village or any of its departments, and that causes, reasonably is believed to have caused, or reasonably is believed will cause a material risk of identity theft or other fraud to the person or property of a resident of this State.

(b) The Village shall disclose any breach of the security of the system, following its discovery or notification of the breach of the security of the system, to any resident of this State whose personal information was, or reasonably is believed to have been, accessed and acquired by an unauthorized person if the access and acquisition by the unauthorized person causes or reasonably is believed will cause a material risk of identity theft or other fraud to the resident. For purposes of this section, a resident of this State is an individual whose principal mailing address as reflected in the records of the state agency or agency of a political subdivision is in this State.

(c) The Village shall make the disclosure described in subsection (b) of this section in the most expedient time possible but not later than forty-five days following its discovery or notification of the breach in the security of the system, subject to the legitimate needs of law enforcement activities described in division (d) of this section and consistent with any measures necessary to determine the scope of the breach, including which resident's personal information was accessed and acquired, and to restore the reasonable integrity of the data system.

(d) The Village may delay the disclosure or notification required by this section if a law enforcement agency determines that the disclosure or notification will impede a criminal investigation or jeopardize homeland or national security. In which case, the state agency or agency of a political subdivision shall make the disclosure or notification after the law enforcement agency determines that disclosure or notification will not compromise the investigation or jeopardize homeland or national security.

(e) For purposes of this section, the Village may disclose or make a notification by any of the following methods:

- (1) Written notice;
- (2) Electronic notice, if the Village's primary method of communication with the resident to whom the disclosure must be made is by electronic means;
- (3) Telephone notice;
- (4) Substitute notice in accordance with this division, if the Village does not have sufficient contact information to provide notice in a manner described in subsection (e)(1), (2), or (3) of this section, or as otherwise specified in Ohio R.C. 1347.12(E)(4). Substitute notice under this division shall consist of all of the following:
 - A. Electronic mail notice if the Village has an electronic mail address for the resident to whom the disclosure must be made;
 - B. Conspicuous posting of the disclosure or notice on the Village's Web Site;
 - C. Notification to major media outlets, to the extent that the cumulative total of the readership, viewing audience, or listening audience of all of the outlets so notified equals or exceeds seventy-five per cent of the population of this State.

(f) If the Village discovers circumstances that require disclosure under this section to more than one thousand residents of this State involved in a single occurrence of a breach of the security of the system, the Village shall notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis of the timing, distribution, and content of the disclosure given by Village to the residents of this State. In no case shall the Village delay any disclosure or notification required by subsection (b) or (c) of this section in order to make the notification required by this subsection.
(Ord. 2011-26. Passed 6-21-11.)

CHAPTER 159
Historic Preservation

159.01	Statement of purpose.	159.09	Duties of the Commission.
159.02	Definitions.	159.10	Designations of listed properties.
159.03	Establishment of Historic Landmarks Commission.	159.11	Limitations or construction and demolition.
159.04	Conflict of interest.	159.12	Issuance of certificate of appropriateness.
159.05	Meetings.	159.13	Exclusions and exemptions.
159.06	Compensation.	159.14	Penalty.
159.07	Records.	159.15	Severability.
159.08	Organization and procedures of the Commission.		

159.01 STATEMENT OF PURPOSE.

The Village Council, being mindful of the proud history of this community, hereby declares as a matter of public policy that the preservation, protection, perpetuation and use of areas, places, buildings, structures, works of art and other objects having a special historical, community, or aesthetic interest or value is a public necessity and is required in the interest of health, prosperity, safety, and welfare of the people. The purposes of this chapter are:

- (a) To maintain and enhance the distinctive character of the historic resources of Mantua by establishment of procedures whereby certain areas, places, buildings, structures and works of art which reflect elements of the Village's cultural, social, economic, political, or architectural history shall be allowed that measure of protection afforded by a thorough study of alternatives to incompatible alterations or demolition before such acts are performed.
- (b) To contribute to the economic, recreational, cultural and educational development of the Village by:
 - (1) Fostering civic pride in the beauty and notable accomplishments of the past;
 - (2) Promoting the use and preservation of historic sites and structures for the education and general welfare of the people of the Village;
 - (3) Enhancing the visual and aesthetic character, diversity and interest of the Village;

- (4) Facilitating the rehabilitation and revitalization of certain older neighborhoods and areas;
- (5) Protecting and enhancing attractions to residents, tourists and visitors;
- (6) Stabilizing and improving property values; and
- (7) Stimulating business and attracting development.
(Ord. 2012-49. Passed 11-20-12.)

159.02 DEFINITIONS.

(a) "Alter" or "alteration" means any exterior visual or material change to any property listed on the National Historic Register. For the purpose of this ordinance, alterations shall include a change in design, color, texture, material or exterior feature. Ordinary maintenance to correct any deterioration, decay or damage to a structure and to restore the structure to its condition prior to such deterioration, decay or damage are excluded from the definition of "alteration", provided such work does not involve a change in design, color, texture, material or exterior feature.

(b) "Applicant" means any owner, owners, association, partnership or corporation who applies for a certificate of appropriateness.

(c) "Architect" means a person duly licensed as a registered architect by the State of Ohio.

(d) "Certificate of Appropriateness" means a certificate issued by the Mantua Historic Landmarks Commission to an applicant stating that a proposed alteration, demolition or new construction to a listed property is appropriate under the provisions of this ordinance.

(e) "Commission" means the Historic Landmarks Commission of the Village of Mantua.

(f) "Council" means the village Council of the Village of Mantua, Ohio.

(g) "Demolish" or "demolition" means the razing or removal, in whole or in part, of any structure.

(h) "Environmental feature" means any natural or man-made object, attachment, or landscaping that is intended as part of the visual composition of a site, including but not limited to fences, driveways, exterior lighting fixtures, and trees.

(i) "Exterior architectural feature" means the architectural style, general design and general arrangement of the exterior of a building or other structure including but not limited to windows, doors, porches, storefronts, cornices, siding materials, decorative trim, signs and other fixtures appurtenant to the exterior of a building.

(j) "Listed property" means any property which has special character, historic, aesthetic or architectural value as part of the heritage, development or cultural characteristics of the State, or the United States and which has been designated as a listed property pursuant to the provisions of the Secretary of the Interior's National Register of Historic Places and The Ohio Historic Preservation Office, and pursuant to the Provisions of this ordinance.

- (k) "Member" means any member of the Historic Landmarks Commission.
- (l) "Owner" means the owner of record, and the term includes the plural as well as the singular.
- (m) "Ordinary maintenance" includes the repair of existing exterior architectural features including but not limited to the roof, eaves, downspouts, siding, windows and doors of a listed property providing that it does not result in a change of design, color, texture, material or exterior architectural feature. For the purposes of this ordinance the sandblasting of masonry is not considered ordinary maintenance.
- (n) "Property" means any area, place, site (including an archeological site), building, structure, object or work of art.
- (o) "Reconstruction" means the reproducing by new construction the exact form and detail of a vanished structure, or apart thereof, as it appeared at a specific period of time.
- (p) "Substantial hardship" means a condition unique to the property under consideration and a condition under which an action by the Commission would force the applicant to suffer practical difficulty and denial of the reasonable use of the property.
- (q) "Verbal boundary description" is a detailed description which delineates the physical extent of a property. If the boundaries do not coincide with legally recorded boundaries (lot or parcel number, deed book and page number), then street names, property lines, geographical features and other lines of convenience which clearly distinguish the listed property from its surroundings may be used. This is also frequently referred to as a "metes and bounds" description. (Ord. 2012-49. Passed 11-20-12.)

159.03 ESTABLISHMENT OF HISTORIC LANDMARKS COMMISSION.

In recognition of the need for the establishment of a public body that will provide for the protection and enhancement of the distinctive character of the historic resources of the Village and for the objective review of alternatives to proposed alteration or demolition of certain notable structures, works of art, objects or areas within the Village, Council hereby adopts this ordinance and establishes the Mantua Historic Landmarks Commission. The Mantua Historic Landmarks Commission, hereinafter referred to as the Commission, shall consist of seven (7) members, and who shall be appointed by the Mayor with the approval of Council. All members should have to the highest extent possible a recognized knowledge of and a known interest in architectural and/or historic preservation and design together with a determination to work for the overall improvement of the quality of the Village's physical environment. At least two (2) members of the Commission shall be preservation related professional members from the fields of archaeology, architecture, architectural history, history, planning or a related discipline to the extent they are available in the community and willing to serve; and at least one (1) member shall be a property owner within the Village. Nominations should be sought from the Mantua Historical Society, the Board of Realtors, and any other group or organization that might have an interest in the work of the Commission. Two (2) members shall be appointed for an initial term of one (1) year; two (2) members shall be appointed for an initial term of two (2) years; and three (3) members shall be appointed for an initial term of three (3) years. All subsequent terms for members shall be for a period of three (3) years. Vacancies caused by death, resignation or otherwise shall be filled within sixty (60) days unless extenuating circumstances require longer period. In this case, an extension may be given in writing upon petition of the Village. (Ord. 2013-06. Passed 2-19-13.)

159.04 CONFLICT OF INTEREST.

No voting member of the Commission shall participate in the review of any item for discussion before such Commission if such member has any direct financial interest in the property involved in such discussion.
(Ord. 2012-49. Passed 11-20-12.)

159.05 MEETINGS.

The Commission shall hold a minimum of four (4) meetings on an annual basis as determined by the Chairperson of the Commission; and additional meetings when required as a result of an application for a certificate of appropriateness or an emergency relating to any listed property. All such meetings shall be held in the Village Council Chambers. All meetings must have a previously advertised agenda unless such emergency conditions exist as to present a threat to the property owner's or the general public's health or safety. Public notice must be given at least one week prior to all special meetings except in an emergency situation. A quorum shall be a simple majority of the Commission voting members.
(Ord. 2013-55. Passed 8-19-13.)

159.06 COMPENSATION.

No compensation shall be paid to a member of the Commission for services performed on this Commission. All operating expenses incurred by the Commission are the responsibility of the Village Council. All fines collected as a result of noncompliance with this ordinance will be used for the operating expenses of the Commission.
(Ord. 2012-49. Passed 11-20-12.)

159.07 RECORDS.

The Commission shall maintain complete records of all listed properties, written rules and guidelines for Commission proceedings in a book kept for such records in the office of the Clerk of Council for public view. The Commission Secretary shall be responsible for maintaining the records and the records shall be reviewed twice a year by the Commission for completeness.
(Ord. 2012-49. Passed 11-20-12.)

159.08 ORGANIZATION AND PROCEDURES OF THE COMMISSION.

As soon as it is convenient following their appointment by Council, the Commission shall meet and elect a chairman, a vice-chairman to serve in the absence of the chairman, and a secretary. The Commission shall adopt its own rules of procedure, which shall be made available for public inspection. The rules of procedure shall provide for regular and special meetings which will be held in a public place. All review decisions and nominations for designations to the National Historic Register will be made in a public forum, with the applicants notified of meetings and advised of decisions. Annual reports, written minutes of actions, and decisions and the written reasons for making those decisions by the Commission shall be made available for public inspection.
(Ord. 2012-49. Passed 11-20-12.)

159.09 DUTIES OF THE COMMISSION.

The Commission shall have the following duties in addition to those otherwise specified in this chapter:

- (a) To improve the quality of life in the Village by striving to further and achieve the spirit and purpose of this ordinance;

- (b) To conduct or cause to be conducted or assist in the conduct of a continuing survey of all structures, works of art, objects or areas or architectural, historic or aesthetic interest in the Village, which the Commission believes, on the basis of information available or presented to it, are or will be eligible for designation as a listed property;
- (c) To work for the continuing education of the residents of the Village with respect to the architectural and historic heritage of the Village and the listed properties designated under the provisions of this ordinance, and shall make every effort to improve the citizenry's awareness of these concerns.
- (d) To work cooperatively with planners, developers, the Village and others in long-range planning efforts to ensure the inclusion of historic preservation values in such planning efforts;
- (e) To review proposed National Register nominations for the properties within its jurisdiction and forward comments to the State Historic Preservation Officer;
- (f) To employ technical experts and such other employees as may be required to perform its duties, within any appropriations made available therefore, and to perform such other related tasks within its capabilities;
- (g) To conduct or encourage members to attend educational sessions at least once a year pertaining to the function of the Commission or relating to specific historic preservation issues;
- (h) To make recommendations for designation of listed properties to Council;
- (i) To keep a current register of all listed properties. All listed properties shall be given a number, a description accompanied by a photograph, and the reason for the listing. This register shall also include verbal boundary descriptions of listed properties. The register will be made available to the public and to any other interested party, except that access to archaeological site locations may be restricted. All listed property inventory material shall be maintained securely. All inventory material shall be updated once annually, and duplicates of these records (with contact prints) will be made available to The Ohio Historic Preservation Office;
- (j) To review and act upon all applications for "certificates of appropriateness" as required by this ordinance;
- (k) To establish criteria, rules and regulations not otherwise included in this ordinance for evaluating applications for certificates of appropriateness submitted to it and the manner in which they shall be processed;
- (l) To use the Secretary of the Interior's "Standards for Rehabilitation" for making decisions on requests for certificates of appropriateness submitted to it;
- (m) To consider whether the failure to issue a certificate of appropriateness will involve a "substantial hardship" to the applicant and whether the certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the interest and purposes stated herein; and
- (n) To make recommendation to Council for additions or revisions to this ordinance. Additional responsibilities may be undertaken by the Commission upon mutual written agreement between the State Historic Preservation Officer and the Village Council. A written agreement will address what duties are to be performed, what staff assistance is needed to perform the work, and what level of activity in each area of responsibility will be maintained. All delegated responsibilities must be complementary.
(Ord. 2012-49. Passed 11-20-12.)

159.10 DESIGNATIONS OF LISTED PROPERTIES.

(a) In considering the designation of any area, place, building, structure, object or work of art in the Village as a listed property, the Commission shall apply the following criteria with respect to such property. One (1) or more of the following must apply:

- (1) Its character, interest or value as a part of the development, heritage or cultural characteristics of the Village, State or the United States;
- (2) Its location as the site of a significant historic event;
- (3) Its identification with a person or persons who significantly contributed to the culture and development of the Village;
- (4) Its exemplification of the cultural, economic, social, archaeological or historic heritage of the Village;
- (5) Its portrayal or the environment of a group of people in an era of history characterized by a distinctive architectural style;
- (6) Its embodiment of distinguishing characteristics of an architectural type or specimen;
- (7) Its identification as the work of an architect or master builder whose individual work has influenced the development of the Village;
- (8) Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;
- (9) Its relationship to other distinctive areas which are eligible for preservation according to plan based on historic, cultural or architectural innovation;
- (10) Its unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood or the Village; or
- (11) Its having yielded, or have a likelihood of yielding, information important to the understanding of prehistory or history.

(b) The Commission shall notify the owner of any proposal to list his/her property. The Commission shall secure the owner's written consent for the proposed designation and upon receipt of such consent the property shall be listed upon favorable recommendation of the Commission to Council and upon approval by Council at a regular or special session of Council.

(c) Before recommendation for local designation of a property is made to the Village Council by the Commission, the property owner shall give the Commission written notice of his/her approval or objection to the proposed listing within thirty (30) days from the time he/she is notified of the proposed listing on the appropriate form supplied to them by the Commission. Upon receipt of the form, the Village Council will take the appropriate action within thirty (30) days regarding the local listing of the property. No property shall be listed without the owner's consent. No exterior alteration to the Property shall take place until Council has acted on the proposed listing unless Council makes a determination that an emergency exists.
(Ord. 2012-49. Passed 11-20-12.)

159.11 LIMITATIONS OR CONSTRUCTION AND DEMOLITION.

No construction, reconstruction, alteration or demolition of any structure or significant exterior architectural feature of any listed property shall be undertaken prior to obtaining a certificate of appropriateness from the Commission in the manner described herein.
(Ord. 2012-49. Passed 11-20-12.)

159.12 ISSUANCE OF CERTIFICATE OF APPROPRIATENESS.

(a) When the owner of a listed property desires to make any change in design, color, texture, materials or exterior features, including construction, reconstruction, alteration or demolition or any change in environmental features, such owner or his/her agent shall apply for and secure a certificate of appropriateness from the Commission. The application for the certificate of appropriateness shall be filed with the Commission in such form and with such plans, specifications and other materials as the Commission may from time to time prescribe.

(b) The Commission shall consider such application, plans, specifications and other material at the next regularly scheduled meeting of the Commission provided that a completed application is filed at least two (2) weeks prior to the meeting. If the Commission determines that no architectural or environmental feature is involved, they shall issue a certificate of appropriateness.

(c) In the event that the Commission finds that an architectural feature is involved, the Commission shall determine whether or not the proposed construction, reconstruction, alteration or demolition is appropriate. In making such determination the Commission shall refer to the Secretary of the Interior's Standards for Rehabilitation as design guidelines to determine eligibility for a certificate of appropriateness.

(d) In the event that the Commission finds such proposed construction, reconstruction, alteration or demolition is appropriate, then the secretary of the Commission shall issue certificate of appropriateness. The issuance must take place within thirty (30) days after the initial review.

(e) In the event that the Commission finds such proposed construction, reconstruction, alteration or demolition is not appropriate, then the Commission shall deny issuance of a certificate of appropriateness. The notice of denial must take place within thirty (30) days of initial review. Appeals of the decision of the Commission shall be made to the Council. Council shall make a decision on an appeal for a certificate of appropriateness within thirty (30) days of receipt of the appeal.

(f) In the event the Commission determines that a certificate of appropriateness will not be issued, it shall forthwith state in its records the reasons for such determination and may include recommendations respecting the proposed construction, reconstruction, alteration, demolition or change to any listed property. The secretary of the Commission shall notify the applicant of such determination and transmit to him/her reasons for denial and recommendations, if any, of the Commission.

(g) At its discretion, the Commission may establish a waiting period not to exceed one (1) year, during which time no action shall be taken on the issuance or denial of a certificate of appropriateness in cases involving the demolition of a listed property. During such waiting period, the Commission shall negotiate with the owner of the property in order to develop a compromise proposal acceptable to both. The first meeting between the Commission and the owner shall take place within thirty (30) days from the date of denial of the certificate of appropriateness and both parties must continue to have good faith meetings at least every forty-five (45) days after the initial meeting. If a compromise proposal is accepted by both parties, then the Commission may issue a certificate of appropriateness.

(h) Where a parking lot or garage is proposed as a replacement structure or project, a technical study of all parking needs of the facility or area which such parking lot or structure is proposed to serve must be submitted along with the application for a certificate of appropriateness. Where no replacements structure or project is proposed, the Commission may consider the application as if a parking area was proposed.
(Ord. 2012-49. Passed 11-20-12.)

159.13 EXCLUSIONS AND EXEMPTIONS.

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any property or area listed under the provisions of this ordinance provided such work involves no change in design, color, texture, material or exterior appearance; nor shall anything in this ordinance be construed to prevent any change, including the construction, reconstruction, alteration or demolition of any feature which, in the view of the Village Council, acting lawfully, is required for the public health or safety because of an unsafe or dangerous condition, or which is required for provision of police, fire suppression or ambulance services.
(Ord. 2012-49. Passed 11-20-12.)

159.14 PENALTY.

Whoever violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this chapter shall be guilty of a minor misdemeanor for each offense, and each day's violation of any such provisions shall constitute a separate offense.
(Ord. 2012-49. Passed 11-20-12.)

159.15 SEVERABILITY.

The provisions of this chapter shall be severable, and the holding of any provision or section thereof to be unlawful shall not affect any other provision or section than that expressly held to be invalid. (Ord. 2012-49. Passed 11-20-12.)

TITLE SEVEN - Taxation

Chap. 171. Income Tax.

Chap. 173. Income Tax Effective January 1, 2016.

Chap. 175. Motor Vehicle License Tax.

CHAPTER 171
Income Tax

171.01	Purpose.	171.10	Interest and penalties.
171.02	Definitions.	171.11	Collection of unpaid
171.03	Imposition of tax.		and refunds of
	overpayments.		
171.04	Effective period.	171.12	Board of Review.
171.05	Return and payment of tax.	171.13	Allocation of funds.
171.06	Collection at source.	171.14	Credit for tax paid to
171.07	Declarations.		another municipality.
171.08	Duties of the Tax	171.15	Saving clause.
	Administrator.	171.16	Collection of tax after
171.09	Investigative powers of the	171.99	termination of chapter.
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	divulging confidential		
	information.		

CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42

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

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

171.01 PURPOSE.

To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the Village of Mantua there shall be, and is hereby levied a tax on salaries, wages, commissions, and other compensation, and on the net profits as hereinafter provided. (Ord. 1976-13. Passed 6-14-76.)

171.02 DEFINITIONS.

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

- (a) "Tax Administrator" means the individual designated by the ordinance whether appointed or elected to administer and enforce the provisions of this chapter; the Tax Administrator shall be responsible, subject to and supervised and controlled by the Clerk-Treasurer.
- (b) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in Section 171.12.
- (d) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (f) "Employee" means one who works for wages, salaries, commission or other type of compensation in the service of an employer.
- (g) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.
- (h) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (i) "Gross receipts" means the total income from any source whatsoever.
- (j) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with all accounting system used by the taxpayer for Federal Income Tax purposes, without deduction of taxes imposed by this chapter, federal, state, and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this chapter.
- (k) "Nonresident" means an individual domiciled outside the Village of Mantua.
- (l) "Resident" means an individual domiciled in the Village of Mantua.
- (m) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (n) "Person" means every natural person, partnership, fiduciary, association, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.

- (o) "Place of Business" means any Bona Fide Office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees in attendance.
- (p) "Resident Unincorporated Business Entity" means an unincorporated business entity having an office or place of business within the Village.
- (q) "Taxable Income" means wages, salaries and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (r) "Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (s) "Taxpayer" means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.
- (t) The singular shall include the plural, and the masculine shall include the feminine and the neuter.
(Ord. 1976-13. Passed 6-14-76.)

171.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 171.14, an annual tax for the purposes specified in Section 171.01, hereafter shall be imposed for an indefinite period beginning July 1, 1981, and continuing until this section is repealed or otherwise rendered ineffective at the rate of one and one-half percent (1.5%) per annum upon the following;
(Ord. 81-4. Passed 6-8-81; Ord. 1988-4. Passed 2-1-88.)

- (1) On all salaries, wages, commissions and other compensation earned and received or earned and accrued during the effective period of this chapter by residents of the Village. "Other compensation" shall include, but not be limited to, income from gaming, wagering, lotteries (including the Ohio State lottery) in an amount of one thousand dollars (\$1,000) or greater, and schemes of chance.
(Ord. 2004-24. Passed 10-19-04.)
- (2) On all salaries, wages, commissions, and other compensation earned during the effective period of this chapter by nonresidents for work done or services performed or rendered in the Village.
- (3) A. On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village.
B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business activity.

- (4) A. On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all non-residents unincorporated businesses, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in the Village, whether or not such unincorporated business entity has an office or place of business in the Village.
- B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or of a non-resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.
- (5) On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village.

(b) The portion of the net profits attributable to the Village of a taxpayer conducting a business, profession or other activity both within the boundaries of the Village shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by Council, pursuant to this chapter.

(c) Consolidated Returns.

- (1) Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by Council.
- (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations by stock ownership, interlocking directories, or some other method, or in case any person operates a division branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business the Tax Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Tax Administrator finds net profits are not properly allocated to the Village by reason of transactions with stockholders, or with other corporations related by stock ownership, interlocking directories, or transaction with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Village.

(d) Rentals.

- (1) Rental income received by taxpayer shall be included in the computation of net profits from business activities under sub-paragraphs (3), (4), (5), and above, only if and to the extent that the rental, ownership, management or operations of the real estate, from which such rentals are derived (whether so rented, managed, or operated by taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

- (2) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of two hundred dollars (\$200.00) per month it shall be prima facie evidence that the rental, ownership, managements or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred dollars (\$200.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net income exceeds two hundred dollars (\$200.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred dollars (\$200.00) per month.

(e) The tax provided for herein shall not be levied upon the military pay or allowance of members of the armed forces of the United States, or any person under the age of eighteen years or upon the net profits of any civic, charitable, religious, fraternal or other organization, specified in Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal taxes under such section. (Ord. 1976-13. Passed 6-14-76.)

171.04 EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to salaries, wages, commissions, and other compensation, with respect to businesses, professions, and other activities, earned on and after July 1, 1981, and continuing for an indefinite period or until this chapter is repealed or otherwise rendered ineffective. (Ord. 81-4. Passed 6-8-81.)

171.05 RETURN AND PAYMENT OF TAX.

(a) Every natural person of age eighteen or older and every other person who resides, works, or operates a business in whole or in part, for any part of a tax year, within the Village of Mantua, Ohio, shall, whether or not a tax is due thereon and regardless of whether such person is subject to income tax withholding, make and file a return on or before April 15 of the year following the effective date of this chapter, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within 105 days from the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by the employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Tax Administrator shall be accepted as the return required of any employee whose sole income, subject to the tax under this chapter, is such salary, wages, commissions or other compensation.

(b) The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from such Tax Administrator setting forth:

- (1) The aggregate amounts of salaries, wages, commissions and other compensations earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax.
- (2) The amount of the tax imposed by this chapter on such earnings and profits.
- (3) Such other pertinent statements, information returns, or other information as the Tax Administrator may require.

(c) The Tax Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Tax Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

- (d)
 - (1) The person making a return shall, at the time of the filing, hereof, pay to the Tax Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 171.06, or where any portion of the tax shall have been paid by the taxpayer pursuant to the provisions of Section 171.07, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 171.14 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.
 - (2) A taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
(Ord. 1997-23. Passed 12-9-97.)

(e) Amended Returns.

- (1) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 171.11 and 171.14. Such amended returns shall be on a form obtainable on request from the Tax Administrator. A taxpayer may not change the method of accounting or appointment of net profits after the due date for filing the original return.

- (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.
(Ord. 1992-11. Passed 6-8-92.)

171.06 COLLECTION AT SOURCE.

(a) In accordance with Rules and Regulations prescribed by Council, each employer within or doing business within the Village, shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one and one half percent (1.5%) of the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the last day of the month following the close of the calendar quarter make a return and pay to the Tax Administrator the amount of taxes so deducted. Such returns shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed therefor by Council. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) Such employer in collecting the tax shall be deemed to hold the same until payment is made by such employer to the Village, as Trustee for the benefit of the Village, and any such tax collected by such employer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.
(Ord. 1976-13. Passed 6-14-76.)

171.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 171.06 hereof, or who engages in any business, professions, enterprise or activity subject to the tax imposed by Section 171.03 hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village in accordance with Section 171.06 hereof, such person need not file a declaration.

- (b)
 - (1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or within 105 days of the date the taxpayer becomes subject to tax for the first time.
 - (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within 105 days after the beginning of each fiscal year or period.
- (c)
 - (1) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator, provided however, credit shall be taken for the Village tax to be held from any portion of such income. In accordance with the provisions of Section 171.14 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

- (2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment dates as provided for herein.

(d) Such declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth and twelfth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(e) On or before the fifteenth day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village of Mantua shall be paid therewith in accordance with the provisions of Section 171.05.
(Ord. 1976-13. Passed 6-14-76.)

171.08 DUTIES OF THE TAX ADMINISTRATOR.

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

(b) The Tax Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and to promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

- (1) The Tax Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has provided to the Tax Administrator that, due to certain hardships conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.
- (2) Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 171.11 and 171.12 shall apply.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may determine the amount of the tax appearing to be due the Village from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) Subject to the consent of the Board of Review or pursuant to regulations approved by such Board, the Tax Administrator shall have the power to compromise any interest or penalty or both, imposed by Section 171.10.
(Ord. 1976-13. Passed 6-14-76.)

171.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR, PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

The Tax Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the 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 made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Tax Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Tax Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 171.99.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter, shall, upon conviction thereof, be deemed guilty of a first degree misdemeanor and shall be subject to a fine or penalty of not more than one hundred dollars (\$100.00)

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

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.
(Ord. 1976-13. Passed 6-14-76.)

(f) Rental Property Tenant Information.

- (1) Within thirty days after a new tenant occupies rental property of any kind within the Village, all owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Administrator a report showing the names, addresses and telephone numbers, if available, of such tenant who occupies an apartment, room or other rental property within the Village.
- (2) Within thirty days after the tenant vacates an apartment, room or other rental property located within the Village, the property owner of such vacated rental property shall file with the Tax Administrator, a report showing the date of vacation from the rental property and identifying each such vacating tenant and supplying a forwarding address, if known.

(g) Mandatory Resident Registration.

- (1) All current residents of the Village who have not previously filed a Village income tax return shall register with the Tax Administrator of the Village by December 31, 2012.
- (2) Each new resident of the Village shall register with the Tax Administrator of the Village to become subject to the Village Income Tax within thirty days of residence in the Village.

(h) Mandatory Business Registration. All businesses and contractors who do work in the Village shall register with the Tax Administrator within thirty days after they become taxable and shall present the Administrator a list of all subcontractors or others who may do work for them within the Village.

(i) Penalty. Any person upon written notification by the Village of the requirements of subsections (f), (g) and/or (h) for mandatory registration who fails to register within thirty days upon receipt of notification shall be considered in violation of this section and shall be guilty of a minor misdemeanor. (Ord. 2012-46. Passed 11-20-12.)

171.10 INTEREST AND PENALTIES.

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

(b) In addition to interest as provided in subsection (a) hereof, the following penalties based on the unpaid tax are hereby imposed for failure to pay taxes when due or to remit taxes withheld from employees when due:

<u>if paid within the following period of time from due date (months)</u>	<u>The penalty, calculated as a percentage of the amount of taxes due is (%)</u>
Less than 1	5
More than 1 but less than 2	10
More than 2 but less than 3	15
More than 3 but less than 4	20
More than 4 but less than 5	25

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

- (1) For failure to file a final return, five percent (5%) for each month or fraction thereof, subject to a maximum penalty of twenty-five percent (25%); provided, however, that a minimum penalty of fifteen dollars (\$15.00) shall be imposed for any return which is filed later than forty-six days after the due date thereof; and
- (2) For failure to pay estimated tax timely, one and one-half percent (1 1/2%) of the amount underpaid for each month or fraction thereof that the installment remains unpaid in full.

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

(e) In addition to the situations described in subsection (d) hereof, the Administrator shall abate the interest and penalties otherwise imposed by this section in the following instances:

- (1) When the taxpayer has exercised ordinary prudence in the selection of a competent and reputable tax preparer, but such preparer has been negligent in preparing or filing the tax return;
- (2) When the taxpayer has relied upon the written advice of a competent and reputable tax preparer, which advice is wrong;
- (3) When the taxpayer has relied upon the written or oral advice of the Administrator or an employee of the Administrator and such advice is wrong;
- (4) If the taxpayer is physically or mentally ill to such an extent as to render such taxpayer incapable of competently signing and participating in the preparation of the taxpayer's return; or
- (5) If the taxpayer is separated from the taxpayer's spouse and has relied upon the spouse to file a return in cases where such spouse has filed returns previously on behalf of the taxpayer.

(f) In addition to interest as provided in subsection (a) hereof, a penalty based on the unpaid tax is imposed for failure to pay taxes withheld from employees: ten percent (10%) per month or fraction thereof.

Any person required to withhold the tax who knowingly fails to withhold such tax or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof shall, in addition to other penalties provided by law be liable to a penalty equal to the total amount of the tax evaded, or not withheld, or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.

(g) Interest but no penalty will be assessed where an extension has been granted by the Administrator and the final tax paid within the period as extended.

(h) In every situation described in this section the burden of proof shall rest on the taxpayer who may appeal the decision of the Administrator to the Board of Review.
(Ord. 1993-31. Passed 9-13-93.)

171.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of a fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Tax Administrator shall be one year from the time of the final determination of the federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such payment is made or the return was due, or within three months after final determination of the Federal Tax liability, whichever is later.

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 1976-13. Passed 6-14-76.)

171.12 BOARD OF REVIEW.

(a) A Board of Review, consisting of three electors of the Village, to be appointed by the Mayor, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provision of Section 171.09 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board of Review.

(b) All rules and regulations and amendments or changes thereto, which are adopted by Council under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator, and, at the request of the taxpayer or Tax Administrator, is empowered to substitute alternate methods of allocation.

(c) Any person dissatisfied with any ruling or decision of the Tax Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Tax Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling, or decision, or any part thereof.
(Ord. 1976-13. Passed 6-14-76.)

171.13 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter, or such part thereof, as may be appropriated by Council, shall be paid into the Mantua Income Tax Fund and shall be applied as Council shall direct.

(Ord. 1976-13. Passed 6-14-76.)

171.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Resident individuals of the Village of Mantua who are required to pay, and do pay, a tax to another municipality on salaries, wages, commissions or other compensation for work done or services performed in such other municipality, or on net profits from business, professions or other activities conducted in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality but only to the extent of tax liability on a basis of one-half of one percent (.5%) of the income so taxed.

(Ord. 1985-33. Passed 12-9-85.)

(b) A claim for refund or credit under this section shall be made in such a manner as the Tax Administrator may by regulation provide.
(Ord. 1976-13. Passed 6-14-76.)

171.15 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 1976-13. Passed 6-14-76.)

171.16 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceeding for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Sections 171.11 and 171.99.

(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 171.05 and 171.06 as though the same were continuing.
(Ord. 1976-13. Passed 6-14-76.)

171.99 PENALTY.

- (a) Any person who shall:
- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
 - (2) Make any incomplete, false or fraudulent return; or
 - (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
 - (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Administrator; or
 - (5) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer; or
 - (6) Fail to appear before the Tax Administrator and to produce the books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
 - (7) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer; or
 - (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator authorized hereby; or

- (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employee's residence addresses, total wages paid and Village of Mantua tax withheld, or to knowingly give the Tax Administrator false information; or
- (11) Attempt to do anything whatever to avoid payment of the whole or any part of the tax, penalties or interest imposed by this chapter;

Shall be guilty of a misdemeanor of the first degree, as defined in Section 501.99, for each offense.

(b) All prosecution under this section must be commenced within three years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed, or tax due, whichever is later.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.
(Ord. 1997-23. Passed 12-9-97.)

CHAPTER 173
Income Tax Effective January 1, 2016

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CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42

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

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

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

173.011 AUTHORITY TO LEVY TAX .

(a) The tax on income and the withholding tax established by this Chapter 173 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 173 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. (2015-37. Passed 12-15-15.)

173.012 PURPOSES OF TAX; RATE.

(a) To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the Village, there is hereby levied an annual tax on all Municipal Taxable Income as defined herein.

(b) The rate of the tax shall be one and one-half per cent (1.5%) per annum. (Ord. 2015-37. Passed 12-15-15.)

173.013 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter, or such part thereof, as may be appropriated by Council, shall be paid into the Mantua Income Tax Fund and shall be applied as Council shall direct. (Ord. 2015-37. Passed 12-15-15.)

173.014 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 2015-37, effective January 1, 2016, comprehensively enacts Chapter 173 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality. (Ord. 2015-37. Passed 12-15-15.)

173.02 EFFECTIVE DATE.

(a) Ordinance 2015-37, 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 173 apply to taxable years beginning 2016 and succeeding taxable years.

(b) Ordinance 2015-37 does not repeal the existing sections of Chapter 171 for any taxable year prior to 2016, but rather enacts Chapter 173 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016. (Ord. 2015-37. Passed 12-15-15.)

173.03 DEFINITIONS.

(a) 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.

Except as otherwise provided in Section 718.81 of the Revised Code, 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)(E) 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) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.

- (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 173.063 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 173.063 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)(E) 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.
(Ord. 2017-53. Passed 12-19-17.)

- (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 173.096 (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 173.062(b) (2) of this Chapter; or
 - (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 173.062(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 173.18 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 173.096 (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.
- (O) All of the municipal taxable income earned by individuals under eighteen years of age.
- (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 173.052 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 173.052 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 173.052 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 173.052 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 173.052 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 173.081 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 173.18 of this Chapter..
- (19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code. (Ord. 2015-37. Passed 12-15-15.)
- (20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:
- (i) For a person other than an individual, income apportioned or situs to the Municipality under Section 173.062 of this Chapter, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality. (Ord. 2017-53. Passed 12-19-17.)
 - (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 situated to the Municipality under Section 173.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
 - (B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii) (a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.
- (21) **"MUNICIPALITY"** means the Village of Mantua, 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. (Ord. 2015-37. Passed 12-15-15.)
- (23) (A) "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 this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (23)(C) of this section.
- (B) "Net profit" for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (23)(C) of this section.
- (C) (i) The amount of such net operating loss shall be deducted from net profit 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 (23)(C) 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 (23)(C) 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 (23)(C) of this section without regard to the limitation of division (23)(C)(iii)(a) of this section.

- (iv) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to division (23)(C) of this section.
 - (v) Nothing in division (23)(C)(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 (23)(C)(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 (23)(C)(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 (23)(C)(iii)(a) of this section shall apply to the amount carried forward.
- (D) For the purposes of this chapter, and notwithstanding division (23)(B) 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.
- (E)
- (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.
 - (ii) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(E) 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 (23)(E)(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 (23)(E)(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 (23)(E) 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. (Ord. 2017-53. Passed 12-19-17.)
- Municipality.
- (24) **"NONRESIDENT"** means an individual that is not a resident of the
 - (25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
 - (26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
 - (27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
 - (28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
 - (29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
 - (30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.
 - (31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery
 - (32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.
 - (B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

- (33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.
- (34) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (A) Deduct the following amounts:
- (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
 - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
 - (iii) INTENTIONALLY LEFT BLANK.
 - (iv) INTENTIONALLY LEFT BLANK.
 - (v) Any amount included in wages that is exempt income.
- (B) Add the following amounts:
- (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
 - (vi) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and

- (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (35) **"RELATED ENTITY"** means any of the following:
- (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - (B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - (C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;
 - (D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.
- (36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.
- (37) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 173.042 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. (Ord. 2015-37. Passed 12-15-15.)

- (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.
- "Tax Administrator" does not include the tax commissioner.
(Ord. 2017-53. Passed 12-19-17.)
- (45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue CODE AND 26 C.F.R. 301.7701-15 .
- (46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.
- (B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
 - (a) The limited liability company's single member is also a limited liability company.
 - (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.
 - (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
 - (ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal

- corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.
- (48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.
- (49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.
- (50) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770 of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code. (ord. 2015-37. Passed 12-15-15.)
- (51) **"TAX COMMISSIONER"** means the tax commissioner appointed under section 121.03 of the Revised Code. (Ord. 2017-53. Passed 12-19-17.)

173.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.

173.041 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 (a)(20)(B) of Section 173.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
- (A) "Income" is defined in Section 173.03(a)(14) of this Chapter.
- (i) "Qualifying Wages" is defined in Section 173.03(a)(34).
- (ii) "Net profit" is included in "income", and is defined in Section 173.03(a)(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 (a)(1)(H) of Section 173.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 173.062(e).
- (iii) Section 173.03(a)(14) provides the following: offsetting and net operating loss carryforward treatment in (a)(14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (a)(14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (a)(14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (a)(14)(A)(iv).
- (iv) "Pass Through Entity" is defined in Section 173.03(a)(27).
- (B) "Exempt Income" is defined in Section 173.03(a)(11) of this Chapter.
- (C) Allowable employee business expense deduction is described in (a)(20)(B) of Section 173.03 of this Chapter, and is subject to the limitations provided in that section.

- (D) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 173.03(a)(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 173.062 of this Chapter, reduced by allowable employee business expense deduction as found in (a)(20)(B) of Section 173.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (A) "Income" is defined in Section 173.03(a)(14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 173.03(a)(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 173.03(a)(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 (a)(1)(H) of Section 173.03. "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 173.03(a)(27).
 - (B) "Exempt Income" is defined in Section 173.03(a)(11) of this Chapter.
 - (C) "Apportioned or sitused to the Municipality as provided in Section 173.062 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 173.062(e).
 - (D) "Allowable employee business expense deduction" as described in (a)(20)(B) of Section 173.03 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 173.03(a)(32) of this Chapter.
(Ord. 2015-37. Passed 12-15-15.)

173.042 DOMICILE.

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

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

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

(c) All applicable factors are provided in Ohio Revised Code Section 718.012. (Ord. 2015-37. Passed 12-15-15.)

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

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

(b) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge. (Ord. 2015-37. Passed 12-15-15.)

173.05 COLLECTION AT SOURCE.

173.051 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 173.052 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.
(Ord. 2015-37. Passed 12-15-15.)

- (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) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last 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 to the Tax Administrator not later than fifteen days after the last day of each month.
(Ord. 2017-53. Passed 12-19-17.)

(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 173.091 of this Chapter,

(d) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

- (e) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
- (2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.
- (f) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.
- (g) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.
- (h) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.
- (i) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.
- (j) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.
- (k) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section.
(Ord. 2015-37. Passed 12-15-15.)

173.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

- (a) The following terms as used in this section:
- employer.
- (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 173.051 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 173.03 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 173.051 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.
(Ord. 2015-37. Passed 12-15-15.)

173.053 COLLECTION AT SOURCE; CASINO AND VLT.

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

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

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

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

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

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

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

- (1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.
- (2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.

- (3) A video lottery sales agent shall maintain a record of all receipts issued under division (e) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.
- (4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
- (5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.
- (6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

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

- (1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
- (2) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

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

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

- (1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;
- (2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(i) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 173.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(j) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section. (Ord. 2015-37. Passed 12-15-15.)

173.06 INCOME SUBJECT TO NET PROFIT TAX.

173.061 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.
 - (A) "Net Profit" for a person other than an individual is defined in Section 173.03(a)(23).
 - (B) "Adjusted Federal Taxable Income" is defined in Section 173.03(a)(1) of this Chapter.
 - (2) "Exempt Income" is defined in Section 173.03(a)(11) of this Chapter.
 - (3) "Apportionment" means the apportionment as determined by Section 173.062 of this Chapter.
 - (4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 173.03(a)(32) of this Chapter. (Ord. 2015-37. Passed 12-15-15.)

173.062 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 173.052 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 173.19 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 173.19 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.
(Ord. 2015-37. Passed 12-15-15.)
- (d) For the purposes of division (a)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation only if, regardless of where title passes, the property meets either 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.
(Ord. 2017-53. Passed 12-19-17.)
 - (2) Gross receipts from the sale of services shall be situated 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 situated 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 situated to the municipal corporation.
 - (5) Gross receipts from rents and royalties from tangible personal property shall be situated 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 situated 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 situated 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 173.081 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 (a)(11)(L) and (a)(34)(A)(iv) of Section 173.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.
- (h) When calculating the ratios described in division (a) of this section for the purposes of that division or division (b) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity. (Ord. 2015-37. Passed 12-15-15.)

173.063 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. (Ord. 2015-37. Passed 12-15-15.)
- (4) When a taxpayer makes the election allowed under section 718.80 of the Revised Code, a valid election made by the taxpayer under division (b)(1) or (2) of this section is binding upon the tax commissioner for the remainder of the five-year period.
- (5) When an election made under section 718.80 of the Revised Code is terminated, a valid election made under section 718.86 of the Revised Code is binding upon the tax administrator for the remainder of the five-year period.
(Ord. 2017-53. Passed 12-19-17.)

(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 173.03(a)(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 (a)(1) of 173.03 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 173.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. 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 173.062 of this Chapter, include the property, payroll, and gross receipts of

the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

- (4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
- (A) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 173.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;
 - (B) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(f) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 173.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

(h) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016. (Ord. 2015-37. Passed 12-15-15.)

173.064 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.
(2015-37. Passed 12-15-15.)

173.065 TAX CREDITS TO FOSTER JOB RETENTION.

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the Municipality derives from the retained employees of the taxpayer, and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance allowing such a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.
(Ord. 2015-37. Passed 12-15-15.)

173.07 DECLARATION OF ESTIMATED TAX.

(a) Pursuant to the authority granted under Ohio Revised Code Section 718.08(F)(2), the Council of the Village of Mantua hereby waives the requirement for filing a declaration of estimated taxes for all taxpayers.

(b) Any taxpayer may make voluntary filing and payment of estimated taxes on a quarterly basis, and such filing shall be made using forms prescribed by the Tax Administrator. (Ord. 2016-05. Passed 1-19-16.)

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173.08 CREDIT FOR TAX PAID.**173.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.**

(a) Resident individuals of the Village of Mantua who are required to pay, and do pay, a tax to another municipality on salaries, wages, commissions or other compensation for work done or services performed in such other municipality, or on net profits from business, professions or other activities conducted in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality but only to the extent of tax liability on a basis of one-half of one percent (.5%) of the income so taxed.

(b) A claim for refund or credit under this section shall be made in such a manner as the Tax Administrator may by regulation provide.
(Ord. 2015-37. Passed 12-15-15.)

173.082 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 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 which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

- (b) (1) Except as provided in division (d) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
- (2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.
- (3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
- (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (c) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
- (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.
- (d) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
- (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
- (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.
- (Ord. 2015-37. Passed 12-15-15.)

173.083 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 173.081 of this Chapter.

(2015-37. Passed 12-15-15.)

173.084 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 173.096 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 173.096, 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 173.096 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 173.081 of this Chapter regarding any limitation on credit shall prevail. (Ord. 2015-37. Passed 12-15-15.)

173.09 ANNUAL RETURN.**173.091 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 173.051(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, eighteen 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; 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 173.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 173.092 of this Chapter, the provision in Section 173.092 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.
(Ord. 2015-37. Passed 12-15-15.)

- (i) (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 under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment.
(Ord. 2017-53. Passed 12-19-17.).

(j) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 173.051 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 173.052 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.

(Ord. 2015-37. Passed 12-15-15.)

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

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

- (b)
- (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (b)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.
 - (2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.
 - (3) Taxes paid pursuant to a contract entered into under division (b)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (c)
- (1) Nothing in this division denies to any person described in this division the application of divisions (a) and (b) of this section.
 - (2) (A) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of

- any extension granted under division (c)(2) (A) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.
- (B) Taxes the payment of which is extended in accordance with division (c)(2)(A) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (c)(2)(A) of this section in calculating the penalty or interest due on any unpaid tax.

(d) For each taxable year to which division (a), (b), or (c) of this section applies to a taxpayer, the provisions of divisions (b)(2) and (3) or (c) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year. (Ord. 2015-37. Passed 12-15-15.)

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

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

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

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

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

(e) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (Ord. 2015-37. Passed 12-15-15.)

173.094 EXTENSION OF TIME TO FILE.

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

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

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

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

(e) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return. (Ord. 2015-37. Passed 12-15-15.)

173.095 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 173.19 of this Chapter has not expired for a previously filed return.
- (2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.
- (c) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (a)(2) of this section 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 173.096 of this Chapter. Except as set forth in division (c)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.
- (2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. (Ord. 2015-37. Passed 12-15-15.)

173.096 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 173.18 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 173.10 of this Chapter.

(e) As used in this section, "withholding tax" has the same meaning as in section 173.10 of this Chapter. (Ord. 2015-37. Passed 12-15-15.)

173.10 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. (Ord. 2015-37. Passed 12-15-15.)
- (3) With respect to any unpaid withholding tax, a penalty not exceeding fifty percent of the amount not timely paid shall be imposed. (Ord. 2017-53. Passed 12-19-17.)
- (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. (Ord. 2015-37. Passed 12-15-15.)

173.11 AUDIT.

(a) At or before the commencement of an audit, as defined in Section 173.03(a)(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

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

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

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

(d) A taxpayer may record, electronically or otherwise, the audit examination.

(e) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(f) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.
(Ord. 2015-37. Passed 12-15-15.)

173.12 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.
(Ord. 2015-37. Passed 12-15-15.)

173.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

173.131 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 173.062 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, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, 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 173.051 of this Chapter.
(Ord. 2015-37. Passed 12-15-15.)

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

- (a) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.
- (b) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:
 - (1) Compromise a claim;
 - (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.
- (c) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

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

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

(f) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement. (Ord. 2015-37. Passed 12-15-15.)

173.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

(a) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

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

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

(d) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.
(Ord. 2015-37. Passed 12-15-15.)

173.134 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 173.10 of this Chapter, in addition to any applicable penalty described in section 173.99 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 173.10 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 173.99 of this Chapter for a violation of 173.15 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law.
(Ord. 2015-37. Passed 12-15-15.)

173.14 CONFIDENTIALITY.

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

(b) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.
(Ord. 2015-37. Passed 12-15-15.)

173.15 FRAUD.

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

(Ord. 2015-37. Passed 12-15-15.)

173.16 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 173.15 of this Chapter.
- (e) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:
- (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (c) of this section;
 - (2) It is the duty of the taxpayer to be aware of such changes.
- (f) A Tax Administrator may refuse to offer an opinion on any request received under this section.
- (g) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.
- (h) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.
- (i) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.
- (j) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (f) may not be appealed.
(Ord. 2015-37. Passed 12-15-15.)

173.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

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

- (2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.
 - (3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.
- (b) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.
- (2) If a person elects to appeal an assessment on the basis described in division (b)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review. (Ord. 2015-37. Passed 12-15-15.)

173.18 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, who may be domiciled in the Village, but the appointing authority may consider membership from individuals who are not domiciled within 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 serve on another such board simultaneously.

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

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

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

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

(f) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing. (Ord. 2015-37. Passed 12-15-15.)

173.19 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 173.18 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 173.096 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 173.18 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 173.096 of this Chapter, with interest on that amount as provided by division (d) of this section.

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

- (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
 - (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.
- (Ord. 2015-37. Passed 12-15-15.)

173.20 ADOPTION OF RULES.

(a) Pursuant to Section 718.30 of the Revised Code, the legislative authority of the Municipality has the authority by Ordinance or Resolution to adopt rules to administer the income tax imposed by the Municipality.

(b) Such rules shall not conflict with or be inconsistent with any provision of Ohio Revised Code Chapter 718. All rules adopted under this section shall be published and posted on the internet as described in section 718.07 of the Revised Code.
(Ord. 2015-37. Passed 12-15-15.)

173.21 INFORMATION TO BE SUPPLIED TO THE ADMINISTRATOR.**173.211 RENTAL PROPERTY TENANT INFORMATION.**

(a) Within thirty days after a new tenant occupies rental property of any kind within the Village, all owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Administrator a report showing the names, addresses and telephone numbers, if available, of such tenant who occupies an apartment, room or other rental property within the Village.

(b) Within thirty days after the tenant vacates an apartment, room or other rental property located within the Village, the property owner of such vacated rental property shall file with the Tax Administrator, a report showing the date of vacation from the rental property and identifying each such vacating tenant and supplying a forwarding address, if known.
(Ord. 2015-37. Passed 12-15-15.)

173.212 MANDATORY RESIDENT REGISTRATION.

(a) All current residents of the Village who have not previously filed a Village income tax return shall register with the Tax Administrator of the Village by December 31, 2012.

(b) Each new resident of the Village shall register with the Tax Administrator of the Village to become subject to the Village Income Tax within thirty days of residence in the Village.
(Ord. 2015-37. Passed 12-15-15.)

173.213 MANDATORY BUSINESS REGISTRATION.

All businesses and contractors who do work in the Village shall register with the Tax Administrator within thirty days after they become taxable and shall present the Administrator a list of all subcontractors or others who may do work for them within the Village.
(Ord. 2015-37. Passed 12-15-15.)

173.80 FILING NET PROFIT TAXES; ELECTION TO BE SUBJECT TO PROVISIONS OF CHAPTER.

(a) A taxpayer may elect to be subject to sections 718.80 to 718.95 of the Revised Code in lieu of the provisions set forth in the remainder of this chapter. Notwithstanding any other provision of this chapter, upon the taxpayer's election, both of the following shall apply:

- (1) The tax commissioner shall serve as the sole administrator of each municipal income tax for which the taxpayer is liable for the term of the election;
- (2) The commissioner shall administer the tax pursuant to sections 718.80 to 718.95 of the Revised Code and any applicable provision of Chapter 5703. of the Revised Code.

- (b) (1) A taxpayer shall make the initial election on or before the first day of the third month after the beginning of the taxpayer's taxable year by notifying the tax commissioner and each municipal corporation in which the taxpayer conducted business during the previous taxable year, on a form prescribed by the tax commissioner.
- (2) (A) The election, once made by the taxpayer, applies to the taxable year in which the election is made and to each subsequent taxable year until the taxpayer notifies the tax commissioner and each municipal corporation in which the taxpayer conducted business during the previous taxable year of its termination of the election.
- (B) A notification of termination shall be made, on a form prescribed by the tax commissioner, on or before the first day of the third month of any taxable year.
- (C) Upon a timely and valid termination of the election, the taxpayer is no longer subject to sections 718.80 to 718.95 of the Revised Code, and is instead subject to the provisions set forth in the remainder of this chapter.
- (c) (1) (A) On or before the thirty-first day of January each year, each municipal corporation imposing a tax on income shall certify to the tax commissioner the rate of the tax in effect on the first day of January of that year.
- (B) If, after the thirty-first day of January of any year, the electors of a municipal corporation approve an increase in the rate of the municipal corporation's tax on income that takes effect within that year, the municipal corporation shall certify to the tax commissioner the new rate of tax not less than sixty days before the effective date of the increase, after which effective date the commissioner shall apply the increased rate.
- (2) A municipal corporation, within ninety days of receiving a taxpayer's notification of election under division (b) of this section, shall submit to the tax commissioner, on a form prescribed by the tax commissioner, the following information regarding the taxpayer:
- (A) The amount of any net operating loss that the taxpayer is entitled to carry forward to a future tax year;
- (B) The amount of any net operating loss carryforward utilized by the taxpayer in prior years;
- (C) Any credits granted by the municipal corporation to which the taxpayer is entitled, the amount of such credits, whether the credits may be carried forward to future tax years, and, if the credits may be carried forward, the duration of any such carryforward;
- (D) Any overpayments of tax that the taxpayer has elected to carry forward to a subsequent tax year;
- (E) Any other information the municipal corporation deems relevant in order to effectuate the tax commissioner's efficient administration of the tax on the municipal corporation's behalf.

- (3) If any municipal corporation fails to timely comply with divisions (c)(1) and (2) of this section, the tax commissioner shall notify the director of budget and management, who, upon receiving such notification, shall withhold from each payment made to the municipal corporation under section 718.83 of the Revised Code fifty per cent of the amount of the payment otherwise due to the municipal corporation under that section. The director shall compute the withholding on the basis of the tax rate most recently certified to the tax commissioner until the municipal corporation complies with divisions (c)(1) and (2) of this section.
- (d) The tax commissioner shall enforce and administer sections 718.80 to 718.95 of the Revised Code. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:
- (1) Prescribe all forms necessary to administer those sections;
 - (2) Adopt such rules as the tax commissioner finds necessary to carry out those sections;
 - (3) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the tax commissioner by those sections.
- (e) No tax administrator shall utilize sections 718.81 to 718.95 of the Revised Code in the administrator's administration of a municipal income tax, and those sections shall not be applied to any taxpayer that has not made the election under this section.
- (f) Nothing in this chapter shall be construed to make any section of this chapter, other than sections 718.01 and 718.80 to 718.95 of the Revised Code, applicable to the tax commissioner's administration of a municipal income tax or to any taxpayer that has made the election under this section.
- (g) The tax commissioner shall not be considered a tax administrator, as that term is defined in section 718.01 of the Revised Code.
(Ord. 2017-53. Passed 12-19-17.)

173.81 DEFINITIONS.

If a term used in sections 718.80 to 718.95 of the Revised Code 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 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 have control over the use of the term in Title LVII of the Revised Code, unless the term is defined in Chapter 5703. of the Revised Code, in which case the definition in that chapter shall control. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States related to federal income taxes. If a term is defined in both this section and section 718.01 of the Revised Code, the definition in this section shall control for all uses of that term in sections 718.80 through 718.95 of the Revised Code.

As used in sections 718.80 to 718.95 of the Revised Code only:

- (a) "Municipal taxable income" means income apportioned or situated to the municipal corporation under section 718.82 of the Revised Code, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the municipal corporation.

- (b) "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 as described in division (D)(5) of section 718.01 of the Revised Code, 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:
- (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 per cent 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 section 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 section 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 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.
(B) Division (b)(4)(A) 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.
 - (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 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.
 - (7) 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 Revised Code.
 - (8) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.
 - (9) 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 718.86 of the Revised Code.
 - (10) 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 718.86 of the Revised Code.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (L)(2) of section 718.01 of the Revised Code, and is not a publicly traded partnership that has made the election described in division (D)(5) of section 718.01 of the Revised Code, 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 (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) "Taxpayer" has the same meaning as in section 718.01 of the Revised Code, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745. of the Revised Code. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.
- (d) "Tax return" or "return" means the notifications and reports required to be filed pursuant to sections 718.80 to 718.95 of the Revised Code for the purpose of reporting municipal income taxes, and includes declarations of estimated tax.
- (e) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the calculation of the taxpayer's adjusted federal taxable income is based pursuant to this chapter. If a taxpayer's taxable year is changed for federal income tax purposes, the taxable year for purposes of sections 718.80 to 718.95 of the Revised Code is changed accordingly but may consist of an aggregation of more than one taxable year for federal income tax purposes. The tax commissioner may prescribe by rule an appropriate period as the taxable year for a taxpayer that has had a change of its taxable year for federal income tax purposes, for a taxpayer that has two or more short taxable years for federal income tax purposes as the result of a change of ownership, or for a new taxpayer that would otherwise have no taxable year.
- (f) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to section 718.90 of the Revised Code.
(Ord. 2017-53. Passed 12-19-17.)

173.82 APPLICABILITY; TAXABLE SITUS; APPORTIONMENT.

This section applies to any taxpayer that is engaged in a business or profession in a municipal corporation and that has made the election under section 718.80 of the Revised Code.

- (a) Except as otherwise provided in division (b) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in the municipal corporation 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 municipal corporation 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 municipal corporation 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 718.011 of the Revised Code;
 - (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the municipal corporation 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 a municipal corporation, the taxpayer may request, or the tax commissioner 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 municipal corporation;
 - (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 commissioner denies the request in an assessment issued within the period prescribed by division (A) of section 718.90 of the Revised Code.
- (3) The tax commissioner 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 718.90 of the Revised Code.
- (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 commissioner 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 the tax commissioner makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the tax commissioner'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 situated to a municipal corporation as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation only if, regardless of where title passes, the property meets either 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.
 - (2) Gross receipts from the sale of services shall be situated 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 situated 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 situated to the municipal corporation.
 - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.
- (e) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated 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.

- (f) 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 (C)(12) and (R)(1)(d) of section 718.01 of the Revised Code 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.

- (g) When calculating the ratios described in division (a) of this section for the purposes of that division or division (b) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.
(Ord. 2017-53. Passed 12-19-17.)

173.83 CERTIFICATION OF AMOUNTS TO BE PAID MUNICIPAL CORPORATIONS.

(a) On or before the last day of each month, the tax commissioner shall certify to the director of budget and management the amount to be paid to each municipal corporation, based on amounts reported on annual returns and declarations of estimated tax under sections 718.85 and 718.88 of the Revised Code, less any amounts previously distributed and net of any audit adjustments made or refunds granted by the commissioner, for the calendar month preceding the month in which the certification is made. Not later than the fifth day of each month, the director shall provide for payment of the amount certified to each municipal corporation from the municipal income tax fund, plus a pro rata share of any investment earnings accruing to the fund since the previous payment under this section. Each municipal corporation's share of such earnings shall equal the proportion that the municipal corporation's certified tax payment is of the total taxes certified to all municipal corporations in that quarter. All investment earnings on money in the municipal income tax fund shall be credited to that fund.

(b) If the tax commissioner determines that the amount of tax paid by a taxpayer and distributed to a municipal corporation under this section for a taxable year exceeds the amount payable to that municipal corporation under sections 718.80 to 718.95 of the Revised Code after accounting for amounts remitted with the annual return and as estimated taxes, the commissioner shall proceed according to divisions (A) and (B) of section 5703.77 of the Revised Code.
(Ord. 2017-53. Passed 12-19-17.)

173.84 INFORMATION PROVIDED TO TAX ADMINISTRATORS; CONFIDENTIALITY.

(a) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by sections 718.80 to 718.95 of the Revised Code is confidential, and no person shall disclose such information, except for official purposes, in accordance with a proper judicial order, or as provided in section 4123.271 or 5703.21 of the Revised Code. The tax commissioner may furnish the internal revenue service with copies of returns filed. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to particular taxpayers.

(b) In May and November of each year, the tax commissioner shall provide each tax administrator with the following information for every taxpayer that filed tax returns with the commissioner under sections 718.80 to 718.95 of the Revised Code and that had municipal taxable income apportionable to the municipal corporation under this chapter for any prior year:

- (1) The taxpayer's name, address, and federal employer identification number;
- (2) The taxpayer's apportionment ratio for, and amount of municipal taxable income apportionable to, the municipal corporation pursuant to section 718.82 of the Revised Code;
- (3) The amount of any pre-2017 net operating loss carryforward utilized by the taxpayer;
- (4) Whether the taxpayer requested that any overpayment be carried forward to a future taxable year;
- (5) The amount of any credit claimed under section 718.94 of the Revised

Code.

(c) Not later than thirty days after each distribution made to municipal corporations under section 718.83 of the Revised Code, the tax commissioner shall provide to each municipal corporation a report stating the name and federal identification number of every taxpayer that made estimated payments that are attributable to the municipal corporation and the amount of each such taxpayer's estimated payment.

(d) Not later than the thirty-first day of January of each year, every municipal corporation having taxpayers that have made the election allowed under section 718.80 of the Revised Code shall provide to the tax commissioner, in a format prescribed by the commissioner, the name and mailing address of up to two persons to whom the municipal corporation requests that the commissioner send the information described in divisions (b) and (c) of this section. The commissioner shall not provide such information to any person other than a person who is designated to receive the information under this section and who is employed by the municipal corporation or by a tax administrator, as defined in section 718.01 of the Revised Code, that administers the municipal corporation's income tax, except as may otherwise be provided by law.

- (e)
 - (1) The tax commissioner may adopt rules that further govern the terms and conditions under which tax returns filed with the commissioner under this chapter, and any other information gained in the performance of the commissioner's duties prescribed by this chapter, shall be available for inspection by properly authorized officers, employees, or agents of the municipal corporations to which the taxpayer's net profit is apportioned under section 718.82 of the Revised Code.
 - (2) As used in this division, "properly authorized officer, employee, or agent" means an officer, employee, or agent of a municipal corporation who is authorized by charter or ordinance of the municipal corporation to view or possess information referred to in section 718.13 of the Revised Code.
- (f)
 - (1) If, upon receiving the information described in division (B) of section 718.91 of the Revised Code or division (b) or (c) of this section, a municipal corporation discovers that it has additional information in its possession that could result in a change to a taxpayer's tax liability, the municipal corporation may refer the taxpayer to the tax commissioner for an audit. Such referral shall be made on a form prescribed by the commissioner and shall include any information that forms the basis for the referral.

- (2) Upon receipt of a referral under division (f)(1) of this section, the commissioner shall review the referral and may conduct an audit of the taxpayer that is the subject of the referral based on the information in the referral and any other relevant information available to the commissioner.
- (3) Nothing in division (f) of this section shall be construed as forming the sole basis upon which the commissioner may conduct an audit of a taxpayer.
- (4) Nothing in this chapter shall prohibit a municipal corporation from filing a writ of mandamus if the municipal corporation believes that the commissioner has violated the commissioner's fiduciary duty as the administrator of the tax levied by the municipal corporation.
(Ord. 2017-53. Passed 12-19-17.)

173.85 FILING OF ANNUAL RETURN; REMITTANCE; DISPOSITION OF FUNDS.

- (a)
 - (1) For each taxable year, every taxpayer shall file an annual return. Such return, along with the amount of tax shown to be due on the return less the amount paid for the taxable year under section 718.88 of the Revised Code, shall be submitted to the tax commissioner, on a form and in the manner prescribed by the commissioner, on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year.
 - (2) If a taxpayer has multiple taxable years ending within one calendar year, the taxpayer shall aggregate the facts and figures necessary to compute the tax due under this chapter, in accordance with sections 718.81, 718.82, and, if applicable, 718.86 of the Revised Code onto its annual return.
 - (3) The remittance shall be made payable to the treasurer of state and in the form prescribed by the tax commissioner. If the amount payable with the tax return is ten dollars or less, no remittance is required.
- (b) The tax commissioner shall immediately forward to the treasurer of state all amounts the commissioner receives pursuant to sections 718.80 to 718.95 of the Revised Code. The treasurer shall credit ninety-nine and one-half per cent of such amounts to the municipal income tax fund and the remainder to the municipal income tax administrative fund established under section 5745.03 of the Revised Code.
- (c)
 - (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 identification number. Each return shall be verified by a declaration under penalty of perjury.
 - (2)
 - (A) The tax commissioner may require a taxpayer to include, with each annual tax return, amended return, or request for refund filed with the commissioner under sections 718.80 to 718.95 of the Revised Code, copies of any relevant documents or other information.
 - (B) A taxpayer that files an annual tax return electronically through the Ohio business gateway or in another manner as prescribed by the tax commissioner shall either submit the documents required under this division electronically as prescribed at the time of filing or, if electronic submission is not available, mail the documents to the tax commissioner. The department of taxation shall publish a method of electronically submitting the documents required under this division on or before January 1, 2019.

- (3) After a taxpayer files a tax return, the tax commissioner may request, and the taxpayer shall provide, any information, statements, or documents required to determine and verify the taxpayer's municipal income tax.
- (d) (1) (A) Any taxpayer that has duly requested an automatic extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a tax return with the commissioner under this section. The extended due date of the return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.
- (B) 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 commissioner grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the commissioner receives the request on or before the date the municipal income tax return is due, the commissioner shall grant the taxpayer's extension request.
- (C) An extension of time to file under division (d)(1) of this section is not an extension of the time to pay any tax due unless the tax commissioner grants an extension of that date.
- (2) If the commissioner considers it necessary in order to ensure payment of a tax imposed in accordance with section 718.04 of the Revised Code, the commissioner 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.
- (e) Each return required 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 commissioner about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the commissioner 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 commissioner with information that is missing from the return, to contact the commissioner 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 commissioner and has shown to the preparer or other person.
- (f) When income tax returns or other documents require the signature of a tax return preparer, the tax commissioner shall accept a facsimile or electronic version of such a signature in lieu of a manual signature. (Ord. 2017-53. Passed 12-19-17.)

173.851 ELECTRONIC FILING.

- (a) All taxpayers that have made the election allowed under section 718.80 of the Revised Code shall file any tax return or extension for filing a tax return, and shall make payment of amounts shown to be due on such returns, electronically, either through the Ohio business gateway or in another manner as prescribed by the tax commissioner.
- (b) A taxpayer may apply to the commissioner, on a form prescribed by the commissioner, to be excused from the requirement to file returns and make payments electronically. For good cause shown, the commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or make the payments by nonelectronic means.

- (c) The tax commissioner may adopt rules establishing the following:
 - (1) The format of documents to be used by taxpayers to file returns and make payments by electronic means;
 - (2) The information taxpayers must submit when filing tax returns by electronic means. (Ord. 2017-53. Passed 12-19-17.)

173.86 CONSOLIDATED RETURNS.

- (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) A taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated tax return for a taxable year if at least one member of the affiliated group of corporations is subject to a tax imposed in accordance with section 718.04 of the Revised Code in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. 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. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated tax returns under division (b)(2) of this section or a taxpayer receives permission from the tax commissioner. The tax commissioner shall approve such a request for good cause shown.
 - (2) An election to discontinue filing consolidated tax returns under this section must be made on or before the fifteenth day of the fourth month of the year following the last year of a five-year consolidated tax return election period in effect under division (b)(1) of this section. The election to discontinue filing a consolidated 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.

- (4) When a taxpayer makes the election allowed under section 718.80 of the Revised Code, a valid election made by the taxpayer under division (B)(1) or (2) of section 718.06 of the Revised Code is binding upon the tax commissioner for the remainder of the five-year period.
- (5) When an election made under section 718.80 of the Revised Code is terminated, a valid election made under this section is binding upon the tax administrator for the remainder of the five-year period.

(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 tax return for that taxable year if the tax commissioner 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 a municipal corporation. A taxpayer that is required to file a consolidated tax return for a taxable year shall file a consolidated tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the commissioner to file a separate return or a taxpayer has experienced a change in circumstances.

(d) A taxpayer shall prepare a consolidated 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 tax return shall compute adjusted federal taxable income, as defined in section 718.81 of the Revised Code, 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 tax return shall make any adjustment otherwise required under division (B) of section 718.81 of the Revised Code 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 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 718.82 of the Revised Code, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. 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 718.82 of the Revised Code, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
 - (A) The corporation filing the consolidated 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 718.82 of the Revised Code, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;
 - (B) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with sections 718.80 to 718.95 of the Revised Code 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 tax return shall make the computations required under section 718.82 of the Revised Code 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 tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts applicable under section 718.80 to 718.95 or Chapter 5703. of the Revised Code to 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. (Ord. 2017-53. Passed 12-19-17.)

173.87 FAILURE TO PAY TAX.

If a taxpayer that has made the election allowed under section 718.80 of the Revised Code fails to pay any tax as required under sections 718.80 to 718.95 of the Revised Code, or any portion of that tax, on or before the date prescribed for its payment, interest shall be assessed, collected, and paid, in the same manner as the tax, upon such unpaid amount at the rate per annum prescribed by section 5703.47 of the Revised Code from the date prescribed for its payment until it is paid or until the date an assessment is issued under section 718.90 of the Revised Code, whichever occurs first. (Ord. 2017-53. Passed 12-19-17.)

173.88 DECLARATION OF ESTIMATED TAXES.

- (a) As used in this section:
- (1) "Combined tax liability" means the total amount of a taxpayer's income tax liabilities to all municipal corporations in this state for a taxable year.
 - (2) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's combined tax liability for the current taxable year.
- (b)
- (1) Except as provided in division (b)(4) of this section, every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the tax commissioner, if the amount payable as estimated taxes is at least two hundred dollars.
 - (2) Except as provided in division (b)(4) of this section, a taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the commissioner.
 - (3) The declaration of estimated taxes shall be filed on or before the fifteenth day of the fourth month after the beginning of the taxable year or on or before the fifteenth day of the fourth month after the taxpayer becomes subject to tax for the first time.
 - (4) The tax commissioner 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.
- (c) Each taxpayer shall file the declaration of estimated taxes with, and remit estimated taxes to, the tax commissioner at the times and in the amounts prescribed in division (c)(1) of this section. Remitted taxes shall be made payable to the treasurer of state.
- (1) The required portion of the combined tax liability for the taxable year that shall be paid through estimated taxes 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 combined 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 combined 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 combined 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 combined tax liability for the taxable year.
 - (2) If the taxpayer determines that its declaration of estimated taxes will not accurately reflect the taxpayer's tax liability for the taxable year, the taxpayer shall increase or decrease, as appropriate, its subsequent payments in equal installments to result in a more accurate payment of estimated taxes.
 - (3)
 - (A) Each taxpayer shall report on the declaration of estimated taxes the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.
 - (B) Upon receiving a payment of estimated taxes under this section, the commissioner shall immediately forward the payment to the treasurer of state. The treasurer shall credit the payment in the same manner as in division (B) of section 718.85 of the Revised Code.

- (d) (1) In the case of any underpayment of estimated taxes, there shall be added to the taxes an amount determined at the rate per annum prescribed by section 5703.47 of the Revised Code 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 combined 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 combined 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 combined 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 combined 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 due.
- (3) All amounts collected under this section shall be considered as taxes collected under sections 718.80 to 718.95 of the Revised Code and shall be credited and distributed to municipal corporations in accordance with section 718.83 of the Revised Code.
- (e) An underpayment of any portion of a combined tax liability 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 combined 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 municipal income tax return for that year. (Ord. 2017-53. Passed 12-19-17.)

173.89 ADDITIONAL PENALTIES.

- (a) In addition to any other penalty imposed by sections 718.80 to 718.95 or Chapter 5703. of the Revised Code, the following penalties shall apply:
- (1) If a taxpayer required to file a tax return under sections 718.80 to 718.95 of the Revised Code fails to make and file the return within the time prescribed, including any extensions of time granted by the tax commissioner, the commissioner may impose a penalty not exceeding twenty-five dollars per month or fraction of a month, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the return is filed. The aggregate penalty, per instance, under this division shall not exceed one hundred fifty dollars.

- (2) If a person required to file a tax return electronically under sections 718.80 to 718.95 of the Revised Code fails to do so, the commissioner may impose a penalty not to exceed the following:
 - (A) For each of the first two failures, five per cent of the amount required to be reported on the return;
 - (B) For the third and any subsequent failure, ten per cent of the amount required to be reported on the return.
- (3) If a taxpayer that has made the election allowed under section 718.80 of the Revised Code fails to timely pay an amount of tax required to be paid under this chapter, the commissioner may impose a penalty equal to fifteen per cent of the amount not timely paid.
- (4) If a taxpayer files what purports to be a tax return required by sections 718.80 to 718.95 of the Revised Code that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of sections 718.80 to 718.95 of the Revised Code, a penalty of up to five hundred dollars may be imposed.
- (5) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under sections 718.80 to 718.95 of the Revised Code, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.
- (6) If any person makes a false or fraudulent claim for a refund under section 718.91 of the Revised Code, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. Any penalty imposed under this division, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 718.90 of the Revised Code without regard to any time limitation for the assessment imposed by division (A) of that section.

(b) For purposes of this section, the tax required to be shown on a tax return shall be reduced by the amount of any part of the tax paid on or before the date, including any extensions of the date, prescribed for filing the return.

(c) Each penalty imposed under this section shall be in addition to any other penalty imposed under this section. All or part of any penalty imposed under this section may be abated by the tax commissioner. The commissioner may adopt rules governing the imposition and abatement of such penalties.

(d) All amounts collected under this section shall be considered as taxes collected under sections 718.80 to 718.95 of the Revised Code and shall be credited and distributed to municipal corporations in the same proportion as the underlying tax liability is required to be distributed to such municipal corporations under section 718.83 of the Revised Code. (Ord. 2017-53. Passed 12-19-17.)

173.90 ASSESSMENTS AGAINST TAXPAYER.

(a) If any taxpayer required to file a return under section 718.80 to 718.95 of the Revised Code fails to file the return within the time prescribed, files an incorrect return, or fails to remit the full amount of the tax due for the period covered by the return, the tax commissioner may make an assessment against the taxpayer for any deficiency for the period for which the return or tax is due, based upon any information in the commissioner's possession.

The tax commissioner shall not make or issue an assessment against a taxpayer more than three years after the later of the date the return subject to assessment was required to be filed or the date the return was filed. Such time limit may be extended if both the taxpayer and the commissioner consent in writing to the extension. Any such extension shall extend the three-year time limit in section 718.91 of the Revised Code for the same period of time. There shall be no bar or limit to an assessment against a taxpayer that fails to file a return subject to assessment as required by sections 718.80 to 718.95 of the Revised Code, or that files a fraudulent return. The commissioner shall give the taxpayer assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(b) Unless the taxpayer assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the authorized agent of the taxpayer assessed having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the taxpayer to the treasurer of state. The petition shall indicate the taxpayer's objections, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(c) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the taxpayer has an office or place of business in this state, the county in which the taxpayer's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the taxpayer assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for municipal income taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(d) All money collected under this section shall be credited to the municipal income tax fund and distributed to the municipal corporation to which the money is owed based on the assessment issued under this section.

(e) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the taxpayer liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (c) of this section. Notice of the jeopardy

assessment shall be served on the taxpayer assessed or the taxpayer's legal representative in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the taxpayer assessed files a petition for reassessment in accordance with division (b) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(f) Notwithstanding the fact that a petition for reassessment is pending, the taxpayer may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the taxpayer under the corrected assessment is less than the portion paid, there shall be issued to the taxpayer, its assigns, or legal representative a refund in the amount of the overpayment as provided by section 718.91 of the Revised Code, with interest on that amount as provided by that section.

(Ord. 2017-53. Passed 12-19-17.)

173.91 REFUND APPLICATIONS.

(a) An application to refund to a taxpayer the amount of taxes paid on any illegal, erroneous, or excessive payment of tax under sections 718.80 to 718.95 of the Revised Code, including assessments, shall be filed with the tax commissioner within three years after the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (A) of section 718.90 of the Revised Code. The application shall be filed in the form prescribed by the tax commissioner.

- (b) (1) On the filing of a refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. The amount determined shall be based on the amount overpaid per return or assessment. If the amount is greater than ten dollars and not less than that claimed, the commissioner shall certify that amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created in section 5703.052 of the Revised Code. If the amount is greater than ten dollars but less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.
- (2) Upon issuance of a refund under this section, the commissioner shall notify each municipal corporation of the amount refunded to the taxpayer attributable to that municipal corporation, which shall be deducted from the municipal corporation's next distribution under section 718.83 of the Revised Code.

(c) Any portion of a refund determined under division (b) of this section that is not issued within ninety days after such determination shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the ninety-first day after such determination until the day the refund is paid or credited. On an illegal or erroneous assessment, interest shall be paid at that rate from the date of payment on the illegal or erroneous assessment until the day the refund is paid or credited. (Ord. 2017-53. Passed 12-19-17.)

173.92 AMENDED RETURNS.

(a) If any of the facts, figures, computations, or attachments required in an annual return filed by a taxpayer that has made the election allowed under section 718.80 of the Revised Code and used to determine the tax due under sections 718.80 to 718.95 of the Revised Code must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the internal revenue service, and such alteration affects the taxpayer's tax liability under those sections, the taxpayer shall file an amended return with the tax commissioner in such form as the commissioner requires. The amended return shall be filed not later than sixty days after the adjustment is agreed upon or finally determined for federal income tax purposes or after any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first. 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 commissioner before filing the amended return.

(b) 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. An amended return required by this section is a return subject to assessment under section 718.90 of the Revised Code for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. The amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal tax return.

(c) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the amended return, even if that period extends beyond the period prescribed in section 718.91 of the Revised Code, if the application otherwise conforms to the requirements of that section. An application 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 income tax return unless it is also filed within the time prescribed in section 718.91 of the Revised Code. The application 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 income tax return.
(Ord. 2017-53. Passed 12-19-17.)

173.93 EXAMINATION OF RECORDS AND OTHER DOCUMENTS AND PERSONS.

(a) The tax commissioner, or any authorized agent or employee thereof, may examine the books, papers, records, and federal and state income tax returns of any taxpayer or other person that is subject to sections 718.80 to 718.95 of the Revised Code for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due as required under those sections. Upon written request by the commissioner or a duly authorized agent or employee thereof, every taxpayer or other person subject to this section is required to furnish the opportunity for the commissioner, 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 or other person that is subject to sections 718.80 to 718.95 of the Revised Code shall be open to the tax commissioner'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 commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The commissioner may require any person, by notice served on that person, to keep such records as the commissioner determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by a municipal corporation.

(c) The tax commissioner may examine under oath any person that the commissioner 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 commissioner may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal 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 commissioner compelling attendance at a hearing or examination or the production of books, papers, records, or federal income tax returns under this section shall fail to comply.
(Ord. 2017-53. Passed 12-19-17.)

173.94 CREDITS.

(a) A credit, granted by resolution or ordinance of a municipal corporation pursuant to section 718.15 or 718.151 of the Revised Code, shall be available to a taxpayer that has made the election allowed under section 718.80 of the Revised Code, against the municipal corporation's tax on income. A municipal corporation shall submit the following information to the tax commissioner on or before the later of January 31, 2018, or the thirty-first day of January of the first year in which the taxpayer is eligible to receive the credit:

- (1) A copy of the agreement entered into by the municipal corporation and taxpayer under section 718.15 or 718.151 of the Revised Code;
 - (2) A copy of the municipal ordinance or resolution authorizing the agreement entered into between the municipal corporation and the taxpayer.
- (b)
- (1) Each taxpayer that claims a credit shall submit, with the taxpayer's tax return, documentation issued by the municipal corporation granting the credit that confirms the eligibility of the taxpayer for the credit, the amount of the credit for which the taxpayer is eligible, and the tax year to which the credit is to be applied.
 - (2) Such documentation shall be provided in the form prescribed by the tax commissioner.
 - (3) Nothing in this section shall be construed to authorize the tax commissioner to enter into an agreement with a taxpayer to grant a credit, to determine if a taxpayer meets the conditions of a tax credit agreement entered into by a municipal corporation and taxpayer under section 718.15 or 718.151 of the Revised Code, or to modify the terms or conditions of any such existing agreement. (Ord. 2017-53. Passed 12-19-17.)

173.95 RECKLESS VIOLATIONS; PENALTIES.

(a) Except as provided in division (b) of this section, whoever recklessly violates division (A) of section 718.84 of the Revised Code 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.

(b) Any person who recklessly discloses information received from the internal revenue service in violation of division (A) of section 718.84 of the Revised Code 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.

(c) Each instance of access or disclosure in violation of division (A) of section 718.84 of the Revised Code constitutes a separate offense.
(Ord. 2017-53. Passed 12-19-17.)

173.97 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 173.19.

(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 173.091 as though the same were continuing.
(Ord. 2015-37. Passed 12-15-15.)

173.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter. (Ord. 2015-37. Passed 12-15-15.)

173.99 VIOLATIONS; PENALTY.

(a) Except as provided in division (b) of this section, whoever violates Section 173.15 of this Chapter, division (a) of Section 173.14 of this Chapter, or Section 173.051 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 173.14 of this Chapter constitutes a separate offense.

(d) Any person upon written notification by the Village of the requirements of sections 173.211, 173.212 or 173.213 for mandatory registration who fails to comply with such section(s) within thirty days upon receipt of notification shall be considered in violation of this section and shall be guilty of a minor misdemeanor.

(e) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the first 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, and no person shall:

- (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 village income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 173.051; 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 173.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the village, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter. (Ord. 2015-37. Passed 12-15-15.)

CHAPTER 175
Motor Vehicle License Tax

175.01	Levy.	175.05	Payment.
175.02	Rate.	175.06	Additional tax.
175.03	Motor vehicle defined.	Tax pursuant to Ohio R.C. 4504.06.	
175.04	Effective date.		

CROSS REFERENCES

State provisions - see Ohio R.C. 4504.172 et seq.
Income tax - see ADM. Ch. 171

175.01 LEVY.

An annual motor vehicle license tax is hereby levied upon the operation of motor vehicles on the public roads or highways pursuant to Ohio R.C. 4504.172, for the purposes of paying the cost and expenses of enforcing and administering the tax provided for in this chapter; and to provide additional revenue for the purposes set forth in Ohio Revised Code Section 4504.06; and to supplement revenue already available for such purposes.
(Ord. 1987-31. Passed 9-21-87.)

175.02 RATE.

The tax shall be levied at the rate of five dollars (\$5.00) per motor vehicle on each and every motor vehicle the District of Registration of which, as defined by Ohio R.C. 4503.10 is in the Village of Mantua, Ohio.
(Ord. 1987-31. Passed 9-21-87.)

175.03 MOTOR VEHICLE DEFINED.

As used in this chapter, the term "motor vehicle" means any and all vehicles included within the definition of motor vehicle in Ohio R.C. 4501.01 and 4505.01.
(Ord. 1987-31. Passed 9-21-87.)

175.04 EFFECTIVE DATE.

The tax imposed by this chapter shall apply to and be effective for the registration year commencing January 1, 1988, and shall continue in effect and application during each registration year thereafter.
(Ord. 1987-31. Passed 9-21-87.)

175.05 PAYMENT.

The tax imposed this chapter shall be paid to the Registrar of Motor Vehicles of the State of Ohio or a Deputy Registrar at the time application for registration of a motor vehicle is made as provided in Ohio R.C. 4503.10.
(Ord. 1987-31. Passed 9-21-87.)

175.06 ADDITIONAL TAX.

(a) An additional annual motor vehicle license tax is hereby levied upon the operation of motor vehicles on the public roads or highways pursuant to Ohio R.C. 4504.171, for the purposes of paying the cost and expenses of enforcing and administering the tax provided for in this section; and to provide additional revenue for the purposes set forth in Ohio R.C. 4504.04, 4504.06, 4504.17 or 4504.172; and to supplement revenue already available for such purposes.

(b) The tax shall be levied at the rate of five dollars (\$5.00) per motor vehicle on each and every motor vehicle the District of Registration of which, as defined by Ohio R.C. 4503.10 is the Village of Mantua, Ohio.

(c) As used in this section, the term "motor vehicle" means any and all vehicles included within the definition of motor vehicle in Ohio R.C. 4501.01 and 4505.01.

(d) The tax imposed by this section is hereby levied after the first day of April, 1991, and the levy of this additional license tax shall be in addition to the tax levied by Ohio R.C. 4503.02, 4503.07 and 4503.18.

(e) The tax imposed by this section shall be paid to the Registrar of Motor Vehicles of the State of Ohio or a Deputy Registrar at the time application for registration of a motor vehicle is made as provided in Ohio R.C. 4503.10.
(Ord. 1991-12. Passed 6-10-91.)

175.07 TAX PURSUANT TO OHIO R.C. 4504.06.

(a) There is hereby levied an annual license tax upon the operation of motor vehicles on the public roads or highways pursuant to Ohio R.C. 4504.06, for the purpose of paying the costs and expenses of enforcing and administering the tax provided for in this section; and for planning, constructing, improving, maintaining, and repairing public roads, highways, and streets; maintaining and repairing bridges and viaducts; paying the Village portion of the costs and expenses of cooperating with the Department of Transportation in the planning, improvement, and construction of state highways; paying the municipal corporation's portion of the compensation, damages, cost, and expenses of planning, constructing, reconstructing, improving, maintaining, and repairing roads and streets; and to supplement revenue already available for such purposes.

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

(c) As used in this section, the term "motor vehicle" means any and all vehicles included within the definition of motor vehicle in Ohio R.C. 4501.01 and 4505.01.

(d) The tax imposed by this section shall apply to and be in effect for the registration year commencing January 1, 2014 and shall continue in effect and application during each registration year thereafter.

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

(f) All monies derived from the tax hereinbefore levied shall be used by the Village of Mantua for the purposes specified in this section.
(Ord. 2013-34. Passed 5-2-13.)

TITLE NINE - Judicial
Chap. 181. Municipal Court.

CHAPTER 181
Municipal Court

EDITOR'S NOTE: The provisions of Ohio R.C. 1901.01 established a municipal court in Ravenna which, pursuant to Ohio R.C. 1901.02, is designated the Portage County Municipal Court and which has territorial jurisdiction within Portage County. The powers, duties and proceedings of the Court are established by Ohio R.C. Chapter 1901. Ohio R.C. 1901.25 provides that the Municipal Court may provide by rule how jurors shall be chosen. Jurors' fees in any criminal case involving the violation of a Municipal ordinance shall be paid out of the Municipal Treasury. The Municipal Court, pursuant to Ohio R.C. 1901.26(A), may establish a schedule of fees and costs to be taxed in any action or proceeding, whether civil or criminal. Ohio R.C. 1901.31(F) provides that fines received for violation of Mantua ordinances shall be paid into the Municipal Treasury. Rule .18 of the Rules Governing Procedure in Traffic Cases as promulgated by the Ohio Supreme Court provides that a court may establish a Traffic Violations Bureau and specifies certain restrictions as to the designated offenses and schedule of fines to be accepted as waiver payment in lieu of court appearance.

CROSS REFERENCES

Release of Court Clerk's liability for loss of funds - see Ohio R.C. 131.18 et seq.
Municipal court - see Ohio R.C. Ch. 1901
Bond for Court Clerk required - see Ohio R.C. 1901.31(D)
Notification to Director of liquor law convictions - see Ohio R.C. 4301.991
Record of traffic violations - see Ohio R.C. 4513.37.