

CODIFIED ORDINANCES OF GARRETTSVILLE

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

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

TITLE THREE - Legislative

- Chap. 121. Council.
- Chap. 123. Ordinances and Resolutions.

TITLE FIVE - Administrative

- Chap. 131. Mayor.
- Chap. 133. Fiscal Officer.
- Chap. 137. Solicitor.
- Chap. 139. Police Department.
- Chap. 141. Safety Committee.
- Chap. 143. Board of Trustees of Public Affairs.
- Chap. 145. Water and Waste Water Treatment Department.
- Chap. 147. Board of Trustees of the Cemetery.
- Chap. 149. Cemetery Sexton.
- Chap. 150. Street Department.
- Chap. 151. Planning Commission.
- Chap. 153. Employees Generally. (Repealed)
- Chap. 155. Community Reinvestment Areas.
- Chap. 157. Village Improvement Commission.
- Chap. 159. Urban Renewal.

TITLE SEVEN - Taxation

- Chap. 171. Income Tax.
- Chap. 173. Income Tax Effective January 1, 2016.

CODIFIED ORDINANCES OF GARRETTSVILLE

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CHAPTER 101 Codified Ordinances

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

CROSS REFERENCES

See sectional histories for similar State law
 Statute of limitations on prosecutions - see Ohio R. C. 718.06;
 GEN. OFF. 501.06
 Codification in book form - see Ohio R. C. 731.23
 Imprisonment until fine and costs are paid - see Ohio R. C.
 1905.30, 2947.20
 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 Garrettsville, Ohio, 1980, 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 Village of Garrettsville, 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

103.01 Nonpartisan elections.

CROSS REFERENCES

State standard of time - see Ohio R.C. 1.04
State legal holidays - see Ohio R.C. 1.14, 5.20 et seq.
Holidays for Village employees - see ADM. 153.01

103.01 NONPARTISAN ELECTIONS.

The Village reaffirms and establishes its right to conduct nonpartisan elections for all of its elected public officials.
(Ord. 91-21. Passed 5-8-91.)

CHAPTER 105 Public Records Policy

105.01	Hours and costs.	105.04	Records that will not be released.
105.02	Requests.	105.05	Limitations.
105.03	Definition of public records.		

105.01 HOURS AND COSTS.

(a) You may make public records requests at the Garrettsville Village Hall between the hours of 7:00 a.m. and 3:00 p.m. on weekdays, excluding government holidays.

(b) For copies of public records on 8.5 by 11 inch one-sided paper in black ink, the copy cost 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. (Res. 2008-13. Passed 6-11-08.)

105.02 REQUESTS.

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 while you wait, we will contact you when the records are available. (Res. 2008-13. Passed 6-11-08.)

105.03 DEFINITION OF PUBLIC RECORDS.

Under Ohio law, public records are those items that meet all of the following element:

- (a) Any document, device or item regardless of physical form or characteristic, including any electronic record.
- (b) That is created or received by, or coming under the jurisdiction of a public office;
- (c) 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.
- (d) You may ask for a copy of our records retention schedule, which will familiarize you with the types of records available.

105.04 RECORDS THAT WILL NOT BE RELEASED.

Under Ohio law, some records 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) Juvenile records
- (h) Peace Officer, firefighter, EMT, prosecutor, assistant prosecutor, children's services worker, or corrections officer, Residential and Familial Information.
(Res. 2008-13. Passed 6-11-08.)

105.05 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 complete.
(Res. 2008-13. Passed 6-11-08.)

TITLE THREE - Legislative
Chap. 121. Council.
Chap; 123. Ordinances and Resolutions.

CHAPTER 121
Council

121.01 Meetings.

CROSS REFERENCES

General powers - see Ohio R. C. 715.03, 731.47
Composition and term - see Ohio R. C. 731.09
Qualifications - see Ohio R. C. 731.12, 731.44
Powers as to salaries and bonds - see Ohio R. C. 731.13,
731.49 et seq.
Vacancy - see Ohio R. C. 731.43
Rules and journal - see Ohio R. C. 731.45
Power to establish auxiliary police unit - see Ohio R. C. 737.161
Contract interest - see GEN. OFF. 525.10

121.01 MEETINGS.

(a) Regular meetings of Council shall be held on the second Wednesday of each month at Council chambers.
(Ord. 84-2-06. Passed 2-15-84.)

(b) 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.
(Ord. 757. Passed 7-1-70.)

CHAPTER 123
Ordinances and Resolutions

123.01 Posting places.

CROSS REFERENCES

Newspaper publication - see Ohio R. C. 7.12, 701.04,
731.21 et seq.

Adaption and style - see Ohio R. C. 715.03, 731.17 et seq.

Authentication - see Ohio R. C. 731.20

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

Posting - see Ohio R. C. 731.25

Initiative and referendum - see Ohio R. C. 731.28 et seq.

Emergency measures - see Ohio R. C. 731.30

123.01 POSTING PLACES.

(a) The publication of ordinances and all other business of the Municipality, as provided in Ohio R. C. 731.25, shall henceforth be by posting copies of such matters in five of the most public places in the Municipality.

- (b) The five public places for such posting are as follows:
- (1) Village Park, South Street.
 - (2) Maintenance Building, Water Street.
 - (3) Municipal Building, High Street.
 - (4) Layers IGA Building, Sky Plaza.
 - (5) Garrettsville Hardware Building, Garfield Plaza.
(Ord. 81-4. Passed 1-7-81.)

TITLE FIVE - Administrative

- Chap. 131. Mayor.
- Chap. 133. Fiscal Officer.
- Chap. 137. Solicitor.
- Chap. 139. Police Department.
- Chap. 141. Safety Committee.
- Chap. 143. Board of Trustees of Public Affairs.
- Chap. 145. Water and Waste Water Treatment Department.
- Chap. 147. Board of Trustees of the Cemetery.
- Chap. 149. Cemetery Sexton.
- Chap. 150. Street Department.
- Chap. 151. Planning Commission.
- Chap. 153. Employees Generally. (Repealed)
- Chap. 155. Community Reinvestment Areas.
- Chap. 157. Village Improvement Commission.
- Chap. 159. Urban Renewal.

CHAPTER 131 Mayor

131.01 Bond.

CROSS REFERENCES

- Removal from office - see Ohio R. C. 3.07 et seq.
- Election, term, qualifications and powers - see Ohio R. C. 733.24
- Vacancy - see Ohio R. C. 733.25
- Duties generally - see Ohio R. C. 733.30 et seq.
- Reports to Council - see Ohio R. C. 733.32, 733.41
- To appoint and remove auxiliary police officers - see Ohio R. C. 737.161

131.01 BOND.

The Mayor shall give bond in the sum of one thousand dollars (\$1,000) conditioned on the faithful performance of his duties. The premium for such bond shall be paid for by the Village.

CHAPTER 133 Fiscal Officer

133.01	Position of Fiscal Officer established.	133.05	Administration of Income Tax.
133.02	Bond.	133.06	Expenditure of public funds for the benefit of Village employees.
133.03	Investment of surplus funds.	133.07	Identity theft policy.
133.04	Merged with Clerk of Board of Trustees of Public Affairs.	133.08	Credit card policy.

CROSS REFERENCES

Treasury investment account - see Ohio R. C. 731.56 et seq.
Auditing accounts - see Ohio R. C. 733.12 et seq.
Election and term - see Ohio R. C. 733.26
Powers and duties - see Ohio R.C. 733.27
Books and accounts - see Ohio R.C. 733.28
Board of Trustees of Public Affairs - see ADM. Ch. 143
Income tax - see ADM. Ch. 171

133.01 POSITION OF FISCAL OFFICER ESTABLISHED.

(a) Pursuant to Ohio Revised Code Section 733.262, the elected position of the Village Clerk-Treasurer has been abolished and the appointed position of Village Fiscal Officer established effective January 1, 2020.

(b) The Fiscal Officer shall perform the duties provided by law for the Village Clerk and Treasurer and any other duties consistent with the nature of the office that are provided for by municipal ordinance. Such office shall be considered a full-time position.

(c) The Fiscal Officer may appoint such additional assistants necessary for the performance of her duties as are authorized by the Village Council; such assistants shall be subject to the confirmation of the Village Council. (Ord. 2019-31. Passed 10-9-19.)

133.02 BOND.

The Fiscal Officer shall give bond in the sum of ten thousand dollars (\$10,000), conditioned on the faithful performance of her duties. The premium for such bond shall be paid for by the Village. (Ord. 2019-31. Passed 10-9-19.)

133.03 INVESTMENT OF SURPLUS FUNDS.

The Fiscal Officer is hereby authorized to invest surplus funds, not required to be used for a period of six months or more, in treasury bills of the United States government at the best interest available. The Fiscal Officer and Mayor are hereby authorized to execute any documents necessary to accomplish this purpose. (Ord. 2019-31. Passed 10-9-19.)

133.04 MERGED WITH CLERK OF BOARD OF TRUSTEES OF PUBLIC AFFAIRS.

Pursuant to Ohio Revised Code Section 733.28, the duties of the Fiscal Officer of the Village and those of the Clerk of the Board of Trustees of Public Affairs are hereby merged. (Ord. 2019-31. Passed 10-9-19.)

133.05 ADMINISTRATION OF INCOME TAX.

(a) Personnel necessary to administer the Village income tax shall be employed within and be a part of the Fiscal Officer's office. Such personnel shall consist of, initially, one deputy, to be known as the Income Tax Administrator, which employee, under the general direction of the Fiscal Officer, shall administer the Village income tax. Such deputy shall give bond in the sum of ten thousand dollars (\$10,000), conditioned on the faithful performance of her duties. The premium for such bond shall be paid for by the Village.

(b) The Income Tax Administrator shall also perform the duties of Payroll Clerk for the Village and other such duties assigned by the Fiscal Officer as are necessary for the efficient administration of the financial functions relating to the governance of the Village of Garrettsville and the Garrettsville Board of Public Affairs.

(c) The Mayor, upon recommendation of the Income Tax Administrator, may designate current employees of the Village or appoint additional employees to act as Assistant(s) to the Income Tax Administrator. In the performance of their duties, such Assistant(s) shall be under the direction and supervision of the Income Tax Administrator, and shall be subject to all laws relating to confidentiality as set forth in these Codified Ordinances and the Ohio Revised Code. (Ord. 2019-31. Passed 10-9-19.)

133.06 EXPENDITURE OF PUBLIC FUNDS FOR THE BENEFIT OF VILLAGE EMPLOYEES.

The Fiscal Officer is hereby authorized to expend public funds in an amount not to exceed two hundred fifty dollars (\$250.00) annually to purchase coffee, bottled water and light snacks to be kept in the kitchenette of Village Hall for consumption by Village employees, officers and members of the general public. (Ord. 2019-31. Passed 10-9-19.)

133.07 IDENTITY THEFT POLICY.

EDITOR'S NOTE: The Identity Theft Policy attached to Resolution 2009-52 as Exhibit "A" and incorporated herein by reference, is hereby established by the Council of Garrettsville to govern all utility and credit transactions with the Village.
(Ord. 2019-31. Passed 10-9-19.)

133.08 CREDIT CARD POLICY.

Pursuant to Ohio Revised Code Section 717.31, the Garrettsville Village Council has established a policy governing the use of Village credit cards. Such policy is made part of Ordinance 2009-67, the Village of Garrettsville Employee Handbook, as "Appendix J".
(Ord. 2019-31. Passed 10-9-19.)

CHAPTER 137
Solicitor

137.01 Acting Zoning Inspector.

CROSS REFERENCES

Legal counsel - see Ohio R. C. 733.48

Preparation of bonds - see Ohio R. C. 733.70

Conflict of interest - see Ohio R. C. 120.39

Member Treasury Investment Board - see ADM. 135.02

137.01 ACTING ZONING INSPECTOR.

(a) The Village Solicitor is hereby authorized to act as Zoning Inspector and to issue permits upon proper application in the event that the Village Zoning Inspector is unable to perform his duties for a period of time in excess of seven days.

(b) The Solicitor may be awarded additional compensation for the performance of such duties at the discretion of the Village Council, upon the affirmative vote of at least a majority of its members.

(c) Performance of Zoning Inspector duties under this section is an integral part of those services for which the Solicitor is retained, and is not to be considered a "special service" over and above services for which the Solicitor receives a salary. Any compensation granted to the Solicitor pursuant to subsection (b), above, shall be combined with and considered a part of the Solicitor's total earnable salary for purposes of contribution to the Ohio Public Employees Retirement System.
(Ord. 2014-21. Passed 5-21-14.)

CHAPTER 139 Police Department

139.01	Composition.	139.05	Longevity pay.
139.02	Duties of Chief.	139.06	Vacations.
139.03	Source of compensation.	139.07	Uniform allowance.
139.04	Qualifications of appointees; probationary service.	139.08	Auxiliary/reserve peace officers.
		139.09	Chief's residency waived.
		139.10	Parking Enforcement Unit.

CROSS REFERENCES

Composition - see Ohio R.C. 715.05, 737.16

Auxiliary police unit - see Ohio R. C. 737.161

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

General powers and duties - see Ohio R. C. 737.11,
737.18

Resisting arrest - see GEN. OFF. 525.09

Impersonating an officer - see GEN. OFF. 545.16

139.01 COMPOSITION.

The Police Department shall be composed of the officers hereinafter set forth, who shall perform the duties prescribed by law and ordinance under the direction of the Mayor and who shall receive compensation.

- (a) There shall be a full-time Chief of Police.
- (b) There shall be a full-time Lieutenant of Police.
- (c) There shall be a full-time Sergeant of Police.
- (d) There shall be one or more regular full-time patrolmen.
- (e) There shall be one or more, as deemed necessary by the Safety Committee of Council, the Mayor and the Chief of Police, part-time patrolmen, who shall be compensated.

(Ord. 2009-23. Passed 5-25-09.)

139.02 DUTIES OF CHIEF.

The duties of the Chief of Police shall be to have charge and control of subordinate officers in the Police Department and to generally see that the laws of the State and the ordinances of the Village are properly enforced.

(Ord. 381. Passed 2-5-58.)

139.03 SOURCE OF COMPENSATION.

The salary of the Police Chief and of patrolmen and other police officers shall be paid from the Safety Fund within the General Fund.

(Ord. 381. Passed 2-5-58.)

139.04 QUALIFICATION OF APPOINTEES; PROBATIONARY SERVICE.

Police officers appointed for the Village shall comply with the following requirements:

- (a) The applicant shall present proof of a recent physical examination performed by a competent physician.
- (b) Each applicant shall be employed for a probationary period of not less than six months. (Ord. 90-15. Passed 4-11-90.)

139.05 LONGEVITY PAY.

(EDITOR'S NOTE: See Section 153.04.)

139.06 VACATIONS.

(EDITOR'S NOTE: See Section 153.02.)

139.07 UNIFORM ALLOWANCE.

(EDITOR'S NOTE: See Sections 153.05 and 153.07.)

139.08 AUXILIARY/RESERVE PEACE OFFICERS.

(a) Auxiliary/Reserve Peace Officers shall be appointed by the Mayor. The Auxiliary/Reserve Peace Officer shall have all of the powers and duties of a regular police officer with two exceptions:

- (1) An auxiliary/reserve police officer shall not receive a salary;
- (2) An auxiliary/reserve police officer shall not carry an off duty weapon.

(b) This section incorporates the Standard Operating Procedure of the Police Department and is effective as of January 1, 1993.
(Ord. 92-31. Passed 4-8-92.)

139.09 CHIEF'S RESIDENCY WAIVED.

The specific residency requirements of Ohio R.C. 737.15 are hereby waived and the Village Marshall shall not be required to reside within the Garrettsville Village limits.
(Ord. 97-29. Passed 7-9-97.)

139.10 PARKING ENFORCEMENT UNIT.

The Mayor is hereby authorized to establish a Parking Enforcement Unit within the Police Department, to make all appointments and removals of parking enforcement officers and to prescribe rules for the organization, training, administrative control and conduct of the Parking Enforcement Unit. (Ord. 93-23. Passed 5-12-93.)

CHAPTER 141 Safety Committee

141.01 Composition.
141.02 Meetings.

141.03 Powers and duties.

CROSS REFERENCES Council - see ADM. Ch. 121

141.01 COMPOSITION.

The Safety Committee Council shall be composed of the Mayor and the two Council members annually appointed as the Village's representatives to the Garrettsville-Freedom-Nelson Joint Fire District Board and the Community EMS District Board.
(Ord. 2012-38. Passed 12-14-12.)

141.02 MEETINGS.

(a) Meetings of the Safety Committee shall be held monthly, at the time and place determined by the Committee. All meetings shall be open to the public, except that the Committee may adjourn to executive session when necessary and authorized by law.

(b) The Chief of Police shall attend and facilitate all meetings of the Safety Committee, and shall prepare the agenda and keep the minutes of such meetings.
(Ord. 2012-38. Passed 12-14-12.)

141.03 POWERS AND DUTIES.

(a) The Safety Committee shall consider the topics of traffic and safety within the Village, dispatch services provided by the Village, and the interrelation of the Village with the Garrettsville-Freedom-Nelson Joint Fire District and the Community EMS District.

(b) The Police Chief shall report to the Committee on the activities of his department, matters relating to personnel and dispatch services, request approval for non-emergency department expenditures in excess of two thousand five hundred dollars (\$2,500), and any other areas of concern as necessary.

(c) The Safety Committee shall review the monthly activities of the Police Department, and shall provide guidance as to the operation and management of such Department.

(d) Except for emergency expenses, all expenditures of the Police Department in excess of two thousand five hundred dollars (\$2,500) must first be approved by the Safety Committee, and the Committee may, in its discretion, refer such expenditures to Council for approval. Emergency expenditures need only be approved by the Clerk-Treasurer and shall be presented to the Safety Committee at its next regular meeting.

(e) The Safety Committee may make recommendations to Council for the enactment or amendment of legislation relating to traffic and safety within the Village.
(Ord. 2012-38. Passed 12-14-12.)

CHAPTER 143
Board of Trustees of Public Affairs

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| <p>143.01 Bonds. (Repealed)</p> <p>143.02 Duty to bill utility users.</p> | <p>143.03 Control of water and sewer
Capital Improvement Funds.</p> <p>143.04 Rules, regulations and bylaws.</p> |
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CROSS REFERENCES

Management and control of sewerage system - see Ohio R. C.
729.50 et seq.

Powers and duties - see Ohio R.C. 735.29

Composition - see Ohio R. C. 735.28

Duties of Clerk of Board of Trustees of Public Affairs merged
with Clerk - see ADM. 133.04

To issue well drilling permits - see BUS. REG. 725.01

143.01 BONDS. (REPEALED)

EDITOR'S NOTE: Former Section 143.01 was repealed by Ordinance 86-09, passed February 12, 1986.

143.02 DUTY TO BILL UTILITY USERS.

The Clerk of the Board of Trustees of Public Affairs shall in addition to the duties required by law, be responsible for billing all users of the utilities operated by the Board of Trustees of Public Affairs and assume responsibility for the collection and deposit of all fees, rentals and charges so collected in the proper accounts.
(Ord. 919. Passed 12-3-75.)

143.03 CONTROL OF WATER AND SEWER CAPITAL IMPROVEMENT FUNDS.

(a) The jurisdiction and control of the Capital Improvement Fund for necessary water system improvements and/or expansion shall be under the Board of Trustees of Public Affairs.

(b) The jurisdiction and control of the Capital Improvement Fund for expansion, improvement, extension and updating the Municipal sewage system shall be under the Board of Trustees of Public Affairs.
(Ord. 80-3. Passed 1-2-80.)

143.04 RULES, REGULATIONS AND BYLAWS.

(a) The Board may make such rules, regulations and bylaws as it determines to be necessary for the safe, economical, and efficient management and protection of the works, plants, and public utilities under its control. These rules, regulations and bylaws, when not repugnant to municipal ordinances or to the Constitution or laws of this State, shall have the same validity as ordinances.

(b) Such rules, regulations and bylaws may be amended as needed by the Board, and a current version thereof shall be made available to the public at the Clerk's office.
(Ord. 2009-63. Passed 1-13-10.)

CHAPTER 145
Water and Waste Water Treatment Department

- 145.01 Superintendent.
- 145.02 Plant operator.

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R. C.
715.08, 717.01, 743.01
Water pollution - see Ohio R.C. 715.08, 743.24 et seq.
Management and control of sewerage system - see Ohio R. C.
729.50
Water rates - see S.U. & P.S. Ch. 921
Sewers - see S.U. & P.S. Ch. 923

145.01 SUPERINTENDENT.

The separate positions of Superintendent of the Waste Water Treatment Plant and Superintendent of the Water Works Department are hereby combined into a single position to be known henceforth as the Superintendent of the Water and Waste Water Treatment Department.
(Ord. 585. Passed 7-7-65.)

145.02 PLANT OPERATOR

There is hereby established the position of full-time water and waste water treatment plant operator.
(Ord. 735. Passed 5-7-69.)

CHAPTER 147
Board of Trustees of the Cemetery

147.01 Secretary.

CROSS REFERENCES

Burials may be prohibited - see Ohio R. C. 759.05
 Powers and duties - see Ohio R. C. 759.09 et seq.
 Management and control of cemeteries - see Ohio R. C. 759.20
 Vacancy - see Ohio R. C. 759.21
 Removal - see Ohio R. C. 759.22
 Union cemeteries - see Ohio R. C. 759.27 et seq.
 Burial permits - see Ohio R. C. 3705.24 et seq.
 Burial of indigent persons - see Ohio R. C. 5113.15
 Cemetery Sexton - see ADM. Ch. 149
 Park Cemetery - see S.U. & P. S. Ch. 945

147.01 SECRETARY.

(a) There is hereby created the office of Secretary of the Board of Trustees of the Cemetery, whose duties shall be to maintain the Cemetery records and to perform such other duties as the Board of Trustees may from time to time hereafter direct.

(b) It shall be lawful for any member of the Board of Trustees of the Cemetery to act as such Secretary, upon a majority vote of the members of such Board.
 (Ord. 710. Passed 6-6-68.)

CHAPTER 149
Cemetery Sexton

- 149.01 Position established.
149.02 Duties.

CROSS REFERENCES

Burials may be prohibited - see Ohio R. C. 759.05
Management and control of cemeteries - see Ohio R. C. 759.20
Union cemeteries - see Ohio R. C. 759.27
Burial permits - see Ohio R. C. 3705.24 et seq.
Burial of indigent persons - see Ohio R.C. 5113.15
Board of Trustees of Cemetery - see ADM. Ch. 147
Park Cemetery - see S.U. & P.S. Ch. 945

149.01 POSITION ESTABLISHED.

There is hereby established the position of Sexton of Park Cemetery.
(Ord. 803. Passed 5-3-72.)

149.02 DUTIES.

It shall be the duty of the Sexton to oversee and superintend the work at the Cemetery and to open and close graves as may be needed. In addition, he shall be responsible to the Board of Trustees of the Cemetery with respect to the general and usual duties of a sexton.
(Ord. 262. Passed 4-7-48.)

CHAPTER 150
Street Department

150.01 Equipment operator.

CROSS REFERENCES

Appointment - see Ohio R.C. 735.31
Duties - see Ohio R. C. 735.32
Assistants - see Ohio R. C. 735.33
Street excavations - see S.U. & P.S. Ch. 901
Streets generally - see S.U. & P.S. Ch. 903

150.01 EQUIPMENT OPERATOR.

There is hereby established the position of full-time equipment operator in the Street Department.
(Ord. 738. Passed 5-7-69.)

CHAPTER 151
Planning Commission

- 151.01 Establishment.
- 151.02 Membership.
- 151.03 Control of height, design and location of buildings.
- 151.04 Control of temporary buildings, trailers.

CROSS REFERENCES

Planning Commission established - see Ohio R. C. 713.01
Powers and duties - see Ohio R. C. 713.02, 713.06
Planning Commission shall be Platting Commission - see
Ohio R. C. 713.03

151.01 ESTABLISHMENT.

There is hereby established a Planning Commission for the Village.
(Ord. 82. Passed 4-3-29.)

151.02 MEMBERSHIP.

The Planning Commission shall consist of five members, as follows: the Mayor, one member of Council, to be elected by Council for the remainder of his term as a member of Council and three citizens of the Municipality to be appointed by the Mayor for the term of six years. All of the members shall serve without compensation.
(Ord. 82. Passed 4-3-29.)

151.03 CONTROL OF HEIGHT, DESIGN AND LOCATION OF BUILDINGS.

In addition to the duties of the Planning Commission defined in the Ohio Revised Code, the Commission shall also control the height, design and location of buildings.
(Ord. 82. Passed 4-3-29.)

151.04 CONTROL OF TEMPORARY BUILDINGS, TRAILERS.

The authority of the Planning Commission shall be understood to include the location of all temporary or movable buildings or trailers within the Village.
(Ord. 289. Passed 1-3-51.)

CHAPTER 153
Employees Generally (Repealed)

EDITOR'S NOTE: Pursuant to Ordinance 2009-67,
passed January 13, 2010, the Village repealed former Chapter
153 and adopted an Employee Handbook.

CROSS REFERENCES

Welfare - see Ohio Const., Art. II, Sec. 34
Workers' compensation - see Ohio Const., Art. II, Sec. 35; Ohio R.C.
Ch. 4123
Deductions for municipal income tax - see Ohio R.C. 9.42
Public Employees Retirement System - see Ohio R.C. Ch. 145
Expenses for attendance at conference or convention - see Ohio R.C.
733.79
Strikes by public employees - see Ohio R.C. Ch. 4117

CHAPTER 155

Community Reinvestment Areas

155.01	Establishment; purpose.	155.06	Tax exemption amounts and periods.
155.02	Community Reinvestment Area Number One Boundaries.	155.07	Fees.
155.03	Community Reinvestment Area Number Two Boundaries.	155.08	Housing Officer.
155.04	Community Reinvestment Area Number Three Boundaries.	155.09	Housing Council.
155.05	Compliance with Zoning Code required.	155.10	Tax Incentive Review Council.
		155.11	Council may terminate program.

CROSS REFERENCES

State law provisions - see Ohio R. C. 3735.65 et seq.

155.01 ESTABLISHMENT, PURPOSE.

This Council finds that the areas designated as Community Reinvestment Areas Numbers 1, 2 and 3 constitute areas in which housing facilities or structures of historical significance are located, and in which new construction or repair of existing facilities has been discouraged. All properties identified as being within the designated Community Reinvestment Areas are eligible for this incentive. This proposal is a public/private partnership intended to promote and expand conforming uses in the designated areas. As part of the project, the Village of Garrettsville intends to undertake supporting public improvements in the designated areas. (Ord. 2015-18. Passed 5-13-15.)

155.02 COMMUNITY REINVESTMENT AREA NUMBER ONE BOUNDARIES.

Pursuant to Ohio R.C. 3735.66, Community Reinvestment Area Number 1 is hereby established in the following described area: All of the property zoned I - Industrial and C-2 Commercial lying west of South Street and south of Eagle Creek, according to the current Zoning Map of the Village of Garrettsville. (Ord. 2015-18. Passed 5-13-15.)

155.03 COMMUNITY REINVESTMENT AREA NUMBER TWO BOUNDARIES.

Pursuant to Ohio R.C. 3735.66, Community Reinvestment Area Number 2 is hereby established in the following described area: those properties zoned C-2 and C-3 (Commercial) and CBD (Central Business District) lying west of State Route 88, South of Harris Street and north of French and Forest Streets, and those properties zoned C-3, CBD and PD (Preservation District) lying east of State Route 88, south of Maple Street and north of Freedom and Windham Streets in the central portion of the Village, according to the current Zoning Map of the Village of Garrettsville. (Ord. 2015-18. Passed 5-13-15.)

155.04 COMMUNITY REINVESTMENT AREA NUMBER THREE BOUNDARIES.

Pursuant to Ohio R.C. 3735.66, Community Reinvestment Area Number 3 is hereby established in the following described area: All of the property zoned C-2 (Commercial) lying east of South Street and south of the northern boundary of the disused Conrail railbed, according to the current Zoning Map of the Village of Garrettsville.
(Ord. 2015-18. Passed 5-13-15.)

155.05 COMPLIANCE WITH ZONING CODE REQUIRED.

Only residential, commercial and/or industrial properties consistent with the applicable zoning regulations within the designated Community Reinvestment Areas will be eligible for exemptions under this Program. (Ord. 2015-18. Passed 5-13-15.)

155.06 TAX EXEMPTION AMOUNTS AND PERIODS.

(a) Within the Community Reinvestment Areas defined herein, the percentage of the tax exemption on the increase in the assessed valuation resulting from improvements to commercial and industrial real property and the term of those exemptions shall be negotiated on a case-by-case basis in advance of construction or remodeling occurring according to the rules outlined in the Ohio R.C. 3765.67. The results of the negotiation as approved by this Council will be set in writing in a Community Reinvestment Area Agreement as outlined in Ohio R.C. 3735.671. For residential property, a tax exemption on the increase in the assessed valuation resulting from the improvements as described in Ohio R.C. 3735.67 shall be granted upon application by the property owner and certification thereof by the designated Housing Officer for the following periods:

- (1) Residential Remodeling, One or Two Units. Ten (10) years, for the remodeling of every residential dwelling unit containing not more than two housing units and upon which the cost of remodeling is at least \$2,500, as described in Ohio R.C. 3735.67, and with such exemption being one hundred percent (100%) for each of the ten (10) years.
- (2) Residential Remodeling, More than Two Units. Twelve (12) years, for the remodeling of every residential dwelling unit containing more than two housing units and upon which the cost of remodeling is at least \$5,000, as described in Ohio R.C. 3735.67, and with such exemption being one hundred percent (100%) for each of the twelve (12) years.
- (3) New Residential Construction. Fifteen (15) years, for the construction of dwellings containing not more than three (3) housing units, as described in Ohio R.C. 3735.67, with such exemption being one hundred percent (100%) for each of the fifteen (15) years.
- (4) Remodeling of Commercial or Industrial Facilities. Up to, and including, twelve (12) years, and up to, and including, one hundred percent (100%) for the remodeling of existing commercial and industrial facilities and upon which the cost of remodeling is at least \$5,000, as described in Ohio R.C. 3735.67, the term and percentage of which shall be negotiated on a case-by-case basis in advance of remodeling occurring.
- (5) Construction of New Commercial or Industrial Facilities. Up to, and including, fifteen (15) years, and up to, and including, one hundred percent (100%) for the construction of new commercial or industrial facilities, the term and percentage of which shall be negotiated on a case-by-case basis in advance of construction occurring.

(b) For the purposes of the above described Community Reinvestment Areas, structures exclusively used for residential purposes and composed of three (3) and fewer units shall be classified as residential structures.

(c) If remodeling qualifies for an exemption, during the period of the exemption, the exempted percentage of the dollar amount of the increase in market value of the structure shall be exempt from real property taxation. If new construction qualifies for an exemption, during the period of the exemption the exempted percentage of the structure shall not be considered to be an improvement on the land on which it is located for the purpose of real property taxation. (Ord. 2015-18. Passed 5-13-15.)

155.07 FEES.

All commercial and industrial projects are required to comply with the state application fee requirements of Ohio R.C. 3735.672(C) and the local annual monitoring fee of one percent of the amount of taxes exempted under the agreement - a minimum of \$500.00 up to a maximum of \$2500 annually unless waived. (Ord. 2015-18. Passed 5-13-15.)

155.08 HOUSING OFFICER.

To administer and implement the provisions of this chapter, the Garrettsville Village Council shall annually designate a Housing Officer as described in Ohio R.C. 3735.65 through 3735.70. (Ord. 2015-18. Passed 5-13-15.)

155.09 HOUSING COUNCIL.

A Community Reinvestment Area Housing Council ("Housing Council") shall be created, consisting of two members appointed by the Mayor of the Village of Garrettsville, two members appointed by the Council of the Village of Garrettsville and one member appointed by the Planning Commission of the Village of Garrettsville. The majority of the members shall then appoint two additional members who shall be residents of the Village. Terms of the members of the Housing Council shall be for three years. An unexpired term resulting from a vacancy in the Housing Council shall be filled in the same manner as the initial appointment was made. The Housing Council shall make an annual inspection of the properties within the district for which an exemption has been granted under Ohio R.C. 3735.67. The Housing Council shall also hear appeals under Ohio R.C. 3735.70. (Ord. 2015-18. Passed 5-13-15.)

155.10 TAX INCENTIVE REVIEW COUNCIL.

A Tax Incentive Review Council shall be established pursuant to Ohio R.C. 5709.85 and shall consist of three representatives appointed by the Board of Portage County Commissioners, two representatives of the Village of Garrettsville, appointed by the Mayor with Council concurrence, the County Auditor or designee and a representative of each affected Board of Education. At least two members must be residents of the Village of Garrettsville. The Tax Incentive Review Council shall review annually the compliance of all agreements involving the granting of exemptions for commercial or industrial real property improvements under Ohio R.C. 3735.671, and make written recommendations to the Village Council as to continuing, modifying or terminating said agreement based upon the performance of the agreement. (Ord. 2015-18. Passed 5-13-15.)

155.11 COUNCIL MAY TERMINATE PROGRAM.

The Council reserves the right to re-evaluate the designation of the Community Reinvestment Areas after December 31, 2015, at which time the Council may direct the Housing Officer not to accept any new applications for exemptions as described in Ohio R.C. 3735.67. (Ord. 2015-18. Passed 5-13-15.)

CHAPTER 159 Urban Renewal

159.01	Necessity of urban renewal.	159.06	Action by Planning Commission.
159.02	Definitions.	159.07	Public hearing and Council action.
159.03	Designation of Mayor to supervise urban renewal activities.	159.08	Modification of urban renewal plan.
159.04	Preparation of urban renewal studies and plans.	159.09	Execution of urban renewal projects.
159.05	Contents of urban renewal plan and relocation plan.	159.10	Separability; ordinance controlling.

CROSS REFERENCES

Community Reinvestment Areas - see ADM. Ch. 155

Village Improvement Commission - see ADM. Ch. 157

159.01 NECESSITY OF URBAN RENEWAL.

It is found and determined that:

- (a) Garrettsville, like many older Northern American municipalities, has lost much of its industrial base and with it jobs, population and revenue. These losses present unique challenges for redevelopment of former industrial sites and for the nearby areas which may be impacted by such redevelopments;
- (b) These changes have also impacted on the delivery of governmental services resulting from the decreased revenue necessary to pay for the cost of such services;
- (c) Partially as a result of the loss of the industrial base and the problems associated therewith, there exists within the Village blighted, deteriorated and deteriorating areas of the nature defined in this chapter which constitute a serious problem, injurious to the public health, safety, morals and general welfare of the Village and its residents and that the existence of such areas;
 - (1) Contribute substantially and increasingly to the potential for the spread of crime, for losses by fire and accident; which may necessitate excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution and punishment, for the treatment of juvenile delinquency, and for the maintenance and delivery of adequate police, fire and accident protection and for other public services and facilities and various combinations of some or all of these conditions;

- (2) Constitute an economic and social liability which may contribute to the loss of jobs and economic opportunity, discourage redevelopment and retard the future growth of the Village; and
- (3) Substantially impairs the sound growth of the community, retards the provision of modern housing accommodations and/or new job creation and employment opportunities, creates or sustains traffic problems which may be reduced through new development; and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities.
- (d) That such problems are beyond remedy and control solely by regulatory processes and exercise of police power, and can not be dealt with effectively by the ordinary operation of private enterprise without the assistance herein provided;
- (e) That the elimination in whole or in part of slum, blighted, deteriorated and deteriorating areas, and the conservation, rehabilitation and reconditioning, to the extent feasible, of the salvageable portions thereof by urban renewal as defined herein, and the economic redevelopment of these areas to preserve and enhance employment and housing opportunities and the economic health of the Village are public uses and purposes for which public money may be expended and private property acquired by purchase, by donation and by eminent domain, are governmental functions of concern to the Village, and require the exercise of the powers of government granted to the Village by the provisions of Article XVIII of the Constitution of the State of Ohio and that the adoption of this chapter is declared to be a necessity in the public interest and general welfare of the Village of Garrettsville. (Ord. 2011-52. Passed 9-14-11.)

159.02 DEFINITIONS.

For the purpose of this chapter, the following terms shall have the meaning ascribed to them in this section unless a different meaning is clearly indicated in the context:

- (a) "Agency" or "Urban Renewal Agency" or "Local Public Agency" means the Village of Garrettsville, Ohio.
- (b) "Slum, Blighted or Deteriorated Area" means either of the following:
 - (1) A "slum area" is an area within the Village of Garrettsville in which area there is a predominance of buildings, improvements (including such public improvements as streets and utilities) or uses, whether residential or non- residential, which by reason of dilapidation, deterioration, age or obsolescence, substantial vacancy of existing structures; inadequate provision for ventilation, light, air, sanitation or open spaces; high density of population and overcrowding; or the existence of conditions which endanger life or property, by fire and other causes, or any combination of such factors, jeopardizes public safety, or is detrimental to the public health, morals or welfare, and/or
 - (2) A blighted or deteriorated area which is an area within Garrettsville, which by reason of the presence of a substantial number of deteriorated or deteriorating structures; the predominance of defective and inadequate street and/or sidewalk layout; faulty lot layout in relation to size, adequacy, accessibility; setback, or usefulness (including nonconforming substandard lot sizes); unsanitary or unsafe conditions; deterioration of

site or other improvements; high vacancy and/or turnover; diversity of ownership, making assemblage for redevelopment unusually difficult; tax or special assessment delinquency exceeding the fair market value of the land; defective or unusual conditions to title; or the existence of conditions which endanger life or property by fire or other causes or any combination of such factors which combined substantially impairs or arrests the sound growth of Garrettsville, retards the provision of modern housing accommodations, or constitutes an economic or social liability and is therefore a menace to the public health, safety, morals or welfare in its present condition and use.

- (c) "Deteriorating area" means an area within the Village of Garrettsville whether predominantly built up or open which is not a slum, blighted or deteriorated area, but which, because of incompatible land uses which conflict with other uses by creating negative impacts such as noise, odor, dust, light and other similar factors; nonconforming uses; lack of adequate parking facilities; faulty street arrangements, including poorly designed streets and dead end streets, particularly those off of state highways and other high volume roadways, with inadequate turning radii which create difficulty for emergency vehicles as well as delivery vehicles and are hazardous when large vehicles must back out onto busy streets; obsolete platting, including undersize lots and inadequate setbacks; inadequate community and public utilities; diversity of ownership, making assemblage for redevelopment unusually difficult; tax delinquency; increased density of population without commensurate increases in new residential buildings and community facilities; high turnover in residential or commercial occupancy; lack of maintenance and repair of buildings; repeated instances of building, health, fire or other life safety code violations, or any combination thereof, is detrimental to the public health, safety, morals and general welfare and which is likely to deteriorate or is in danger of deteriorating into a blighted area.
- (d) "Project area" or "urban renewal area" means a slum, blighted, deteriorated or deteriorating area or any combination or part thereof which Council designates as of a character and size appropriate for urban renewal activities and for which an Urban Renewal Plan is proposed or prepared.
- (e) "Urban renewal" or "urban renewal activities" means the activities of the Village, with or without Federal or State aid or assistance, for developing, undertaking and carrying out urban renewal programs and projects, including all planning and other related activities of the Village in connection therewith, or any part of such activities.
- (f) "Open space land" means land which has not been developed by the construction or installation of streets, utilities, buildings (except sporadic or incidental structures) or other site improvements. Whether or not such an area has been platted in whole or in part does not prevent its classification as "open space land."
- (g) "Redeveloper" means any person, or entity:
 - (1) Purchasing property from the Village within an urban renewal area; or
 - (2) Owning property located within such area, and, entering into a conforming agreement with the Village in consideration of being permitted by the Village to retain title to such property.

- (h) "Urban renewal plan" means a plan, as it exists from time to time, for the urban renewal of a project area or part thereof.
- (i) "Urban renewal project" or "project" means undertakings and activities of the Village of Garrettsville, with or without Federal or State aid or assistance, in an urban renewal area for the elimination and for the prevention of the development or spread of blight, and may involve clearance and redevelopment in an urban renewal area, or rehabilitation and conservation in an urban renewal area, or any combination or part thereof, in accordance with such urban renewal plan to the full extent of and in accordance with the rights, powers and authority of the Village, whether derived from the applicable provisions of the Federal or State constitution or statutes, or the Village ordinances. Such undertakings and activities may include:
 - (1) Acquisition of realty in an urban renewal area.
 - (2) Demolition and removal of buildings and improvements in such area.
 - (3) Installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out the urban renewal plan.
 - (4) Disposition of any property acquired in the urban renewal area for uses consonant with the urban renewal plan.
 - (5) Encouraging and assisting interested citizens in a private program of voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan, with or without aid and assistance by Federal Housing Administration mortgage insurance or special support for mortgage financing through the Federal National Mortgage Association or similar organizations.
 - (6) Acquisition of any real property in the urban renewal area where necessary to eliminate unhealthy, unsanitary or unsafe conditions, lessen such lot occupancy or population density as create such conditions, eliminate uses incompatible with the general character of a neighborhood and which are detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; and disposition of property, so acquired in accordance with this subsection (i)(6), for voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan.
 - (7) Purchase, repair and rehabilitation and resale of buildings which are located in the urban renewal area and which, under the urban renewal plan, are to be repaired or rehabilitated for dwelling use or related facilities.
- (j) "General plan" means a broad and general guide and pattern for the future growth and development of the Village, as such is currently embodied in the Zoning Map and Code of the Village which maybe amended from time to time.
- (k) "Slum clearance" or "redevelopment" may include those undertakings and activities identified in subsections (i)(1), (2), (3) and (4).
- (l) "Rehabilitation, "conservation" or "reconditioning" may include those undertakings and activities identified in subsections (i)(3), (4), (5), (6) and (7). (Ord. 2011-52. Passed 9-14-11.)

159.03 DESIGNATION OF MAYOR TO SUPERVISE URBAN RENEWAL ACTIVITIES.

The Mayor of the Village is hereby charged with the responsibility of supervising the urban renewal activities of this Village, coordinating the activities of the several officers, employees, commissions and boards concerned with such projects and executing on behalf of the Village, as its authorized representative, all applications to the Federal government for grants, loans and advances. (Ord. 2011-52. Passed 9-14-11.)

159.04 PREPARATION OF URBAN RENEWAL STUDIES AND PLANS.

(a) When authorized by ordinance of this Council, Village may enter into such contracts with engineers, architects and other professional services as may be necessary to provide the necessary inspections, studies, plans, surveys and reports in connection with the urban renewal or redevelopment activities to be undertaken in areas designated by Council. The Planning Commission may itself conduct such inspections, studies, plans, surveys, and reports.

(b) When studies, plans or surveys pursuant to subsection (a) hereof, have been prepared, they shall be submitted to Council and filed as provided from time to time. (Ord. 2011-52. Passed 9-14-11.)

159.05 CONTENTS OF URBAN RENEWAL PLAN AND RELOCATION PLAN.

(a) Any urban renewal plan hereafter prepared shall be prepared in such detail as to clearly set forth sufficient information to permit the Planning Commission to exercise its power of approval or disapproval under Ohio R.C. 713.02, and in any event shall include, but not be limited, the following:

- (1) A description of the boundaries of the project area;
- (2) A land use plan showing the location, character and extent of public and private land ownership, utilities, use and occupancy proposed within the area, and showing proposed changes, if any, in the building, housing or zoning ordinances or maps and street layouts, levels or grades, recognizing that the proposed construction in an urban renewal plan is conceptual in nature and what is actually built should conform with the concept, while recognizing that flexibility may be necessary in determining with precision what ultimately is built and where.
- (3) A statement showing the standards of population densities, land coverage and building intensities in the area, after the redevelopment, if the proposed uses are residential.
- (4) A delineation of areas of land acquisition, demolition and removal of structures, conservation or reconditioning of existing structures, if any, as may be proposed to be carried out in the project area.
- (5) A statement of the relationship of the plan to the definite objectives of the Village with regard to the project area and may include appropriate land uses, improved traffic conditions and transportation, public utilities, recreation and community facilities and other public improvements and the economic health of the community.
- (6) A statement indicating the controls, use and development restrictions to be placed on property in the project area to prevent a recurrence of slum or blighted conditions.

- (7) A financial plan indicating the resources for the public costs of the project.

(b) If required by any of the funding sources of the plan or any project proposed to be built in the Plan Area, a relocation plan shall indicate a feasible method for the relocation of families displaced from the project area. (Ord. 2011-52. Passed 9-14-11.)

159.06 ACTION BY PLANNING COMMISSION.

(a) When an urban renewal plan is filed with Council, Council shall refer such plan or plans to the Planning Commission of the Village for its review and recommendations, including whether or not the plan is in conformity with the General Plan of the Village and including the exercise of its power of approval or disapproval under Ohio R.C. 713.02, by causing a copy of such plan or plans to be delivered to the person charged with the preparation and custody of the record of proceedings of the Planning Commission.

(b) The Planning Commission shall submit in writing to Council its approval of or recommendations concerning such plan or plans. The approval of the Commission shall also constitute its approval of those matters placed under its jurisdiction by Ohio R.C. 713.02, except as the recommendations of the Planning Commission may include a disapproval pursuant to such section. Except as recommendations or disapprovals are received from the Planning Commission within thirty-one days after its receipt of such plan or plans, the plan or plans shall be conclusively presumed to have been approved by the Planning Commission. (Ord. 2011-52. Passed 9-14-11.)

159.07 PUBLIC HEARING AND COUNCIL ACTION.

(a) Council shall either approve or reject the urban renewal plan or make modifications in accordance with the recommendations of the Village Planning Commission.

Before approving or modifying an urban renewal plan. Council shall hold a public hearing at which an opportunity shall be provided to all persons interested to be heard, either in person or by counsel, which hearing may be adjourned from time to time. Notice of the date, time and place of such hearing shall be published in a newspaper of general circulation in the Village once a week for two consecutive weeks, and at least fifteen full days shall elapse between the second publication and the date set for the public hearing. In addition, notice shall be sent thirty days before the hearing by ordinary first class mail to the owners shown on the records of the Auditor of Portage County, Ohio for each parcel within the urban renewal district and by first-class mail to any occupant or tenant known to the Village for any address contained in the urban renewal district. Such notices shall also contain a description of each project area by its location in relation to highways, streets, watercourses or other natural or artificial boundaries, and shall also designate the place at which the Plan, together with maps, plats and other materials describing the project area are and will be available for public inspection.

(b) If as a result of the public hearing, Council desires to modify the urban renewal plan other than in accordance with such plan approved by or in accordance with the recommendations of the Village Planning Commission, the modified urban renewal plan shall be resubmitted to the Planning Commission for its written approval or recommendations within thirty- one days with the presumption of approval thereafter, all in accordance with Section 159.06.

(c) If Council wishes to approve an urban renewal plan, it shall do so by an ordinance passed by majority vote, provided, however, that if such plan or plans, as submitted with such ordinance, have not been approved by the Planning Commission, or if there were any partial disapprovals by or adverse recommendations of the Planning Commission under Ohio R.C. 713.02, not accepted by Council by its modifications of the plan in accordance therewith, then an affirmative vote of two thirds of the members of Council shall be required to pass such ordinance.

The ordinance of Council approving the plan shall be accompanied by, or incorporate by reference, documents submitted to Council to support findings made therein and the ordinance shall include the following findings:

- (1) Specific findings of fact as to the character of the project area and that such area is a slum, blighted area, deteriorated or deteriorating area;
- (2) That the size of the area and the location of elements of blight and deterioration in the area make it suitable for urban renewal activities;
- (3) That if the project to be developed under the plan involves the elimination of current occupied residential housing units, that there are or will be provided in the project area or are available in other areas not generally less desirable in regards to public utilities and public and commercial facilities, at rents and prices within the financial means of the families displaced from the project area, decent, safe and sanitary dwellings equal in number to the number of and available to such displaced families and reasonably accessible to their places of employment.
- (4) (This finding is made only if Federal aid is needed.) That financial aid to be provided by the Federal government under its contract is necessary to enable the project to be undertaken in accordance with the plan;
- (5) That the plan for the project area will afford maximum opportunity consistent with the sound needs of the locality as a whole for the rehabilitation or redevelopment of the project area by private enterprise;
- (6) That the plan is feasible and conforms to the existing general or master plan for the overall development of the Village as prepared by the Planning Commission pursuant to Ohio R.C. 713.02;
- (7) That the plan gives the consideration to the provision of adequate park and recreational areas and facilities, as may be desirable for neighborhood improvement with special consideration for the health, safety and welfare of children residing in the general vicinity of the site covered by the plan;
- (8) (This finding is to be made only if the project area is not predominantly residential in character and is not to be redeveloped for predominantly residential uses.) That the redevelopment of the project area for predominantly nonresidential uses is necessary for the proper development of the community.
- (9) That the urban renewal plan will afford maximum opportunity consistent with the sound need of the community as a whole for the redevelopment of the project area by private enterprise; provided, if the project area or a substantial portion thereof consists of open land to be acquired by the Village; such open land shall not be so acquired unless:

- A. If it is to be developed for residential uses for low or medium priced private or public housing, Council shall determine that a shortage of housing of sound standards and design which is decent, safe and sanitary exists in the Village; that the need for housing accommodations has been or will be increased as the result of the project area; that the conditions of blight in the project area and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals and welfare, and that the acquisition of the open land for residential uses is an integral part of and essential to the program of the Village; or
 - B. If it is to be developed for nonresidential uses, Council shall determine that such uses are necessary and appropriate to facilitate the proper growth and development of the Village in accordance with sound planning standards and local community objectives, and that the acquisition of such open land may require the exercise of governmental action as provided in this chapter because of difficult or unusual condition of site, deficiencies or ownership, tax delinquencies, improper certifications, outmoded street patterns, obsolete platting, deterioration of site, economical disuse, unsuitable topography or faulty layouts, or the need for correlation of the area with the other areas of the Village by streets and modern traffic facilities, or any combination of such factors or other conditions which retard development of the area.
- (10) (This finding is to be made only where an open space land program is involved.) That the land and the interests in land to be acquired are for the purpose of preserving such area as open space land and are necessary to orderly long-range development, to curb urban sprawl and the spread of urban blight and deterioration, to encourage more economical and desirable urban development and to provide areas for parks, playgrounds, parkways, conservation areas, water sheds, and to preserve natural resources, and that the area so to be acquired is of a size and character appropriate for such purposes.
- (11) (This finding is to be made only where an educational institution or a hospital is located in or near the project area and it is desired to utilize Section 112 of the Housing Act of 1949; as amended.) That, in addition to the elimination of slums and blight from such area, the undertaking of an urban renewal project in such area will further promote the public welfare and the proper development of the community:
- A. By making land in such area available for disposition, for uses in accordance with the urban renewal plan, to such educational institution or hospital for redevelopment in accordance with the use or uses specified in the urban renewal plan;
 - B. By providing, through the redevelopment of the area in accordance with the urban renewal plan, a cohesive neighborhood environment compatible with the functions and needs of such educational institution or hospital; or
 - C. By any combination of the foregoing.
- (Ord. 2011-52. Passed 9-14-11.)

159.08 MODIFICATION OF URBAN RENEWAL PLAN.

An urban renewal plan and the ordinance approving it may be amended, modified or changed by ordinance of Council from time to time, before or after its initial approval thereof, provided, that, if the boundaries of the project area are extended to include any parcels of land not previously included therein or if there is added a new type of urban renewal activity which requires the acquisition of property or if there is a change in the proposed zoning within the project area or in any other matter directly within the jurisdiction of the Planning Commission to approve or disapprove under Ohio R.C. 713.02, all of the proceedings provided for in Sections 159.06 and 159.07 shall be carried out in connection with such amendment, modification or change and provided, that, the plan may not be amended, modified or changed with respect to any land previously conveyed by the Village without the consent of the property owner thereto. (Ord. 2011-52. Passed 9-14-11.)

159.09 EXECUTION OF URBAN RENEWAL PROJECTS.

(a) As authorized by Council, the Mayor, with the appropriate advice and assistance of the Solicitor, shall cause the necessary steps to be taken to acquire the parcels of land in the project area in accordance with the plan, including but not limited to, the negotiation for such parcels, obtaining appraisals, title examinations and reports, executing contracts for any such services, and preparation of appropriate documents to transfer title to the Village; provided, that in the event that appropriation of property is necessary, Council shall initiate and carry out, with the appropriate assistance of the several officers, employees, boards and commissions of the Village, the proceedings in accordance with Ohio R.C. Chapter 719, such acquisition, except where appropriation of property is necessary, may take place at any time after compliance with Sections 159.06 and 159.07, such actions may take place before or after the execution of any contracts, if there are to be any, with a federal agency pursuant to Section 159.08 or with a private redeveloper. The Village may delay acquisition of property within the Project Area until the Village has a contract with a redeveloper which provides for the reuse of the property to be acquired.

(b) After any necessary appropriations of Village moneys and authorization of expenditures by ordinances of Council in accordance with Ohio R.C. Chapter 5705, Council action, where appropriate to rezone property, vacate or dedicate streets, or other public places and provide for the establishment and preservation of open-space areas pursuant to Ohio R.C. Chapters 711, 713 and 723, and applicable Village ordinances; certification of funds by the Village Clerk, where appropriate, pursuant to Ohio R.C. 5705.41; and preparation of or approval of legal form of contracts by the Solicitor, the Mayor shall make the contracts, order the purchase of supplies and materials and provide the labor, pursuant to and in accordance with the applicable provisions (including the competitive bidding requirements) of Ohio R.C. 731.14, 735.052 to 735.054, Chapter 153 and Sections 723.52 and 723.53, for such Village activities as may be necessary to carry out the urban renewal project, including but not limited to the demolition, rehabilitation or repair of structures (whether voluntarily by the private owners thereof or by the Village for demonstration purposes in limited numbers), the removal of pavement, sidewalks, lighting and trees, capping, removal and relocation of Village-owned utility lines, grading, construction of site improvements and supporting facilities and the temporary lease, rental or permission to let others use structures or parcels of land while owned by the Village, relocation activities and the enforcement of any applicable provisions of law or conforming agreements relative to building, zoning, platting and the repair or rehabilitation of land and structures remaining in private ownership.

(c) Pursuant to Ohio R.C. 721.01, 721.03, and 721.28, after its determination that real property is not needed for any other municipal purpose, Council may authorize by ordinance the transfer, lease or conveyance of any real property acquired in accordance with and for the purposes of the plan, subject to such lawful terms, conditions, restrictions and covenants (including covenants running with the land) to assist in carrying out the purposes of the plan. All dispositions of real property shall be at not less than the fair value thereof determined by Council based upon the current condition of the property and the anticipated capital required to make said property suitable for the proposed new uses and the requirements and restrictions thereon to be imposed thereon under the urban renewal plan by Council through zoning ordinances, private covenant or otherwise. To assist in making such determination, Council may seek independent appraisals of such fair value upon the aforesaid basis, which appraisals shall not be binding upon the Village. The manner of disposition shall be prescribed by ordinance, and may be by negotiation, with or without any competitive bidding, and such competition and award of a disposition contract may be based on factors other than price alone. Two weeks publication of notice in a newspaper of general circulation in the Village shall be sufficient notice for the taking of competitive bids or of the execution of a disposition contract without competitive bidding. The financial and legal ability of those proposing to acquire or lease such real property shall be considered in all dispositions. The Mayor shall execute, on behalf of the Village, such instruments as may be necessary to transfer, lease or convey such real property in the form approved by the Solicitor and authorized by Council, which form shall include all covenants running with the land, including any portions of the plan incorporated by reference. The Mayor shall execute any certificates of completion of improvements or other appropriate instruments, on behalf of the Village, that may be necessary in accordance with any covenants in such instruments of lease or conveyance.

(d) If the owner of property in the project area is willing to make the use of his property conform to the urban renewal plan and Council finds and determines that the acquisition of such property by the Village will not be necessary if so conformed, the Mayor, upon Council authorization, may enter into a conforming agreement upon such terms and security as may be authorized by Council. Such agreement may provide for the acquisition of property upon continued failure of the property owner to keep his agreement after notice from the Village specifying such failure. (Ord. 2011-52. Passed 9-14-11.)

159.10 SEPARABILITY; ORDINANCE CONTROLLING.

(a) Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the ordinance and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

(b) Insofar as the provisions of this chapter are inconsistent with the provisions of any other law or ordinance, the provisions of this chapter shall be controlling. The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by other laws and ordinances.
(Ord. 2011-52. Passed 9-14-11.)

CHAPTER 157
Village Improvement Commission

157.01	Establishment.	157.03	Purpose.
157.02	Membership.		

CROSS REFERENCES

Street assessments - see Ohio R.C. 701.05

Assessments for tree planting or maintenance - see Ohio R. C. 727.011

157.01 ESTABLISHMENT.

There is hereby established the Village Improvement Commission. Members shall be appointed by the Mayor.

(Ord. 86-15. Passed 4-9-86.)

157.02 MEMBERSHIP.

The Village Improvement Commission shall consist of five members, as follows: at least one member of Council, at least two members of the business community and at least two property owners for the term of four years. All members shall serve without compensation. (Ord. 86-15. Passed 4-9-86.)

157.03 PURPOSE.

The purpose of the Village Improvement Commission is to make recommendations to Council on at least a semi-annual basis as to needed improvements in the areas of sidewalks, curbing, streets, tree plantings and any other similar improvements in the Village.

(Ord. 86-15. Passed 4-9-86.)

TITLE SEVEN - Taxation
 Chap. 171. Income Tax
 Chap. 173. Income Tax Effective January 1, 2016.

CHAPTER 171
 Income Tax

EDITOR'S NOTE: Resolution 648, passed December 13, 1966, provided regulations governing the administration of the Income Tax. This resolution has been published in booklet form and copies of the same are available in the office of the Clerk.

See Chapter 173 for Income Tax Effective January 1, 2016.

171.01	Definitions.	171.08	Investigative powers of the Administrator; confidential information.
171.02	Purpose; imposition of tax.	171.09	Interest and penalties.
171.025	Levy of additional one-half percent.	171.10	Collection of unpaid taxes and refunds of overpayments.
171.027	Levy of additional one-quarter percent.	171.11	Violations.
171.03	Return and payment of tax.	171.12	Board of Review.
171.04	Collection at source.	171.13	Credit for tax paid to another municipality.
171.05	Questionnaires.	171.14	Saving clause.
171.051	Requiring owners of rental or leased property located within the Village to provide the Income Tax Clerk with information of tenants.	171.15	Collection of tax after termination of chapter.
171.06	Declarations.	171.16	Disbursement of funds.
171.07	Duties of the Administrator.	171.17	Garrettsville Village Job Creation Tax Credit Program.
		171.99	Penalty.

CROSS REFERENCES

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

171.01 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) "Administrator" means the individual designated by ordinance, whether appointed or selected, to administer and enforce the provisions of this chapter.
- (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 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 including but not limited to the renting or leasing of property, real, personal or mixed.
- (e) "Business Deductions" these are the ordinary and necessary expenses actually incurred in the operation for the business. 171.02(a)(5)A. B. (6)A., B.
- (f) "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, but not including Chapter S. Corporations.
- (g) "Domicile" means a place where a person has his true and permanent home to which, whenever absent from, he intends to return.
(Ord. 93-44. Passed 1-8-94.)
- (h) "Employee" means one who works for wages, salary, commission or other type of compensation in the service and under the control of an employer. Any person upon whom an employer is required to withhold for either federal income tax or social security or on whose account payments are made under the Worker's Compensation law shall prima facie be an employee.
(Ord. 00-53. Passed 11-8-00.)
- (i) "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.
- (j) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (k) "Gross Receipts" means the total income from any source whatsoever required to be included in the tax return.
- (l) "Income" includes all monies derived from any sources whatsoever less any excludable income, which excludable income includes dividends, interest, social security, old age pension, poor relief, or any other income excluded in accordance with State law.
- (m) "Municipality" means the Village of Garrettsville.
- (n) "Net Profits and Net Losses" means the net gain or loss from the operation of a business, profession, enterprise or other activity excluding capital gains and losses after provision for all ordinary, reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by the income tax ordinance, 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 the income tax ordinance, and the rules and regulations promulgated by the Tax Administrator pursuant to Section 171.07 excluding dividends and excluding income received from affiliated or subsidiary companies, which own no property and do no business within the United States.
- (o) "Nonresident" means an individual domiciled outside the Village.
- (p) "Nonresident Unincorporated Business Entity" means unincorporated business entity not having an office or place of business within the Village.
- (q) "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, means the partners or members thereof, and as applied to corporation, the officers thereof.

- (r) "Place of Business" means any bona fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (s) "Resident" means an individual, association, corporation or other entity domiciled in the Village of Garrettsville.
- (t) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
- (u) "Rules and Regulations" means an explanatory text, in printed form, applying and interpreting certain articles and subsections thereof of this chapter. Copies of these are on file in the Village Income Tax Office, and are available to the public. (Ord. 93-44. Passed 1-8-94.)
- (v) "Taxable income" means wages, salaries and other compensation paid by an employer or employers plus any net profits or less any net losses derived from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter. Non-resident taxpayers with W-2 income earned in the Village shall not be permitted to off-set said income with profits/losses from other activities conducted within the Village but shall file a separate return on said income from that business. (Ord. 97-03. Passed 1-8-97.)
- (w) "Taxable year" means the calendar year, or the final 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 a return is required to be made.
- (x) "Taxpayer" means a person, more than eighteen years of age, whether an individual, partnership, association, corporation or other entity, required hereunder to file a return or pay a tax.
- (y) "Village" means the Village of Garrettsville.
- (z) The singular shall include the plural and the masculine shall include the feminine and the neuter. (Ord. 93-44. Passed 1-8-94.)

171.02 PURPOSE; IMPOSITION OF TAX.

(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 at the rate of one percent (1%) during the period from January 1, 1987, until amended further, upon the following:

- (1) On all salaries, wages, commissions, tips, gratuities, subpay, and other compensation, such as early retirement incentive plans, earned during the effective period of this chapter by residents for work done or services performed or rendered in the Village. The tax shall not be levied upon expenses reported on Federal Form 2106, subject to audit and approval by the Department of Taxation.

- (2) On any programs to include but not limited to, deferred compensation plans, cafeteria plans and similar plans offered that would reflect a reduction from salaries, wages, commissions and other compensation as reported on a W-2 and/or similar wage reporting form.
- (3) On any programs to include, but not limited to IRA's, KEOUGH's and similar plans offered that qualify for reductions in salaries, wages, commissions and other compensation under Federal and State tax regulations unless specifically exempted in this chapter and/or under State statutes.
- (4)
 - 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 or 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 entity.
- (5)
 - A. On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities derived from sales made, work done, 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 owner of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.
- (6)
 - A. 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 and without 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 the Administrator pursuant to this chapter.
 - C. Operating loss carry-forward shall be determined as provided herein.
 - 1. The portion of a net operating loss sustained in any taxable year subsequent to the effective date of the first ordinance permitting loss carry-forwards allocable to this Municipality may be applied against the portion of the profit of succeeding years allocable to this Municipality, until exhausted but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

2. The portion of a net operating loss sustained shall be allocated to this Municipality in the same manner as provided herein for allocating net profits to this Municipality.
 3. The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.
- D. Consolidated return shall be in conformance with this subsection.
1. Filing of consolidated returns may be permitted, required or denied in accordance with rules and regulations prescribed by the Administrator.
 2. In the case of a corporation that carries on transactions with its stockholders or with corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within this Municipality constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to this Municipality. If the Administrator finds net profits are not properly allocated to this Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to this Municipality.
- E. The tax provided for herein shall not be levied on the following:
1. Funds received from local, state, or federal governments because of service in the Armed Forces of the United States by the person rendering such service, or as a result of another person rendering such service.
 2. Poor relief, pensions, unemployment insurance benefits, social security benefits and/or similar payments, including disability benefits received from private industry or local, state, or federal government or from charitable, religious, or educational organizations.
 3. Alimony received.
 4. Income, dues contributions, receipts from casual entertainment, amusements, sport events and health and welfare activities received by religious, fraternal, charitable, scientific, literary, educational institutions or organizations, labor union, lodges and similar organizations.
 5. Any association, organization, corporation, club or trust, which is exempt from federal tax on income by reason of its charitable, religious, educational, literary, scientific, etc., purposes.

6. Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State from which the Village is specifically prohibited from taxing and income of a decedent's estate during the period of administration, except such income from the operation of a business.
7. Earnings and income of all persons under eighteen years of age whether residents or nonresidents.
8. Dividends.
9. Interest.
10. Relocation costs of any employee that are reimbursed by the employer.
11. State Lottery - winnings not taxable.
(Ord. 93-44. Passed 1-8-94.)

(b) Determination of income subject to tax. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Village, in the absence of actual records thereof, shall be determined as follows:

- (1) Multiply the entire net profits by business apportionment percentage to be the average ratio of:
 - A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used herein, "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 thereupon by 8.
(Ord. 2004-47. Passed 11-10-04.)
 - B. Wages, salaries, and other compensation paid or accrued during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries, and other compensation paid or accrued during the same period to persons employed in the business or profession, wherever their services are performed.
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from taxes and services, wherever made or performed. In the event the foregoing allocation formula does not produce an equitable result another basis may, under uniform regulation, be substituted so as to produce such results.

- (2) As used in this section, "sales made in the Village" means:
- A. All sales of tangible personal property which is delivered within the Village regardless of where title passes if tangible personal property is shipped or delivered from a stock of goods within the Village.
 - B. All sales of tangible personal property which is delivered within the Village regardless of where title passes even though transported from a point outside the Village if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village and the sales result from such solicitation or promotion.
 - C. All sales of tangible personal property which is shipped from a place within the Village to purchasers outside the Village regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
(Ord. 93-44. Passed 1-8-94.)

171.025 LEVY OF ADDITIONAL ONE-HALF PERCENT.

(a) An annual tax for the purposes specified in Section 171.02 shall be imposed for the period beginning January 1, 1986, at the rate of one-half of one percent (.5%) per annum on all salaries, wages, commissions, other compensation and net profits as specified in Section 171.02.

(b) The tax imposed by this section shall be imposed, administered, collected and enforced in conjunction with the imposition, administration, collection and enforcement of the income tax imposed by Section 171.02 and any other income tax imposed in addition to or in replacement of the tax imposed by Section 171.02, and the several taxes thus imposed shall be administered, collected and enforced as a single tax equal to the sum of the several taxes so imposed.

(Approved by voters November 5, 1985.)

127.027 LEVY OF ADDITIONAL ONE-QUARTER PERCENT.

EDITOR'S NOTE: On November 6, 2007 voters approved increasing the income tax by .25% to 1.75% effective January 1, 2008.

171.03 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator, shall be accepted, unless otherwise specified, as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.

- (1) For taxable years beginning 2004 and each year thereafter, each taxpayer except as herein provided, shall, whether or not a tax is due thereon, make and file a return on April 15.
(Ord. 2004-47. Passed 11-20-04.)

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

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

(c) The 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 returns. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon, by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(d) The taxpayer making a return shall, at the time of the filing thereof, pay to the 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 171.04 or where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section 171.06 or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 171.13 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 such return.

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.

(e) 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 Sections 171.10 and 171.13. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

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.

Where a taxpayer, as a consequence of moving from the Village, or for some other reason terminates his liability to pay the tax imposed by this chapter, he shall, within sixty days of the date of such termination of liability, file a final return covering the portion of the taxable year for which he is liable for the tax imposed by this chapter and shall pay the tax shown as due thereon. (Ord. 758. Passed 7-3-70; Ord. 951. Passed 3-16-77; Ord. 81-17. Passed 7-1-81.)

(f) Retirees having no taxable income for Municipal income tax purposes shall be exempt from these filing requirements and any subsequent penalties upon the filing of a registration form with the Tax Administrator in the manner prescribed. Such registration shall be in effect until that time in which the retiree registrant received taxable income for Municipal income tax purposes, at which time the retiree shall be required to comply with the provisions of this chapter, including the filing requirements. (Ord. 93-44. Passed 1-8-94.)

171.04 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer, except as required by Ohio law, within or doing business within this Municipality shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax imposed by this chapter on the gross salaries, wages, commissions or other compensation due by the employer to the employee or the tips or gratuities reported to the employer by each employee for social security or Federal income tax purposes and shall on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted. The returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. 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. (Ord. 00-53. Passed 11-8-00.)

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

(c) On or before January 31 of each year, beginning with the year 1979, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator. (Ord. 758. Passed 7-3-70; Ord. 951. Passed 3-16-77.)

(d) Any employer who deducts taxes in the amount of two thousand dollars (\$2,000) or more per quarter shall remit to the Tax Administrator on or before the twentieth day of the second and third months of each calendar quarter the taxes so deducted monthly, which remittance may be based on an estimate made by the employer of the employer's most recent payroll. (Ord. 93-44. Passed 1-8-94.)

(e) In addition to the above wage reporting requirements, any person who compensates an individual, contractor or subcontractor shall report such payment. The information required includes the name, address and social security number (or federal identification number), and the amount of compensation. Federal form 1099 may be submitted in lieu of such listing. The information must be filed annually with the Income Tax Department of the Village on or before January 31.

(f) Every contract on behalf of the Village for works or improvements of the Village shall contain the following provisions:

The contractor further agrees that all city income taxes due or payable under Chapter 171 of the Codified Ordinances of the Village of Garrettsville shall be withheld by the contractor pursuant to Section 171.04 and further agrees that any of its subcontractors shall be required to withhold income taxes as set forth in Chapter 171.

(Ord. 00-53. Passed 11-8-00.)

171.05 QUESTIONNAIRES.

(a) Every resident of the Village who has not previously filed an information questionnaire for Garrettsville income tax purposes, or who, having previously filed such questionnaire has since changed his occupation or business place of employment or residence and who is gainfully employed or is customarily so engaged, shall, within ten days after the effective date of the tax or within ten days after becoming a resident or gainfully employed or engaged in a business or a profession, file an information questionnaire with the Administrator on a form obtainable from the Administrator.

(b) Every nonresident of the Village who is gainfully employed or engaged in business or a profession within the Village and who has not previously filed an information questionnaire for Garrettsville income tax purposes, shall, within ten days after the effective date of this tax or within ten days after becoming gainfully employed or engaged in business or a profession within the Village, file an information questionnaire with the Administrator on a form obtainable from the Administrator.

(c) Any person within the Village, upon request by the Administrator or any authorized employee of the Village Treasurer, shall file the information questionnaire required by this section or otherwise supply the information necessary to determine whether or not such person is subject to the tax. (Ord. 758. Passed 7-3-70.)

171.051 REQUIRING OWNERS OF RENTAL OR LEASED PROPERTY LOCATED
WITHIN THE VILLAGE TO PROVIDE THE INCOME TAX CLERK WITH
INFORMATION OF TENANTS.

(a) On or before February 1, 1994, all property owners of rental or leased property who rent to tenants of residential premises or business premises shall file with the Income Tax Clerk a report showing the names and addresses of each such tenant or business who occupies residential or business premises within the corporation limits of the Village.

(b) Beginning February 1, 1994, and thereafter, within thirty days after a new tenant occupies residential or business rental property of any kind within the Village, all property owners of rental or leased residential or business property who rent to tenants or businesses, shall file with the Income Tax Clerk of the Village a report showing the names and addresses of each such tenant or business who occupies residential or business premises within the corporation limits of the Village.

(c) Beginning February 1, 1994, and thereafter, within thirty days after a tenant vacates a rental or leased residential or business property located within the Village, the property owner of such vacated rental or leased property shall file with the Income Tax Clerk of the Village, a report showing the date of vacating from the rental or leased residential property and identifying such vacating tenant; and providing the forwarding address for such tenant.

(d) For the purposes of this section, "tenant" means:

- (1) If there is a written lease or rental agreement, the person or persons who sign the written lease or rental agreement with the owner.
- (2) If there is an oral lease or rental agreement, the person or persons with whom the owner enters into the oral lease or rental agreement.

(e) Whosoever shall violate the provisions of this section shall:

- (1) For a first offense pay a fine of not more than fifty dollars (\$50.00).
 - (2) For a second offense pay a fine of not more than one hundred dollars (\$100.00).
 - (3) For a third and all subsequent offenses pay a fine of not more than two hundred dollars (\$200.00).
- (Ord. 93-44. Passed 1-8-94.)

171.06 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 171.04 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 171.02 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, that 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 171.04, such person need not file a declaration.

(b) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.

Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(c) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, however, that credit shall be taken for the Village to be withheld from any portion of such income.

The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date 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 last day of the sixth, ninth and thirteenth months after the beginning of the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(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 shall be paid therewith in accordance with the provisions of Section 171.03. In the event a taxpayer has not paid in eighty percent (80%) of the amount due on his annual return with his declarations he shall be subject to the interest and penalties set forth in Section 171.09.

(Ord. 83-30. Passed 12-7-83.)

171.07 DUTIES OF THE ADMINISTRATOR.

(a) It shall be the duty of the 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 moneys so received.

It shall be the duty of the Administrator to enforce payment of all taxes owing the Village, 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 taxes withheld, and to show the dates and amounts of payments thereof.

(Ord. 951. Passed 3-16-77.)

- (b) (1) The Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby authorized, subject to the approval of the Board of Review, to adopt and 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 re-examination and correction of returns.
- (2) The Administrator is hereby authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.
- (3) No arrangements for installment payments of delinquent tax obligations shall exceed the number of years that the taxpayer is obligated to repay. Minimum monthly payments shall be calculated as follows:
$$\text{[Total Amount Owed]} / \text{[Number of Years Delinquent]} / 12 = \text{[Minimum Monthly Payment]}$$
 Further, any taxpayer participating in a delinquency installment payment arrangement shall pay all current and future taxes when due, and shall not be permitted to include additional taxes in the payment arrangement. Failure to do so will constitute a violation of the payment arrangements.
- (4) 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 Section 171.10 and 171.11 shall apply.
(Ord. 2013-27. Passed 7-10-13.)

(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 Administrator may determine the amount of 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 regulation approved by such Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 171.09.
(Ord. 951. Passed 3-16-77.)

**171.08 INVESTIGATIVE POWERS OF THE ADMINISTRATOR;
CONFIDENTIAL INFORMATION.**

(a) The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or of any taxpayer or person subject to or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The 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. For this purpose the Administrator 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 Administrator authorized hereby, shall be deemed a violation of this ordinance punishable as provided in Section 171.99.

(d) Any information gained as the result of any returns, investigations, hearings or verification required or authorized by this chapter shall be confidential except for official purposes or except in accordance with proper judicial order. No person shall divulge such information.

(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. 758. Passed 7-3-70; Ord. 951. Passed 3-16-77.)

171.09 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 ten percent (10%) per year or fraction thereof.

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

- (1) For failure to pay taxes due and for underestimating declarations of tax per Section 171.06 (other than taxes withheld)- one and one-half percent (1.5%) per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees- five percent (5%) per month or fraction thereof.

(c) 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. In the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided an amended

return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

(d) In addition to the interest set forth in subsections (a) and (b), above, any taxpayer who has previously filed an income tax return with the Village who fails to file any subsequent return, or submit a request for an extension of time to file, by the established deadline, shall pay a penalty of one hundred dollars (\$100.00). Any taxpayer who has requested an extension of time for filing of the annual return as authorized pursuant to Section 171.03 (c), herein, but fails to file the return within the period as extended, shall pay an additional penalty of one hundred dollars (\$100.00). The penalties specified in this section shall apply only to those taxpayers who have earned income subject to taxation under this chapter during the relevant tax year, but such individuals shall not otherwise be excused from the requirement of filing income tax returns or penalties specified elsewhere in this chapter unless otherwise exempted.

(e) Upon recommendation of the Administrator, the Board of Review may abate penalty, interest or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest or both. (Ord. 2015-10. Passed 4-8-15.)

171.10 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 a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitations provided in subsection (a) hereof.

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded. (Ord. 951. Passed 3-16-77.)

171.11 VIOLATIONS.

(a) No person shall:

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

- (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 the date thereof;
- (10) Fail to use ordinary diligence in maintaining proper records of employee's residence addresses, total wages paid and Village tax withheld, or knowingly give the Administrator false information; or
- (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter. The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, nor from filing such form or from paying the tax.
(Ord. 758. Passed 7-3-70.)

(b) Prosecutions for an offense made punishable under this section or any other provision of this chapter 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 percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(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. 951. Passed 3-16-77.)

171.12 BOARD OF REVIEW.

(a) A Board of Review, consisting of a chairman and two other individuals appointed by the Mayor is hereby created.

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 provisions of Section 171.08 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 on appeal.

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

(c) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof.
(Ord. 758. Passed 7-3-70; Ord. 951. Passed 3-16-77.)

1987 Replacement

2020 Replacement

171.13 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) When the taxable income of a resident of the Village is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to fifty percent (50%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the Village by the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event such Village resident fails, neglects or refuses to file such return or form as is prescribed by the Administrator, he shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

(Ord. 83-28. Passed 12-7-83.)

171.14 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. 951. Passed 3-16-77.)

171.15 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until further amended and insofar as the collection of taxes levied or enforcing of any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 171.10 and 171.11.

(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 Sections 171.03 and 171.04 as though the same were continuing.

(Ord. 86-28. Passed 11-12-86.)

171.16 DISBURSEMENT OF FUNDS.

The funds collected under the provisions of this chapter shall be disbursed as follows:

- (a) Such part thereof as shall be necessary to defray all cost of collecting the tax and the cost of administration and enforcing the provisions hereof, including housing of the income tax administrator and records and the cost of professional assistance in setting up the records and collection programs and procedures.
- (b) The balance of the net available income tax receipts, after providing for all income tax office expenses, shall be used to defray operating expenses of the Village.
(Ord. 85-7. Passed 2-13-85.)

171.17 GARRETTSVILLE VILLAGE JOB CREATION TAX CREDIT PROGRAM.

(a) By this section, the "Garrettsville Village Job Creation Tax Credit Program" is hereby added to these Codified Ordinances to establish the job creation tax credit program.

(b) By this section, the Mayor and/or his designee are hereby authorized to administer the program and to take all necessary and appropriate actions to achieve its objectives.

(c) By this section, the following criteria are hereby established as general guidelines for the consideration of applications for participating in the Garrettsville Village Job Creation Tax Credit program. (The Village may consider applications that do not meet all of the below referenced criteria on a case-by-case basis, if extenuating circumstances exist and the spirit of the program is satisfied.)

- (1) Any office or manufacturing firm which commits to the creation of at least ten (10) new full-time or full-time equivalent jobs paying qualifying wages in the Village of Garrettsville may be eligible for the job creation tax credit. A firm which employs as few as six full-time equivalent employees may also be eligible if it commits to increasing its number of full-time equivalent jobs by fifty percent (50%). Firms new to the Village and current businesses that are expanding are eligible to participate.
- (2) Each participant shall commit to establish, within three years of an executed tax credit agreement, a minimum of ten (10) new jobs, or, in the event that the participant initially employs six or more full-time equivalent (FTE) employees, increase its number of FTE employees by 50%. All jobs created must pay qualifying wages and be located within the Village of Garrettsville. "New jobs" do not include transfers from affiliated companies within the Village of Garrettsville. Each participant must commit to retaining the specified number of jobs and to maintaining the specified levels of payroll for at least the term of the Job Creation Tax Credit Agreement. The job creation tax credit program does not apply to existing employees or to wage and salary increases of existing jobs.
- (3) Each participant shall concurrently secure a state Job Creation Tax Credit pursuant to a job creation agreement with the State of Ohio as authorized by Ohio Revised Code section 122.17. (This requirement is mandatory.)
- (4) Each participant shall document that receiving the Village income tax credit is a major factor in the taxpayer's decision to go forward with the Job Creation Tax Credit Program.

- (5) The tax credit will be provided for only those eligible full-time jobs that meet or exceed one hundred fifty percent (150%) of the federal minimum wage rate.
- (6) Tax credits are not available for those jobs filled by employees not fully paying tax to the Village of Garrettsville.
- (7) The participant shall comply with all applicable Municipal Code provisions.

(d) By this section, for those participants who meet the Income Tax Credits criteria, the following apply:

- (1) Refundable income tax credits shall be established by a written Job Creation Tax Credit Agreement with each participant, each separately authorized by municipal ordinance.
- (2) This is a refundable credit against the company's Garrettsville business profit tax or an individual's income tax where the individual is the employer and the signatory on the properly authorized Job Creation Tax Credit Agreement.
- (3) The tax credit shall only be based upon income taxes actually collected from the qualifying new jobs.
- (4) The maximum term of credit granted under this provision shall be ten years, but no longer than the period granted under the State of Ohio Tax Credit Agreement with the participant.
(Ord. 2012-06. Passed 6-13-12.)
- (5) The maximum job creation tax credit granted under Section 171.17 will be 75% of the municipal income tax withheld on the qualifying new jobs. The rate of any tax credit granted to the applicant shall be established by the Garrettsville Village Council, and will be based on the criteria established in the Garrettsville Job Creation Tax Credit Program Description. (Ord. 2012-29. Passed 11-14-12.)
- (6) Failure to maintain the number of qualifying jobs specified in participant's Job Creation Tax Credit Agreement with the Village of Garrettsville, failure to maintain the required wage rates, or any other failure to comply with the terms and conditions of the Job Creation Income Tax Credit Agreement, may result in the loss of subsequent credit for the duration of the agreement and repayment of previous credits.
- (7) If the Applicant ceases to operate at this location prior to the expiration of its Job Creation Tax Credit Agreement, the Village of Garrettsville shall have the right to terminate the agreement and demand repayment of all current and previously credited taxes through the Job Creation Tax Credit Agreement.
- (8) The Applicant agrees to provide the Village of Garrettsville reports annually no later than January 31 of each year in which the Job Creation Tax Credit Agreement is in effect listing the number of full-time and full-time equivalent jobs created in accordance with the provisions of the Job Creation Tax Credit Program, the payroll generated from each qualifying job and any other information deemed pertinent by the Village of Garrettsville, and as specified in the Job Creation Tax Credit Agreement.

- (e) By this section, confidentiality of applications is hereby established.
- (1) Financial statements and other information (including, but not limited to, tax returns submitted to the Village of Garrettsville or the Village Income Tax Administrator by the applicant are generally not considered public records subject to Ohio R.C. 149.43. The Mayor or Village Income Tax Administrator, however, make use of the information received, including but not limited to the following, for the purpose of issuing public reports:
- a. Name of the business entity;
 - b. Description of the project;
 - c. Location of the project;
 - d. Number of jobs created and/or retained;
 - e. Amount of fixed-asset investment in the project;
 - f. Percent and terms of the tax credit, dollar value of the tax credit, years the company wants the tax credit to begin and end; and
 - g. Business entity's contact person, office address, and telephone number.
- (2) The Mayor or the Village Income Tax Administrator may also make use of the statements and other information in connection with court proceedings concerning the Tax Credit Agreement.
(Ord. 2012-06. Passed 6-13-12.)

171.99 PENALTY.

(a) Whoever violates any of the provisions of Section 171.08 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the foregoing penalty, any Village employee who violates Section 171.08 relative to the disclosure of confidential information shall be subject to immediate dismissal.

(b) Whoever violates any of the provisions of Section 171.11 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

All prosecutions under Section 171.11 must be commenced within the time limits set forth in Ohio R. C. 718.06.

CHAPTER 173
Income Tax Effective January 1, 2016

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|---------|--|---------|---|
| 173.01 | Authority to levy tax; purposes of tax; rate. | 173.081 | Credit for tax paid to another municipality. |
| 173.011 | Authority to levy tax. | 173.082 | Refundable credit for qualifying loss. |
| 173.012 | Purposes of tax; rate. | 173.083 | Credit for person working in Joint Economic Development District or Zone. |
| 173.013 | Allocation of funds. | 173.084 | Credit for tax beyond statute for obtaining refund. |
| 173.014 | Statement of procedural history; state mandated changes to Municipal Income Tax. | 173.09 | Annual return. |
| 173.02 | Effective date. | 173.091 | Return and payment of tax. |
| 173.03 | Definitions. | 173.092 | Return and payment of tax; individuals serving in combat zone. |
| 173.04 | Income subject to tax for individuals. | 173.093 | Use of Ohio Business Gateway; types of filings authorized. |
| 173.041 | Determining municipal taxable income for individuals. | 173.094 | Extension of time to file. |
| 173.042 | Domicile. | 173.095 | Amended returns. |
| 173.043 | Exemption for member or employee of General Assembly and certain judges. | 173.096 | Refunds. |
| 173.05 | Collection at source. | 173.10 | Penalty, interest, fees; and charges. |
| 173.051 | Collection at source; withholding from qualifying wages. | 173.11 | Audit. |
| 173.052 | Collection at source; occasional entrant. | 173.12 | Rounding. |
| 173.053 | Collection at source; casino and VLT. | 173.13 | Authority and powers of the Tax Administrator. |
| 173.06 | Income subject to net profit tax. | 173.131 | Authority of Tax Administrator; administrative powers of the Tax Administrator. |
| 173.061 | Determining municipal taxable income for taxpayers who are not individuals. | 173.132 | Authority of Tax Administrator; compromise of claim and payment over time. |
| 173.062 | Net profit; income subject to net profit tax; alternative apportionment. | 173.133 | Authority of Tax Administrator; right to examine. |
| 173.063 | Consolidated federal income tax return. | 173.134 | Authority of Tax Administrator; requiring identifying information. |
| 173.064 | Garrettsville Village Job Creation Tax Credit Program. | 173.135 | Questionnaires. |
| 173.065 | Tax credits to foster job retention. | 173.14 | Confidentiality. |
| 173.07 | Declaration of estimated tax. | 173.15 | Fraud. |
| 173.08 | Credit for tax paid. | 173.16 | Opinion of the Tax Administrator. |
| | | 173.17 | Assessment; appeal based on presumption of delivery. |

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| 173.18 | Local Board of Tax Review; appeal to local Board of Tax Review. | 173.85 | Filing of annual return; remittance; disposition of funds. |
| 173.19 | Actions to recover; statute of limitations. | 173.851 | Electronic filing. |
| 173.20 | Adoption of rules. | 173.86 | Consolidated returns. |
| 173.21 | Requiring owners of rental or leased property located within the Village to provide the Income Tax Clerk with information of tenants. | 173.87 | Failure to pay tax. |
| 173.80 | Filing net profit taxes; election to be subject to provisions of chapter. | 173.88 | Declaration of estimated taxes. |
| 173.81 | Definitions. | 173.89 | Additional penalties. |
| 173.82 | Applicability; taxable situs; apportionment. | 173.90 | Assessments against taxpayers. |
| 173.83 | Certification of amounts to be paid municipal corporations. | 173.91 | Refund applications. |
| 173.84 | Information provided to Tax Administrators; confidentiality. | 173.92 | Amended returns. |
| | | 173.93 | Examination of records and other documents and persons. |
| | | 173.94 | Credits. |
| | | 173.95 | Reckless violations; penalties. |
| | | 173.97 | Collection after termination of chapter. |
| | | 173.98 | Savings clause. |
| | | 173.99 | Violations; penalty. |

CROSS REFERENCES

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

Payroll deductions - see Ohio R.C. 9.42

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

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. (Ord. 2015-37. Passed 12-9-15.)

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 three-quarters per cent (1.75%), authorized as follows:

- (1) The base tax of one per cent (1%) being authorized by Ohio Revised Code Chapter 718 and Village of Garrettsville Ordinance 86-28 from January 1, 1987, until amended further;
- (2) An additional tax of one-half per cent (1/2%), for the purposes enumerated above, having been approved by the voters of the Municipality on November 5, 1985, effective January 1, 1986;
- (3) An additional tax of one-quarter per cent (1/4%), for the purposes of providing general operating funds, street maintenance, sidewalks, equipment and other services, was approved by the voters of the Municipality on November 6, 2007, effective January 1, 2008.
(Ord. 2015-37. Passed 12-9-15.)

173.013 ALLOCATION OF FUNDS.

Pursuant to Ordinance 2005-05, Income tax receipts are to be deposited directly into the following funds based on the following percentages:

General Fund:	79%
Street Fund	20%
Capital Improvement Fund:	1%

(Ord. 2015-37. Passed 12-9-15.)

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 12-9-15.)

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 12-9-15.)

173.03 DEFINITIONS

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

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

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)(D) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

- (2) (A) **"ASSESSMENT"** means any of the following:
- (i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;
 - (ii) A full or partial denial of a refund request issued under Section 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.
- (20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:
- (i) For a person other than an individual, income apportioned or situated 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.
 - (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 Garrettsville, Ohio.
- (22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.
- (23) (A) **"NET PROFIT"** for a person 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.
- (24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.
- (25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.
- (31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.
- (32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.
(B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

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

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

- (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.
 - (D) "Tax Administrator" does not include the tax commissioner.
- (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.
- (51) **"VILLAGE"** means the Village of Garrettsville, Ohio.
- (52) **"WITHHOLDING, COURTESY"** means an optional service provided by employers who conduct no business activity within the Municipality as a convenience to their employees who are residents of the Municipality. The employee's Garrettsville tax obligation is withheld and remitted by the employer on the employee's behalf.
- (53) **"TAX COMMISSIONER"** means the tax commissioner appointed under Section 121.03 of the Revised Code.
(Ord. 2015-37. Passed 12-9-15; Ord. 2017-43. Passed 12-13-17.)

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 12-9-15.)

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 12-9-15.)

**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 12-9-15.)

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 12-9-15.)
- (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. Payments 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. 2017-43. Passed 12-13-17.)

(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 12-9-15.)

173.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

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

- (1) "Employer" includes a person that is a related member to or of an employer.
- (2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- (5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.
- (7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is

required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer. If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (b)(1)(A) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (b)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

- (b) (1) Subject to divisions (c), (e), (f), and (g) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:
 - (A) The employee's principal place of work is located in the Municipality.
 - (B) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:
 - (i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.

- (C) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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.
- (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: (Ord. 2015-37. Passed 12-9-15.)
- (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. 2017-43. Passed 12-13-17.)
 - (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 12-9-15.)

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 12-9-15.)
- (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. 2017-43. Passed 12-13-17.)

(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 12-9-15.)

173.064 GARRETTSVILLE VILLAGE JOB CREATION TAX CREDIT PROGRAM.

(a) By this section, the "Garrettsville Village Job Creation Tax Credit Program" is hereby added to these Codified Ordinances to establish the job creation tax credit program.

(b) By this section, the Mayor and/or his designee are hereby authorized to administer the program and to take all necessary and appropriate actions to achieve its objectives.

(c) By this section, the following criteria are hereby established as general guidelines for the consideration of applications for participating in the Garrettsville Village Job Creation Tax Credit program. (The Village may consider applications that do not meet all of the below referenced criteria on a case-by-case basis, if extenuating circumstances exist and the spirit of the program is satisfied.)

- (1) Any office or manufacturing firm which commits to the creation of at least ten (10) new full-time or full-time equivalent jobs paying qualifying wages in the Village of Garrettsville may be eligible for the job creation tax credit. A firm which employs as few as six full-time equivalent employees may also be eligible if it commits to increasing its number of full-time equivalent jobs by fifty percent (50%). Firms new to the Village and current businesses that are expanding are eligible to participate.
- (2) Each participant shall commit to establish, within three years of an executed tax credit agreement, a minimum of ten (10) new jobs, or, in the event that the participant initially employs six or more full-time equivalent (FTE) employees, increase its number of FTE employees by 50%. All jobs created must pay qualifying wages and be located within the Village of Garrettsville. "New jobs" do not include transfers from affiliated companies within the Village of Garrettsville. Each participant must commit to retaining the specified number of jobs and to maintaining the specified levels of payroll for at least the term of the Job Creation Tax Credit Agreement. The job creation tax credit program does not apply to existing employees or to wage and salary increases of existing jobs.
- (3) Each participant shall concurrently secure a state Job Creation Tax Credit pursuant to a job creation agreement with the State of Ohio as authorized by Ohio Revised Code section 122.17. (This requirement is mandatory.)
- (4) Each participant shall document that receiving the Village income tax credit is a major factor in the taxpayer's decision to go forward with the Job Creation Tax Credit Program.
- (5) The tax credit will be provided for only those eligible full-time jobs that meet or exceed one hundred fifty percent (150%) of the federal minimum wage rate.
- (6) Tax credits are not available for those jobs filled by employees not fully paying tax to the Village of Garrettsville.
- (7) The participant shall comply with all applicable Municipal Code provisions.

(d) By this section, for those participants who meet the Income Tax Credits criteria, the following apply:

- (1) Refundable income tax credits shall be established by a written Job Creation Tax Credit Agreement with each participant, each separately authorized by municipal ordinance.
- (2) This is a refundable credit against the company's Garrettsville business profit tax or an individual's income tax where the individual is the employer and the signatory on the properly authorized Job Creation Tax Credit Agreement.
- (3) The tax credit shall only be based upon income taxes actually collected from the qualifying new jobs.
- (4) The maximum term of credit granted under this provision shall be ten years, but no longer than the period granted under the State of Ohio Tax Credit Agreement with the participant.
- (5) The maximum job creation tax credit granted under this Section will be 75% of the municipal income tax withheld on the qualifying new jobs. The rate of any tax credit granted to the applicant shall be established by the Garrettsville Village Council, and will be based on the criteria established in the Garrettsville Job Creation Tax Credit Program Description.
- (6) Failure to maintain the number of qualifying jobs specified in participant's Job Creation Tax Credit Agreement with the Village of Garrettsville, failure to maintain the required wage rates, or any other failure to comply with the terms and conditions of the Job Creation Income Tax Credit Agreement, may result in the loss of subsequent credit for the duration of the agreement and repayment of previous credits.
- (7) If the Applicant ceases to operate at this location prior to the expiration of its Job Creation Tax Credit Agreement, the Village of Garrettsville shall have the right to terminate the agreement and demand repayment of all current and previously credited taxes through the Job Creation Tax Credit Agreement.
- (8) The Applicant agrees to provide the Village of Garrettsville reports annually no later than January 31 of each year in which the Job Creation Tax Credit Agreement is in effect listing the number of full-time and full-time equivalent jobs created in accordance with the provisions of the Job Creation Tax Credit Program, the payroll generated from each qualifying job and any other information deemed pertinent by the Village of Garrettsville, and as specified in the Job Creation Tax Credit Agreement.

(e) By this section, confidentiality of applications is hereby established.

- (1) Financial statements and other information (including, but not limited to, tax returns submitted to the Village of Garrettsville or the Village Income Tax Administrator by the applicant are generally not considered public records subject to Ohio R.C. 149.43. The Mayor or Village Income Tax Administrator, however, make use of the information received, including but not limited to the following, for the purpose of issuing public reports:

- (A) Name of the business entity;
 - (B) Description of the project;
 - (C) Location of the project;
 - (D) Number of jobs created and/or retained;
 - (E) Amount of fixed-asset investment in the project;
 - (F) Percent and terms of the tax credit, dollar value of the tax credit, years the company wants the tax credit to begin and end; and
 - (G) Business entity's contact person, office address, and telephone number.
- (2) The Mayor or the Village Income Tax Administrator may also make use of the statements and other information in connection with court proceedings concerning the Tax Credit Agreement.
(Ord. 2015-37. Passed 12-9-15.)

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.
(2015-37. Passed 12-9-15.)

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 Garrettsville 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 or on generic forms meeting the requirements of this chapter.
(Ord. 2016-04. Passed 2-10-16.)

173.08 CREDIT FOR TAX PAID.

173.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) When the taxable income of a resident of the Village is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to fifty percent (50%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the Village by the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event such Village resident fails, neglects or refuses to file such return or form as is prescribed by the Administrator, he shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder. (Ord. 2015-37. Passed 12-9-15.)

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

- (3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
 - (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (c)
- (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
 - (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.
- (d) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
- (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation. (Ord. 2015-37. Passed 12-9-15.)

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. (Ord. 2015-37. Passed 12-9-15.)

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 12-9-15.)

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 12-9-15.)
- (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. 2017-43. Passed 12-13-17.)
- (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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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 12-9-15.)
- (3) With respect to any unpaid withholding tax, a penalty not exceeding fifty percent of the amount not timely paid shall be imposed. (Ord. 2017-43. Passed 12-13-17.)
- (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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

173.135 QUESTIONNAIRES.

(a) Every resident of the Village who has not previously filed an information questionnaire for Garrettsville income tax purposes, or who, having previously filed such questionnaire has since changed his occupation or business place of employment or residence and who is gainfully employed or is customarily so engaged, shall, within ten days after the effective date of the tax or within ten days after becoming a resident or gainfully employed or engaged in a business or a profession, file an information questionnaire with the Administrator on a form obtainable from the Administrator.

(b) Every nonresident of the Village who is gainfully employed or engaged in business or a profession within the Village and who has not previously filed an information questionnaire for Garrettsville income tax purposes, shall, within ten days after the effective date of this tax or within ten days after becoming gainfully employed or engaged in business or a profession within the Village, file an information questionnaire with the Administrator on a form obtainable from the Administrator.

(c) Any person within the Village, upon request by the Administrator or any authorized employee of the Village Treasurer, shall file the information questionnaire required by this section or otherwise supply the information necessary to determine whether or not such person is subject to the tax.

(d) Non-resident employers providing courtesy withholding as a service to their employees and remitting such withholding to the Municipality shall provide the following information on such form as prescribed by the Administrator: company name, federal employer identification number, mailing address, contact person, phone number, e-mail address and the names and addresses of the employees on whose behalf the courtesy withholding is occurring.

(e) No person shall fail to file a questionnaire or other information form required by this section. (Ord. 2015-37. Passed 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

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.

(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 12-9-15.)

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 12-9-15.)

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 12-9-15.)

173.21 REQUIRING OWNERS OF RENTAL OR LEASED PROPERTY LOCATED WITHIN THE VILLAGE TO PROVIDE THE INCOME TAX CLERK WITH INFORMATION OF TENANTS.

(a) On or before February 1, 1994, all property owners of rental or leased property who rent to tenants of residential premises or business premises shall file with the Income Tax Clerk a report showing the names and addresses of each such tenant or business who occupies residential or business premises within the corporation limits of the Village.

(b) Beginning February 1, 1994, and thereafter, within thirty days after a new tenant occupies residential or business rental property of any kind within the Village, all property owners of rental or leased residential or business property who rent to tenants or businesses, shall file with the Income Tax Clerk of the Village a report showing the names and addresses of each such tenant or business who occupies residential or business premises within the corporation limits of the Village.

(c) Beginning February 1, 1994, and thereafter, within thirty days after a tenant vacates a rental or leased residential or business property located within the Village, the property owner of such vacated rental or leased property shall file with the Income Tax Clerk of the Village, a report showing the date of vacating from the rental or leased residential property and identifying such vacating tenant; and providing the forwarding address for such tenant.

(d) For the purposes of this section, "tenant" means:

- (1) If there is a written lease or rental agreement, the person or persons who sign the written lease or rental agreement with the owner.
- (2) If there is an oral lease or rental agreement, the person or persons with whom the owner enters into the oral lease or rental agreement.

(e) Whosoever shall violate the provisions of this section shall:

- (1) For a first offense pay a fine of not more than fifty dollars (\$50.00).
- (2) For a second offense pay a fine of not more than one hundred dollars (\$100.00).
- (3) For a third and all subsequent offenses pay a fine of not more than two hundred dollars (\$200.00). (Ord. 2015-37. Passed 12-9-15.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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.2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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. 2017-43. Passed 12-13-17.)

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 12-9-15.)

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 12-9-15.)

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) 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) Fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 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 city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter. (Ord. 2015-37. Passed 12-9-15.)

