

**FAIRFIELD CITY COUNCIL
REGULAR MEETING AGENDA
FAIRFIELD MUNICIPAL BUILDING
5350 PLEASANT AVENUE
FAIRFIELD, OHIO 45014**

Monday, November 23, 2015

7:00 PM

MAYOR.....STEVE MILLER
COUNCILMEMBER 1ST WARD.....ADAM B. JONES
COUNCILMEMBER 2ND WARD.....MARTY JUDD
COUNCILMEMBER 3RD WARD.....DEBBIE PENNINGTON
COUNCILMEMBER 4TH WARD.....TERRY SENGER

COUNCILMEMBER AT-LARGE...CHAD OBERSON
COUNCILMEMBER AT-LARGE...MIKE SNYDER
COUNCILMEMBER AT-LARGE...BILL WOESTE
CITY MANAGER.....MARK WENDLING
CLERK OF COUNCIL.....ALISHA WILSON
LAW DIRECTOR.....JOHN H. CLEMMONS

Guidelines for Citizen Comments: Thank you for your interest and participation in city government. Fairfield City Council's Guidelines for Citizen Comments describe the rules for addressing City Council. The guidelines are posted in the Council Chambers.

ADA Notice: The City of Fairfield is pleased to provide accommodations to disabled individuals or groups and encourage full participation in city government. Should special accommodations be required, please contact the Clerk of Council at 867-5383 at least 48 hours in advance of the meeting.

1. Call to Order

2. Prayer/Pledge of Allegiance

3. Roll Call

4. Agenda Modifications

5. Executive Session Requests

6. Special Presentations and Citizen Comments

- a) Sandra Ambrose-Clark, Support Local Business Campaign/Chamber of Commerce Update

7. Public Hearing(s)

8. Mayor/Council Reports

9. Approval of Minutes

- a) Regular Meeting Minutes of November 3, 2015

10. OLD BUSINESS

(A) FINANCE & BUDGET COMMITTEE

Terry Senger, Chairman; Debbie Pennington, Vice Chairman, Chad Oberson, Member

- (1) Ordinance to amend Chapter 181, Income Tax, of Ordinance No. 166-84, The Codified Ordinances of Fairfield, Ohio effective January 1, 2016 for Tax Years 2016 and after.

- Motion – Amend
- Ordinance – Third Reading
- Motion – Adoption

(B) PARKS, RECREATION AND ENVIRONMENT COMMITTEE

Debbie Pennington, Chairman; Terry Senger, Vice Chairman, Marty Judd, Member

- (1) Resolution declaring one hundred Achieve Multipurpose Chairs from the Fairfield Community Arts Center to be surplus and authorizing the City Manager to transfer the chairs to the Fairfield City School District.

- Resolution – Second Reading

11. NEW BUSINESS

(A) **PUBLIC SAFETY COMMITTEE**

Adam Jones, Chairman; Marty Judd, Vice Chairman, Terry Senger, Member

- (1) Simple Motion: Motion to not request a hearing regarding a liquor permit application in the name of Lugnutz Bar & Grill, LLC, dba Lugnutz Bar & Grill, 22 Donald Drive, 1st Floor, Fairfield, OH 45014. (Permit Classes: D5 & D6)
- (2) Ordinance to amend various sections of the traffic and general offenses codes of Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio.
 - Motion – Read by Title Only (Optional)
 - Ordinance – First Reading
 - Motion – Suspend Second and Third Readings
 - Motion – Adoption

(B) **PARKS, RECREATION AND ENVIRONMENT COMMITTEE**

Debbie Pennington, Chairman; Terry Senger, Vice Chairman, Marty Judd, Member

- (1) Ordinance to authorize the City Manager to enter into a lease agreement with The Joe Nuxhall Miracle League Fields, Inc. for the operation of the Field of Dreams recreation complex on Groh Lane and a related easement modification agreement with A. Peter Groh.
 - Motion – Read by Title Only (Optional)
 - Ordinance – First Reading
 - Motion – Suspend Second and Third Readings
 - Motion – Adoption
- (2) Ordinance to authorize the City Manager to enter into a one (1) year contract with options for years two (2) and three (3) with Ohio Irrigation Lawn Sprinkler for the 2015 Irrigation Field Controller and Rotor Replacement Project and declaring an emergency.
 - Motion – Read by Title Only (Optional)
 - Ordinance – First Reading
 - Motion – Suspend Second and Third Readings
 - Motion – Adoption

(C) **PUBLIC UTILITIES COMMITTEE**

Marty Judd, Chairman; Chad Oberson, Vice Chairman, Adam Jones, Member

- (1) Ordinance to authorize the City Manager to enter into a contract with National Water Services/DPS for cleaning and rehabilitation of raw water production well number five (5) in Fairfield's wellfield.
 - Motion – Read by Title Only (Optional)
 - Ordinance – First Reading
 - Motion – Suspend Second and Third Readings
 - Motion – Adoption

(D) **FINANCE & BUDGET COMMITTEE**

Terry Senger, Chairman; Debbie Pennington, Vice Chairman, Chad Oberson, Member

- (1) Ordinance to amend Ordinance No. 109-14 entitled "An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2015, and ending December 31, 2015."

*Ordinance to reconcile accounts.

- Motion – Read by Title Only (Optional)
- Ordinance – First Reading
- Motion – Suspend Second and Third Readings
- Motion – Adoption

- (2) Ordinance to amend Ordinance No. 109-14 entitled “An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2015, and ending December 31, 2015.”

*Contractual Appropriations – \$46,000 for well cleaning and rehab

- Motion – Read by Title Only (Optional)
- Ordinance – First Reading
- Motion – Suspend Second and Third Readings
- Motion – Adoption

- (3) Ordinance to amend Ordinance No. 109-14 entitled “An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2015, and ending December 31, 2015.”

*Non-Contractual Appropriations - \$8,800 for replacement of folder/sealer machine used for payroll and income tax forms; \$20,000 for routine cleaning of Wastewater Treatment Plant’s Anaerobic Digester #1.

- Motion – Read by Title Only (Optional)
- Ordinance – First Reading
- Motion – Suspend Second and Third Readings
- Motion – Adoption

12. Meeting Schedule

Monday, December 7	Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.
Monday, December 14	Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.
Monday, December 28	Oath of Office Ceremony, 6:00 p.m.

13. Executive Session of Council (if needed)

14. Adjournment

AGENDA

**COUNCIL-MANAGER BRIEFING
FAIRFIELD MUNICIPAL BUILDING
5350 PLEASANT AVENUE**

**MONDAY, NOVEMBER 23, 2015
5:30 P.M.**

1. 2016 Operating Budget

Mary Hopton

MINUTES
REGULAR MEETING OF COUNCIL
NOVEMBER 9, 2015

Call to Order

Mayor Steve Miller called the Regular Meeting of Council to order at 7:00 PM at the Fairfield Municipal Building, 5350 Pleasant Avenue.

Prayer/Pledge of Allegiance

Councilmember Oberson led in prayer and Pledge of Allegiance.

Roll Call

Clerk Wilson called the roll of Council. Present members were Councilmember Adam Jones, Councilmember Marty Judd, Councilmember Debbie Pennington, Councilmember Terry Senger, Councilmember Chad Oberson, Councilmember Mike Snyder, and Councilmember Bill Woeste.

Agenda Modifications

No agenda modifications.

Executive Session Requests

No executive session requests.

Special Presentations and Citizen Comments

Pancreatic Cancer Proclamation

Councilmember Mike Snyder presented a proclamation from the Mayor in recognition of Pancreatic Cancer Awareness.

Bob Pendergrass Proclamation

Mayor Miller presented Bob Pendergrass with a proclamation and Key to the City for all of his hard work in preserving Fairfield's history and putting together displays for the anniversary celebrations and other events around the city.

Beautiful Fairfield Awards

Development Services Director Tim Bachman presented the Beautiful Fairfield awards for 2015. He stated that all three of the awards are for homes in established neighborhoods and it is great to see that investment in these homes. Ken and Bette Steins won Best Remodel/Landscape Runner-Up for a deck and sunroom addition to the back of their home. Mark and Ingwan Steiner won Best Remodel/Landscape Runner-Up for a deck and patio remodel. Russ Striebeck won Best Remodel/Landscape for a remodel of the entire exterior of his home.

Councilmember Jones congratulated all of the winners and remarked on the incredible impact Mr. Striebeck's home improvements have made on his neighborhood.

Chamber of Commerce Update

Kert Radel thanked the city for their support of the Ohio Valley Antique Mall ribbon cutting. The event was very successful and the antique mall appreciated having city support.

Public Hearing(s)

No public hearings.

Mayor/Council Reports

Councilmember Woeste congratulated the winners of Beautiful Fairfield and commended the work and money they invested in their properties. He also thanked Kert Radel and the Chamber of Commerce for their work with city businesses.

Councilmember Snyder reviewed requirements for sheds, garages and accessory buildings and reminded citizens that permits are required for these types of structures, even though some contractors may think a permit is not required. He stated that if there are any additional questions, citizens and contractors may contact Building and Zoning at 513-867-5318.

Councilmember Oberson announced that Nilles Road pavement will continue as weather permits and leaf pick-up crews are progressing through the city. He also announced that the sidewalk markings for next year's sidewalk replacement/repair program have started and letters will be sent out next spring.

Councilmember Senger announced budget reviews for the next two council-manager briefings, November 23 at 5:30 PM and December 7 at 6:00 PM. He also congratulated the new councilmembers elect, Tim Abbot for fourth ward and Craig Keller for second ward, as well as returning councilmembers Adam Jones and Debbie Pennington.

Councilmember Snyder congratulated John Hamilton for his campaign, although he did not win the election.

Councilmember Pennington announced the coffee and donut social on Thursday, November 12 at 9 AM at the Community Arts Center for ages 55 and over. She also announced that Fairfield Footlighters will perform Night Watch on November 13-15 and 20-22 at the Community Arts Center, and tickets are available online or at the Community Arts Center.

Councilmember Judd reported that the re-lining of sanitary sewer lines project started today. This process increases the life of the lines up to 100 years and is very cost-effective for maintaining the water and sewer lines. He also congratulated the new councilmembers and returning councilmembers and thanked the city for the opportunity to serve on council for ten (10) years.

Councilmember Jones thanked Councilmembers Judd and Senger for their kind words, and thanked the staff for making the jobs of the councilmembers so easy.

Approval of Minutes

Regular Meeting Minutes of October 26, 2015

- The Regular Meeting Minutes of October 26, 2015 were approved as written

OLD BUSINESS

FINANCE & BUDGET COMMITTEE

Terry Senger, Chairman; Debbie Pennington, Vice Chairman, Chad Oberson, Member

Ordinance to amend Chapter 181, Income Tax, of Ordinance No. 166-84, The Codified Ordinances of Fairfield, Ohio effective January 1, 2016 for Tax Years 2016 and after.

Legislative Action: Councilmember Senger presented the second reading of this ordinance.

NEW BUSINESS

PUBLIC SAFETY COMMITTEE

Adam Jones, Chairman; Marty Judd, Vice Chairman, Terry Senger, Member

Simple Motion: Motion to not request a hearing regarding a liquor permit application in the name of Sabor Peruano, Inc. dba Sabor Peruano Restaurant, 7245 Dixie Highway & Patio, Fairfield, OH 45014. (Permit Classes: D3A)

Legislative Action: Councilmember Jones, seconded by Councilmember Pennington, moved to not request a hearing regarding the liquor permit for Sabor Peruano, Inc. Motion carried 7-0. SIMPLE MOTION NO. 11-15. APPROVED 7-0.

PARKS, RECREATION AND ENVIRONMENT COMMITTEE

Debbie Pennington, Chairman; Terry Senger, Vice Chairman, Marty Judd, Member

Resolution declaring one hundred Achieve Multipurpose Chairs from the Fairfield Community Arts Center to be surplus and authorizing the City Manager to transfer the chairs to the Fairfield City School District.

Councilmember Debbie Pennington, seconded by Councilmember Adam Jones moved to read the following resolution by title only. Motion Carried 7-0.

Background: City Manager Wendling recommended a resolution to declare one hundred chairs as surplus and transfer the chairs to Fairfield City Schools. Legislative Action: Councilmember Pennington presented the first reading of this resolution.

PUBLIC WORKS COMMITTEE

Chad Oberson, Chairman; Mike Snyder, Vice Chairman, Bill Woeste, Member

Councilmember Chad Oberson, seconded by Councilmember Mike Snyder moved to read the following resolution and ordinance by title only. Motion Carried 7-0.

Resolution to allow the existing landscaping, paved parking area and private lighting located at 5555 Dixie Highway (Superior Acura) to remain within the existing right-of-way for the project known as Route 4/South Gilmore/Holden Boulevard Improvements and declaring an emergency.

Background: City Manager Wendling recommended a resolution to allow items in the right-of-way at Superior Acura. This resolution is required by ODOT as part of the project. Legislative Action: Councilmember Oberson presented the first reading of this resolution.

Councilmember Chad Oberson, seconded by Councilmember Mike Snyder moved to suspend the rules requiring three (3) readings of this resolution. Motion Carried 7-0. Councilmember Chad Oberson, seconded by Councilmember Debbie Pennington moved to adopt. Motion Carried 7-0. RESOLUTION NO. 11-15. APPROVED 7-0.

Ordinance to authorize the City Manager to enter into a contract with Fuller Ford for the purchase of an 18' Walk-In Step Down van for Water Division.

Background: City Manager Wendling recommended a contract with Fuller Ford for the purchase of an 18' Walk-In Step Down van for the Water Division. The current van is over 30 years old and is no longer worth repairing. Legislative Action: Councilmember Oberson presented the first reading of this ordinance.

Councilmember Chad Oberson, seconded by Councilmember Bill Woeste moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 7-0. Councilmember Chad Oberson, seconded by Councilmember Marty Judd moved to adopt. Motion Carried 7-0. ORDINANCE NO. 95-15. APPROVED 7-0.

FINANCE & BUDGET COMMITTEE

Terry Senger, Chairman; Debbie Pennington, Vice Chairman, Chad Oberson, Member

Councilmember Terry Senger, seconded by Councilmember Mike Snyder moved to read the following two (2) ordinances by title only. Motion Carried 7-0.

Ordinance to amend Ordinance No. 109-14 entitled "An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2015, and ending December 31, 2015."

Background: City Manager Wendling recommended the following Contractual Appropriations – \$109,715 for purchase of 18' Walk-In Step Down van for Water Division. Legislative Action: Councilmember Senger presented the first reading of this ordinance.

Councilmember Terry Senger, seconded by Councilmember Chad Oberson moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 7-0. Councilmember Terry Senger, seconded by Councilmember Chad Oberson moved to adopt. Motion Carried 7-0. ORDINANCE NO. 96-15. APPROVED 7-0.

Ordinance to amend Ordinance No. 109-14 entitled "An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2015, and ending December 31, 2015."

Background: City Manager Wendling recommended the following Non-Contractual Appropriations - \$77,527 for repair/replacement/renovation of Fairfield Greens South Trace irrigation system; \$24,200

for construction of 1100' bike/hike trail through Oakwood Park; \$39,500 for upgrades of computer workstations; \$17,000 for Cisco network equipment support agreement; \$42,370 for purchase of Chevrolet Tahoe 4x4 for Fire Department; \$14,856 for Community Arts Center HVAC Chiller Repairs; \$20,000 for Traffic Signal Video Detection Material; \$46,000 for water main replacement near Annandale Drive. Legislative Action: Councilmember Senger presented the first reading of this ordinance.

Councilmember Terry Senger, seconded by Councilmember Chad Oberson moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 7-0. Councilmember Terry Senger, seconded by Councilmember Debbie Pennington moved to adopt. Motion Carried 7-0. ORDINANCE NO. 97-15. APPROVED 7-0.

Meeting Schedule

Clerk Wilson read the following meeting schedule:

- Monday, November 23 Council-Manager Briefing, 5:30 p.m.; Regular Meeting, 7:00 p.m.
- Monday, December 7 Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.
- Monday, December 14 Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.

Executive Session of Council (if needed)

No Executive Session.

Adjournment

The regular meeting adjourned at 7:35 PM.

ATTEST:

Clerk of Council

Mayor's Approval

Date Approved _____

The background of the slide is a solid orange color with a pattern of various leaf shapes in a slightly darker shade of orange, scattered across the surface. The leaves vary in size and orientation, creating a subtle, naturalistic texture.

BEAUTIFUL FAIRFIELD 2015

November 9, 2015

BEST REMODEL/LANDSCAPE RUNNER-UP

Ken and Bette Stiens
2390 Mt. Vernon Drive

BEFORE

AFTER



BEST REMODEL/LANDSCAPE RUNNER-UP

Mark & Ingwan Steiner
13 Jupiter Court

BEFORE



AFTER



BEST REMODEL/LANDSCAPE WINNER

Russ Striebeck
5850 Ross Road

BEFORE



AFTER



**CITY OF FAIRFIELD, OHIO
CITY COUNCIL COMMUNICATION**

ITEM:

October 26, 2015

Amendments to the Codified Ordinance Section 181 – Income Tax to be effective for taxable years beginning on or after January 1, 2016.

FINANCIAL IMPACT:

The amendments in Chapter 181 will have minimal financial impact to the City.

SYNOPSIS:

HB 5 was passed in December, 2014 changing the provisions of Chapter 718 of the ORC will take effect January 1, 2016 and thereafter. There are requirements within 718 that mandate a municipality’s ordinance be parallel with the ORC with some local exceptions, such as tax rate, mandatory filing, taxability of stock options, taxability of shareholder distributive share for S corporations, frequency of remitting withholding payments, and credit for taxes paid to other municipalities. Of those exceptions, all but the frequency of remitting withholding payments has been voted on by the residents of Fairfield or City Council.

BACKGROUND:

HB 5 was an ongoing issue for many years. The Ohio Society of CPA’s as well as the Ohio Chamber of Commerce were heavily involved in the crafting of the language. The Ohio Municipal League and municipal tax representatives worked with the proponents of the HB 5 to make sure the changes had the least amount of financial impact to municipalities already hurting from State funding cuts. Fortunately, the concept of centralized state collection of local income tax was removed in the early stages of the discussions; however, there are still provisions with the 718 that will impact municipality funding.

As these changes are voluminous in wording, the City’s ordinance is going from a mere 19 pages (effective for taxable years prior to January 1, 2016), plus an additional 66 pages (effective for taxable years on or after January 1, 2106). In order to preserve the unique items within the City’s ordinance, the changes are required to be effective January 1, 2016.

RECOMMENDATIONS:

It is recommended that City Council adopt the changes to Section 181 – Income Tax, as submitted.

LEGISLATIVE ACTIONS:

Suspension of Rules & Adoption Requested?	No
Emergency Provision Needed?	No

Prepared by: Mary Hagan

Approved for Content by: Mary Hagan

Financial Review (where applicable) by: Mary Hagan

Legal Review (where applicable) by: John H. Coleman

Accepted by Council Agenda: Mark Wilson

ORDINANCE NO. _____

ORDINANCE TO AMEND CHAPTER 181, INCOME TAX, OF
ORDINANCE NO. 166-84, THE CODIFIED ORDINANCES OF
FAIRFIELD, OHIO EFFECTIVE JANUARY 1, 2016 FOR TAX
YEARS 2016 AND AFTER.

WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVIII, Section 3, provides that “Municipalities shall have authority to exercise all powers of local self-government” and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipalities power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that “laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;” and

WHEREAS, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

WHEREAS, more specifically, the General Assembly enacted H. B. 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is “levied in accordance with the provisions and limitations specified in Chapter 718;” and

WHEREAS, upon a detailed review of H. B. 5 and the Codified Ordinances of the City of Fairfield, Ohio, this Ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be “levied in accordance with the provisions and limitations specified in Chapter 718” and thus reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Chapter 181, Income Tax, of Ordinance No. 166-84, The Codified Ordinances of Fairfield, Ohio, is hereby amended effective January 1, 2016 for tax years 2016 and after to read as follows:

See attached Exhibit "A" which is incorporated herein by reference.

Section 2. Existing Chapter 181, Income Tax, of Ordinance No. 166-84, The Codified Ordinances of Fairfield, Ohio, is specifically not repealed and shall remain in effect for all tax years prior to 2016. Existing Chapter 181 shall not be included in the Codified Ordinances publication but will be made available on the City's website.

Section 3. This Ordinance shall take effect at the earliest period allowed by law with effective date for the amendment itself as stated in Section 1 above.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

EXHIBIT A

181.01	Purpose.	181.10	Interest and penalties.
181.02	Definitions.	181.11	Collection of unpaid taxes; refund of overpayments.
181.03	Imposition of tax.	181.12	Board of Review.
181.04	Effective period.	181.13	Credit for tax paid to another municipality.
181.05	Return and payment of tax.	181.14	Reports required on tenants and lessees.
181.06	Collection at source.	181.15	Severability.
181.07	Declarations.	181.99	Penalty.
181.08	Duties of the Administrator.		
181.09	Investigative powers of the Administrator; divulging confidential information.		

181.01 PURPOSE.

(a) There is hereby levied a tax on all qualifying wages, commissions and other compensation, and on net profits, as hereinafter provided, in the sum of one and one-half percent (1-1/2%) apportioned as follows:

- (1) One and two-tenths percent (1.2%) of the tax to provide funds for the purposes of general Municipal operations, maintenance of equipment, extension and enlargement of Municipal services and facilities, and capital improvements of the City.
- (2) Fifteen one-hundredths of one percent (0.15%) of the tax to be used for the purposes of capital improvements and the retirement of debt.
- (3) Fifteen one-hundredths of one percent (0.15%) of the tax to be used for the purposes of street improvement, reconstruction and repair.

(b) As to the use of these funds, "Capital Improvement" shall be defined as any property, asset or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and including reconstructions, enlargements and extensions thereof having an estimated life or usefulness of five years or more. Reconstruction for street purposes includes the resurfacing, but not the ordinary repair, of streets.

(c) The revised apportionment of the municipal income tax specified in paragraph (a) above shall be effective for municipal income tax revenue received on or after January 1, 2013. (Ord. 31-12. Passed 4-9-12.)

(d) Ordinance XX-15 does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, but rather amends Chapter 181 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. Any provisions of this chapter modified for years beginning on or after January 1, 2016 will be noted accordingly.

181.02 DEFINITIONS.

(a) Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used

EXHIBIT A

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.

- (1) “Adjusted Federal Taxable Income” means a C corporation’s Federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions under Section 718.01(A)(1). Pass-through entities must compute adjusted Federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.
- (2) “Administrator” means the individual designated by this chapter, and having the direct responsibility to administer and enforce the provisions of this chapter.
- (3) “Assessment” means any of the following:
 - A.
 1. 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;
 2. A full or partial denial of a refund request issued under Section 181.056 (B)(2) of this Chapter;
 3. A Tax Administrator’s denial of a taxpayer’s request for use of an alternative apportionment method, issued under Section 181.03A2(B)(2) of this Chapter; or
 4. A Tax Administrator’s requirement for a taxpayer to use an alternative apportionment method, issued under Section 181.03A2(B)(3) of this Chapter.
 5. 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 181.12A of this Chapter, and shall have “ASSESSMENT” written in all capital letters at the top of such finding.
 - B. This does not include notice(s) denying a request for refund issued under Section 181.056 (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.
- (4) “Association” means a partnership, limited partnership, limited liability company, S corporation or any other form of unincorporated enterprise, owned by two or more persons.

EXHIBIT A

- (5) “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
- (6) “Board of Review” means the Board created by and constituted as provided in Section 181.12 and has same meaning as “Local Board of Tax Review”.
- (7) “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 and leasing of property, real, personal or mixed.
- (8) “Calendar Quarter” means the three-month period ending on the last day of March, June, September, or December.
- (9) “Casino Operator” and “Casino Facility” have the same meanings as in section 3772.01 of the Ohio Revised Code.
- (10) “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.
- (11) “City” means the City of Fairfield, Ohio.
- (12) “Compensation” means any form of remuneration paid to an employee for personal services.
- (13) “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.
- (14) “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.
- (15) “Domicile” means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (16) “Employee” means one who works for wages, salary, commission or other type of compensation for the service of an employer.
- (17) “Employer” means an individual, partnership, association, corporation, governmental body, unit, or agency, or any other entity, whether or not organized for profit, and including the officers and senior resident manager, who or which employs one or more persons on a salary, wage, commission or other compensation basis.
- (18) “Fiscal year” means an accounting period of twelve months or less, ending on any other day than December 31.
- (19) “Form 2106” means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (20) “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.

EXHIBIT A

(21) “Gross receipts” means the total income from any source whatsoever.

(22) “Income” means the following:

- A.
 - 1. 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.
 - 2. 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.
 - (c) 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.
 - (d) 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

EXHIBIT A

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 181.131 of this Chapter.

- (23) "Income from pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (24) "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.
- (25) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.
- (26) "Internet" means the International Computer Network of both federal and non-federal interoperable packet switched data networks, including the graphical sub-network known as the World Wide Web.
- (27) "Joint Economic Development District or Zone" means a District or Zone created under Ohio Revised Code Sections 715.70, 715.71 and 715.73, as amended from time to time.
- (28) "Limited Liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (29) "Local Board of Tax Review" and "Board of Tax Review" means the entity created under Section 181.12A of this Chapter..
- (30) "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

EXHIBIT A

development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.

(31) “Municipality” means the City of Fairfield, Ohio.

(32) A. “Municipal Taxable Income” means the following:

1. For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 181.03A2 of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

2. (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.

3. 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 181.03A2 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

EXHIBIT A

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.

- (33) “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.
- (34) A. “Net Profit” for a person other than an individual means adjusted federal taxable income.
- B. “Net Profit” for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division , the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.
- C. For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- D. 1. 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.
2. For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.
3. 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

EXHIBIT A

subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.

4. An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.
 5. The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.
 6. 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.
- (35) “Non-qualified deferred compensation plan” means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
- (36) “Nonresident” means an individual that is not a resident of the Municipality.
- (37) “Nonresident incorporated business entity” means an incorporated business entity not having an office or place of business within the City.
- (38) “Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the City.
- (39) “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.
- (40) “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.
- (41) “Owner” means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
- (42) “Owner’s proportionate share”, with respect to each owner of a pass-through entity, means a ratio of:
- A. The owner’s income from the pass-through entity that is subject to

EXHIBIT A

taxation by the City, to

- B. The total income from that entity of all owners whose income from the entity is subject to taxation by the City.
- (43) “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.
- (44) “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.
- (45) “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. Whenever used in any clause prescribing and imposing a penalty, the term “person”, as applied to an unincorporated entity, shall mean the partners or members thereof, and, as applied to corporations, the officers thereof.
- (46) “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.
- (47) “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.
- (48) “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
- (49) 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.

EXHIBIT A

- (50) “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.
- (51) “Qualifying wages” means wages, as defined in Section 3121 of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.
- (52) “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.
- (53) “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.
- (54) “Resident” means an individual who is domiciled in the Municipality as determined under Section 181.032 of this Chapter.
- (55) “Resident incorporated business entity” means an incorporated business entity having an office or place of business within the City.
- (56) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the City.
- (57) “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.

EXHIBIT A

- (58) “Schedule C” means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (59) “Schedule E” means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (60) “Schedule F” means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (61) “Single Member Limited Liability Company” means a limited liability company that has one direct member.
- (62) “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.
- (63) “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.
- (64) “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 .
- (65) “Taxable Year” means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (66) A. “Taxpayer” means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. The singular shall include the plural, and the masculine shall include the feminine and the neuter. “Taxpayer” does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.

EXHIBIT A

- B. 1. 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.
2. 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.
- (67) "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.
- (68) "Video Lottery Terminal" has the same meaning as in section 3770.21 of the Ohio Revised Code.
- (69) "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.

EXHIBIT A

181.03 IMPOSITION OF TAX.

(a) Annual Tax. An annual tax for the purposes specified in Section 181.01 shall be and is hereby levied on and after January 1, 1981 at the area of one and one-half percent (1.5%) per annum upon the following:

(1) “Municipal Taxable Income” for a resident of the Municipality is calculated as follows:

A. “Income” reduced by “Exempt Income” to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 181.02 of this Chapter, further reduced by any “Pre-2017 Net Operating Loss Carryforward” equals “Municipal Taxable Income”.

B. 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.

C. 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

EXHIBIT A

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.

D. All applicable factors are provided in Ohio Revised Code Section 718.012.

- (2) “Municipal Taxable Income” for a nonresident of the Municipality is calculated as follows:

A. “Income” reduced by “Exempt Income” to the extent such exempt income is otherwise included in income, as applicable, apportioned or situated to the Municipality as provided in Section 181.03A2 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 181.02 of this Chapter, further reduced by any “Pre-2017 Net Operating Loss Carryforward” equals “Municipal Taxable Income”.

- (3) “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 181.02(23).

(b) “Adjusted Federal Taxable Income” is defined in Section 181.02(1) of this Chapter.

2. “Exempt Income” is defined in Section 181.02(11) of this Chapter.

3. “Apportionment” means the apportionment as determined by Section 181.03A2 of this Chapter.

4. “Pre-2017 Net Operating Loss Carryforward” is defined in Section 181.02 (32) of this Chapter.

(b) Business Both in and Outside the City Boundaries. 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.

- (1) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a

EXHIBIT A

taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- A. 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;

- B. 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 181.062 of this Chapter;

- C. 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.

- (2) A. 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:

- 1. Separate accounting;
- 2. The exclusion of one or more of the factors;
- 3. 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;
- 4. A modification of one or more of the factors.

- B. 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 181.12B of this Chapter.

- C. 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

EXHIBIT A

- period prescribed by division (A) of Section 181.12B of this Chapter.
- D. 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.
- (3) 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:
- A. A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
1. The employer;
 2. A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 3. 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.
- B. 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;
- C. 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.
- (4) 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:
- A. Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:
1. The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
 2. 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

EXHIBIT A

solicitation or promotion.

3. The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
 - B. 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.
 - C. 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.
 - D. 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.
 - E. 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.
- (5) 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.
- (6) A. 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.
 - B. 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 181.131 of this Chapter.
- (7) 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

EXHIBIT A

income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 181.02 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.

- (8) 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.

(c) Consolidated Returns.

- (1) As used in this section:

- A. "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.
- B. "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- C. "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.
- D. "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
- E. "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

- (2) A. 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.

EXHIBIT A

1. 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.
 2. 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
 - 3.. A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
- B. 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.
- C. 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.
- (3) 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.
- (4) 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.
- (5) A. 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 181.02(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.
- B. No corporation filing a consolidated municipal income tax return

EXHIBIT A

shall make any adjustment otherwise required under division (1) of 181.02 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.

- C. 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:
1. 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 181.03A2 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.
 2. 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 181.03A2 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.
- D. 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:
1. 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 181.03A2 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated

EXHIBIT A

- group's net profit situated to a municipal corporation;
2. 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.
- (6) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 181.03A2 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.
 - (7) 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.
 - (8) 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.
- (d) Tax Credits.
- (1) The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.
 - (2) 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.
- (e) Exemptions. The tax provided herein shall not be levied upon:

EXHIBIT A

- (1) 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;
- (2) A. Except as provided in division (11)(B)(ii) of this section, intangible income;
B. 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
- (7) Alimony and child support received;
- (8) 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;
- (9) 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.
- (10) 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

EXHIBIT A

- decedent's estate during the period of administration except such income from the operation of a trade or business;
- (11) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;
 - (12) Employee compensation that is not qualifying wages as defined in division (34) of this section;
 - (13) 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.
 - (14) 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.
 - (15) A portion of the municipal taxable income earned by individuals or a class of individuals under eighteen years of age, specifically exempting under sixteen years of age.
 - (16)
 - A. 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 181.062 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.
 - B. 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.
 - C. 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 181.062 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:
 - 1. For qualifying wages described in division (B)(1) of Section 181.062 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 181.062 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;
 - 2. The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the

EXHIBIT A

- employee not performing services in that municipal corporation.
- (17) A. 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.
- B. The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:
1. The individual's base of operation is located in the Municipality.
 2. 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 181.062 of this Chapter.
 3. 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.
 4. 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.
- (18) 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.
- (19) 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.
- (20) 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

EXHIBIT A

as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

- (21) 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.
- (22) Generally the above noted items in this section are the only forms of income not subject to tax. Any other income, benefits or other forms of compensation shall be taxable.

181.04 EFFECTIVE PERIOD.

The tax imposed by this chapter shall be levied, collected, and paid with respect to all income and net profits subject to the tax earned on or after January 1, 1971.

181.05 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 181.061(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, 18 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.

EXHIBIT A

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

(e) No municipal corporation shall deny spouses the ability to file a joint return.

(f) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio IT 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's

EXHIBIT A

- 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 181.052 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 181.052 of this Chapter, the provision in Section 181.052 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.

EXHIBIT A

(i) This division shall not apply to payments required to be made under division (B)(1)(b) or (c) of Section 181.061 of this Chapter.

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

(j) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 181.061 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.

EXHIBIT A

(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 181.062 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

EXHIBIT A

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.

(o) Individuals Serving in Combat Zone.

- (1) 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.
- (2)
 - A. 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.
 - B. 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.
 - C. 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.
- (3)
 - A. Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.
 - B.
 1. A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an

EXHIBIT A

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.

2. 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.
- (4) 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.
- (p) Use of Ohio Business Gateway; Types of Filings Authorized.
- (1) 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.
 - (2) 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.
 - (3) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.
 - (4) 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.

EXHIBIT A

- (5) 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.

(q) Extensions of Time to File.

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.

(r) Amended Returns.

- (1)
 - A. 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.
 - B. 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.
 - C. If a taxpayer intends to file an amended consolidated municipal

EXHIBIT A

- 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.
- (2) A. 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 181.12B of this Chapter has not expired for a previously filed return.
- B. 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.
- (3) A. In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (E) of section 181.12B of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 181.056 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.
- B. 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.

181.06 COLLECTION AT SOURCE.

- (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 181.062 of this Chapter or

EXHIBIT A

- division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.
- (2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.
- (b) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
- A. Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) or (B)(1)(c) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.
 - B. Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.
 - C. An employer, agent of an employer or other payer is required to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality

EXHIBIT A

shall be remitted to the Municipality at the same time that the federal tax withholding payment is due.

(c) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under section 181.051 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.

EXHIBIT A

(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.

(l) Occasional Entrant.

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

- A. "Employer" includes a person that is a related member to or of an employer.
- B. "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- C. "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- D. "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.
- F. "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.
- G. "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.
- H. "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,

EXHIBIT A

“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.

- (2) A. 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:
1. The employee's principal place of work is located in the Municipality.
 2. 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:
 - (a.) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (b) The agreement between the employer and its customer to perform services at a location requires

EXHIBIT A

- the employer to perform actual services at the location for more than twenty days.
3. 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 181.061 of this Chapter.
 4. 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.
- B. 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:
1. Traveling to the location at which the employee will first perform services for the employer for the day;
 2. Traveling from a location at which the employee was performing services for the employer to any other location;
 3. 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;
 4. 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;
 5. 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.
- (3) 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.
- (4) A. Except as provided in division (D)(2) of this section, if, during a

EXHIBIT 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.
- B. 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.
- C. 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.
- (5) 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 181.02 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.
- (6) 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 181.061 of this Chapter.
- (7) 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

EXHIBIT A

calendar year on which the individual performed services at the refinery.

(m) Casino and Video Lottery Terminal.

- (1) 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.
- (2) 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.
- (3) 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.
 - A. 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.
 - B. 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.
 - C. 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.

EXHIBIT A

- D. 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.
 - E. 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:
 - 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.
 - F. 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.
- (4) 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.
- (5) 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.
- A. 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.
 - B. 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.

EXHIBIT A

- With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.
- C. 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.
 - D. 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.
 - E. 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.
 - F. 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.
- (6) 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:
- 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

EXHIBIT A

- 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.
- (7) 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.
 - (8) 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:
 - A. 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;
 - B. 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.
 - (9) 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 181.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.
 - (10) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.
- (n) Collection After Termination of Chapter.
- (1) 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 181.12B.
 - (2) 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 181.051 as though the same were continuing.

181.07 DECLARATIONS.

- (a) As used in this section:
 - (1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.
 - (2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or

EXHIBIT A

credit from another taxable year.

- (b) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:
 - A. Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.
 - B. An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
 - C. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
 - D. Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.
 - (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.
 - (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 181.051 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.
 - (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.
 - (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.
- (c) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:
 - A. On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of

EXHIBIT A

- the tax liability for the taxable year;
 - B. On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;
 - C. On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;
 - D. On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.
- (2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.
- (3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 181.051 of this Chapter.
- A. For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.
 - B. For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.
- (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
- (d) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 181.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
- A. For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - B. For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - C. For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

EXHIBIT A

D. For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

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

- (1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
- (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 181.051 of this Chapter for that year.
- (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

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

181.08 DUTIES OF THE ADMINISTRATOR.

(a) There is hereby created a subdepartment within the Finance Department to be entitled the Fairfield Income Tax Division for the administration of the provisions of this chapter. Such Division shall consist of a Tax Commissioner or Administrator, Deputy Tax Commissioner or Administrator and such clerical and secretarial personnel as may be determined to be necessary for the administration of this chapter, all of whom shall be appointed as provided for in the City Charter.

(b) 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:

- (1) 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

EXHIBIT A

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;

- (2) Appoint agents and prescribe their powers and duties;
- (3) 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;
- (4) 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;
- (5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 181.03A2 of this Chapter;
- (7) 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;
- (8) Destroy any or all returns or other tax documents in the manner authorized by law;
- (9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 181.061 of this Chapter.

(c) Compromise of Claim and Payment Over Time.

- (1) 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.
- (2) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:
 - A. Compromise a claim;

EXHIBIT 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 181.10 of this Chapter.

- C. 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 181.99 of this Chapter for a violation of 181.09B of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law.

181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION.

(a) Right to Examine.

- (1) 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.
- (2) 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.
- (3) 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

EXHIBIT A

practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

- (4) 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.

(b) Audit.

- (1) At or before the commencement of an audit, as defined in Section 181.02(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.
- (2) 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.
- (3) 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.

- (4) A taxpayer may record, electronically or otherwise, the audit examination.
- (5) 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.
- (6) 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.

c. Confidentiality.

- (1) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or

EXHIBIT A

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.

- (2) 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.

(d) 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.

(e) Opinion of the Tax Administrator.

- (1) 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.
- (2) 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:
 - A. The taxpayer's request fully and accurately describes the specific stances 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.
 - B. The request relates to a tax imposed by the Municipality in accordance with this Chapter.
 - C. The Tax Administrator's response is signed by the Tax Administrator and designated as an “opinion of the Tax Administrator.”
- (3) 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

EXHIBIT A

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:

- A. 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;
 - B. 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;
 - C. 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;
 - D. 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;
 - E. The effective date of any change in the taxpayer's material facts or circumstances;
 - F. The effective date of the expiration of the opinion, if specified in the opinion.
- (4) A. 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.
- B. 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 181.09B of this Chapter-
- (5) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:
- A. The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;
 - B. It is the duty of the taxpayer to be aware of such changes.
- (6) A Tax Administrator may refuse to offer an opinion on any request received under this section.
- (7) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.
- (8) 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.
- (9) 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

EXHIBIT A

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.

- (10) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (6) may not be appealed.

(f) Assessment; Appeal Based on Presumption of Delivery.

- (1) A. 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.
- B. 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.
- C. 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.
- (2) A. 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.
- B. 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

EXHIBIT A

Board of Tax Review.

181.10 INTEREST AND PENALTIES.

- (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

EXHIBIT A

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.

- A. 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.
- B. 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.
- C. With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.
- D. 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.

181.11 COLLECTION OF UNPAID TAXES; REFUND OF OVERPAYMENTS.

- (a) Refunds.

EXHIBIT A

- (1) 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:
 - A. Overpayments of more than ten dollars;
 - B. Amounts paid erroneously if the refund requested exceeds ten dollars.
- (2)
 - A. 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.
 - B. 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.
 - C. 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 181.12A of this Chapter.
- (3) 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:
 - A. 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.
 - B. 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.
 - C. 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.
- (4) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment

EXHIBIT A

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 181.10 of this Chapter.

- (5) As used in this section, “withholding tax” has the same meaning as in section 181.10 of this Chapter.

(b) 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.

181.12 BOARD OF 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 domiciled in the Municipality. Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.
- (3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.
- (4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.
- (5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (6) A vacancy in an unexpired term shall be filled in the same manner as the

EXHIBIT A

original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

- (7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.
- (8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.
- (9) A member of a Local Board of Tax Review shall not be appointed to or serve on another such board simultaneously.

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

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

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

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

(f) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing,

EXHIBIT A

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.

(g) Actions to Recover; Statue of Limitations.

- (1) A. 1. Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:
 - (a) Three years after the tax was due or the return was filed, whichever is later; or
 - (b) One year after the conclusion of the qualifying deferral period, if any.
 2. 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.
 - B. As used in this section, “qualifying deferral period” means a period of time beginning and ending as follows:
 1. 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 181.12A 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.
 2. 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.
- (2) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years

EXHIBIT A

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.

- (3) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 181.056 of this Chapter.
- (4) A.
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.
B.
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 181.12A 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 181.056 of this Chapter, with interest on that amount as provided by division (D) of this section.
- (5) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:
 - A. The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
 - B. The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

(h) Adoption of Rules.

- (1) Pursuant to Section 718.30 of the Revised Code, the Municipality grants authority to the Tax Administrator to adopt rules to administer the income tax imposed by the Municipality.
- (2) All rules adopted under this section shall be published and posted on the internet.

181.13 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the City is subject to a Municipal income tax in another municipality, or in a joint economic development district or zone, he shall not pay a total Municipal income tax on the same income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in the City who receives net profits, salaries, wages, commissions, personal service compensation, any other type of compensation, or other income from a resident or nonresident business entity or association of which he is partner or owner, for work done, or services performed or rendered outside the City, if he or such business entity has paid another Municipal or Joint Economic Development District or Zone income tax on or with respect to the same income taxable under this chapter to another

EXHIBIT A

municipality or Joint Economic Development District or Zone, shall be allowed a credit against the tax imposed by this chapter. In no event, however, shall any municipal income tax or any Joint Economic Development District or Zone income tax to the extent paid to another municipality or to a Joint Economic Development District or Zone and allowed as credit hereunder be deductible in computing the net profit of such taxpayer or such business entity. The amount of credit allowed shall not exceed the rate of tax imposed by this chapter. Determination of credit shall be calculated as follows:

- (1) Tax credit for taxes paid to another City is limited to the income determined to be taxable by the Administrator or designee. The credit allowed is limited to the income taxed by another City. The credit allowed for taxes paid to another Municipality whose rate is higher than Fairfield's rate is calculated by dividing the tax withheld by that City's tax rate and multiplying that income by the tax rate imposed by this chapter. A taxpayer who pays a tax to a City whose rate is less than the tax rate imposed by this chapter shall only receive credit for the tax paid. No excess tax withheld for a Municipality whose rate is higher than Fairfield's rate shall apply to income taxed by another Municipality whose rate is lower than Fairfield's rate.
- (2) Tax credit for taxes paid by a resident on his net profits shall be limited to the income determined to be taxable by the Administrator or designee. If the taxpayer pays directly to another Municipality for his unincorporated entity but has additional unincorporated entities sustaining losses, the tax credit allowed will be reduced to the net taxable income recognized by the City. No taxes paid to another Municipality will be credited or refunded or applied to other income of the taxpayer in such cases.

(c) A claim for refund or credit under this section shall be made in such manner as the Administrator may, by regulation, provide.

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

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

(f) Specific provisions of this chapter may be modified as they apply to Joint Economic Development Districts or Zones if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District or Zone contract or specifically amends this chapter.

(g) The Finance Director shall, subject to the approval of Council, have the authority to enter into an agreement with another political subdivision for the division of the tax imposed

EXHIBIT A

on the qualifying wages, commissions, other compensation and other income received by residents or nonresidents of the City.
(Ord. 179-03. Passed 11-24-03.)

(h) Refundable Credit for Qualifying Loss.

(1) As used in this section:

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

B. 1. 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.

2. 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.

3. With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

C. “Qualifying tax rate” means the applicable tax rate for the taxable year for 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.

EXHIBIT A

- (2) A. 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.
- B. 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.
- C. 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.
- D. 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.
- (3) A. 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.
- B. 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.
- (4) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
 - A. The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - B. The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

(i) 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 181.131 of this Chapter.

(j) Credit for Tax beyond Statute for Obtaining Refund.

EXHIBIT A

- (1) 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 181.056 of this Chapter.
- (2) 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 181.056, 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.
- (3) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 181.056 of this Chapter.
- (4) 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 181.131 of this Chapter regarding any limitation on credit shall prevail.

181.14 REPORTS REQUIRED ON TENANTS AND LESSEES.

(a) The owner, manager, or any person in control who rents or leases to other persons, real estate for any purpose in the City must make a report within thirty (30) days after a new tenant occupies rental property of any kind within the City to the Administrator of the identity of their tenants, lessees, or other occupants of the real estate, and the address and telephone number, if available, of the same. The property owner, manager, or any person in control of a vacated rental property shall file within thirty (30) days after the tenant vacates, a report showing the date of vacation from the rental property and a forwarding address, if available.

(b) Any owner, manager, or person in control of the real estate who fails to make the report of lessees, tenants, or occupants of premises under their control as required in subsection (a) hereof, shall be fined up to a maximum of one hundred dollars (\$100.00).
(Ord. 193-00. Passed 11-27-00.)

181.15 SEVERABILITY.

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.

181.99 PENALTY

EXHIBIT A

(a) Except as provided in division (B) of this section, whoever violates Section 181.09B of this Chapter, division (A) of Section 181.09A of this Chapter, or Section 181.061 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 181.09A 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 third degree on a first offense and shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than sixty (60) days, or both. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 181.061; 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

EXHIBIT A

- 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 181.02, 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.

ITEM NO. 11 (B)(1)

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATIONS**

DATE: 11/9/15

ITEM:

Transfer of surplus multipurpose chairs from the Fairfield Community Arts Center to the Fairfield City Schools.

FINANCIAL IMPACT:

There is no financial legislation required for this action.

SYNOPSIS:

The transfer of surplus multipurpose chairs from the Fairfield Community Arts Center to the Fairfield City Schools.

BACKGROUND:

In 2006, the Fairfield Community Arts Center replaced approximately 280 padded multipurpose chairs with more efficient and lighter banquet chairs, creating a surplus. Subsequently, the padded chairs have been used as replacements chairs for the same model in the lower section of the theatre and at the Fairfield Greens golf courses.

The Directors of the Fairfield High School Drama Department, Jay Muldoon and Mindy Reed, contacted the Community Arts Center and expressed a strong need for quality chairs to replace the worn and broken chairs currently in use in the Kathleen Sullivan Studio Theatre. Please see the attached letter dated October 15, 2015. The Community Arts Center currently has space limitations for the surplus chairs and the transfer of the 100 Achieve Multipurpose Chairs will leave the Community Arts Center with a surplus of just over 100 chairs to be used as replacements, as needed, for those in the theatre.

The City has transferred surplus and/or outdated equipment to the Fairfield City Schools in the past. The Fire Department transferred surplus computer equipment to the School's Technology Department in 2002.

RECOMMENDATION:

It is recommended that City Council adopt a resolution authorizing the City Manager to transfer the surplus furniture to the Fairfield City Schools.

LEGISLATIVE ACTION:

Suspension of Rules and Adoption Requested? YES | | NO [X] If yes, explain above.

Emergency Provision Needed? YES | | NO [X] If yes, explain above.

Prepared by: Heidi Schiller
Approved for Content by: [Signature]
Financial Review (where applicable): May Horn
Legal Review (where applicable): [Signature]
Accepted for Council Agenda: [Signature]



Fairfield Senior High School

8800 Holden Blvd. • Fairfield, Ohio 45014
Phone (513) 942-2999 • Fax (513) 942-3288

October 15, 2015

Ms. Heidi Schiller
Fairfield Parks and Recreation
411 Wessel Drive
Fairfield, OH 45014

Dear Ms. Schiller,

The Fairfield High School Drama Department has a great need of chairs for our Kathleen Sullivan Studio Theatre. Our current chairs are very old, are broken, and have exposed/raw metal on the arms.

We understand that the Fairfield Community Arts Center has a surplus of chairs. They would like to donate 100 chairs to Fairfield High School to replace the broken ones. The value of this donation is \$10,000.

We are so grateful to the City of Fairfield and the Parks and Recreation Department for their generosity to our school and community.

Sincerely,

Billy Smith, Principal

Jay Muldoon and Mindy Reed
Directors, FHS Drama

Achieve Multipurpose Chair, currently in use in the
Fairfield Community Arts Center Theatre



RESOLUTION NO. _____

RESOLUTION DECLARING ONE HUNDRED
ACHIEVE MULTIPURPOSE CHAIRS FROM THE
FAIRFIELD COMMUNITY ARTS CENTER TO BE
SURPLUS AND AUTHORIZING THE CITY
MANAGER TO TRANSFER THE CHAIRS TO THE
FAIRFIELD CITY SCHOOL DISTRICT.

WHEREAS, the City of Fairfield currently has a surplus of one hundred Achieve
multipurpose chairs at the Community Arts Center; and

WHEREAS, the Fairfield City School District has a need for the chairs in its theatre
program and has requested the transfer of said chairs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fairfield,
Ohio, that:

Section 1. One hundred (100) Achieve multipurpose chairs from the Community Arts
Center are hereby declared to be surplus and not needed for municipal
purposes.

Section 2. The City Manager is hereby authorized to transfer the surplus chairs from the
Fairfield Community Arts Center to the Fairfield City School District in
accordance with the request on file in the office of the City Manager.

Section 3. This Resolution shall take effect at the earliest period allowed by law.

Passed _____ Mayor's Approval _____

Posted _____

First Reading _____ Rules Suspended _____

Second Reading _____

Third Reading _____

ATTEST:

Clerk of Council

This is to certify that this Resolution has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2015\Furniture Transfer - Res

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL COMMUNICATION**

ITEM:

November 23, 2015

Liquor permit application in the name of Lugnutz Bar & Grill, LLC, dba Lugnutz Bar & Grill, 22 Donald Drive, 1st Floor, Fairfield, OH 45014. (Permit Classes: D5 & D6)

FINANCIAL IMPACT:

No financial impact.

SYNOPSIS:

The City of Fairfield is in receipt of an application from the Ohio Division of Liquor Control for a D5 & D6 permit for the above liquor permit applicant.

BACKGROUND:

Background checks from the Building and Zoning Division and Police Department are attached for Council and staff's review.

RECOMMENDATION:

It is recommended that City Council request, by simple motion, that **no hearing be held** on the liquor permit application in the name of Lugnutz Bar & Grill, LLC, dba Lugnutz Bar & Grill, 22 Donald Drive, 1st Floor, Fairfield, OH 45014. (Permit Classes: D5 & D6)

LEGISLATIVE ACTION REQUIRED: Simple Motion of Council

Prepared by: Alicia Colton

Approved for Content by: Alicia Colton

Financial Review (where applicable) by: Allyson Hays

Legal Review (where applicable) by: John J. Lehmman

Accepted by Council Agenda: Alicia Colton

DEPARTMENTAL CORRESPONDENCE

11(A)(1)A

City
of
Fairfield



TO Michael J. Dickey, Police Chief
Tim Bachman, Development Services Director

FROM Alisha Wilson, Clerk of Council *AW*

SUBJECT **Request for Background Check – Liquor Permit**

DATE **11/11/2015**

Attached is a liquor permit application in the name of Lugnutz Bar & Grill, LLC dba Lugnutz Bar & Grill, 22 Donald Drive, 1st Floor, Fairfield, OH 45014 (Permit Classes: D5 & D6)

Please complete the necessary background check and submit your findings to me **no later than 3:00 PM on Monday, November 16, 2015.**

This item will be added to Council's Regular Meeting agenda of Monday, November 23, 2015.

Thank you for your assistance.

c: Mark Wendling, City Manager
Lynda McGuire, Development Services
File

NOTICE TO LEGISLATIVE
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD, P.O. BOX 4005
REYNOLDSBURG, OHIO 43068-9005
(614)644-2360 FAX(614)644-3166

TO

5157615		TRFO	LUGNUTZ BAR & GRILL LLC DBA LUGNUTZ BAR & GRILL 22 DONALD DR 1ST FL FAIRFIELD OHIO 45014
PERMIT NUMBER		TYPE	
06	01	2015	
ISSUE DATE			
10	30	2015	
FILING DATE			
D5	D6		PERMIT CLASSES
09	011	A	F15044
TAX DISTRICT		RECEIPT NO.	

FROM 11/03/2015

4179272			JC AND COMPANY LLC 22 DONALD DR 1ST FL FAIRFIELD OHIO 45014
PERMIT NUMBER		TYPE	
06	01	2015	
ISSUE DATE			
10	30	2015	
FILING DATE			
D5	D6		PERMIT CLASSES
09	011		
TAX DISTRICT		RECEIPT NO.	



MAILED 11/03/2015

RESPONSES MUST BE POSTMARKED NO LATER THAN, 12/04/2015

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES **A TRFO 5157615**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT
THE HEARING BE HELD IN OUR COUNTY SEAT. IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)- Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

**CLERK OF FAIRFIELD CITY COUNCIL
5350 PLEASANT AV
FAIRFIELD OHIO 45014**

5157615 PERMIT NBR
LUGNUTZ BAR & GRILL LLC
DBA LUGNUTZ BAR & GRILL
22 DONALD DR 1ST FL
FAIRFIELD OHIO 45014

BRIAN DRAMAN

10/30/2015 ACTIVE

CEO

MAN-MBR

PA2-KEY = END SESSION, CLEAR-KEY = END OPTION, ENTER-KEY = TO CONTINUE

DEPARTMENTAL CORRESPONDENCE

City
of
Fairfield



TO Alisha Wilson, Clerk of Council
FROM Tim Bachman, Development Services Director

SUBJECT Liquor Permit Application DATE 11/11/15

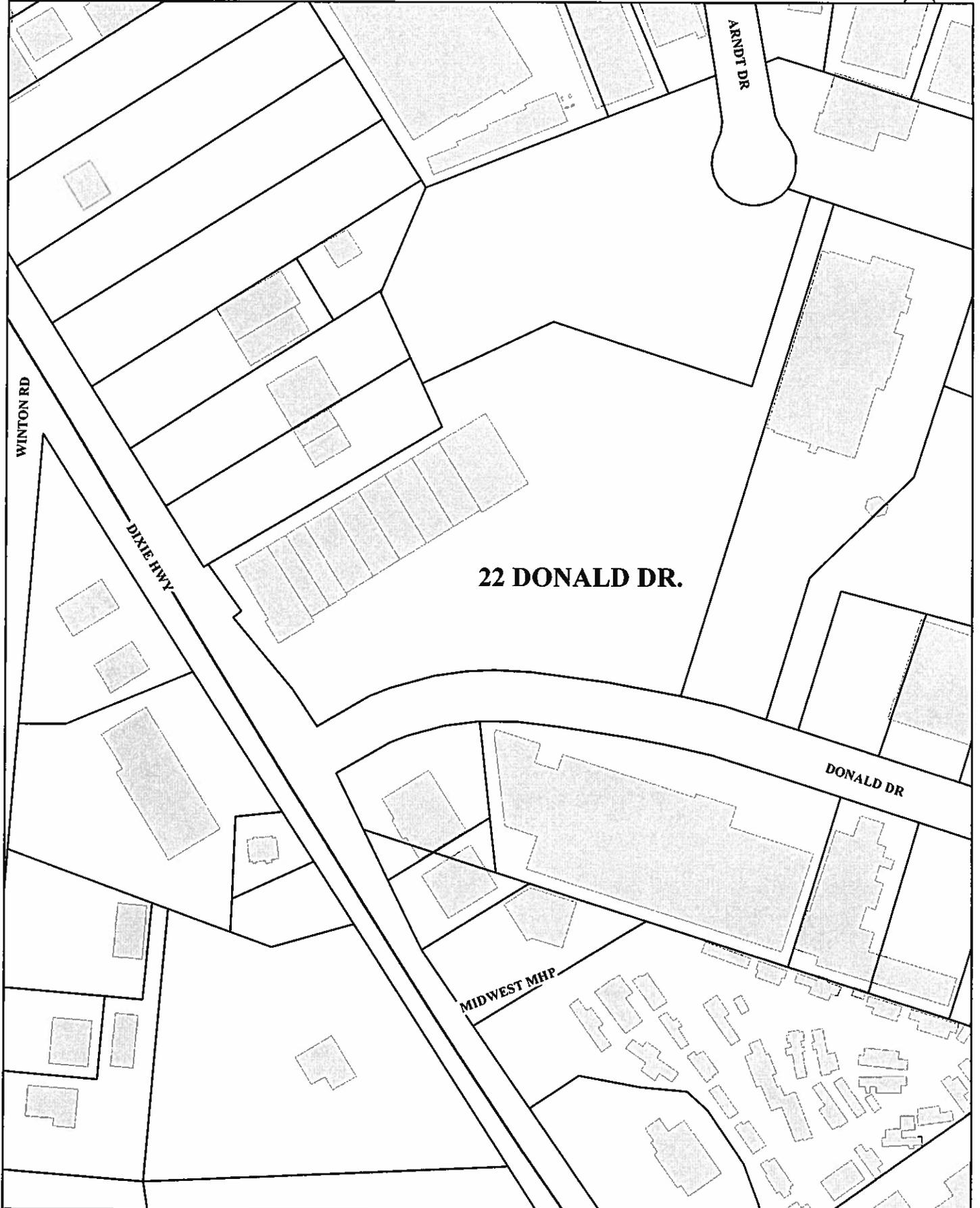
The business locating to 22 Donald Dr. 1st Floor, Fairfield, Ohio, in the name of Lugnutz Bar & Grill, LLC and doing business as Lugnutz Bar & Grill, is in the C-3, General Business District and is a permitted use.

Timothy Bachman
Development Services Director

lkm



Legend



NAME OF ESTABLISHMENT Lugnutz Bar & Grill LLC
 ADDRESS DBA Lugnutz Bar & Grill
22 Donald Dr., 1st Floor
Fairfield, OH 45014

- | | YES | NO |
|---|--------------------------|-------------------------------------|
| 1. Is there a conviction record of the applicant, any partner, member, officer director, manager or any shareholder owning 5% or more of the capital stock, for felonies or other crimes relating to his ability to operate a liquor establishment? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Is there a prior unfavorable enforcement record of applicant and/or operation in disregard for laws, regulations or local ordinances? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Is there misrepresentation of material fact by applicant in making application to the Department? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4. Is there an inability of law enforcement authorities and of authorized agents of the Department to gain ready entrance to the permit premise; or location of permit premise at such distance from the road or street as to be isolated from police or other observation? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5. Will the place substantially and adversely interfere with the public decency, sobriety, peace, or good order of the neighborhood in which it is located? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6. Will the place substantially and adversely interfere with the normal orderly conduct of a church, library, public playground, school or township park? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7. Will the granting or transferring of a permit substantially interfere with the morals, safety, or welfare of the public? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 8. Will there be adverse effects of saturation of the area in relation to the number of existing permits, and will there be any adverse conditions in the area? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

REMARKS: _____


 Michael J. Dickey
 Chief of Police

HEARING REQUESTED: Yes No

Date: November 16, 2015

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATION**

DATE: November 23, 2015

ITEM:

Update of the Traffic and General Offenses Codes of the City of Fairfield Codified Ordinances.

FINANCIAL IMPACT:

This update is included in the annual budget at approximately \$10,000.00 per year for our codified ordinance service company.

SYNOPSIS:

Periodically the City updates its Traffic and General Offenses Code in order to conform them to the extent possible to recent amendments in state law and provide the latest versions of traffic and general offenses and other ordinances for use by the City's law enforcement and safety personnel.

BACKGROUND:

The Traffic and General Offenses Codes were last updated in December, 2014.

RECOMMENDATION:

It is recommended that Council adopt an ordinance to update the Traffic and General Offenses Codes. Suspension of the rules is requested so that the amendments can be effective as soon as possible after state law changes.

LEGISLATIVE ACTION:

Suspension of Rules and Adoption Requested? X Yes No
If *yes*, explain above.

Emergency Provision Needed? Yes X No
If *yes*, explain above.

Prepared by: John H. Clemmons

Approved for Content by: John H. Clemmons

Financial Review (where applicable): Mary Hays

Legal Review (where applicable): John H. Clemmons

Accepted for Council Agenda: Alisa Wilson

ORDINANCE NO. _____

ORDINANCE TO AMEND VARIOUS SECTION OF THE TRAFFIC AND GENERAL OFFENSES CODES OF ORDINANCE NO. 166-84, THE CODIFIED ORDINANCES OF FAIRFIELD, OHIO.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Sections 301.19, 303.081, 303.082, 303.083, 335.031, 335.072, 335.074, 335.09, 335.10, 341.01, 341.03, 341.05, 341.06, 351.04, 373.02, 501.07, 501.08, 529.07 and 549.01 are amended and new Section 331.44 is hereby adopted of the Traffic and General Offenses Codes of Ordinance No. 166-84, The Codified Ordinances of Fairfield, Ohio, to read as follows:

See Attached Exhibit "A" which is incorporated herein by reference.

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed _____

Mayor's Approval _____

Posted _____

First Reading _____

Rules Suspended _____

Second Reading _____

Third Reading _____

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

EXHIBIT "A"

301.19 MOTORCYCLE.

"Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter", "**CAB-ENCLOSED MOTORCYCLE**" or "motorcycle" without regard to weight or brake horsepower.

(ORC 4511.01(C)[~~;~~ ~~Ord. 157-08. Passed 12-8-08.~~])

303.081 IMPOUNDING VEHICLES ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY.

- (a) (1) The Chief of Police upon complaint of any person adversely affected may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The Chief of Police, upon complaint of the owner of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. ~~[The place of storage shall be designated by the Chief of Police.]~~ When ordering a motor vehicle into storage pursuant to **THIS [sub]section [(a) hereof,]** the Chief of Police~~[, whenever possible, shall]~~ **MAY** arrange for the removal of the motor vehicle by a ~~[private tow truck operator or]~~ towing ~~[company]~~ **SERVICE AND SHALL DESIGNATE A STORAGE FACILITY.** ~~[Subject to Section 303.083(a), the owner of a motor vehicle that has been removed pursuant to subsection (a) hereof may recover the vehicle only in accordance with Section 303.083(c).]~~
- (2) **A TOWING SERVICE TOWING A MOTOR VEHICLE UNDER SUBSECTION (a)(1) OF THIS SECTION SHALL REMOVE THE MOTOR VEHICLE IN ACCORDANCE WITH THAT SUBSECTION. THE TOWING SERVICE SHALL DELIVER THE MOTOR VEHICLE TO THE LOCATION DESIGNATED BY THE CHIEF OF POLICE NOT MORE THAN TWO HOURS AFTER THE TIME IT IS REMOVED FROM THE PRIVATE PROPERTY.**
- (3) **SUBJECT TO SUBSECTION (b) OF THIS SECTION, THE OWNER OF A MOTOR VEHICLE THAT HAS BEEN REMOVED PURSUANT TO THIS SUBSECTION MAY RECOVER THE VEHICLE ONLY IN ACCORDANCE WITH SUBSECTION (d) OF THIS SECTION.**

~~[(b) This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with Section 303.082.]~~

- ~~[(e)]~~ (4) As used in this section "private residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures.

"Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(b) IF THE OWNER OR OPERATOR OF A MOTOR VEHICLE THAT HAS BEEN ORDERED INTO STORAGE PURSUANT TO SUBSECTION (a)(1) OF THIS SECTION ARRIVES AFTER THE MOTOR VEHICLE HAS BEEN PREPARED FOR REMOVAL, BUT PRIOR TO ITS ACTUAL REMOVAL FROM THE PROPERTY, THE TOWING SERVICE SHALL GIVE THE OWNER OR OPERATOR ORAL OR WRITTEN NOTIFICATION AT THE TIME OF SUCH ARRIVAL THAT THE VEHICLE OWNER OR OPERATOR MAY PAY A FEE OF NOT MORE THAN ONE-HALF OF THE FEE FOR THE REMOVAL OF THE MOTOR VEHICLE UNDER SUBSECTION (d)(1) OF THIS SECTION IN ORDER TO OBTAIN RELEASE OF THE MOTOR VEHICLE. UPON PAYMENT OF THAT FEE, THE TOWING SERVICE SHALL GIVE THE VEHICLE OWNER OR OPERATOR A RECEIPT SHOWING BOTH THE FULL AMOUNT NORMALLY ASSESSED AND THE ACTUAL AMOUNT RECEIVED AND SHALL RELEASE THE MOTOR VEHICLE TO THE OWNER OR OPERATOR. UPON ITS RELEASE, THE OWNER OR OPERATOR IMMEDIATELY SHALL MOVE IT SO THAT IT IS NOT ON THE PRIVATE RESIDENTIAL OR PRIVATE AGRICULTURAL PROPERTY WITHOUT THE PERMISSION OF THE PERSON HAVING THE RIGHT TO POSSESSION OF THE PROPERTY, OR IS NOT AT THE GARAGE OR PLACE OF STORAGE WITHOUT THE PERMISSION OF THE OWNER, WHICHEVER IS APPLICABLE.

(c) (1) THE CHIEF OF POLICE SHALL MAINTAIN A RECORD OF MOTOR VEHICLES THAT THE CHIEF ORDERS INTO STORAGE PURSUANT TO SUBSECTION (a)(1) OF THIS SECTION. THE RECORD SHALL INCLUDE AN ENTRY FOR EACH SUCH MOTOR VEHICLE THAT IDENTIFIES THE MOTOR VEHICLE'S LICENSE NUMBER, MAKE, MODEL AND COLOR, THE LOCATION FROM WHICH IT WAS REMOVED, THE DATE AND TIME OF THE REMOVAL, THE TELEPHONE NUMBER OF THE PERSON FROM WHOM IT MAY BE RECOVERED, AND THE ADDRESS OF THE PLACE TO WHICH IT HAS BEEN TAKEN AND FROM WHICH IT MAY BE RECOVERED. THE CHIEF OF POLICE SHALL PROVIDE ANY INFORMATION IN THE RECORD THAT PERTAINS TO A PARTICULAR MOTOR VEHICLE TO ANY PERSON WHO, EITHER IN PERSON OR PURSUANT TO A TELEPHONE CALL, IDENTIFIES SELF AS THE OWNER OR OPERATOR OF THE MOTOR VEHICLE AND REQUESTS INFORMATION PERTAINING TO ITS LOCATION.

~~(d)~~ (2) Any person who registers a complaint that is the basis of a Police Chief's order for the removal and storage of a motor vehicle under SUBSECTION (a)(1) OF this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies ~~him~~self as the owner or operator of the motor vehicle and requests information pertaining to its location.

~~[(ORC 4513.60)]~~

- (d) (1) **THE OWNER OR LIENHOLDER OF A MOTOR VEHICLE THAT IS ORDERED INTO STORAGE PURSUANT TO SUBSECTION (a)(1) OF THIS SECTION MAY RECLAIM IT UPON BOTH OF THE FOLLOWING:**
 - A. PAYMENT OF THE FOLLOWING FEES:**
 - 1. NOT MORE THAN NINETY DOLLARS (\$90.00) FOR THE REMOVAL OF THE MOTOR VEHICLE. HOWEVER, IF THE MOTOR VEHICLE HAS A MANUFACTURER'S GROSS VEHICLE WEIGHT RATING IN EXCESS OF TEN THOUSAND POUNDS, AND IS A TRUCK, BUS OR A COMBINATION OF A COMMERCIAL TRACTOR AND TRAILER OR SEMITRAILER, NOT MORE THAN ONE HUNDRED FIFTY DOLLARS (\$150.00) FOR THE REMOVAL.**
 - 2. NOT MORE THAN TWELVE DOLLARS (\$12.00) PER TWENTY-FOUR HOUR PERIOD FOR THE STORAGE OF THE MOTOR VEHICLE. HOWEVER, IF THE MOTOR VEHICLE HAS A MANUFACTURER'S GROSS VEHICLE WEIGHT RATING IN EXCESS OF TEN THOUSAND POUNDS AND IS A TRUCK, BUS OR A COMBINATION OF A COMMERCIAL TRACTOR AND TRAILER OR SEMITRAILER, NOT MORE THAN TWENTY DOLLARS (\$20.00) PER TWENTY-FOUR HOUR PERIOD FOR STORAGE.**
 - B. PRESENTATION OF PROOF OF OWNERSHIP, WHICH MAY BE EVIDENCED BY A CERTIFICATE OF TITLE TO THE MOTOR VEHICLE, A CERTIFICATE OF REGISTRATION FOR THE MOTOR VEHICLE, OR A LEASE AGREEMENT.**
- (2) **UPON PRESENTATION OF PROOF OF OWNERSHIP, AS REQUIRED UNDER SUBSECTION (d)(1)B. OF THIS SECTION, THE OWNER OF A MOTOR VEHICLE THAT IS ORDERED INTO STORAGE UNDER SUBSECTION (a)(1) OF THIS SECTION MAY RETRIEVE ANY PERSONAL ITEMS FROM THE MOTOR VEHICLE WITHOUT RETRIEVING THE VEHICLE AND WITHOUT PAYING ANY FEE. HOWEVER, THE OWNER MAY NOT RETRIEVE ANY PERSONAL ITEM THAT HAS BEEN DETERMINED BY THE CHIEF OF POLICE, AS APPLICABLE, TO BE NECESSARY TO A CRIMINAL INVESTIGATION. FOR PURPOSES OF SUBSECTION (d)(2) OF THIS SECTION, "PERSONAL ITEMS" DO NOT INCLUDE ANY ITEMS THAT ARE ATTACHED TO THE MOTOR VEHICLE.**
- (3) **IF A MOTOR VEHICLE THAT IS ORDERED INTO STORAGE PURSUANT TO SUBSECTION (a)(1) OF THIS SECTION REMAINS UNCLAIMED BY THE OWNER FOR THIRTY DAYS,**

THE PROCEDURES ESTABLISHED BY OHIO R.C. 4513.61 AND 4513.62 APPLY.

- (e) (1) **NO PERSON SHALL REMOVE, OR CAUSE THE REMOVAL OF, ANY MOTOR VEHICLE FROM ANY PRIVATE RESIDENTIAL OR PRIVATE AGRICULTURAL PROPERTY OTHER THAN IN ACCORDANCE WITH SUBSECTION (a)(1) OF THIS SECTION OR OHIO R.C. 4513.61 TO 4513.65.**
- (2) **NO TOWING SERVICE OR STORAGE FACILITY SHALL FAIL TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.**

(f) THIS SECTION DOES NOT APPLY TO ANY PRIVATE RESIDENTIAL OR PRIVATE AGRICULTURAL PROPERTY THAT IS ESTABLISHED AS A PRIVATE TOW-AWAY ZONE IN ACCORDANCE WITH SECTION 303.082.

**(g) THE OWNER OF ANY TOWING SERVICE OR STORAGE FACILITY THAT VIOLATES SUBSECTION (e) OF THIS SECTION IS GUILTY OF A MINOR MISDEMEANOR.
(ORC 4513.60)**

303.082 PRIVATE TOW-AWAY ZONES.

(a) The owner of private property may establish a private tow-away zone, **BUT MAY DO SO** only if all of the following conditions are satisfied:

- (1) The owner posts on the owner's property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that **INCLUDES** [~~contains at least~~] all of the following information:
 - A. A **STATEMENT** [~~notice~~] that the property is a private tow-away zone [~~and that vehicles not authorized to park on the property will be towed away~~];
 - B. A **DESCRIPTION OF PERSONS AUTHORIZED TO PARK ON THE PROPERTY. IF THE PROPERTY IS A RESIDENTIAL PROPERTY, THE OWNER OF THE PRIVATE PROPERTY MAY INCLUDE ON THE SIGN A STATEMENT THAT ONLY TENANTS AND GUESTS MAY PARK IN THE PRIVATE TOW-AWAY ZONE, SUBJECT TO THE TERMS OF THE PROPERTY OWNER. IF THE PROPERTY IS A COMMERCIAL PROPERTY, THE OWNER OF THE PRIVATE PROPERTY MAY INCLUDE ON THE SIGN A STATEMENT THAT ONLY CUSTOMERS MAY PARK IN THE PRIVATE TOW-AWAY ZONE. IN ALL CASES, IF IT IS NOT APPARENT WHICH PERSONS MAY PARK IN THE PRIVATE TOW-AWAY ZONE, THE OWNER SHALL INCLUDE ON THE SIGN THE ADDRESS OF THE PROPERTY ON WHICH THE PRIVATE TOW-AWAY ZONE IS LOCATED, OR THE NAME OF THE BUSINESS THAT IS LOCATED ON THE PROPERTY DESIGNATED AS A PRIVATE TOW-AWAY ZONE.**

C. IF THE PRIVATE TOW-AWAY ZONE IS NOT ENFORCEABLE AT ALL TIMES, THE TIMES DURING WHICH THE PARKING RESTRICTIONS ARE ENFORCED;

~~[B.]D.~~ The telephone number ~~[of the person from whom a towed-away vehicle can be recovered,]~~ and the address of the place FROM ~~[to]~~ which A TOWED ~~[the]~~ vehicle ~~[will be taken and the place from which it]~~ may be recovered AT ANY TIME DURING THE DAY OR NIGHT;

~~[C.]~~ ~~A statement that the vehicle may be recovered at any time during the day or night upon the submission of proof of ownership and the payment of a towing charge, in an amount not to exceed ninety dollars (\$90.00) and a storage charge, in an amount not to exceed twelve dollars (\$12.00) per twenty-four hour period; except that the charge for towing shall not exceed one hundred fifty dollars (\$150.00), and the storage charge shall not exceed twenty dollars (\$20.00) per twenty-four hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of 10,000 pounds and is a truck, bus or a combination of a commercial tractor and trailer or semitrailer.]~~

E. A STATEMENT THAT THE FAILURE TO RECOVER A TOWED VEHICLE MAY RESULT IN THE LOSS OF TITLE TO THE VEHICLE AS PROVIDED IN DIVISION (B) OF OHIO R.C. 4505.101.

ANY OWNER OF PROPERTY THAT HAS BEEN ESTABLISHED AS A PRIVATE TOW-AWAY ZONE UNDER OHIO R.C. 4513.60 OR SECTION 303.081 ET SEQ. OF THIS TRAFFIC CODE AS THAT SECTION EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION WHO DOES NOT HAVE A CONTRACT WITH A TOWING SERVICE FOR THE REMOVAL OF VEHICLES FROM THE PROPERTY MAY RETAIN EXISTING PRIVATE TOW-AWAY ZONE SIGNS THAT COMPLY WITH THAT SECTION FOR UP TO SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION. AT ANY TIME, IN ORDER TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION (b)(1) OF THIS SECTION, SUCH A PROPERTY OWNER MAY MODIFY THE EXISTING SIGN BY AFFIXING TO THE EXISTING SIGN STICKERS OR AN ADDENDUM IN LIEU OF REPLACING THE SIGN.

(2) A TOWING SERVICE ENSURES THAT A ~~[The place to which the towed]~~ vehicle TOWED UNDER THIS SECTION is taken TO A LOCATION ~~[and]~~ from which it may be recovered THAT COMPLIES WITH ALL OF THE FOLLOWING:

A. IT is ~~[conveniently]~~ located, WITHIN TWENTY LINEAR MILES OF THE LOCATION OF THE PRIVATE TOW-AWAY ZONE, UNLESS IT IS NOT PRACTICABLE TO

TAKE THE VEHICLE TO A PLACE OF STORAGE WITHIN TWENTY LINEAR MILES.

- B. IT is well-lighted.**
- C. IT [and] is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the [Municipality] MUNICIPAL CORPORATION OR TOWNSHIP IN WHICH THE PRIVATE TOW-AWAY ZONE IS LOCATED.**

- (b) (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) ~~[hereof]~~ **OF THIS SECTION**, without the consent of the owner of the property or in violation of any posted parking condition or regulation, the owner ~~[or the owner's agent may remove, or]~~ **MAY** cause the removal of the vehicle **BY A TOWING SERVICE. THE TOWING SERVICE SHALL REMOVE THE VEHICLE IN ACCORDANCE WITH THIS SECTION.** The **VEHICLE** owner and the operator of the vehicle ~~[shall be deemed]~~ **ARE CONSIDERED** to have consented to the removal and storage of the vehicle, ~~[and]~~ to the payment of the **APPLICABLE FEES ESTABLISHED UNDER SUBSECTION (g) OF THIS SECTION, AND TO THE RIGHT OF A TOWING SERVICE TO OBTAIN TITLE TO THE VEHICLE IF IT REMAINS UNCLAIMED PROVIDED IN OHIO R.C. 4505.101. THE OWNER OR LIENHOLDER OF A VEHICLE THAT HAS BEEN REMOVED UNDER THIS SECTION, SUBJECT TO SUBSECTION (c) OF THIS SECTION, [towing and storage charges specified in subsection (a) hereof, and the owner] may recover ~~[a]~~ **THE** vehicle ~~[that has been so removed only]~~ in accordance with ~~[Section 303.083.]~~ **SUBSECTION (g) OF THIS SECTION.****

~~[(c) If an owner of private property that is established as a private tow-away zone in accordance with subsection (a) hereof or the authorized agent of such an owner removes or causes the removal of a vehicle from that property under authority of subsection (b) hereof, the owner or agent promptly shall notify the police offices of the removal, the vehicle's license number, make, model and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered.]~~

(c) IF THE OWNER OR OPERATOR OF A VEHICLE THAT IS BEING REMOVED UNDER AUTHORITY OF SUBSECTION (b) OF THIS SECTION, ARRIVES AFTER THE VEHICLE HAS BEEN PREPARED FOR REMOVAL, BUT PRIOR TO THE ACTUAL REMOVAL FROM THE PROPERTY, THE TOWING SERVICE SHALL GIVE THE VEHICLE OWNER OR OPERATOR ORAL OR WRITTEN NOTIFICATION AT THE TIME OF SUCH ARRIVAL THAT THE VEHICLE OWNER OR OPERATOR MAY PAY A FEE OF NOT MORE THAN ONE-HALF OF THE FEE FOR THE REMOVAL OF THE VEHICLE ESTABLISHED UNDER SUBSECTION (g) OF THIS SECTION, IN ORDER TO OBTAIN RELEASE OF THE VEHICLE. UPON PAYMENT OF THAT FEE, THE TOWING SERVICE SHALL GIVE THE VEHICLE OWNER OR OPERATOR A RECEIPT SHOWING BOTH THE

FULL AMOUNT NORMALLY ASSESSED AND THE ACTUAL AMOUNT RECEIVED AND SHALL RELEASE THE VEHICLE TO THE OWNER OR OPERATOR. UPON ITS RELEASE THE OWNER OR OPERATOR IMMEDIATELY SHALL MOVE THE VEHICLE SO THAT THE VEHICLE IS NOT PARKED ON THE PRIVATE PROPERTY ESTABLISHED AS A PRIVATE TOW-AWAY ZONE WITHOUT THE CONSENT OF THE OWNER OR IN VIOLATION OF ANY POSTED PARKING CONDITION OR REGULATION.

~~[(d) — No owner of private property shall remove, or shall cause the removal and storage of, any vehicle pursuant to this section by a tow truck or tow truck operator in violation of any other municipal ordinance regulating such truck or operator.]~~

(d) (1) PRIOR TO TOWING A VEHICLE UNDER SUBSECTION (b) OF THIS SECTION, A TOWING SERVICE SHALL MAKE ALL REASONABLE EFFORTS TO TAKE AS MANY PHOTOGRAPHS AS NECESSARY TO EVIDENCE THAT THE VEHICLE IS CLEARLY PARKED ON PRIVATE PROPERTY IN VIOLATION OF A PRIVATE TOW-AWAY ZONE ESTABLISHED UNDER SUBSECTION (a) OF THIS SECTION.

THE TOWING SERVICE SHALL RECORD THE TIME AND DATE OF THE PHOTOGRAPHS TAKEN UNDER THIS SECTION. THE TOWING SERVICE SHALL RETAIN THE PHOTOGRAPHS AND THE RECORD OF THE TIME AND DATE, IN ELECTRONIC OR PRINTED FORM, FOR AT LEAST THIRTY DAYS AFTER THE DATE ON WHICH THE VEHICLE IS RECOVERED BY THE OWNER OR LIENHOLDER OR AT LEAST TWO YEARS AFTER THE DATE ON WHICH THE VEHICLE WAS TOWED, WHICHEVER IS EARLIER.

(2) A TOWING SERVICE SHALL DELIVER A VEHICLE TOWED UNDER SUBSECTION (b) OF THIS SECTION TO THE LOCATION FROM WHICH IT MAY BE RECOVERED NOT MORE THAN TWO HOURS AFTER THE TIME IT WAS REMOVED FROM THE PRIVATE TOW-AWAY ZONE.

~~[(e) — This section does not affect or limit the operation of Section 303.081 or Ohio R.C. 4513.61 to 4513.65 as they relate to property other than private property that is established as a private tow-away zone under this section.]~~

(e) (1) IF AN OWNER OF PRIVATE PROPERTY THAT IS ESTABLISHED AS A PRIVATE TOW-AWAY ZONE IN ACCORDANCE WITH SUBSECTION (a) OF THIS SECTION CAUSES THE REMOVAL OF A VEHICLE FROM THAT PROPERTY BY A TOWING SERVICE UNDER SUBSECTION (b) OF THIS SECTION, THE TOWING SERVICE, WITHIN TWO HOURS OF REMOVING THE VEHICLE, SHALL PROVIDE NOTICE TO THE POLICE DEPARTMENT CONCERNING ALL OF THE FOLLOWING:

- A. THE VEHICLE'S LICENSE NUMBER, MAKE, MODEL AND COLOR;
- B. THE LOCATION FROM WHICH THE VEHICLE WAS REMOVED;

- C. THE DATE AND TIME THE VEHICLE WAS REMOVED;
 - D. THE TELEPHONE NUMBER OF THE PERSON FROM WHOM THE VEHICLE MAY BE RECOVERED;
 - E. THE ADDRESS OF THE PLACE FROM WHICH THE VEHICLE MAY BE RECOVERED.
- (2) THE CHIEF OF POLICE SHALL MAINTAIN A RECORD OF ANY VEHICLE REMOVED FROM PRIVATE PROPERTY IN THE CHIEF'S JURISDICTION THAT IS ESTABLISHED AS A PRIVATE TOW-AWAY ZONE OF WHICH THE CHIEF HAS RECEIVED NOTICE UNDER THIS SECTION. THE RECORD SHALL INCLUDE ALL INFORMATION SUBMITTED BY THE TOWING SERVICE. THE CHIEF SHALL PROVIDE ANY INFORMATION IN THE RECORD THAT PERTAINS TO A PARTICULAR VEHICLE TO A PERSON WHO, EITHER IN PERSON OR PURSUANT TO A TELEPHONE CALL, IDENTIFIES SELF AS THE OWNER, OPERATOR OR LIENHOLDER OF THE VEHICLE, AND REQUESTS INFORMATION PERTAINING TO THE VEHICLE.

~~[(f) No person shall remove or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section other than in accordance with subsection (b) hereof.~~

~~(ORC 4513.60)]~~

- (f) (1) WHEN A VEHICLE IS REMOVED FROM PRIVATE PROPERTY IN ACCORDANCE WITH THIS SECTION, THE OWNER OF THE TOWING SERVICE OR STORAGE FACILITY FROM WHICH THE VEHICLE MAY BE RECOVERED SHALL IMMEDIATELY CAUSE A SEARCH TO BE MADE OF THE RECORDS OF THE BUREAU OF MOTOR VEHICLES TO ASCERTAIN THE IDENTITY OF THE OWNER AND ANY LIENHOLDER OF THE MOTOR VEHICLE. SUBJECT TO SUBSECTION (f)(4) OF THIS SECTION, THE OWNER OF THE TOWING SERVICE OR STORAGE FACILITY SHALL SEND NOTICE TO THE VEHICLE OWNER AND ANY KNOWN LIENHOLDER AS FOLLOWS:
- A. WITHIN FIVE BUSINESS DAYS OF REMOVAL OF THE VEHICLE FROM THE PRIVATE TOW-AWAY ZONE, IF THE VEHICLE HAS NOT YET BEEN RECOVERED, TO THE OWNER'S AND LIENHOLDER'S LAST KNOWN ADDRESS BY CERTIFIED OR EXPRESS MAIL WITH RETURN RECEIPT REQUESTED OR BY A COMMERCIAL CARRIER SERVICE UTILIZING ANY FORM OF DELIVERY REQUIRING A SIGNED RECEIPT;
 - B. IF THE VEHICLE REMAINS UNCLAIMED THIRTY DAYS AFTER THE FIRST NOTICE IS SENT, IN THE MANNER AUTHORIZED IN SUBSECTION (f)(1)A. OF THIS SECTION;
 - C. IF THE VEHICLE REMAINS UNCLAIMED FORTY-FIVE DAYS AFTER THE FIRST NOTICE IS SENT, IN THE

MANNER AUTHORIZED IN SUBSECTION (f)(1)A. OF THIS SECTION.

- (2) SIXTY DAYS AFTER ANY NOTICE SENT PURSUANT TO SUBSECTION (f)(1) OF THIS SECTION IS RECEIVED, AS EVIDENCED BY A RECEIPT SIGNED BY ANY PERSON, OR THE TOWING SERVICE OR STORAGE FACILITY HAS BEEN NOTIFIED THAT DELIVERY WAS NOT POSSIBLE, THE OWNER OF A TOWING SERVICE OR STORAGE FACILITY, IF AUTHORIZED UNDER SUBSECTION (B) OF OHIO R.C. 4505.101, MAY INITIATE THE PROCESS FOR OBTAINING A CERTIFICATE OF TITLE TO THE MOTOR VEHICLE AS PROVIDED IN THAT SECTION.**
- (3) A TOWING SERVICE OR STORAGE FACILITY THAT DOES NOT RECEIVE A SIGNED RECEIPT OF NOTICE, OR A NOTIFICATION THAT DELIVERY WAS NOT POSSIBLE, SHALL NOT OBTAIN, AND SHALL NOT ATTEMPT TO OBTAIN, A CERTIFICATE OF TITLE TO THE MOTOR VEHICLE UNDER DIVISION (B) OF OHIO R.C. 4505.101.**
- (4) WITH RESPECT TO A VEHICLE CONCERNING WHICH A TOWING SERVICE OR STORAGE FACILITY IS NOT ELIGIBLE TO OBTAIN TITLE UNDER OHIO R.C. 4505.101, THE TOWING SERVICE OR STORAGE FACILITY NEED ONLY COMPLY WITH THE INITIAL NOTICE REQUIRED UNDER SUBSECTION (f)(1)A. OF THIS SECTION.**

~~[(g) Whoever violates subsection (d) or (f) of this section is guilty of a minor misdemeanor. (Ord. 145-09. Passed 12-14-09.)]~~

(g) (1) THE OWNER OR LIENHOLDER OF A VEHICLE THAT IS REMOVED UNDER SUBSECTION (b) OF THIS SECTION MAY RECLAIM IT UPON ALL OF THE FOLLOWING:

- A. PRESENTATION OF PROOF OF OWNERSHIP, WHICH MAY BE EVIDENCED BY A CERTIFICATE OF TITLE TO THE VEHICLE, A CERTIFICATE OF REGISTRATION FOR THE MOTOR VEHICLE OR A LEASE AGREEMENT;**
- B. PAYMENT OF THE FOLLOWING FEES:**
 - 1. NOT MORE THAN NINETY DOLLARS (\$90.00) FOR THE REMOVAL OF THE VEHICLE. HOWEVER, IF THE VEHICLE HAS A MANUFACTURER'S GROSS VEHICLE WEIGHT RATING IN EXCESS OF TEN THOUSAND POUNDS AND IS A TRUCK, BUS OR A COMBINATION OF A COMMERCIAL TRACTOR AND TRAILER OR SEMITRAILER, NOT MORE THAN ONE HUNDRED FIFTY DOLLARS (\$150.00) FOR THE REMOVAL.**
 - 2. NOT MORE THAN TWELVE DOLLARS (\$12.00) PER TWENTY-FOUR-HOUR PERIOD FOR THE STORAGE OF THE VEHICLE. HOWEVER, IF THE VEHICLE HAS A MANUFACTURER'S GROSS VEHICLE WEIGHT RATING IN EXCESS OF TEN**

THOUSAND POUNDS AND IS A TRUCK, BUS, OR A COMBINATION OF A COMMERCIAL TRACTOR AND TRAILER OR SEMITRAILER, NOT MORE THAN TWENTY DOLLARS (\$20.00) PER TWENTY-FOUR-HOUR PERIOD FOR STORAGE.

- 3. IF NOTICE HAS BEEN SENT TO THE OWNER AND LIENHOLDER AS DESCRIBED IN SUBSECTION (f) OF THIS SECTION, A PROCESSING FEE OF TWENTY-FIVE DOLLARS (\$25.00).**
- (2) A TOWING SERVICE OR STORAGE FACILITY IN POSSESSION OF A VEHICLE THAT IS REMOVED UNDER AUTHORITY OF SUBSECTION (b) OF THIS SECTION SHALL SHOW THE VEHICLE OWNER, OPERATOR OR LIENHOLDER WHO CONTESTS THE REMOVAL OF THE VEHICLE ALL PHOTOGRAPHS TAKEN UNDER SUBSECTION (d) OF THIS SECTION. UPON REQUEST, THE TOWING SERVICE OR STORAGE FACILITY SHALL PROVIDE COPIES OF ALL PHOTOGRAPHS IN THE MEDIUM IN WHICH THE PHOTOGRAPHS ARE STORED, WHETHER PAPER, ELECTRONIC, OR OTHERWISE.**
- (3) UPON PRESENTATION OF PROOF OF OWNERSHIP, WHICH MAY BE EVIDENCED BY A CERTIFICATE OF TITLE TO THE VEHICLE, A CERTIFICATE OF REGISTRATION FOR THE MOTOR VEHICLE OR A LEASE AGREEMENT, THE OWNER OF A VEHICLE THAT IS REMOVED UNDER AUTHORITY OF SUBSECTION (b) OF THIS SECTION MAY RETRIEVE ANY PERSONAL ITEMS FROM THE VEHICLE WITHOUT RETRIEVING THE VEHICLE AND WITHOUT PAYING ANY FEE. FOR PURPOSES OF SUBSECTION (g)(3) OF THIS SECTION, "PERSONAL ITEMS" DO NOT INCLUDE ANY ITEMS THAT ARE ATTACHED TO THE VEHICLE.**

(h) NO TOWING SERVICE OR STORAGE FACILITY SHALL REMOVE, OR CAUSE THE REMOVAL OF ANY VEHICLE FROM PRIVATE PROPERTY THAT IS ESTABLISHED AS A PRIVATE TOW-AWAY ZONE UNDER THIS SECTION, STORE SUCH A VEHICLE OTHER THAN IN ACCORDANCE WITH THIS SECTION, OR OTHERWISE FAIL TO COMPLY WITH ANY APPLICABLE REQUIREMENT OF THIS SECTION.

(i) THIS SECTION DOES NOT AFFECT OR LIMIT THE OPERATION OF OHIO R.C. 4513.60 OR OHIO R.C. 4513.61 TO 4613.65 AS THEY RELATE TO PROPERTY OTHER THAN PRIVATE PROPERTY THAT IS ESTABLISHED AS A PRIVATE TOW-AWAY ZONE UNDER SUBSECTION (a) OF THIS SECTION.

**(j) THE OWNER OF ANY TOWING SERVICE OR STORAGE FACILITY OR PROPERTY OWNER THAT VIOLATES SUBSECTION (h) OF THIS SECTION IS GUILTY OF A MINOR MISDEMEANOR.
(ORC 4513.601)**

303.083 RELEASE OF VEHICLE; RECORDS; CHARGES.

(EDITOR'S NOTE: The provisions of former Section 303.083 as amended are now codified in Section 303.081.)

~~[(a) — Release Prior to Removal. If the owner or operator of a motor vehicle that has been ordered into storage pursuant to Section 303.081 or of a vehicle that is being removed under authority of Section 303.082 arrives after the motor vehicle or vehicle has been prepared for removal but prior to its actual removal from the property, the owner or operator shall be given the opportunity to pay a fee of not more than one-half of the charge for the removal of motor vehicles under Section 303.081 or of vehicles under Section 303.082 whichever is applicable, that normally is assessed by the person who has prepared the motor vehicle or vehicle for removal, in order to obtain release of the motor vehicle or vehicle. Upon payment of that fee, the motor vehicle or vehicle shall be released to the owner or operator, and upon its release, the owner or operator immediately shall move it so that:~~

- ~~(1) — If the motor vehicle was ordered into storage pursuant to Section 303.081, it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable;~~
- ~~(2) — If the vehicle was being removed under authority of Section 303.082, it is not parked on the private property established as a private tow-away zone without the consent of the owner or in violation of any posted parking condition or regulation.]~~

~~[(b) — Records. The Chief of Police shall maintain a record of motor vehicles that the Chief orders into storage pursuant to Section 303.081 and of vehicles removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the Chief has received notice under Section 303.082. The record shall include an entry for each such motor vehicle or vehicle that identifies the motor vehicle's or vehicle's license number, make, model and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. Any information in the record that pertains to a particular motor vehicle or vehicle shall be provided to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle or vehicle and requests information pertaining to its location.]~~

~~[(c) — Removal and Storage Charges. The owner of a motor vehicle that is ordered into storage pursuant to Section 303.081 or of a vehicle that is removed under authority of Section 303.082 may reclaim it upon payment of any expenses or charges incurred in its removal, in an amount not to exceed ninety dollars (\$90.00), and storage, in an amount not to exceed twelve dollars (\$12.00) per twenty-four hour period; except that the charge for towing shall not exceed one hundred fifty dollars (\$150.00), and the storage charge shall not exceed twenty dollars (\$20.00) per twenty-four hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of 10,000 pounds and is a truck, bus or a combination of a commercial tractor and trailer or semitrailer. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle or vehicle also shall be required for reclamation of the vehicle. If a motor vehicle that is ordered into~~

~~storage pursuant to Section 303.081 remains unclaimed by the owner for thirty days, the procedures established by Ohio R.C. 4513.61 and 4513.62 shall apply. (ORC 4513.60)]~~

331.44 VEHICULAR OPERATION ON STREET CLOSED DUE TO RISE IN WATER LEVEL.

(a) NO PERSON SHALL OPERATE A VEHICLE ON OR ONTO A PUBLIC STREET OR HIGHWAY THAT IS TEMPORARILY COVERED BY A RISE IN WATER LEVEL, INCLUDING GROUNDWATER OR AN OVERFLOW OF WATER, AND THAT IS CLEARLY MARKED BY A SIGN THAT SPECIFIES THAT THE ROAD IS CLOSED DUE TO THE RISE IN WATER LEVEL AND THAT ANY PERSON WHO USES THE CLOSED PORTION OF THE ROAD MAY BE FINED UP TO TWO THOUSAND DOLLARS (\$2,000).

(b) A PERSON WHO IS ISSUED A CITATION FOR A VIOLATION OF SUBSECTION (a) HEREOF IS NOT PERMITTED TO ENTER A WRITTEN PLEA OF GUILTY AND WAIVE THE PERSON'S RIGHT TO CONTEST THE CITATION IN COURT, BUT INSTEAD MUST APPEAR IN PERSON IN THE PROPER COURT TO ANSWER THE CHARGE.

(c) (1) WHOEVER VIOLATES SUBSECTION (a) HEREOF IS GUILTY OF A MINOR MISDEMEANOR.

(2) IN ADDITION TO THE FINANCIAL SANCTIONS AUTHORIZED OR REQUIRED UNDER SECTION 501.99 AND TO ANY COSTS OTHERWISE AUTHORIZED OR REQUIRED UNDER ANY PROVISION OF LAW, THE COURT IMPOSING THE SENTENCE UPON AN OFFENDER WHO IS CONVICTED OF OR PLEADS GUILTY TO A VIOLATION OF SUBSECTION (a) HEREOF SHALL ORDER THE OFFENDER TO REIMBURSE ONE OR MORE RESCUERS FOR THE COST ANY SUCH RESCUEE INCURRED IN RESCUING THE PERSON, EXCLUDING ANY COST OF TRANSPORTING THE RESCUED PERSON TO A HOSPITAL OR OTHER FACILITY FOR TREATMENT OF INJURIES, UP TO A CUMULATIVE MAXIMUM OF TWO THOUSAND DOLLARS (\$2,000). IF MORE THAN ONE RESCUER WAS INVOLVED IN THE EMERGENCY RESPONSE, THE COURT SHALL ALLOCATE THE REIMBURSEMENT PROPORTIONATELY, ACCORDING TO THE COST EACH RESCUER INCURRED. A FINANCIAL SANCTION IMPOSED UNDER THIS SECTION IS A JUDGMENT IN FAVOR OF THE RESCUER AND, SUBJECT TO A DETERMINATION OF INDIGENCY UNDER DIVISION (B) OF OHIO R.C. 2929.28, A RESCUER MAY COLLECT THE FINANCIAL SANCTION IN THE SAME MANNER AS PROVIDED IN OHIO R.C. 2929.28.

(d) AS USED IN THIS SECTION:

(1) "EMERGENCY MEDICAL SERVICE ORGANIZATION", "FIREFIGHTING AGENCY" AND "PRIVATE FIRE COMPANY" HAVE THE SAME MEANINGS AS IN OHIO R.C. 9.60.

- (2) **“RESCUER” MEANS A STATE AGENCY, POLITICAL SUBDIVISION, FIREFIGHTING SERVICE, PRIVATE FIRE COMPANY, OR EMERGENCY MEDICAL SERVICE ORGANIZATION.**
(ORC 4511.714.)

335.031 DRIVING WITH PROBATIONARY LICENSE; CURFEW.

- (a) (1) A. No holder of a probationary driver’s license, who has **HELD THE LICENSE FOR LESS THAN TWELVE MONTHS** [~~not attained the age of seventeen years~~] shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. unless the holder is accompanied by the holder’s parent or guardian.
- B. No holder of a probationary driver’s license who has **HELD THE LICENSE FOR LESS THAN TWELVE MONTHS** [~~attained the age of seventeen years but has not attained the age of eighteen years~~] shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of one a.m. and five a.m. unless the holder is accompanied by the holder’s parent or guardian.
- (2) A. Subject to subsection (c)(1)[~~A.~~] **OF THIS SECTION**, subsection (a)(1)A. **OF THIS SECTION** does not apply to the holder of a probationary driver’s license who is **DOING EITHER OF THE FOLLOWING:**
1. [~~t~~]Traveling to or from work between the hours of midnight and six a.m. **PROVIDED THAT THE HOLDER** [~~and~~] has in the holder’s immediate possession written documentation from the holder’s employer.
 2. **TRAVELING TO OR FROM AN OFFICIAL FUNCTION SPONSORED BY THE SCHOOL THE HOLDER ATTENDS BETWEEN THE HOURS OF MIDNIGHT AND SIX A.M., PROVIDED THAT THE HOLDER HAS IN THE HOLDER’S IMMEDIATE POSSESSION WRITTEN DOCUMENTATION FROM AN APPROPRIATE OFFICIAL OF THE SCHOOL;**
 3. **TRAVELING TO OR FROM AN OFFICIAL RELIGIOUS EVENT BETWEEN THE HOURS OF MIDNIGHT AND SIX A.M., PROVIDED THAT THE HOLDER HAS IN THE HOLDER’S IMMEDIATE POSSESSION WRITTEN DOCUMENTATION FROM AN APPROPRIATE OFFICIAL AFFILIATED WITH THE EVENT.**
- B. Subsection (a)(1)B. **OF THIS SECTION** does not apply to the holder of a probationary driver’s license who is **DOING EITHER OF THE FOLLOWING:**

1. ~~[t]~~Traveling to or from work between the hours of one a.m. and five a.m., **PROVIDED THAT THE HOLDER ~~[and]~~** has in the holder's immediate possession written documentation from the holder's employer.
2. **TRAVELING TO OR FROM AN OFFICIAL FUNCTION SPONSORED BY THE SCHOOL THE HOLDER ATTENDS BETWEEN THE HOURS OF ONE A.M. AND FIVE A.M., PROVIDED THAT THE HOLDER HAS IN THE HOLDER'S IMMEDIATE POSSESSION WRITTEN DOCUMENTATION FROM AN APPROPRIATE OFFICIAL OF THE SCHOOL;**
3. **TRAVELING TO OR FROM AN OFFICIAL RELIGIOUS EVENT BETWEEN THE HOURS OF ONE A.M. AND FIVE A.M., PROVIDED THAT THE HOLDER HAS IN THE HOLDER'S IMMEDIATE POSSESSION WRITTEN DOCUMENTATION FROM AN APPROPRIATE OFFICIAL AFFILIATED WITH THE EVENT.**

- (3) An employer, **SCHOOL OFFICIAL OR OFFICIAL AFFILIATED WITH A RELIGIOUS EVENT** is not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from, or is related to, the fact that the employer, **SCHOOL OFFICIAL, OR OFFICIAL AFFILIATED WITH A RELIGIOUS EVENT** provided ~~[an employee who is]~~ the holder of a probationary driver's license with the written documentation described in subsection (a)(2) **OF THIS SECTION.**

The ~~[r]~~Registrar of ~~[m]~~Motor ~~[v]~~Vehicles shall make available at no cost a form to serve as the written documentation described in subsection (a)(2) **OF THIS SECTION**, and employers, **SCHOOL OFFICIALS, OFFICIALS AFFILIATED WITH RELIGIOUS EVENTS**, and holders of probationary driver's licenses may utilize that form or may choose to utilize any other written documentation to meet the requirements of that ~~[division]~~ **SUBSECTION.**

- (4) No holder of a probationary driver's license who **HAS HELD THE LICENSE FOR LESS THAN TWELVE MONTHS ~~[is less than seventeen years of age]~~** shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking with more than one person who is not a family member occupying the vehicle unless the probationary license holder is accompanied by the probationary license holder's parent, guardian, or custodian.

(b) It is an affirmative defense to a violation of subsection (a)(1)A. or B. **OF THIS SECTION ~~[hereof]~~** if, at the time of the violation, **AN EMERGENCY EXISTED THAT REQUIRED** the holder of the probationary driver's license ~~[was traveling to or from an official function sponsored by the school the holder attends, or an emergency existed that required the holder]~~ to operate a motor vehicle in violation of subsection (a)(1)A. or B. **OF THIS SECTION ~~[hereof]~~**, or the holder was an emancipated minor.

- (c) (1) ~~[A.—Except as otherwise provided in subsection (e)(2) hereof,] [i]If a person is issued a probationary driver’s license prior to attaining the age of seventeen years and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver’s license, **THE COURT WITH JURISDICTION OVER THE VIOLATION MAY ORDER THAT** the holder must be accompanied by the holder’s parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking **FOR A PERIOD NOT TO EXCEED SIX MONTHS OR THE DATE THE HOLDER ATTAINS THE AGE OF SEVENTEEN YEARS, WHICHEVER OCCURS FIRST.** ~~[during whichever of the following time periods applies:]~~~~
- ~~[1.—If, on the date the holder of the probationary driver’s license pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the holder has not attained the age of sixteen years six months, during the six-month period commencing on that date;~~
- ~~2.—If, on the date the holder pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the holder has attained the age of sixteen years six months but not seventeen years, until the person attains the age of seventeen years.~~
- ~~B.—If the holder of a probationary driver’s license commits a moving violation during the six-month period after the person is issued the probationary driver’s license and before the person attains the age of seventeen years and on the date the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the person has attained the age of seventeen years, or if the person commits the moving violation during the six-month period after the person is issued the probationary driver’s license and after the person attains the age of seventeen years, the holder is not subject to the restriction described in subsection (e)(1)A.1. and 2. hereof unless the court or juvenile court imposes such a restriction upon the holder.]~~
- (2) Any person who is subject to the operating restrictions established under subsection (c)(1) of this section as a result of a first moving violation may petition the court for ~~[occupational or educational]~~ driving privileges without being accompanied by the holder’s parent or guardian during the period of time **DETERMINED BY THE COURT UNDER [specified in]** that subsection. ~~[The court may grant the person such driving privileges if the court finds reasonable cause to believe that the restrictions established in subsection~~

~~(c)(1) will seriously affect the person's ability to continue in employment or educational training or will cause undue hardship on the license holder or a family member of the license holder.]~~ In granting the driving privileges, the court shall specify the purposes~~[, times, and places]~~ of the privileges and shall issue the person appropriate forms setting forth the privileges granted. ~~[Occupational or educational driving privileges under this subsection shall not be granted to the same person more than once.]~~ If a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a second or subsequent moving violation, **THE COURT WITH JURISDICTION OVER THE VIOLATION MAY TERMINATE** any driving privileges previously granted under this **DIVISION**. ~~[subsection are terminated upon the subsequent conviction, plea, or adjudication.]~~

- (3) No person shall violate **ANY OPERATING RESTRICTION IMPOSED UNDER** subsection (c)(1)~~[A.]~~ **OR (2) OF THIS SECTION** ~~[hereof]~~.

[NO FURTHER CHANGES TO THIS SECTION.]

335.072 DRIVING UNDER FINANCIAL RESPONSIBILITY LAW SUSPENSION OR CANCELLATION; DRIVING UNDER A NONPAYMENT OF JUDGMENT SUSPENSION.

[NO CHANGES TO THIS SECTION UNTIL PARAGRAPH (d).]

(d) Whoever violates subsection (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in subsection (d) hereof. Whoever violates subsection (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in subsection (d) hereof.

- (1) Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.
- (3) **THE OFFENDER SHALL PROVIDE THE COURT WITH PROOF OF FINANCIAL RESPONSIBILITY AS DEFINED IN OHIO R.C. 4509.01. IF THE OFFENDER FAILS TO PROVIDE THAT PROOF OF FINANCIAL RESPONSIBILITY, THEN IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW, THE COURT MAY ORDER RESTITUTION PURSUANT TO OHIO R.C. 2929.28**

IN AN AMOUNT NOT EXCEEDING FIVE THOUSAND DOLLARS (\$5,000) FOR ANY ECONOMIC LOSS ARISING FROM AN ACCIDENT OR COLLISION THAT WAS THE DIRECT AND PROXIMATE RESULT OF THE OFFENDER'S OPERATION OF THE VEHICLE BEFORE, DURING OR AFTER COMMITTING THE OFFENSE FOR WHICH THE OFFENDER IS SENTENCED UNDER THIS SECTION.
(ORC 4510.16)

(e) No person who has knowingly failed to maintain proof of financial responsibility in accordance with Ohio R.C. 4509.101 shall produce any document **OR PRESENT TO A PEACE OFFICER AN ELECTRONIC WIRELESS COMMUNICATIONS DEVICE THAT IS DISPLAYING ANY TEXT OR IMAGES** with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with Ohio R.C. 4509.101. ~~[Any person who]~~ **WHOEVER** violates this subsection (e) hereof is guilty of falsification, a misdemeanor of the first degree.
~~[(Ord. 103-12. Passed 11-26-12.)]~~ **(ORC 4509.102)**

335.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT SUSPENSION.

[NO CHANGES TO THIS SECTION UNTIL PARAGRAPH (c).]

(c) Whoever violates subsection (a) of this section is guilty of driving under suspension and shall be punished as provided in subsection (c) of this section.

- (1) Except as otherwise provided in subsection (c)(2) of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of subsection (A) of Ohio R.C. 4510.111, or any combination of two or more violations of subsection (A) of Ohio R.C. 4510.111, or Ohio R.C. 4510.11 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree **AND THE OFFENDER SHALL PROVIDE THE COURT WITH PROOF OF FINANCIAL RESPONSIBILITY AS DEFINED IN OHIO R.C. 4509.01. IF THE OFFENDER FAILS TO PROVIDE THAT PROOF OF FINANCIAL RESPONSIBILITY, THEN IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY LAW, THE COURT MAY ORDER RESTITUTION PURSUANT TO OHIO R.C. 2929.28 IN AN AMOUNT NOT EXCEEDING FIVE THOUSAND DOLLARS**

**(\$5,000) FOR ANY ECONOMIC LOSS ARISING FROM AN ACCIDENT OR COLLISION THAT WAS THE DIRECT AND PROXIMATE RESULT OF THE OFFENDER'S OPERATION OF THE VEHICLE BEFORE, DURING OR AFTER COMMITTING THE OFFENSE FOR WHICH THE OFFENDER IS SENTENCED UNDER THIS SECTION. (ORC 4510.111).
[(Ord. 112-12. Passed 12-10-12.)]**

335.09 DISPLAY OF LICENSE PLATES.

(a) No person who is the owner or operator of a motor vehicle shall fail to properly display in plain view on the front and rear of the motor vehicle the distinctive number and registration mark, including any county identification sticker and any validation sticker issued under Ohio R.C. 4503.19 and 4503.191, furnished by the Ohio Director of Public Safety, except that a manufacturer of motor vehicles or dealer therein, the holder of an intransit permit, and the owner or operator of a motorcycle, **CAB-ENCLOSED MOTORCYCLE**, motorized bicycle, manufactured home, mobile home, trailer or semitrailer shall display on the rear only. A motor vehicle that is issued two license plates shall display the validation sticker on the rear license plate. A commercial tractor that does not receive an apportioned license plate under the international registration plan shall be issued one license plate and one validation sticker, which license plate and validation sticker shall be displayed on the front of the commercial tractor. An apportioned vehicle receiving an apportioned license plate under the international registration plan shall display the license plate only on the front of a commercial tractor and on the rear of all other vehicles. All license plates shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs their visibility.

No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4503.21)

335.10 EXPIRED OR UNLAWFUL LICENSE PLATES.

[NO CHANGES TO THIS SECTION UNTIL PARAGRAPH (f).]

- (f) (1) Whoever violates subsection (a) hereof is guilty of a **MINOR** misdemeanor ~~[of the fourth degree]~~.
- (2) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.
- (3) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor.

(Ord. 110-10. Passed 12-6-10.)

341.01 DEFINITIONS.

[NO CHANGES TO THIS SECTION UNTIL PARAGRAPH (c).]

- (c) "Commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:

- (1) Any combination of vehicles with a **GROSS VEHICLE WEIGHT OR** combined gross vehicle weight rating of 26,001 pounds or more, provided the **GROSS VEHICLE WEIGHT OR** gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
- (2) Any single vehicle with a **GROSS VEHICLE WEIGHT OR** gross vehicle weight rating of 26,001 pounds or more ~~[, or any such vehicle towing a vehicle having a gross vehicle weight rating that is not in excess of 10,000 pounds];~~
- (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;
- (4) Any school bus with a **GROSS VEHICLE WEIGHT OR** gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than sixteen passengers including the driver;
- (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;
- (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.

[NO FURTHER CHANGES TO THIS SECTION.]

341.03 PREREQUISITES TO OPERATION OF A COMMERCIAL MOTOR VEHICLE.

(a) Except as provided in subsections (b) and (c) of this section, the following shall apply:

- (1) No person shall drive a commercial motor vehicle on a highway in this Municipality unless the person holds, and has in the person's possession, **ANY OF THE FOLLOWING:**
 - A. ~~[a]~~ A valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the Registrar of Motor Vehicles, **OR BY ANOTHER JURISDICTION RECOGNIZED BY THIS STATE;**
 - B. ~~[a]~~ A valid examiner's commercial driving permit issued under Ohio R.C. 4506.13~~;~~;
 - C. ~~[a]~~ A valid restricted commercial driver's license and waiver for farm-related service industries issued under Ohio R.C. 4506.24~~;~~;
 - D. ~~[or a]~~ A valid commercial driver's license temporary instruction permit issued by the Registrar, **PROVIDED THAT THE PERSON [and] is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license AND WHO MEETS THE REQUIREMENTS OF OHIO R.C. 4506.06(B).** ~~[with proper endorsements for the motor vehicle being driven.]~~
- (2) No person who has been a resident of this State for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

[NO FURTHER CHANGES TO THIS SECTION.]

341.05 CRIMINAL OFFENSES.

(a) No person who holds a commercial driver's license or **COMMERCIAL DRIVER'S LICENSE TEMPORARY INSTRUCTION PERMIT OR WHO** operates a motor vehicle for which a commercial driver's license is required shall do any of the following:

- (1) Drive a commercial motor vehicle while having a measureable or detectable amount of alcohol or of a controlled substance in the person's blood, breath or urine;
- (2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more by whole blood or breath;
- (3) Drive a commercial motor vehicle while having an alcohol concentration of forty-eight-thousandths of one per cent or more by blood serum or blood plasma;
- (4) Drive a commercial motor vehicle while having an alcohol concentration of fifty-six-thousandths of one per cent or more by urine;
- (5) Drive a motor vehicle while under the influence of a controlled substance;
- (6) Drive a motor vehicle in violation of Ohio R.C. 4511.19 or a municipal OVI ordinance as defined in Ohio R.C. 4511.181;
- (7) Use a motor vehicle in the commission of a felony;
- (8) Refuse to submit to a test under Ohio R.C. 4506.17 or 4511.191;
- (9) Operate a commercial motor vehicle while the person's commercial **DRIVER'S LICENSE OR PERMIT OR OTHER COMMERCIAL** driving privileges are revoked, suspended, canceled, or disqualified;

[NO FURTHER CHANGES TO THIS SECTION.]

341.06 EMPLOYMENT OF DRIVERS OF COMMERCIAL VEHICLES.

[NO CHANGES TO THIS SECTION UNTIL PARAGRAPH (d).]

(d) **NO EMPLOYER SHALL KNOWINGLY PERMIT OR AUTHORIZE A DRIVER TO OPERATE A COMMERCIAL MOTOR VEHICLE IF THE DRIVER DOES NOT HOLD A VALID, CURRENT COMMERCIAL DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE TEMPORARY INSTRUCTION PERMIT BEARING THE PROPER CLASS OR ENDORSEMENTS FOR THE VEHICLE. NO EMPLOYER SHALL KNOWINGLY PERMIT OR AUTHORIZE A DRIVER TO OPERATE A COMMERCIAL MOTOR VEHICLE IN VIOLATION OF THE RESTRICTIONS ON THE DRIVER'S COMMERCIAL DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE TEMPORARY INSTRUCTION PERMIT.**

- (e) (1) **WHOEVER VIOLATES SUBSECTION (a), (b) OR (d) OF THIS SECTION IS GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE.**
- (2)~~(d)~~Whoever violates subsection (c) of this section may be assessed a fine not to exceed ten thousand dollars. (ORC 4506.20)

351.04 PARKING NEAR CURB; HANDICAPPED LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES.

[NO CHANGES TO THIS SECTION UNTIL PARAGRAPH (f).]

- (f) (1) **A.** No person shall stop, stand or park any motor vehicle at special

parking locations provided under subsection (e) hereof, or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with subsection (e) hereof, unless one of the following applies:

[A]1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates;

[B]2. The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.

~~[(2)]~~ **B.** Any motor vehicle that is parked in a special marked parking location in violation of subsection (f)(1)**A.** of this section may be towed or otherwise removed from the parking location by the Police Department. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles.

~~[(3)]~~ **C.** If a person is charged with a violation of subsection (f)(1)**A.** of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in Ohio R.C. 4503.44(A)(1).

(2) NO PERSON SHALL STOP, STAND OR PARK ANY MOTOR VEHICLE IN AN AREA THAT IS COMMONLY KNOWN AS AN ACCESS AISLE, WHICH AREA IS MARKED BY DIAGONAL STRIPES AND IS LOCATED IMMEDIATELY ADJACENT TO A SPECIAL PARKING LOCATION PROVIDED UNDER SUBSECTION (e) OF THIS SECTION OR AT A SPECIAL CLEARLY MARKED PARKING LOCATION PROVIDED IN OR ON A PRIVATELY OWNED PARKING LOT, PARKING GARAGE, OR OTHER PARKING AREA AND DESIGNATED IN ACCORDANCE WITH THAT SUBSECTION.

[NO FURTHER CHANGES TO THIS SECTION UNTIL PARAGRAPH (i).]

(i) (1) Whoever violates subsection (a) or (c) of this section is guilty of a minor misdemeanor.

(2) A. Whoever violates subsection (f)(1)**A.1.** or **[B.]2.** of this section is guilty of a misdemeanor and shall be punished as provided in subsection (i)(2)**A.** and **B.** of this section. Except as otherwise provided in subsection (i)(2)**A.** of this section, an offender who violates subsection (f)(1)**A.1.** or **[B.]2.** of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than

five hundred dollars (\$500.00). An offender who violates subsection (f)(1)A.1. or ~~[B.]2.~~ of this section shall be fined not more than one hundred dollars (\$100.00) if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

1. At the time of the violation of subsection (f)(1)A.1. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in subsection (f)(1)A.1. of this section.
2. At the time of the violation of subsection (f)(1)~~[B.]~~A.2. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or special handicapped license plates that then were valid but the offender or the person neglected to display the card or license plates as described in subsection (f)(1)~~[B.]~~A.2. of this section.

B. In no case shall an offender who violates subsection (f)(1)A.1. or ~~[B.]2.~~ of this section be sentenced to any term of imprisonment.

An arrest or conviction for a violation of subsection (f)(1)A.1. or ~~[B.]2.~~ of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(3) WHOEVER VIOLATES SUBSECTION (f)(2) OF THIS SECTION SHALL BE FINED NOT LESS THAN TWO HUNDRED FIFTY DOLLARS (\$250.00) NOR MORE THAN FIVE HUNDRED DOLLARS (\$500.00).

IN NO CASE SHALL AN OFFENDER WHO VIOLATES SUBSECTION (f)(2) OF THIS SECTION BE SENTENCED TO ANY TERM OF IMPRISONMENT. AN ARREST OR CONVICTION FOR A VIOLATION OF SUBSECTION (f)(2) OF THIS SECTION DOES NOT CONSTITUTE A CRIMINAL RECORD AND NEED NOT BE REPORTED BY THE PERSON SO ARRESTED OR CONVICTED IN RESPONSE TO ANY INQUIRIES CONTAINED IN ANY APPLICATION FOR EMPLOYMENT, LICENSE, OR OTHER RIGHT OR PRIVILEGE, OR MADE IN CONNECTION WITH THE PERSON'S APPEARANCE AS A WITNESS.

(ORC 4511.69)

373.02 RIDING UPON SEATS; HANDLE BARS; HELMETS AND GLASSES.

[NO CHANGES TO THIS SECTION UNTIL PARAGRAPH (h).]

(h) **EXCEPT AS PROVIDED IN SUBSECTION (i)(3) OF THIS SECTION,** ~~[N]~~no person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. **EXCEPT AS PROVIDED IN SUBSECTION (i)(3) OF THIS SECTION,** ~~[N]~~no person who is under the age of eighteen years, or who holds a motorcycle operator's endorsement or license bearing "novice" designation that is currently in effect as provided in Ohio R.C. 4507.13, shall operate a motorcycle on a highway, or be a

passenger on a motorcycle, unless wearing a protective helmet on the person's head, and no other person shall be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses or other protective eye device shall conform with rules adopted by the Ohio Director of Public Safety. The provisions of this subsection or a violation thereof shall not be used in the trial of any civil action.

- (i) (1) **EXCEPT AS PROVIDED IN SECTION (i)(3) OF THIS SECTION,** ~~[N]~~no person shall operate a motorcycle with a valid temporary permit and temporary instruction permit identification card issued by the Ohio Registrar of Motor Vehicles pursuant to Ohio R.C. 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that conforms with rules adopted by the Director.
- (2) No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to Ohio R.C. 4507.05 in any of the following circumstances:
 - A. At any time when lighted lights are required by Section 337.02(a)(1);
 - B. While carrying a passenger;
 - C. On any limited access highway.
- (3) **SUBSECTIONS (h) AND (i)(1) OF THIS SECTION DO NOT APPLY TO A PERSON WHO OPERATES OR IS A PASSENGER IN A CAB-ENCLOSED MOTORCYCLE WHEN THE OCCUPANT COMPARTMENT TOP IS IN PLACE ENCLOSING THE OCCUPANTS.**

[NO FURTHER CHANGES TO THIS SECTION.]

501.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

- (a) Except as provided in subsection (b) hereof, a person is not guilty of an offense unless both of the following apply:
 - (1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;
 - (2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the ~~[section]~~ LANGUAGE defining the offense.
- (b) When the ~~[section]~~ LANGUAGE defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. **THE FACT THAT ONE SUBSECTION OF A ~~[When the]~~ section ~~[neither specifies culpability nor]~~ plainly indicates a purpose to impose strict liability~~[-recklessness is sufficient culpability to commit the offense.]~~ FOR AN OFFENSE DEFINED IN THAT SUBSECTION DOES NOT BY ITSELF PLAINLY INDICATE A PURPOSE TO IMPOSE STRICT CRIMINAL LIABILITY FOR AN OFFENSE DEFINED IN OTHER SUBSECTIONS OF THE SECTION THAT DO NOT SPECIFY A DEGREE OF CULPABILITY.**

- (c) (1) **WHEN LANGUAGE DEFINING AN ELEMENT OF AN OFFENSE THAT IS RELATED TO KNOWLEDGE OR INTENT OR TO WHICH MENS REA COULD FAIRLY BE APPLIED NEITHER SPECIFIES CULPABILITY NOR PLAINLY INDICATES A PURPOSE TO IMPOSE STRICT LIABILITY, THE ELEMENT OF THE OFFENSE IS ESTABLISHED ONLY IF A PERSON ACTS RECKLESSLY.**
- (2) **SUBSECTION (c)(1) OF THIS SECTION DOES NOT APPLY TO OFFENSES DEFINED IN THE TRAFFIC CODE.**
- (3) **SUBSECTION (c)(1) OF THIS SECTION DOES NOT RELIEVE THE PROSECUTION OF THE BURDEN OF PROVING THE CULPABLE MENTAL STATE REQUIRED BY ANY DEFINITION INCORPORATED INTO THE OFFENSE.**

(d)[(e)] Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

(e)[(d)] As used in this section:

- (1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.
- (2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.
- (3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 501.08.
- (4) "Intoxication" includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.
(ORC 2901.21[; ~~Ord. 65-01. Passed 5-14-01.~~])

501.08 CULPABLE MENTAL STATES.

(a) A person acts purposely when it is **[his] THE PERSON'S** specific intention to cause a certain result, or when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is **[his] THE PERSON'S** specific intention to engage in conduct of that nature.

(b) A person acts knowingly, regardless of his purpose, when **[he] THE PERSON** is aware that **[his] THE PERSON'S** conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when **[he] THE PERSON** is aware that such circumstances probably exist.

WHEN KNOWLEDGE OF THE EXISTENCE OF A PARTICULAR FACT IS AN ELEMENT OF AN OFFENSE, SUCH KNOWLEDGE IS ESTABLISHED IF A PERSON SUBJECTIVELY BELIEVES THAT THERE IS A HIGH PROBABILITY OF ITS EXISTENCE AND FAILS TO MAKE INQUIRY OR ACTS WITH A CONSCIOUS PURPOSE TO AVOID LEARNING THE FACT.

(c) A person acts recklessly when, with heedless indifference to the consequences, **[he] THE PERSON** perversely disregards a **[known] SUBSTANTIAL AND UNJUSTIFIABLE** risk that **[his] THE PERSON'S** conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, **[he] THE PERSON** perversely disregards a **[known] SUBSTANTIAL AND UNJUSTIFIABLE** risk that such circumstances are likely to exist.

(d) A person acts negligently when, because of a substantial lapse from due care, **[he] THE PERSON** fails to perceive or avoid a risk that **[his] THE PERSON'S** conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, **[he] THE PERSON** fails to perceive or avoid a risk that such circumstances may exist.

(e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element. (ORC 2901.22)

529.07 OPEN CONTAINER PROHIBITED.

[NO CHANGES TO THIS SECTION UNTIL PARAGRAPH (c).]

- (c) (1) A person may have in the person's possession an opened container of any of the following:
- A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D8, E, F, F-2, F-5, F-7 or F-8 permit; (Ord. 110-10. Passed 12-6-10.)
 - B. Beer, wine or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
 - C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
 - D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
 - E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.
- (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.
- (3) A. A person may have in the person's possession on a D-2 liquor

permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

B. As used in subsection (c)(3)A. of this section:

1. “Orchestral performance” means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.

(ORC 4301.62)

2. “Outdoor performing arts center” means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year. (Ord. 102-11. Passed 10-11-11.)

(4) A person may have in the person’s possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(5) A person may have in the person’s possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending an orchestral performance and the holder the F-9 permit grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued.

As used in subsection (c)(5) hereof, “orchestral performance” has the same meaning as in subsection (c)(3)B. of this section.

(Ord. 103-12. Passed 112-6-12.)

(6) A. A person may have in the person’s possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:

1. The person is attending a racing event at the facility; and

2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;

B. As used in subsection (c)(6)A. of this section:

1. “Racing event” means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.

2. “Outdoor motorsports facility” means an outdoor racetrack to which all of the following apply:

a. It is two and four-tenths miles or more in length.

- b. It is located on two hundred acres or more of land.
- c. The primary business of the owner of the facility is the hosting and promoting of racing events.
- d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.
(Ord. 104-14. Passed 11-24-14.)

- (7) A. **A PERSON MAY HAVE IN THE PERSON'S POSSESSION AN OPENED CONTAINER OF BEER OR INTOXICATING LIQUOR AT AN OUTDOOR LOCATION WITHIN AN OUTDOOR REFRESHMENT AREA CREATED UNDER OHIO R.C. 4301.82, IF THE OPENED CONTAINER OF BEER OR INTOXICATING LIQUOR WAS PURCHASED FROM A QUALIFIED PERMIT HOLDER TO WHICH BOTH OF THE FOLLOWING APPLY:**
 - 1. **THE PERMIT HOLDER'S PREMISES IS LOCATED WITHIN THE OUTDOOR REFRESHMENT AREA.**
 - 2. **THE PERMIT HELD BY THE PERMIT HOLDER HAS AN OUTDOOR REFRESHMENT AREA DESIGNATION.**
- B. **SUBSECTION (c)(7) OF THIS SECTION DOES NOT AUTHORIZE A PERSON TO DO EITHER OF THE FOLLOWING:**
 - 1. **ENTER THE PREMISES OF AN ESTABLISHMENT WITHIN AN OUTDOOR REFRESHMENT AREA WHILE POSSESSING AN OPENED CONTAINER OF BEER OR INTOXICATING LIQUOR ACQUIRED ELSEWHERE;**
 - 2. **POSSESS AN OPENED CONTAINER OF BEER OR INTOXICATING LIQUOR WHILE BEING IN OR ON A MOTOR VEHICLE WITHIN AN OUTDOOR REFRESHMENT AREA, UNLESS THE MOTOR VEHICLE IS STATIONARY AND IS NOT BEING OPERATED IN A LANE OF VEHICULAR TRAVEL OR UNLESS THE POSSESSION IS OTHERWISE AUTHORIZED UNDER SUBSECTION (d) OR (e) OF THIS SECTION.**

[NO MORE CHANGES TO THIS SECTION UNTIL PARAGRAPH (f).]

- (f) (1) **EXCEPT IF AN ORDINANCE OR RESOLUTION IS ENACTED OR ADOPTED UNDER SUBSECTION (f)(2) OF THIS SECTION, THIS SECTION DOES NOT APPLY TO A PERSON WHO, PURSUANT TO A PREARRANGED CONTRACT, IS A PASSENGER RIDING ON A COMMERCIAL QUADRICYCLE WHEN ALL OF THE FOLLOWING APPLY:**
 - A. **THE PERSON IS NOT OCCUPYING A SEAT IN THE FRONT OF THE COMMERCIAL QUADRICYCLE WHERE THE OPERATOR IS STEERING OR BRAKING.**
 - B. **THE COMMERCIAL QUADRICYCLE IS BEING OPERATED ON A STREET, HIGHWAY OR OTHER PUBLIC OR PRIVATE PROPERTY OPEN TO THE**

PUBLIC FOR PURPOSES OF VEHICULAR TRAVEL OR PARKING.

- C. THE PERSON HAS IN THEIR POSSESSION ON THE COMMERCIAL QUADRICYCLE AS OPENED CONTAINER OF BEER OR WINE.
 - D. THE PERSON HAS IN THEIR POSSESSION ON THE COMMERCIAL QUADRICYCLE NOT MORE THAN EITHER THIRTY-SIX OUNCES OF BEER OR eighteen ounces of wine.
- (2) THE LEGISLATIVE AUTHORITY OF A MUNICIPAL CORPORATION OR TOWNSHIP MAY ENACT AN ORDINANCE OR ADOPT A RESOLUTION, AS APPLICABLE, THAT PROHIBITS A PASSENGER RIDING ON A COMMERCIAL QUADRICYCLE FROM POSSESSING AN OPENED CONTAINER OR BEER OR WINE.
- (3) AS USED IN THIS SECTION, "COMMERCIAL QUADRICYCLE" MEANS A VEHICLE THAT HAS FULLY-OPERATIVE PEDALS FOR PROPULSION ENTIRELY BY HUMAN POWER AND THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:
- A. IT HAS FOUR WHEELS AND IS OPERATED IN A MANNER SIMILAR TO A BICYCLE.
 - B. IT HAS AT LEAST FIVE SEATS FOR PASSENGERS.
 - C. IT IS DESIGNED TO BE POWERED BY THE PEDALING OF THE OPERATOR AND THE PASSENGERS.
 - D. IT IS USED FOR COMMERCIAL PURPOSES.
 - E. IT IS OPERATED BY THE VEHICLE OWNER OR AN EMPLOYEE OF THE OWNER.
- (ORC 4301.62)

~~[(f)]~~(g) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4301.99(A)[; ~~Ord. 157-08. Passed 12-8-08.~~])

549.01 DEFINITIONS.

[NO CHANGES TO THIS SECTION UNTIL PARAGRAPH (e).]

- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger. ~~["Automatic firearm" also means any semi-automatic firearm designed or specially adapted to fire more than thirty-one cartridges without reloading, other than a firearm chambering only .22 caliber short, long or long-rifle cartridges.]~~

[NO MORE CHANGES TO THIS SECTION UNTIL PARAGRAPH (k).]

- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
- (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and

other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;

- (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
- (5) Any firearm muffler or ~~[silencer]~~ **SUPPRESSOR**;
- (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.

[NO MORE CHANGES TO THIS SECTION UNTIL PARAGRAPH (p)].

(p) “MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR A TERM EXCEEDING ONE YEAR” DOES NOT INCLUDE ANY OF THE FOLLOWING:

- (1) ANY FEDERAL OR STATE OFFENSE PERTAINING TO ANTITRUST VIOLATIONS, UNFAIR TRADE PRACTICES, RESTRAINTS OF TRADE OR OTHER SIMILAR OFFENSES RELATING TO THE REGULATION OF BUSINESS PRACTICES;**
- (2) ANY MISDEMEANOR OFFENSE PUNISHABLE BY A TERM OF IMPRISONMENT OF TWO YEARS OR LESS.**

(q) “ALIEN REGISTRATION NUMBER” MEANS THE NUMBER ISSUED BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES AGENCY THAT IS LOCATED ON THE ALIEN’S PERMANENT RESIDENT CARD AND MAY ALSO BE COMMONLY REFERRED TO AS THE “USCIS NUMBER” OR THE “ALIEN NUMBER”.

(ORC 2923.11)

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATIONS**

ITEM:

DATE: 11/23/15

It is necessary the City Council approve a lease with the The Joe Nuxhall Miracle League Fields, Inc., for the operation of the Field of Dreams recreation complex on Groh Lane and a related easement modification agreement with A. Peter Groh.

FINANCIAL IMPACT:

No financial impact.

SYNOPSIS:

In February 2012 the City Council authorized the City Manager to enter into an agreement with the Therapeutic Recreation for the Disabled, Inc. and the Fairfield Community Foundation, DBA Joe Nuxhall Character Education Fund for the construction and operation of the Field of Dreams recreation complex (Ordinance 10-12). Prior to the execution of the agreement, the Therapeutic Recreation for the Disabled, Inc., and the Fairfield Community Foundation, DBA Joe Nuxhall Character Education Fund made a decision to establish a separate 501 c 3 organization, The Joe Nuxhall Miracle League Fields, Inc., to operate the facility, therefore authorization is needed since the entities have changed and the Groh easement now needs to be modified.

BACKGROUND:

In February 2012, the City Council approved an agreement between the City of Fairfield, the Therapeutic Recreation for the Disabled, Inc. and the Fairfield Community Foundation, DBA Joe Nuxhall Character Education Fund for the construction and operation of the programs at the Hatton Park/Joe Nuxhall Miracle League Fields facility (Ordinance 10-12). Prior to the execution of the initial agreement, the Therapeutic Recreation for the Disabled, Inc., and the Fairfield Community Foundation, DBA Joe Nuxhall Character Education Fund established a separate 501 c 3 organization, The Joe Nuxhall Miracle League Fields, Inc., to provide for the day-to-day operations of the facility. There were no substantive changes from the initial agreement. The agreement is similar to those between the City and the youth baseball association, the youth soccer associations and the youth football associations; which operate youth sports programs on city property.

The Parks and Recreation Board reviewed this lease and easement modification at their November Board meeting.

RECOMMENDATION:

It is recommended that City Council authorize and direct the preparation of legislation authorizing the City Manager to enter into a lease with The Joe Nuxhall Miracle League Fields, Inc., for the operation of the Field of Dreams recreation complex on Groh Lane and an Easement Modification Agreement with A. Peter Groh. Suspension of the rules is requested in order to complete the recorded documentation prior to December 31, 2015.

LEGISLATIVE ACTION:

Suspension of Rules and Adoption Requested? YES NO If yes, explain above.

Emergency Provision Needed? YES NO If yes, explain above.

Prepared by: Bill
Approved for Content by: Bill
Financial Review (where applicable): Mary Ann
Legal Review (where applicable): J. H. Clemmons
Accepted for Council Agenda: Alisa Wilson

ORDINANCE NO. _____

ORDINANCE TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A LEASE WITH THE JOE NUXHALL MIRACLE LEAGUE FIELDS, INC. FOR THE OPERATION OF THE FIELD OF DREAMS RECREATION COMPLEX ON GROH LANE AND A RELATED EASEMENT MODIFICATION AGREEMENT WITH A. PETER GROH.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. The City Manager is hereby authorized to enter into a lease with The Joe Nuxhall Miracle League Fields, Inc. for the operation of the Field of Dreams recreation complex on Groh Lane and a related easement modification agreement with A. Peter Groh in accordance with the lease and agreement on file in the office of the City Manager.

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed _____ Mayor's Approval _____

Posted _____

First Reading _____ Rules Suspended _____

Second Reading _____

Third Reading _____

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

ITEM NO. 11(B)(2)

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATION**

ITEM:

DATE: 11/23/15

Contractual legislation for the 2015 Irrigation Field Controller and Rotor Replacement Project.

FINANCIAL IMPACT:

Funding for year 1 of project was previously appropriated (Ordinance ~~97-15~~).

SYNOPSIS:

This is a unit price contract for the installation of parts and materials associated with the 2015 Irrigation Field Controller and Rotor Replacement Project.

BACKGROUND:

The Parks and Recreation Board's 2014-2018 Capital Improvement Program (REC-15-002) lists a series of improvements, maintenance and renovations within the Fairfield Greens Golf Course facilities. In 2014-2017, these funds are allocated for a series of repairs/replacements/renovation projects associated with the South Trace golf course irrigation system. The system has become antiquated and a maintenance burden; a portion of the system is pre-City owned (prior to 1978). The project will renovate the system from a hydraulic controlled system to an electrical controlled system. Parts and materials for this project shall be purchased by the City at State of Ohio Contract pricing and provided to the contractor for installation. This project is being completed in phases, so as not to disrupt the golfer (late fall/early spring).

Parks and Recreation advertised this project and bids were opened on October 5, 2015 for the 2015 Irrigation Field Controller and Rotor Replacement Project. Two (2) bids were received. The complete bid tabulation is attached.

<i>Contractor</i>	<i>Total</i>
Ohio Irrigation Lawn Sprinkler	\$24,250.00
The Southern Group, Inc	\$56,158.00

The lowest and best bidder is Ohio Irrigation Lawn Sprinkler.

RECOMMENDATION:

It is recommended that the City Council authorize the City Manager to enter into a one (1) year contract with Ohio Irrigation Lawn Sprinkler for the 2015 Irrigation Field Controller and Rotor Replacement Project at the unit process indicated. The recommendation to exercise the year 2 and year 3 option will be determined in years 2 and 3. Rules suspension, adoption and emergency provision are requested in order to take advantage of the remaining fall construction season.

LEGISLATIVE ACTION:

Suspension of Rules/Adoption Requested: YES (X) NO () If yes, explain above.

Emergency Provision Needed: YES (X) NO () If yes, explain above.

Prepared by: Brendley Williams
Approved for Content by: [Signature]
Financial Review (where applicable): [Signature]
Legal Review (where applicable): [Signature]
Accepted for Council Agenda: [Signature]

City of Fairfield
 Bid Tabulation for "2015 Irrigation Field Controller and Rotor Replacement Project"
 Bid Opening: October 5, 2015, City of Fairfield Council Chambers

The Southern Group, Inc.			
2275 Morgan-Ross Road Hamilton, OH 45015			
Bid Bond	Non-Collusion Affidavit	PP Tax Affidavit	
Yes	Yes	Yes	

Ohio Irrigation Lawn Sprinkler			
2109 E. Social Row Rd. Dayton, OH 45458			
Bid Bond	Non-Collusion Affidavit	PP Tax Affidavit	
Yes	Yes	Yes	

Description	Unit Cost Yr 1	Total Cost Yr 1	Unit Cost Yr 2	Unit Cost Yr 3
Rotor Replacement including swing joints (approx. 87 each)	\$ 474.00	\$ 41,238.00	\$ 450.00	\$ 465.00
Field Controller Replacement including concrete pad, grounding, power supply, wiring (approx. 2 each)	\$ 1,600.00	\$ 3,200.00	\$ 1,650.00	\$ 1,700.00
Electric Wire Placement laboratory plow to be used (approx. 5,000 set)	\$ 1.00	\$ 5,000.00	\$ 0.70	\$ 0.75
Isolation Valve Replacement - 2"	\$ 1,600.00	\$ 4,800.00	\$ 1,650.00	\$ 1,700.00
Quick-Coupler Replacement (approx. 24 each)	\$ 80.00	\$ 1,920.00	\$ 85.00	\$ 90.00
Total Base Bid (Yr. 1 Only)	\$	\$ 56,158.00		

Description	Unit Cost Yr 1	Total Cost Yr 1	Unit Cost Yr 2	Unit Cost Yr 3
Rotor Replacement including swing joints (approx. 87 each)	\$ 150.00	\$ 13,050.00	\$ 150.00	\$ 160.00
Field Controller Replacement including concrete pad, grounding, power supply, wiring (approx. 2 each)	\$ 1,400.00	\$ 2,800.00	\$ 1,400.00	\$ 1,500.00
Electric Wire Placement laboratory plow to be used (approx. 5,000 set)	\$ 0.60	\$ 3,000.00	\$ 0.60	\$ 0.75
Isolation Valve Replacement - 2"	\$ 600.00	\$ 1,800.00	\$ 600.00	\$ 600.00
Quick-Coupler Replacement (approx. 24 each)	\$ 150.00	\$ 3,600.00	\$ 150.00	\$ 160.00
Total Base Bid (Yr. 1 Only)	\$	\$ 24,250.00		

These bids will be reviewed by the Parks & Recreation Department and a recommendation will be made to Council. There is no guarantee that the contract will be awarded to the lowest bidder. Contracts are awarded to the bidder deemed to be the best and the lowest bidder.

ORDINANCE NO. _____

ORDINANCE TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A ONE (1) YEAR CONTRACT WITH OPTIONS FOR YEARS TWO (2) AND THREE (3) WITH OHIO IRRIGATION LAWN SPRINKLER FOR THE 2015 IRRIGATION FIELD CONTROLLER AND ROTOR REPLACEMENT PROJECT AND DECLARING AN EMERGENCY.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. The City Manager is hereby authorized to enter into a one (1) year contract with options for years two (2) and three (3) with Ohio Irrigation Lawn Sprinkler for the 2015 Irrigation Field Controller and Rotor Replacement Project in accordance with the bid on file in the office of the City Manager.

Section 2. This Ordinance is hereby declared to be an emergency measure necessary for the urgent benefit and protection of the City and its inhabitants for the reason that so that the project can be completed in the remaining fall construction season; wherefore, this ordinance shall take effect immediately upon its passage.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	Emergency _____
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATION

ITEM NO. 1162

ITEM:

DATE: 11/23/15

Contract with National Water Services/DPS, and appropriation of \$46,000 for the cleaning and rehabilitation of raw water production well number 5 in Fairfield's wellfield.

FINANCIAL IMPACT:

Funding for this project is included in the 2015-2019 CIP Budget under project number WAT-15-001. The funding source is the Water Surplus Fund.

SYNOPSIS:

The cleaning and rehabilitation of Fairfield's raw water production wells are part of a routine maintenance program to ensure a sustained and efficient supply of groundwater to the City's Water Treatment Plant.

BACKGROUND:

Fairfield's Water Division pumps, treats and distributes roughly 5 million gallons of drinking water each day. Fairfield utilizes 6 raw water / groundwater production wells to supply water to its Treatment Plant. This project will clean and rehabilitate well number 5, one of Fairfield's most critical wells. Depending on well 5's condition, rehab efforts may include but are not limited pump replacement, shaft replacement, and coupling replacement.

The proposed project was prepared for formal competitive bidding, with three (3) bids received. Staff recommends that the bid be awarded to National Water Services/DPS – the lowest and best bidder. The bids are summarized on the attached sheet.

RECOMMENDATION:

It is recommended that City Council authorize the City Manager to enter a contract with National Water Services/DPS, and appropriate funding in the amount of \$46,000.00 from the Water Surplus Fund for cleaning and rehabilitation of water well number 5. Rules suspension is being requested in order for the work to take place before winter.

LEGISLATIVE ACTION: Suspension of Rules and Adoption Requested? **If yes, explain above.**
yes no

Emergency Provision Needed? **If yes, explain above.**
yes no

Prepared by: Adam Sackenheim

Approved for Content by: [Signature]

Financial Review (where applicable): [Signature]

Legal Review (where applicable): [Signature]

Accepted for Council Agenda: [Signature]

**City of Fairfield, Ohio
Bid Opening - Results**

Project(s): Water Well #5 Rehabilitation
Project Estimate: no estimate given
Date: November 16, 2015 at 3:00 pm (City of Fairfield, Council Chambers)

Contractor (Address & Phone)	Base Bid	Addendum (s)	Bid Security	Non- Collusion Affidavit	PP Taxes Affidavit
National Water Services/DPS 3049 Dayton Peak Dr, Suite E Dayton, OH 45414 937-235-1030	\$41,930.00	n/a	Yes - Bond	Yes	Yes
Moody's of Dayton, Inc. 4359 Infirmay Rd. Miamisburg, OH 45342-1231 937-859-4482	\$42,900.00		Yes - Bond	Yes	No
Layne 6451 Germantown Rd. Middletown, OH 45042 513-424-7287	\$42,495.00		Yes - Bond	Yes	No

** These bids will be reviewed by the Public Utilities Department and a recommendation will be made to Council. There is no guarantee that the contract will be awarded to the lowest bidder. Contracts are awarded to the bidder deemed to be the best and the lowest bid.

National Water Services,
Dayton Pump & Supply

CITY OF FAIRFIELD, OHIO
SECTION N BID FORM
WATER WELL #5

REF NO.	ITEM NO.	ITEM	QTY	EST. UNIT	UNIT PRICE	TOTAL PRICE
1		Mobilization/Demobilization			1000-	1000-
2		Pump Test Before and After Well Rehabilitation	2	Each	500-	1000-
3		Video Inspection Before and After Well Rehabilitation	2	Each	750-	1500-
4		Removal/Reinstallation of Pump & Pump Assembly				1500-
5		Replace Pump Assembly	1	Each	4000-	4000-
6		Removal/Reinstallation of Motor Assembly			250-	250-
7		Replace Motor Assembly	1	Each	5300-	5300-
8		Clean and inspect Column Sections and Couplings			500-	500-
9		Replace Column Section	12	Each	455-	5460-
10		Replace 416 Series Stainless Steel Shaft Section / Coupling	12	Each	265-	3180-
11		Replace Shaft Spiders	12	Each	125-	1500-
12		Well Rehabilitation per Specifications			11000-	11000-
13		Technical Report Furnished After Well Rehabilitation			100-	100-
14		<u>Alternate Section Unit Cost Section</u>				
14-A		Basic Motor Rehabilitation			850-	850-
14-B		Basic Rehabilitation of Pump Assembly			2250-	2250-
14-C		Sandblast and Epoxy Coat Existing Column Pipe/ Coupling	12	Each	195-	2340-

THE CITY OF FAIRFIELD RESERVES THE RIGHT TO DELETE/CHANGE THE QUANTITY OF ANY ITEM LISTED ABOVE.

TOTAL BASE BID 41,930-

CONSIDERATION FOR MATERIAL 22,740-

CONSIDERATION FOR LABOR 19,190-

TOTAL LABOR AND MATERIAL 41,930-

TOTAL AMOUNT WRITTEN IN WORDS Forty ²/₁₀ thousand nine hundred and thirty

**CITY OF FAIRFIELD, OHIO
BID FORM
WATER WELL #5 REHABILITATION**

The undersigned, having full knowledge of the sites, plans and specifications for the above project and the conditions of this proposal, hereby agrees to furnish all services, labor, materials, and equipment necessary to complete the entire project, according to the plans, specifications and completion date, and to accept the unit prices specified on the bid form for each item as full compensation for the work in this proposal.

 _____	Signature
Tim Jobe	Name
Project Manager	Title
Dayton Pump and Supply Co.	Company
3949 Dayton Park Drive, Suite E	Address
Dayton, Ohio 45414	City/State/Zip
937-235-1030	Telephone

Note: Please indicate type of bid security:

Bid Bond Certified Check

Work will start within fifteen (15) days after Notice to Proceed.

All work specified in the Contract shall be completed within sixty (60) calendar days from date of Notice to Proceed.

Addendums Received: No. _____ Yes _____ No _____

Liquidated damages, as pursuant to Section E 15.3 and Section 108.07 of the ODOT Construction and Materials Specifications, will be \$200 per day.

Moody's of Dayton, Inc.

CITY OF FAIRFIELD, OHIO
SECTION N BID FORM
WATER WELL #5

REF NO.	ITEM NO.	ITEM	QTY	EST. UNIT	UNIT PRICE	TOTAL PRICE
1		Mobilization/Demobilization				500 00
2		Pump Test Before and After Well Rehabilitation	2	Each	100 00	200 00
3		Video Inspection Before and After Well Rehabilitation	2	Each	500 00	1000 00
4		Removal/Reinstallation of Pump & Pump Assembly				400 00
5		Replace Pump Assembly	1	Each		500 00
6		Removal/Reinstallation of Motor Assembly				500 00
7		Replace Motor Assembly	1	Each		400 00
8		Clean and Inspect Column Sections and Couplings				100 00
9		Replace Column Section	12	Each	50 00	600 00
10		Replace 416 Series Stainless Steel Shaft/Section / Coupling	12	Each	25 00	300 00
11		Replace Shaft Spiders	12	Each	100 00	1200 00
12		Well Rehabilitation per Specifications				1400 00
13		Technical Report Furnished After Well Rehabilitation				100 00
14		<u>Alternate Section Unit Cost Section</u>				
14-A		Basic Motor Rehabilitation				200 00
14-B		Basic Rehabilitation of Pump Assembly				250 00
14-C		Sandblast and Epoxy Coat Existing Column Pipe/ Coupling	12	Each	850 00	10200 00

THE CITY OF FAIRFIELD RESERVES THE RIGHT TO DELETE/CHANGE THE QUANTITY OF ANY ITEM LISTED ABOVE.

TOTAL BASE BID 5 42,900.00
 CONSIDERATION FOR MATERIAL 9 21,200.00
 CONSIDERATION FOR LABOR 3 21,700.00
 TOTAL LABOR AND MATERIAL 5 42,900.00

TOTAL AMOUNT WRITTEN IN WORDS Forty two thousand nine hundred dollars and zero cents.

CITY OF FAIRFIELD, OHIO
BID FORM
WATER WELL #5 REHABILITATION

The undersigned, having full knowledge of the sites, plans and specifications for the above project and the conditions of this proposal, hereby agrees to furnish all services, labor, materials, and equipment necessary to complete the entire project, according to the plans, specifications and completion date, and to accept the unit prices specified on the bid form for each item as full compensation for the work in this proposal.

<u>Douglas Wagner</u>	Signature
<u>Douglas Wagner</u>	Name
<u>Treasurer</u>	Title
<u>Moody's of Dayton Inc.</u>	Company
<u>4359 Infirmary Road</u>	Address
<u>Miamisburg Ohio 45342</u>	City/State/Zip
<u>937-859-4482</u>	Telephone

Note: Please indicate type of bid security:

Bid Bond Certified Check

Work will start within fifteen (15) days after Notice to Proceed.

All work specified in the Contract shall be completed within sixty (60) calendar days from date of Notice to Proceed.

Addendums Received: No. _____ Yes No

Liquidated damages, as pursuant to Section E 15.3 and Section 108.07 of the ODOT Construction and Materials Specifications, will be \$200 per day.

Layne Christensen

CITY OF FAIRFIELD, OHIO
SECTION N BID FORM
WATER WELL #5

REF NO.	ITEM NO.	ITEM	QTY	EST. UNIT	UNIT PRICE	TOTAL PRICE
1		Mobilization/Demobilization			2000	2000.00
2		Pump Test Before and After Well Rehabilitation	2	Each	1000	2000.00
3		Video Inspection Before and After Well Rehabilitation	2	Each	500	1000.00
4		Removal/Reinstallation of Pump & Pump Assembly			2000	2000.00
5		Replace Pump Assembly	1	Each	5175	5175.00
6		Removal/Reinstallation of Motor Assembly			200	200.00
7		Replace Motor Assembly	1	Each	3984	3984.00
8		Clean and Inspect Column Sections and Couplings				900.00
9		Replace Column Section	12	Each	698	8376.00
10		Replace 416 Series Stainless Steel Shaft/Section / Coupling	12	Each	350	4200.00
11		Replace Shaft Spiders	12	Each	180	2160.00
12	**	Well Rehabilitation per Specifications			0,400	10,400.00
13		Technical Report Furnished After Well Rehabilitation			100	100.00
14		<u>Alternate Section Unit Cost Section</u>				
14-A		Basic Motor Rehabilitation			900	900.00
14-B		Basic Rehabilitation of Pump Assembly			3625	3625.00
14-C		Sandblast and Epoxy Coat Existing Column Pipe/ Coupling	12	Each	845	10,000.00

THE CITY OF FAIRFIELD RESERVES THE RIGHT TO DELETE/CHANGE THE QUANTITY OF ANY ITEM LISTED ABOVE.

TOTAL BASE BID \$ 42,495.00
 CONSIDERATION FOR MATERIAL \$ 23,995.00
 CONSIDERATION FOR LABOR \$ 18,500.00
 TOTAL LABOR AND MATERIAL \$ 42,495.00

TOTAL AMOUNT WRITTEN IN WORDS Forty Two Thousand Four Hundred Ninety Five and 00/100

** WE INTEND TO USE THE BOREBLAST METHOD OF WELL REHABILITATION.
SEE ENCLOSED BROCHURE

CITY OF FAIRFIELD, OHIO
BID FORM
WATER WELL #5 REHABILITATION

The undersigned, having full knowledge of the sites, plans and specifications for the above project and the conditions of this proposal, hereby agrees to furnish all services, labor, materials, and equipment necessary to complete the entire project, according to the plans, specifications and completion date, and to accept the unit prices specified on the bid form for each item as full compensation for the work in this proposal.

<u>RE</u>	Signature
<u>Ronald E. Alexander</u>	Name
<u>General Manager</u>	Title
<u>Layne Christensen</u>	Company
<u>6451 Germantown Road</u>	Address
<u>Middletown, Ohio 45042</u>	City/State/Zip
<u>513-424-7287</u>	Telephone

Note: Please indicate type of bid security:

Bid Bond Certified Check

Work will start within fifteen (15) days after Notice to Proceed.

All work specified in the Contract shall be completed within sixty (60) calendar days from date of Notice to Proceed.

Addendums Received: No. _____ Yes No

Liquidated damages, as pursuant to Section E 15.3 and Section 108.07 of the ODOT Construction and Materials Specifications, will be \$200 per day.

ORDINANCE NO. _____

ORDINANCE TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT WITH NATIONAL WATER SERVICES/DPS FOR CLEANING AND REHABILITATION OF RAW WATER PRODUCTION WELL NUMBER FIVE (5) IN FAIRFIELD'S WELLFIELD.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. The City Manager is hereby authorized to enter into a contract with National Water Services/DPS for cleaning and rehabilitation of raw water production well number five (5) in Fairfield's wellfield in accordance with the bid on file in the office of the City Manager.

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL COMMUNICATION**

November 23, 2015

ITEM

It is necessary for the City Council to pass appropriations to reconcile accounts.

FINANCIAL IMPACT

Supplemental appropriations required to cover the remainder of 2015 for the General fund in the amount of \$2,781,650, Street, Construction & Maintenance fund in the amount of \$50,000, Fire Levy fund in the amount of \$600,000, Sewer Expansion fund in the amount of \$9,000, Special Assessment fund in the amount of \$140,000, Water Revenue fund in the amount of \$2,500, Water Guarantee Trust fund in the amount of \$13,000, Sewer Revenue fund in the amount of \$350,000, Waste Management fund in the amount of \$50,000, Recreational Facilities fund in the amount of \$21,000, Recreation Activities fund in the amount of \$14,500 and the West Chester JEDD I fund in the amount of \$275,000.

SYNOPSIS

Additional funds are needed to balance out accounts for the remainder of 2015. The additional funds for salary & wages of \$717,150 are due to changes in personnel, cover part-time hours or additional pay items not anticipated last fall. The additional funds for refunds of \$1,198,500 are needed to cover water and sewer refunds, income tax refunds as well as additional refunds in the West Chester JEDD I. The additional funds for transfer to accounts of \$2,142,000 are needed to cover the Sewer Surplus fund, the City's administrative costs and distribution from the West Chester JEDD I, monies to cover operational expenditures for the Fire Levy fund and a distribution to the Street and Capital Improvement funds. In anticipation of a wet winter season, additional funds of \$50,000 are needed to the Road Salt & Chemicals account. An additional amount of \$9,000 is needed to cover a change order in the Sewer Expansion fund, \$140,000 to cover the payment of principal in the Special Assessment fund related to the Cincinnati Mall assessments and finally, an additional \$50,000 to cover the cost of providing solid waste removal to the residents.

BACKGROUND

The following adjustment in the annual appropriation budget should be made to fund the remainder of 2015:

From:	Unappropriated	General Fund	\$2,781,650
To:	10011022-211000	Salary & Wages	\$5,200
	10012022-211000	Salary & Wages	\$62,000
	10012522-211000	Salary & Wages	\$6,750
	10012527-275000	Refunds	\$850,000
	10012527-271000	Transfer To	\$1,850,000
		(203 - \$350,000; 401 - \$750,000; 402 - \$750,000)	
	10014521-211000	Salary & Wages	\$2,700
	10021021-211000	Salary & Wages	\$1,000
	10021321-211000	Salary & Wages	\$1,500
	10041021-211000	Salary & Wages	\$1,000
	10051321-211000	Salary & Wages	\$1,500
From:	Unappropriated	Street, Construction & Maintenance Fund	\$50,000
To:	20142024-248100	Road Salt & Chemicals	\$50,000
From:	Unappropriated	Fire Levy Fund	\$600,000
To:	20332021-211000	Salary & Wages	\$600,000

ITEM NO. _____

From:	Unappropriated	Sewer Expansion Fund	\$9,000
To:	40816025-252000	Improvements Other Than Building	\$9,000
From:	Unappropriated	Special Assessment Fund	\$140,000
To:	50116026-262000	Payment of Principal	\$140,000
From:	Unappropriated	Water Revenue Fund	\$2,500
To:	60121227-275000	Refunds	\$2,500
From:	Unappropriated	Water Guaranteed Trust Fund	\$13,000
To:	60621227-275000	Refunds	\$13,000
From:	Unappropriated	Sewer Revenue Fund	\$350,000
To:	62021227-275000	Refunds	\$100,000
	62062927-271000	Transfer To (624)	\$250,000
From:	Unappropriated	Waste Management Fund	\$50,000
To:	63063023-231500	Solid Waste Disposal	\$50,000
From:	Unappropriated	Recreational Facilities Fund	\$21,000
To:	64051521-211000	Salary & Wages	\$21,000
From:	Unappropriated	Recreation Activities Fund	\$14,500
To:	64151021-211000	Salary & Wages	\$14,500
From:	Unappropriated	WC JEDD I Fund	\$275,000
To:	70721127-271000	Transfer To	\$42,000
	70721127-275002	Refunds –JEDD Tax Refunds	\$6,400
	70721127-275003	Refunds – West Chester	\$209,000
	70721127-275004	Refunds – Springdale	\$17,600

STAFF RECOMMENDATION

It is recommended that City Council authorize and direct the preparation of legislation amending the annual operating budget.

LEGISLATIVE ACTIONS:	Suspension of Rules & Adoption Requested? Emergency Provision Needed?	Yes No
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Prepared by: Maya Hagan
 Approved for Content by: Maya Hagan
 Financial Review (where applicable) by: Maya Hagan
 Legal Review (where applicable) by: Jon Christensen
 Accepted by Council Agenda: Julia Wilson

ORDINANCE NO. _____

ORDINANCE TO AMEND ORDINANCE NO. 109-14 ENTITLED "AN ORDINANCE TO MAKE ESTIMATED APPROPRIATIONS FOR THE EXPENSES AND OTHER EXPENDITURES OF THE CITY OF FAIRFIELD, OHIO, DURING A PERIOD BEGINNING JANUARY 1, 2015, AND ENDING DECEMBER 31, 2015."

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Ordinance No. 109-14, the 2015 Appropriation Ordinance, is hereby amended in the following respects:

From:	Unappropriated General Fund	\$2,781,650
To:	10011022-211000 Salary & Wages	\$5,200
	10012022-211000 Salary & Wages	\$62,000
	10012522-211000 Salary & Wages	\$6,750
	10012527-275000 Refunds	\$850,000
	10012527-271000 Transfer To (203 - \$350,000; 401 - \$750,000; 402 - \$750,000)	\$1,850,000
	10014521-211000 Salary & Wages	\$2,700
	10021021-211000 Salary & Wages	\$1,000
	10021321-211000 Salary & Wages	\$1,500
	10041021-211000 Salary & Wages	\$1,000
	10051321-211000 Salary & Wages	\$1,500
From:	Unappropriated Street, Construction & Maintenance Fund	\$50,000
To:	20142024-248100 Road Salt & Chemicals	\$50,000
From:	Unappropriated Fire Levy Fund	\$600,000
To:	20332021-211000 Salary & Wages	\$600,000
From:	Unappropriated Sewer Expansion Fund	\$9,000
To:	40816025-252000 Improvements Other Than Building	\$9,000
From:	Unappropriated Special Assessment Fund	\$140,000
To:	50116026-262000 Payment of Principal	\$140,000
From:	Unappropriated Water Revenue Fund	\$2,500
To:	60121227-275000 Refunds	\$2,500

From:	Unappropriated Water Guaranteed Trust Fund	\$13,000
To:	60621227-275000 Refunds	\$13,000
From:	Unappropriated Sewer Revenue Fund	\$350,000
To:	62021227-275000 Refunds	\$100,000
	62062927-271000 Transfer To (624)	\$250,000
From:	Unappropriated Waste Management Fund	\$50,000
To:	63063023-231500 Solid Waste Disposal	\$50,000
From:	Unappropriated Recreational Facilities Fund	\$21,000
To:	64051521-211000 Salary & Wages	\$21,000
From:	Unappropriated Recreation Activities Fund	\$14,500
To:	64151021-211000 Salary & Wages	\$14,500
From:	Unappropriated WC JEDD I Fund	\$275,000
To:	70721127-271000 Transfer To	\$42,000
	70721127-275002 Refunds –JEDD Tax Refunds	\$6,400
	70721127-275003 Refunds – West Chester	\$209,000
	70721127-275004 Refunds – Springdale	\$17,600

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2015\Reconcile Accounts - Ord

CITY OF FAIRFIELD, OHIO
CITY COUNCIL COMMUNICATION

ITEM:

November 23, 2015

Request for appropriation for **contractual** agenda items

FINANCIAL IMPACT:

\$46,000.00 from noted funding source

SYNOPSIS:

The following appropriations have been requested to fund a contract appearing under New Business on Council's meeting agenda dated November 23, 2015:

\$46,000 for well cleaning and rehab

BACKGROUND:

Please refer to specific Council Communications dated November 23, 2015 for a description of these items.

RECOMMENDATIONS:

It is recommended that City Council suspend the rules requiring a second and third reading of this Ordinance and adopt the appropriations listed above.

LEGISLATIVE ACTIONS:

Suspension of Rules & Adoption Requested? yes

If yes, explain no above

Emergency Provision Needed? yes

If yes, explain no above

Prepared by: Alesia Wilson
Approved for Content by: Alesia Wilson
Financial Review (where applicable) by: Mary Hagan
Legal Review (where applicable) by: John H. Clemmons
Accepted by Council Agenda: Alesia Wilson

ORDINANCE NO. _____

ORDINANCE TO AMEND ORDINANCE NO. 109-14 ENTITLED "AN ORDINANCE TO MAKE ESTIMATED APPROPRIATIONS FOR THE EXPENSES AND OTHER EXPENDITURES OF THE CITY OF FAIRFIELD, OHIO, DURING A PERIOD BEGINNING JANUARY 1, 2015, AND ENDING DECEMBER 31, 2015."

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Ordinance No. 109-14, the 2015 Appropriation Ordinance, is hereby amended in the following respects:

From:	Unappropriated Water Surplus Fund	\$46,000
To:	60516025-252000 Improvements Other Than Building <i>(Rehabilitation and Cleaning of Raw Water Production Well #5)</i>	\$46,000

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

CITY OF FAIRFIELD, OHIO
CITY COUNCIL COMMUNICATION

ITEM:

November 23, 2015

Request for appropriation for non-contractual agenda items

FINANCIAL IMPACT:

\$28,800.00 from noted funding source

SYNOPSIS:

The following appropriations have been requested:

- \$8,800 for replacement of folder/sealer machine used for payroll and income tax forms
- \$20,000 for routine cleaning of Wastewater Treatment Plant's Anaerobic Digester #1

BACKGROUND:

Please refer to specific Council Communications dated November 23, 2015 for a description of these items.

RECOMMENDATIONS:

It is recommended that City Council suspend the rules requiring a second and third reading of this Ordinance and adopt the appropriations listed above.

LEGISLATIVE ACTIONS:

Suspension of Rules & Adoption Requested? yes

If yes, explain no above

Emergency Provision Needed? yes

If yes, explain no above

Prepared by: Melissa Wilson

Approved for Content by: Melissa Wilson

Financial Review (where applicable) by: Mary Hagan

Legal Review (where applicable) by: John D. Clemmons

Accepted by Council Agenda: Melissa Wilson

CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATION

ITEM:

DATE: 11/23/15

An appropriation in the amount of \$20,000.00 is being requested for the routine cleaning of the Wastewater treatment plant's Anaerobic Digester #1.

FINANCIAL IMPACT:

Funding for this project is included in the 2015-2019 Capital Improvement Program under project number WWD-15-012. The funding source is the Sewer Surplus Fund.

SYNOPSIS:

The request is for an appropriation necessary to hire an outside contractor to remove accumulated grit, sand and various inorganics from the treatment plant's Anaerobic Digester #1. Routine cleaning of the Anaerobic Digesters takes place every ten years and is necessary to maintain digester treatment capacity. Due to hazardous conditions and the necessary confined space entry, an outside contractor will be hired to complete the task.

Wastewater Division staff requested three proposals (attached) for the required services. It is recommended that Superior Environmental Solutions (SES) be awarded the job; SES provided the lowest and best proposal.

BACKGROUND:

Mesophilic Anaerobic Digestion (MAD) is used to treat sewage sludge at the treatment plant. MAD is a biological wastewater treatment process where sewage sludge is broken down microbiologically, in the absence of oxygen, and converted to biogas. The process takes place in Anaerobic Digester tanks where sludge is fed, mixed, and heated to temperatures between 95 and 105 degrees Fahrenheit. Volatile organic matter is converted into biogas which consists mostly of methane, carbon dioxide, and some other trace gases. The biogas is used as a fuel source for the treatment plant's hot water boiler, which is used to heat the process and provide heat to all the buildings at the treatment facility.

RECOMMENDATION:

It is recommended that City Council authorize an appropriation in the amount of \$20,000.00 from the Sewer Surplus Fund for the routine cleaning of the Wastewater treatment plant's Anaerobic Digester #1. Rules suspension is requested to expedite the work.

LEGISLATIVE ACTION: Suspension of Rules and Adoption Requested?	<input checked="" type="checkbox"/>	If yes, explain above.
	yes no	
Emergency Provision Needed?	<input checked="" type="checkbox"/>	If yes, explain above.
	yes no	

Prepared by: Jason Hunold *JH*

Approved for Content by: _____ *Alan M. Sauer*

Financial Review (where applicable): _____ *Mary Ann*

Legal Review (where applicable): _____ *Jeffery A. Clemmons*

Accepted for Council Agenda: _____ *Jason Hunold*



Superior Environmental Solutions

9996 Joseph James Drive Cincinnati, Ohio 45246
Phone: 513-874-8355 Fax: 513-874-8555
www.superioreenvironmentalsolutions.com

10/27/2015

City of Fairfield
4799 Groh Lane
Fairfield, Ohio 45014

RE: Digester #1

Bradley Abner
W.W. Chief Operator
City of Fairfield WWTP
Office – 513-858-7764
Main 513-858-7760
Fax 513-858-7762
4799 Groh Lane
Fairfield, Ohio 45014

Thank you for the opportunity to submit this proposal. SES, Inc. is prepared to complete the work outlined below upon your approval of this proposal.

Summary of Job

SES, Inc. is proposing to Vac and rinse digester #1 and your facility for repair and inspection. All waste material will be dumped on site at the direction the of plant staff. We will utilize (2) two air movers. You will need to provide a fire hose water hook up.

Description & Unit of Measure	Quantity	Hours Needed	Rate	Total
Equipment , Labor & CSE rescue team.	1	36	\$650.00	\$23,400.00

SES estimates that the project will be completed in approximately 36 hours weather permitting.

Pricing Contingencies:

- We will initiate this project upon receipt of a Purchase Order and signed Terms and Conditions.
- Payment terms are net 30 days upon completion of the project.
- The final invoice will reflect actual time to complete the project based on established unit rates. A fuel surcharge will be applied to the invoice based on the attached schedule.
- Assuming waste is at or below 6 feet deep at the start of project.

I would like to emphasize that SES, Inc. is committed to providing our customers with a turnkey operation that is dependable, cost effective, and environmentally responsible. Should you have any questions regarding this proposal, please contact me at (513) 874-8355.

Thank you,

Bryan Martin

SES, Inc.

MERRELL BROS.

A Biosolids Management Corporation

- Liquid / Dry Land Application
- Consulting
- Off-Site Biosolids Storage
- Lagoon/Pond Hydraulic Dredging
- State / Federal Reporting
- Lagoon Surveying
- Grease & Septage Disposal
- Lagoon/Pond Mechanical Dredging
- Permitting
- Digester and Lagoon Cleaning
- Brown/Yellow Grease Recycling
- Belt Press/Centrifuge Dewatering

Proposal for: City of Fairfield, OH

Proposal Submitted To:

Fairfield WWTP
4799 Groh Lane
Fairfield, OH 45014

Work to be Performed At:

Fairfield WWTP

Fairfield, OH

We hereby propose to completely clean, remove, and pump all biosolids, sand, and grit from the primary digester at the Fairfield WWTP. We plan to remove the biosolids with a hydraulic submersible pump, and then utilize a booster pump to force feed the sludge to the drying beds, which are an average of 500-550 feet away. Merrell Bros., Inc. will provide the pumps, equipment and manpower to efficiently remove, clean, and pump the biosolids with fire-hose pressure water.

The City of Fairfield is required to:

- Provide access to and use of 110-volt electricity at no charge
- Provide access to and use of a close fire hydrant (100 psi minimum) at no charge
- Provide drying beds for biosolids disposal

ALL MATERIAL IS GUARANTEED TO BE AS SPECIFIED, AND THE ABOVE WORK TO BE PERFORMED IN ACCORDANCE WITH THE SPECIFICATIONS SUBMITTED FOR THE ABOVE WORK AND COMPLETED IN A SUBSTANTIAL WORKMANLIKE MANNER FOR THE SUM OF:

\$6,570.00 mobilization / demobilization of equipment (*one-time fee*)

\$32,375 lump sum cost for cleaning digester (*one-time fee*)

This is a guaranteed not to exceed project cost of \$38,945.00

WITH PAYMENTS TO BE MADE AS FOLLOWS: **NET 30 DAYS AFTER COMPLETION.** Overdue payments will incur a finance charge of 1.5% per month (18% per year). If your account becomes past due, we will take all steps necessary to collect, including but not limited to the filing, recording, and foreclosure of a mechanic's lien. You agree to pay all costs of collection, including but not limited to collection agency and attorney fees.

Respectfully submitted by Brayden Merrell
Per *Merrell Bros., Inc.*

** We may withdraw this proposal if not accepted within 30 days.

 11/12/15
Merrell Bros. Inc. Date

Fairfield WWTP Date

MERRELL BROS., INC.

3811 W. 500 N.
OKOMO, IN 46901
E-mail: info@merrellbros.com



OFFICE: (800) 663-8830
FAX#: (574) 699-7478
WEB: www.merrellbros.com

Date: 11/06/2015

To: Bradley Abner
 babner@fairfield-city.org
 (513)858-7760

From: Andy Buis
 Cell: 513-913-1639
 Office: 877-98-PUMPS (78677)
 Email: andy.buis@alliedpumprentals.com

Re: Digester # 1 Clean out

Thank you for your interest in Allied. Per your request, we are pleased to provide this quote for cleaning Of Digester # 1.

Option# 1 Not to Exceed	\$70,000.00
Option#1 labor	\$ 42,250.00
Option# 1 materials	\$ 27,750.00
Option #1 estimated time of completion is 4 weeks worst case. This pricing includes all pumps/cranes/safety.	
Option#1 scope of work. Allied will pull the center lid set a pump inside digester to handle the solids pump To a booster pump then run a line to your drying beds. Allied will use air lances and water to break up solids In this option Allied would be working in side of the digester using all con find space safety equipment this Option would allow for us to maximize the cleaning process with visual inspection of the buildup areas allowing Us to remove buildups/grit more affectively. This is an estimated cost not including fuel.	
Option#2 Not to Exceed.....	\$ 65,250.00
Option#2 Labor.....	\$ 37,500.00
Option#2 Materials.....	\$ 27,750.00
Option#2 Scope is the same as option#1 with reducing con-find space time down.	
Option#3 Not to Exceed.....	\$ 60,575.00
Option#3 Labor	\$ 37,500.00
Option#3 Materials.....	\$ 23,075.00
Option#3 Scope of work. Allied would not set a pump into digester we would install a tee into customers piping pump to the drying beds. Reduce con-find space entrées. Allied will still utilize water and air lances to remove solids buildup.	
Option#4 is an T/M contract Not To Exceed.....	\$ 70,000.00

All these options are based on an estimated time to complete the cleaning of digester #1

We are hoping it will not take that long these are all worst case options. If any additional repairs are found Allied Will notify site supervisor at that time Allied could quote or suggest how to make the repairs.

These options do not include fuel.

Federal, State, Local and other applicable taxes are not included.

If you are tax exempt please send a copy of the tax exemption certificate.

Thank you for the opportunity to submit this quote, which is valid for 30 days. Please call with questions.

Signature of Acceptance: _____ P.O. No: _____

CITY OF FAIRFIELD, OHIO
CITY COUNCIL COMMUNICATION

November 23, 2015

ITEM

A request for an appropriation to cover the replacement cost of the folder sealer machine used for payroll and income tax forms.

FINANCIAL IMPACT

An appropriation in the amount of \$8,800 from the Capital Improvement fund.

SYNOPSIS

This machine is primarily used by the Finance department for sealing important confidential forms, such as bi-weekly pay advices, annual W-2s, and annual 1099 forms. The existing machine is now considered obsolete after over 15 years of service as parts are no longer available; therefore, a replacement machine is needed.

BACKGROUND

As the Finance department sought efficiency with processing of forms back in 2000, self-sealing forms became a good way to produce confidential forms, such as pay advices, W-2s and 1099s. The City made an investment in a folder sealer to accommodate the volume of forms generated by Finance. After 15 years of service, the current folder sealer began having issues back in August. The City approached the current vendor that maintains the folder sealer about a replacement back with the hopes of waiting until the 2016 Capital Improvement Program budget; however, the machine is now inoperable. Two different folder sealers were suggested to meet our volume and satisfy our needs. Of the two replacements suggested, the Formax FD 2032 most closely matches our current machine. The current maintenance contract on the existing machine will transfer over to the new machine at the existing rate.

STAFF RECOMMENDATION

It is recommended the City Council authorize the appropriation of \$8,800 from the Capital Improvement, suspend the second and third reading rules and declare an emergency for the reasons stated above.

LEGISLATIVE ACTIONS:	Suspension of Rules & Adoption Requested?	Yes
	Emergency Provision Needed?	Yes

Prepared by: Mary Hagan

Approved for Content by: Mary Hagan

Financial Review (where applicable) by: Mary Hagan

Legal Review (where applicable) by: John J. Clemmons

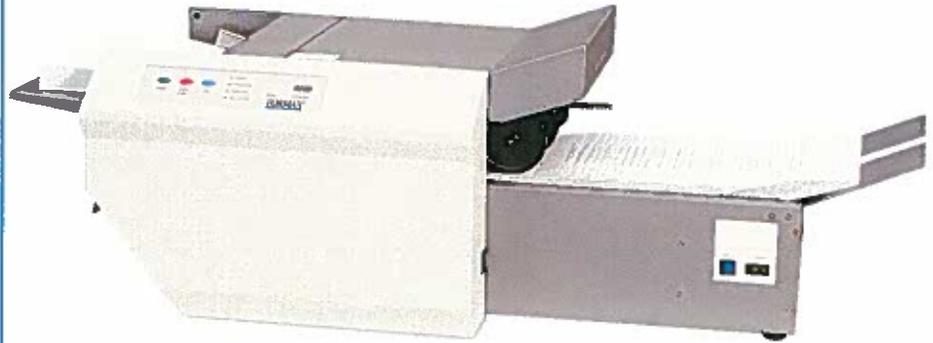
Accepted by Council Agenda: [Signature]

Standard Features:

- **Drop-In Feed System:** A drop-in three roller feed system produces dependable feeding of forms with no paper fanning required
- **Hopper Capacity:** Up to 350 forms
- **Fold Plates:** Easy to adjust and fine tune
- **Six-Digit Resettable Counter:** Provides maximum audit control
- **Paper Jog Control:** Allows operators to jog forms through before operation
- **14" Form Length Capability:** Flexibility to process even and uneven panel forms up to 14" in length
- **Desktop Design:** A sleek desktop design made with office usage in mind
- **LED Indicators:** Notifies the operator when the power is on, a cover is open, the paper runs out and if a fault occurs
- **Noise Reduction:** Top and side covers are insulated to reduce operating noise
- **Fold Types:** C, Z, V, uneven C and Z, custom folds

Options:

- **P2032:** Cost saving package that includes the FD 2032, 18" conveyor and cabinet
- **18" Conveyor w/ Photo Eye:** Allows for neat and sequential stacking
- **Locking Cabinet:** Fully enclosed for storage
- **402 Series Jogger:** Reduces static electricity and aligns forms for proper feeding
- **FD 2000-35 Reverse Stacking Conveyor:** Allows for A-to-Z input and A-to-Z output



Shown with optional 18" conveyor

The FD 2032 AutoSeal® desktop pressure sealer provides a reliable and compact solution for processing pressure sensitive self-mailers. Up to 350 forms can be loaded in the feeder and processed at speeds up to 11,000 forms per hour.

Standard features include a six-digit counter, jog control, fault detection, LED indicators and an operator friendly touch-pad control panel. Its redesigned sliding fold plates make setup and operation even easier, with fine tuning knobs for precision folds.

All of these features make the FD 2032 the perfect solution for streamlining your post processing. The FD 2032 also has an optional fully enclosed cabinet for storage, and a choice of two conveyors with photo-eye for neat and sequential stacking of processed forms.

Formax - New Hampshire, USA

www.formax.com

Local Dealer:

Visit www.formax.com to watch the product demonstration video

Flexible

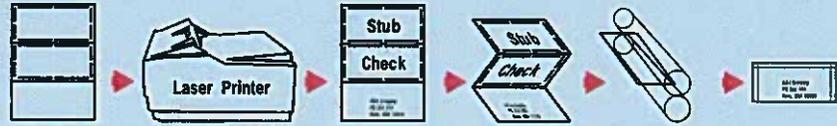
The FD 2032 handles a variety of documents up to 8 1/2" x 14" including checks, invoices, school reports, tax forms and appointment notices. Pressure sensitive self-mailers can be used for virtually any application that can be printed on one form.



User-friendly Control Panel

Pressure Seal Solution

The AutoSeal® FD 2032, combined with a laser printer and pressure seal forms, creates a secure, time saving and efficient solution for paper processing.



Standard "Z" Fold Process

Dependable & Powerful

The FD 2032 processes forms at a rate of up to 11,000 sheets per hour and can hold up to 350 - 24# forms in the feed hopper. Combined with a duty cycle of up to 100,000 forms per month, the FD 2032 offers an economical and reliable solution for departmental post processing.



Standard Catch Tray

Easy to Operate

The FD 2032 is designed for user-friendly operation. Simply set your folds according to the clearly marked settings on the fold plates, load your forms, press start and you're on your way. The FD 2032 has LED indicators for power on, fault detection, paper out and cover open. It also includes a six-digit counter for audit control.



402 Series Jogger - an option which reduces static electricity from forms and aligns them for proper feeding

Specifications:

Hopper Capacity:	Up to 350 sheets 24# (90gsm)
Fixed Speed:	Up to 11,000 sheets per hour - based on 11" (279mm) "Z" fold
Paper Size:	Up to 8.5" W x 14" L (216 W x 356 L mm)
Power:	FD Model: 120 Volts AC 50/60Hz FE Model: 220 Volts AC 50/60Hz
Duty Cycle:	Up to 100,000 per month
Dimensions:	25.75" L x 16.5" W x 14.25" H (65 L x 42 W x 36 H cm)
W/ 18" Conveyor & Cabinet:	46" L x 22" W x 44" H (117 L x 56 W x 112 H cm)
Weight:	88.5 lbs (40 kg)
Document Sequence:	Standard sequence is A-to-Z input, Z-to-A output. Optional FD 2000-35 reverse conveyor available for A-to-Z output.
Certifications:	UL and CUL approved CE applied for

U.S. Patents: 5,772,841 5,865,925 5,968,308 6,264,592 Other Patents Pending

FORMAX[®]

AutoSeal[®] FD 2054 HIGH-VOLUME TABLETOP PRESSURE SEALER



The AutoSeal[®] FD 2054 is a fully automatic pressure sealer which provides the ultimate high-volume tabletop solution for processing pressure sensitive one-piece mailers. Designed with ease of operation and efficiency in mind, the FD 2054 automatically detects and adjusts for 11", 14" and 17" forms. It features 5 pre-programmed standard folds for even panel C, V, Z and uneven/eccentric C and Z folds. It also has the ability to store up to 35 custom fold settings with the simple touch of a button.

The FD 2054 utilizes a drop-in three-roller feed system which produces dependable feeding of forms with no paper fanning required. Forms are processed at speeds up to 16,450 per hour, and are output to an integrated telescoping conveyor with automated nip roller positioning, capable of holding up to 500 processed forms. The large 2.8" (71mm) backlit LCD display and user-friendly control panel allow for untrained operators to walk up and start processing pressure seal forms with little to no instruction.

The FD 2054 advanced software allows for all standard fold types and paper sizes to be customized to meet your particular needs. Options include a fully enclosed cabinet for storage, 402 Series Joggers, and the V-Stack36 Stacker, which vertically stacks up to 22" of processed forms for easy unloading and handling.

These features combine to make the FD 2054 an ideal solution for streamlining your post processing.



Operating Features

Fast!: Large jobs are processed quickly at speeds of up to 16,450 pieces per hour

Large LCD Interface: A large 2.8" (71mm) backlit LCD screen and user-friendly controls allow anyone to walk up and start processing forms in seconds

Drop-In Feed System: Three roller drop-in feed system produces dependable feeding of forms with no fanning required

17" Form Capability: Flexibility to process forms up to 17" in length

AutoStack™ Wheels: Fully-automated stacker wheels eliminate moving them by hand when switching form sizes and fold types

Integrated Telescoping Conveyor System: Conveyor can be set between 14" (356mm) and 36" (915mm) in length and holds up to 500 folded pieces

Noise Reduction: Top and side covers are insulated to reduce operating noise, and fold plates are completely enclosed

Fault Detector: Detects double feeding and any faults

6-Digit Resettable & 8-Digit Life Counters: Provides maximum audit control

AutoBatch™ Counter: Programmable to process pre-set number of forms into sets with a delay

Folding Features

Preset Folds in Common Paper Sizes: Pre-programmed for 5 popular fold types in 11 - 17" forms and uneven C and Z in 14" forms, totaling 11 programmed fold settings

Stores 35 Custom Folds: Up to 35 custom folds can be programmed and stored into memory

Standard Fold Settings Modification: Even the preset fold types can be modified individually for each paper size for maximum flexibility and customization

Technical Features

Adjustable Feed Table Pressure: Seven positions can be easily chosen to increase or decrease hopper tension to better feed thick and thin paper stocks

Seven-Point Fold Stops: Fold plates utilize seven point fold stops for crisp, accurate folds of large paper sizes at high speeds

Removable Roller Cover: Easily removed for improved access to sealer rollers and exit area

Six Languages: Language selections include English, Spanish, French, German, Italian and Dutch

Easy-Off Feed Wheel Shaft: Feed wheels can be changed without removing side covers

Options

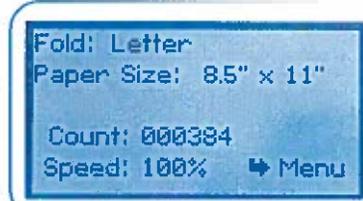
Locking Cabinet: Fully enclosed for storage

402 Series Jogger: Reduces static electricity and aligns forms for proper feeding

V-Stack36 Stacker: Vertically stacks up to 22" of folded documents, making them easier to unload

Specifications

Speed:	Up to 16,450 forms per hour – based on 11" (279mm) Z-Fold
Hopper Capacity:	Up to 500 sheets 20 #
Pre-Set Folds:	Pre-programmed for C, V, Z in 11 - 17" forms, uneven C and Z 14" forms
Pre-Set Paper Sizes:	FD Model: 11", 14", 17" FE Model: A5, A4, A3, B6, B5, B4
Custom Folds:	Stores up to 35 custom folds into memory
Paper Size:	Min: 3.5" W x 5" L (88.9 W x 127 L mm) Max: 12.25" W x 18" L (311 W x 457 L mm)
Usage:	High-volume tabletop
Languages:	English, Spanish, French, German, Italian & Dutch
Dimensions:	Closed: 43" L x 21.28" W x 16" H (109 L x 54 W x 41 H cm) Fully Extended: 55" L x 21.28" W x 16" H (140 L x 54 W x 41 H cm)
Weight:	127 lbs (97kg)
Power:	110-240VAC 50/60 Hz
Safety Certifications:	UL & CE applied for
Made in the USA	



Large LCD Screen



AutoStack Wheels



Removable Feed Wheels



Closed Conveyor



FD 2054 in-line with optional V-Stack36 Vertical Stacker, stand and cabinet

Formax - New Hampshire, USA
www.formax.com

ORDINANCE NO. _____

ORDINANCE TO AMEND ORDINANCE NO. 109-14 ENTITLED "AN ORDINANCE TO MAKE ESTIMATED APPROPRIATIONS FOR THE EXPENSES AND OTHER EXPENDITURES OF THE CITY OF FAIRFIELD, OHIO, DURING A PERIOD BEGINNING JANUARY 1, 2015, AND ENDING DECEMBER 31, 2015."

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Ordinance No. 109-14, the 2015 Appropriation Ordinance, is hereby amended in the following respects:

From: Unappropriated Capital Improvement Fund \$8,800

To: 40216025-253200 Capital Equipment \$8,800
(Replacement Folder Sealer)

From: Unappropriated Sewer Surplus Fund \$20,000

To: 62416025-252000 Improvements Other Than \$20,000
Building
(Digester Repair/Cleaning at Wastewater Treatment Plant)

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed _____

Mayor's Approval

Posted _____

First Reading _____

Rules Suspended _____

Second Reading _____

Third Reading _____

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

Active Clients\City of Fairfield\Ordinances\2015\Non-Contractual 11-23 - Ord