TITLE ONE - General Provisions
Chap. 101. Explanation of Codified Ordinances.
Chap. 103. Official Standards.

CHAPTER 101
Explanation of Codified Ordinances

101.01	Designation; citation; headings.	101.06	Conflicting provisions.
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CROSS REFERENCES

Codification in book form - see ORC 731.23; CHTR. Sec. 3.05.
Imprisonment until fine and costs are paid - see ORC 1905.30, 2947.20.
Statute of limitations on prosecutions - see ORC 1905.33.
Ordinances and resolutions - see ADM. Ch. 113; CHTR. Art. III.
Attempts, aider or abettor - see GEN. OFF. 501.01 et seq.
Anything of value defined - see GEN. OFF. 537.01.
Street or highway defined - see TRAF. 301.42.

101.01 DESIGNATION; CITATION; HEADINGS.

A. All ordinances of the City which are of a permanent and general nature and which have been revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Oakwood, Ohio for which designation "Codified Ordinances" may be substituted. Heading of any code, title, chapter or section do not constitute any part of the legislation as contained in the Codified Ordinances.

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

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless otherwise expressly provided or the context otherwise requires:

A. "And" may be read "or," and "or" may be read "and," if the sense requires it.

B. "Another" or "person," when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.

C. "Bond," when referring to a requirement that any city official or employee furnish bond for the faithful performance of his or her duties in a specified amount, may be provided in either of the following forms, as determined by the City Manager upon consideration of the comparative cost to the city:

(1) An individual surety instrument by which such official or employee is bound to the city in the amount specified by law; or

(2) A blanket bond or policy of insurance which provides coverage to the city against the errors and omissions of city officials and employees in the performance of their duties. Any such blanket bond or policy of insurance shall specify the officials and employees so covered and shall provide aggregate coverage exceeding the highest individual bond amount specified by ordinance by at least $200,000.00 so as to provide sufficient excess coverage for other covered officials and/or employees.

D. "Council" means the legislative authority of the City.

E. The "County" means Montgomery County, Ohio.

F. "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent or employee.

G. "Land" or "real estate" includes rights and easements of incorporeal nature, tenements and hereditaments.

H. "Municipality" or "city" means the City of Oakwood, Ohio.

I. "Oath" includes an affirmation.

J. "Owner," when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.

K. "Person" or "whoever" includes all persons, natural and artificial, and includes but is not limited to private corporations, partners, principals, agents and employees, and all officials, public or private.

L. "Premises," as applied to property, includes land and buildings.

M. "Property" includes real, personal, and mixed estates and interests therein. "Personal property" includes all property except real. "Real property" has the same meaning as land or real estate.

N. "Public authority" includes boards of education; the City and county, state or the federal government, the officers or an agency of any of them, or any duly authorized public official.

O. "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.

P. "Registered mail" includes certified mail.

Q. "Sidewalk" means that portion of the street right of way between the curb lines and the adjacent property line intended for the use of pedestrians.

R. The "state" means the State of Ohio, or any department, division, commission, board, educational or other institution thereof.

S. "Street" includes every alley, avenue, boulevard, lane, road, highway, viaduct and public thoroughfare within the City.

T. For all purposes within the City other than for enforcement of the Traffic Code, "street intersection" means the area bounded by the right-of-way lines, real or projected, of two or more streets or highways which meet or cross each other.

U. "Tenant" or "occupant," as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

V. "Writing" includes printing.

101.03 RULES OF CONSTRUCTION.

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

B. As used in the Codified Ordinances, unless the context otherwise requires:

1. Tense. Words in the present tense include the future tense and vice versa.

2. Gender. Words in the masculine gender include the feminine and neuter genders and vice versa.

3. Plural. Words in the plural number include the singular number, and vice versa.

C. Calendar - Computation of Time.

1. The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Saturday, Sunday or a legal holiday the act may be done on the next succeeding day which is not a Saturday, Sunday or a legal holiday.

2. When a public office in which an act required by law is to be performed is closed to the public for the entire day which constitutes the last day for doing such act or is closed before its usual closing time on such day, such act may be performed on the next succeeding day which is not a Saturday, Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday.

3. When an act is to take effect or become operative from and after a day named, no part of that day shall be included.

4. In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

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

E. Joint Authority. All words purporting to give joint authority to three or more City officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the ordinance giving the authority or inconsistent with Charter provisions.

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

A. When an ordinance which repealed a former ordinance is repealed, the former legislation is not thereby revived.

B. When a provision of the Codified Ordinances is repealed or amended, such repeal or amendment does not affect pending actions, prosecutions or proceedings, civil or criminal. When the repeal or amendment relates to the remedy, it does not affect pending actions, prosecutions or proceedings unless so expressed, nor does any repeal or amendment affect causes of such action, prosecution or proceeding existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing ordinance.

C. When a provision of the Codified Ordinances is repealed, such repeal does not:

1. Affect any rights or liabilities which exist, have accrued or have been incurred by virtue of such repealed provision.

2. Affect an action or proceeding for the enforcement of any rights or liabilities existing or arising thereunder.

3. Relieve any person from punishment for an act committed in violation of such repealed provision.

4. Affect an affidavit charging or prosecution of a violation of such repealed provision.

D. For the purposes of this section, such repealed provision shall continue in full force and effect notwithstanding such repeal, provided this does not affect the limitations of actions, prosecutions or proceedings imposed by any Ohio law.

101.05 CONSTRUCTION OF SECTION REFERENCES.

A. When reference is made to any section of the Codified Ordinances, such reference shall include any amendment of or supplement to that section or to any City legislation enacted in lieu thereof. Unless otherwise provided, whenever a reference to a section is made in any amendment or supplement to another section of the Codified Ordinances hereafter enacted, such reference shall be deemed to refer to the section as the same shall then stand or as thereafter amended.

B. Whenever in a penalty section reference is made to a violation of a section or chapter, such reference shall be construed to mean a violation of any provision of the section or chapter.

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

101.06 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters or sections of the Codified Ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the subject matter taken as a whole.

101.07 SEPARABILITY.

Each section of the Codified Ordinances and every part of each section is an independent section and an independent part of a section, so that the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not affect the validity or constitutionality of any other section or part of any section.

101.08 SALE AND DISTRIBUTION OF COPIES.

A. The City shall hold available for sale a limited number of copies of its Codified Ordinances at such prices as may be established from time to time by the City Manager to cover administration costs of providing the copies. Supplements shall be made available for sale in the same manner.

B. Distribution of certain copies of the Codified Ordinances to agents and employees of the City, to members of Council, to the Dayton Law Library Association, to certain other libraries in the community and to the Ohio Municipal League shall be made free of charge at the discretion of the City Manager. Supplements may be provided in the same manner.

101.09 CORRECTIONS; REVISIONS.

As part of the 1992 recodification of the ordinances of this city, the city council assigns and delegates to the city attorney the following responsibility and authority to correct errors and make revisions in that codification:

A. To correct typographical errors, spelling, sentence structure, punctuation, capitalization, paragraphing, arrangement, headings, style and the numbering of parts, titles, chapters, sections and pages.

B. To include ordinances which were previously enacted, which are still in effect, and which would be appropriate to have as part of the codification.

C. To add and revise an index, tables of contents and cross reference tables.

In carrying out this responsibility and exercising this authority, the city attorney shall comply with the following standards and limitations:

D. Under paragraph A above, he shall use appropriate professional skill and judgment to avoid changes in purpose or meaning, limiting corrections to matters of appearance, to more correct or better use of language and to ease of readability and use.

E. Under paragraph B and C, he shall add only such materials as his professional skill and judgment indicates would be reasonably helpful for use of the codification and to justify the effort of compilation and of keeping them current.

101.99 GENERAL PENALTY.

Whenever in the Codified Ordinances or in any ordinance of the City, any act is prohibited or is made or declared to be unlawful or to be an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, and if no specific penalty is otherwise provided, whoever violates any such provision shall be deemed to be guilty of a minor misdemeanor for the first offense. The second violation of the same provision within one year after the first violation shall constitute a fourth degree misdemeanor. The third and any subsequent violations of the same provision within one year after the second or immediately prior violation shall constitute a third degree misdemeanor.

Legislative history: Ord. 4809 passed 9/21/2015; ORC 1.01; ORC 1.02 (8) (C) (D) (H) (I); ORC 701.01 (C) (E) (F); Ord. 2608 passed 1/20/69; ORC 1.10, 1.15, 1.19, 1.20, 1.21, 1.23, 1.13; Ord. 2538 passed 3/4/68.

CHAPTER 103
Official Standards

103.01 Corporate seal.

CROSS REFERENCES

State standard of time - see ORC 1.04.
State legal holidays - see ORC 1.14, 5.20 et seq., 1303.45.
Computation of time - see ADM. 101.03(c)
Holidays for City employees - see ADM. 143.05

103.01 CORPORATE SEAL.

The corporate seal of the City of Oakwood shall have the words "Manager, City of Oakwood, State of Ohio" around its edge; and in the center thereof shall be engraved the coat of arms of the State, as described in Ohio R.C. 5.04. The City Manager shall be furnished with that seal; and it may be but shall not be required to be affixed to all bonds, notes and other appropriate documents of the City.

Legislative history: Ord. 2176 passed 11-21-60.

TITLE THREE - Legislative
Chapter 111. Rules of Procedure of Council, Boards, Commissions and Committees.
Chapter 113. Ordinances and Resolutions.

CHAPTER 111
Rules of Procedure of Council, Boards and Commissions

111.01 Application to Council, etc.
111.02 Time and place of meetings.
111.03 Duties of Mayor.
111.04 Temporary Mayor.
111.05 Order of business.
111.06 Attendance members; no proxy vote
111.07 Quorum; excessive absences.
111.08 Agenda, duties of manager.
111.09 Introduction of official business.
111.10 Conduct of business a matter of local self government.
111.11 Duty to vote.
111.12 Meetings of committees and other groups not created by charter.
111.13 Public notice of meetings.
111.14 Special meetings; notice to members.
111.15 All meetings of Council and of every other public body of the City shall be open to the public, except for executive sessions.
111.16 Executive session procedures and topics.
111.17 Vote required for adoption of motions, committee reports, and legislation.
111.18 Reports and resolutions; simultaneous vote.
111.19 Copies of, reading of, ordinances and resolutions.
111.20 Roll call voting is permitted but is not necessary.
111.21 Selling presentations prohibited.
111.22 Minutes of meetings.
111.23 Conduct of audience at public hearings and meetings.
111.24 Amendment of these rules.
111.25 Use of Robert's Rules of Order.

CROSS REFERENCES

Council - see CHTR. Art. II.
Action of Council - see CHTR. 3.01.
Council to Appoint City Manager - see CHTR. 4.01.
Relationship of Council to City Manager - see CHTR. 4.05.
Release of treasurer's liability for loss of funds - see ORC 121.22
Clerk of Council - see ADM.139.01.

111.01 APPLICATION TO COUNCIL, BOARDS, COMMISSIONS AND COMMITTEES.

A. The proceedings of Council, of every board and commission created by the Charter, and of every other public body of this City as defined in these rules, shall be governed by this chapter.

B. For public bodies other than the Council, the words "Mayor" and "Vice-Mayor" shall be deemed to mean "Chairperson" and "Vice-Chairperson". Similarly, the word "Council" shall be deemed to mean whatever other public body is involved. References to "members" shall be deemed to include those who are elected and also those who are appointed.

C. Certain portions of these rules shall be deemed to have special application in that they apply only to the City Council or have some different meaning when applied to other public bodies. When that is the case, the rule will include language which says so.

111.02 TIME AND PLACE OF MEETINGS.

This section applies only to the City Council. Regular meetings of Council shall be held on such dates as Council may determine from time to time, but not less frequently than every other month. The meetings shall be held at 7:30 P.M. in the Council Chamber of City Hall unless Council specifies a different time or place for any such meeting.

111.03 DUTIES OF MAYOR.

A. The Mayor shall take the chair at the time appointed for the meeting of Council, shall immediately call the members to order, and shall proceed with the business of the meeting as described in the agenda and as required by this chapter.

B. The Mayor shall preserve order and decorum during the session of Council and to this end may direct the City Manager. The Mayor shall place before Council for decisions all questions properly submitted by any member (including the Mayor, who may move or second the adoption of any motion, resolution or ordinance).

C. The Mayor shall decide all points of order without debate, subject to appeal to the entire Council by any two members. In case of appeal, the question shall be, "Shall the decision of the Chair stand as the decision of the Council?" or "I move to overrule the decision of the Chair" or some similar language. The Mayor shall have the right to call any member to the Chair for any part of the session. (See Section 111.25.)

D. This paragraph applies only to the Council. The Mayor, subject to the approval of Council, shall appoint the following standing committees. The appointment shall be made at, or as soon as possible after, the first meeting of Council in January of each year. Such committees shall consist of two members each and the first member named shall be chairman of the committee. The standing committees are as follows:

1. Court liaison
2. Finance
3. Law
4. Minutes
5. Planning and zoning
6. Public properties
7. Public utilities/waterworks/sewer
8. Safety and traffic
9. Streets and alleys
10. Community relations/promotion and appointments

111.04 TEMPORARY MAYOR.

In the absence of both the Mayor and the Vice-Mayor, the senior member of Council then present shall call the Council to order and shall act as temporary Mayor, whose official acts under the rules shall be valid.

111.05 ORDER OF BUSINESS.

The presiding officer shall call the business in the following order, unless a different order is agreed upon by Council:

A. Call to order.
B. Roll call.
C. Minutes of the past meetings.
D. Visitors.
E. Public Hearings
F. Legislation, (for other than the City Council itself, this shall be "new business").
G. Staff Reports
H. City Manager's report, (this applies only to the City Council).
I. Council comments/status reports.
J. Adjournment.

In addition to the above matters, communications and petitions shall be placed on the written agenda if they are filed in the office of the Clerk of Council no later than Friday noon prior to commencement of the meeting at which they are to be heard.

111.06 ATTENDANCE OF MEMBERS; NO PROXY VOTING.

A. It shall be the duty of all the members of Council to be present and remain during all regular sessions of Council except when sick, in case of sickness or death in their respective families, when extraordinary business interests demand immediate attention, when absent from the City or when on special leave granted by Council.

B. Members who are not at the designated location of a meeting shall be deemed to be present if they participate in that meeting by means of communication equipment which:

1. enables all members participating to hear each other, and to hear all other persons who are present and who are recognized to speak at the meeting; and

2. enables all other persons attending at the designated location of the meeting to hear and, if recognized, to speak to each member of the Council and to each other.

C. No proxy voting shall be permitted.

111.07 QUORUM; EXCESSIVE ABSENCES.

A. A majority of the number of Council members authorized by the City Charter (that number being five (5)) shall be necessary to constitute a quorum. This means a quorum is three (3) members.

B. Any member who, without valid excuse and contrary to Section 111.04, absents himself from six sessions of Council extending over a period of at least two months may be expelled from Council by a vote of two-thirds of all members.

111.08 AGENDA; DUTIES OF MANAGER.

To enable the Council to review a proposed order of business, the City Manager at each meeting shall furnish the Council a written agenda for that meeting. The agenda shall list business expected to come before Council at that meeting in the order in which it is to be taken up as required by Section 111.13. A reasonable number of copies of the agenda shall be available for use by persons attending public meetings of Council.

111.09 INTRODUCTION OF OFFICIAL BUSINESS.

Official business, i.e., that which requires action by the Council, may be introduced only by a member of Council or by the City Manager.

111.10 CONDUCT OF BUSINESS A MATTER OF LOCAL SELF GOVERNMENT.

The manner in which the Council conducts discussions of public business shall be a matter of local self government to be determined under the Charter and ordinances of the City and not by state statute. Accordingly, this Chapter 111 of the Codified Ordinances is enacted to set forth specific local self-government procedures for conducting the business of this City. The City Council has considered, and by the passage of these rules shall be deemed to have adopted as local procedures applicable to the government of this City, the provisions of the state Sunshine Law, Revised Code 121.22, as that law read on September 1, 1995, except to the extent this Chapter 111 establishes contrary or supplemental provisions.

111.11 DUTY TO VOTE.

Every member present shall vote, unless the member abstains. Any member who abstains from voting may make a brief statement of the reason for doing so. A member who abstains shall be counted for the purpose of determining a quorum, but no vote shall be recorded for that member on the issue from which the member abstained. This rule that abstentions do not count as a vote shall not apply, however, with regard to organizational matters such as selection of a clerk of Council or of a Mayor or Vice Mayor. Abstentions on such organizational questions could prevent the Council from going forward to consider its business, and so one who abstains on such matters shall be deemed to have voted with the majority of those who do vote.

111.12 MEETINGS OF COMMITTEES AND OTHER GROUPS NOT CREATED BY CHARTER.

Committees or subcommittees of less than a majority of the members of Council, together with any other committees, boards, commissions, task forces or groups of persons not created by the City Charter (collectively included in the word "committee"), are declared not to be public bodies and therefore not to be subject to the local procedures described in these Rules of Procedure (or to the statutory provisions adopted by reference in these Rules of Procedure) if and to the extent that:

A. Any decision or action of the committee may not bind the Council or the City but instead merely constitutes a non-binding recommendation; and

B. If Council action is required, the recommendation is disclosed at a subsequent public meeting of Council and persons attending that meeting have an opportunity to hear the recommendation before Council acts upon the matter. A motion by a member of Council who is making a report for that committee shall be deemed to be one acceptable method (but not the only one) of disclosing the recommendation of that committee. For example, if a report is requested from or offered by a Committee to Review Council Minutes, it shall be a sufficient disclosure of the recommendation of the committee if the reporting member (who is identified as acting for the committee) simply says, "I move that the minutes of the _____ meeting be accepted." (instead of the cumbersome procedure of saying, "The recommendation of the committee is that the minutes of _____ meeting be accepted, and I so move.")

111.13 PUBLIC NOTICE OF MEETINGS.

A. Regular meetings: The Clerk of Council shall maintain a listing of the time and place of all regularly scheduled meetings of Council and of all other public bodies of this City. The list shall be made available to any person upon inquiry and shall be made a public notice as follows:

1. By giving it to the newspapers now known as the "Dayton Daily News," the "Kettering-Oakwood Times" and the "Oakwood Register," or to their successors, if any, and

2. By posting the list upon a bulletin board open to public view in the City offices at 30 Park Avenue, and

3. By posting the list upon the city's primary internet website. For website publication, it shall be sufficient to post a link which allows an internet user to access the list as a PDF or other commonly used file type, or by including substantially identical information in a list or calendar format.

B. Special meeting: When a special meeting is called for Council, any board or commission created by the Charter, or any other public body of the City, the Clerk of Council shall give at least twelve hours' advance notice to the same newspapers referred to in paragraph A immediately above and to any other news media that have requested notification, except in the event of an emergency requiring immediate official action. If such an emergency occurs, the same newspapers and other news media entities shall be notified orally as soon as reasonably possible by an administrative employee of the City or by the member or members of Council who called the special meeting.

C. Requests for advance notice of meetings dealing with specific topics: Upon request (and upon payment of any reasonable fee which may have been set on the fee schedule maintained by the City Manager), any person may obtain reasonable advance notice of all public meetings of the Council or of any other public body of the City at which any specific type of public business is to be discussed, and/or may obtain reasonable advance notice of all public meetings (not merely those dealing with some specific type of business) of such groups. The notice may be in the form of a list showing the date, hour and place of various meetings or may simply be the agenda of meetings subject to the request. Any such request must be in writing, must set forth the mailing address to be used by the City, must be signed by the party, and shall remain in effect for the balance of the calendar year in which it is made plus all of the next following year, but shall expire automatically at the end of that second year.

111.14 SPECIAL MEETINGS; NOTICE TO MEMBERS.

A. The Mayor or any two members of Council (or one less than a majority of any public body subject to these rules) may call a special meeting upon at least twelve hours' advance notice to each member. The notice shall be in writing and shall list the time, place and purpose of the special meeting. In the alternative, the advance notice required by this section may be given by telephone by the Clerk of Council or by any person designated by the Clerk. No motion may be passed or other action taken upon any topic other than that covered by the purpose of the meeting (as mentioned in the notice); this shall not prohibit other matters being brought up and discussed but no action may be taken upon those other matters.

B. If written notice is used, it shall be deemed to have been given and completed if deposited in the U.S. mail, postage prepaid, at least sixty hours prior to the time of the special meeting. Written notice of a special meeting may also be completed by service in the same manner as a summons is served in a civil lawsuit. Such service of notice may be made by any member of the Safety Department or by any other person designated by the Clerk of Council.

C. Notice may be waived by any member at any time. Attendance at a meeting without objecting to lack of notice before any substantive discussion begins shall be deemed to constitute waiver of notice by that member.

111.15 ALL MEETINGS OF COUNCIL AND OF EVERY OTHER PUBLIC BODY OF THE CITY SHALL BE OPEN TO THE PUBLIC, EXCEPT FOR EXECUTIVE SESSIONS.

All meetings of Council and of every public body of this City shall be open to the public, except that meetings may be used for executive sessions (i.e., not open to the public) to the extent allowed either by Ohio statute or by City ordinance.

111.16 EXECUTIVE SESSION PROCEDURES AND TOPICS.

Such sessions are not open to the public. An executive session shall be deemed a special meeting of Council if not held during, or immediately preceding or following, a regular meeting. The decision to hold an executive session may be made in any of the following ways: (1) by listing the fact and topic of the executive session on an agenda of the Council meeting, a reasonable number of copies of which are available to persons attending the meeting; (2) by the Mayor or acting chairperson announcing the fact and topic of the executive session (subject to being overruled by a majority of the members present); (3) by a motion passed by affirmative vote of a majority of the members present so as to declare the fact and topic of the executive session, with the vote being taken by a show of hands or voice vote, no roll call vote being required; or (4) by any other method which the Council members are willing to use and which provides reasonable disclosure of the fact and topic of the executive session.

It shall not be necessary for the members of Council to convene a public portion of a meeting before going into executive session or after leaving an executive session, as long as the decision to hold an executive session is communicated to interested persons by any of the following procedures: (1) by making available an agenda of the meeting which lists or calls for the executive session; or (2) by stating in the public notice of the meeting (as described above in Section 111.09 that an executive session will be held before or after a meeting, or if the sole purpose of the meeting is to hold an executive session, by stating that fact.)

The topics for which executive sessions may be held shall include those described in Revised Code 121.22 and certain additional matters listed below. Topics may be identified by using the capital letter titles in the following subparagraphs. An executive

session called for one topic may be expanded during that session and without advance notice to include additional topics, as long as the minutes subsequently list all the topics involved. Such listing in the minutes shall be deemed to constitute reasonable disclosure of the additional topics.

The following topics may be discussed at executive sessions, subject to the restriction that no ordinances or resolutions may be enacted nor any motions passed in such sessions, and instead all ordinances, resolutions and motions must be voted upon in those portions of meetings which are open to the public.

(1) "PERSONNEL MATTERS" for all matters referred to in paragraph (1) of division (G) of Ohio Revised Code 121.22, sometimes referred to as the Sunshine Law.

(2) "PROPERTY MATTERS" to consider the acquisition of property for public purposes or the disposal of property, whether at competitive bidding or otherwise, on conditions generally the same as those described in paragraph (2) of division (G) of Revised Code 121.22, specifically being that an executive session on this topic is proper if disclosure of information would give a competitive, bargaining or other advantage to a person or entity whose interest is or may be adverse to what Council deems to be the general public interest.

(3) "CONFERENCE WITH ATTORNEY" for matters referred to in paragraph (3) of division (G) of Revised Code 121.22. and also for conferences with attorneys representing the City which are confidential communications and advice under the attorney-client privilege described in division (A) of 2317.02 of the Revised Code of Ohio.

(4) "LABOR NEGOTIATIONS" for matters referred to in paragraph (4) of division (G) of Revised Code 121.22.

(5) "MATTERS REQUIRED OR PERMITTED TO BE KEPT CONFIDENTIAL BY FEDERAL OR STATE LAW" for any matter referred to in paragraph (5) of division (G) of Revised Code 121.22, and also for any matter permitted to be kept confidential by federal or state law.

(6) "SECURITY ARRANGEMENTS" for matters referred to in paragraph (6) of division (G) of Revised Code 121.22 and also for discussions of multi-government cooperation, or of the sole activities of this City, as to law enforcement matters where disclosure of the matters discussed might reveal information that could be used for the purpose of committing, or avoiding prosecution for or conviction of, a violation of law.

(7) "QUASI-JUDICIAL DELIBERATIONS" for deliberations leading to a decision by Council on appeals from quasi-judicial decisions of other public bodies of the city. Also for similar deliberations by those same public bodies in connection with any quasi-judicial hearings they may hold. In both instances, the final decision (i.e., the final vote) must be taken at an open public meeting, not in executive session.

(8) "ECONOMIC DEVELOPMENT" for discussions of any aspect of economic development affecting the City, including but not limited to the possibility of construction of new buildings or of businesses or jobs locating, remaining in or departing from the City (or the Miami Valley, to the extent conditions in that valley may affect the income of businesses or residents within this City and therefore affect the tax revenue of this City).

(9) "NEGOTIATIONS WITH ORGANIZATIONS OR INDIVIDUALS" for negotiations with public or private organizations or with individuals, and discussions regarding those negotiations, on the same type of conditions which must exist to make "Property Matters" a valid topic for executive sessions, specifically being that an executive session on this topic is proper if disclosure of information would give a competitive bargaining or other advantage to a person or entity whose interest is or may be adverse to what the Council deems to be the general public interest.

(10) "COUNCIL RETREATS" for short and long-range planning, team building and other general discussions, limited to not more than four retreats in any calendar year.

(11) "PROCEDURAL MATTERS" such as, but not limited to, committee assignments, decisions as to when and where meetings will be held, and decisions as to what topics will be dealt with at subsequent meetings.

(12) "SEMINARS AND CONFERENCES" such as, but not limited to, meetings of or sponsored by the National League of Cities or the Ohio Municipal League.

111.17 VOTE REQUIRED FOR ADOPTION OF MOTIONS, COMMITTEE REPORTS, AND LEGISLATION.

A. A majority of all the members present at any session shall be necessary for the adoption of any motion.

B. A majority (three) of the total authorized number of five Council members shall be required to adopt a committee report or to enact ordinances or resolutions. (See Sec. 111.19 as to super-majority voting requirements for emergency ordinances and, as an alternative to an emergency ordinance, for having only one reading of the title of an ordinance.)

111.18 REPORTS AND RESOLUTIONS; SIMULTANEOUS VOTE.

To expedite business, all motions, reports and resolutions, except such as by law require a separate roll call, may be voted on at one time if no objection is made. Any motion, report or resolution to which such objection is made shall be laid aside and voted on separately.

111.19 COPIES OF, READING OF, ORDINANCES AND RESOLUTIONS.

Before passage, copies of every ordinance and resolution shall be made available to the audience. The title of every ordinance shall be read aloud and distinctly twice, each time on a separate day (but the title to any resolution needs only one reading on one day). For all purposes referred to in this Chapter 111, the word "audience" shall be deemed to mean those who are present in person at a meeting. This procedure of reading ordinances (by title only) on two separate days may be changed by either of the following actions:

A. Passage of an emergency ordinance: after the title of any ordinance is read the first time, a motion may be made "to pass (or adopt) this ordinance as an emergency measure." Or, if the title and the body of the ordinance already declare that it is to be an emergency measure, the motion may be simply "to pass (or adopt) this ordinance." Every ordinance passed as emergency legislation must contain a separate section of the ordinance stating the reason for the emergency. Passage of the motion by affirmative vote of at least four members of Council shall constitute a declaration that such emergency exists and that the ordinance is adopted as emergency legislation. No additional reading of, or vote upon, the ordinance shall be necessary. (Upon passage, an emergency ordinance becomes effectively immediately.)

B. Passage of an ordinance as non-emergency, but with only one reading: even though an ordinance is not an emergency measure, after the title of the ordinance is read for the first time a motion may be made "to pass (or adopt) this ordinance now and without readings on two separate days" (or some similar language). Passage of this motion by affirmative vote of at least four members of Council shall dispense with a second reading and shall constitute adoption of the ordinance. No additional reading of or vote upon the ordinance shall be necessary (but since it was not adopted as an emergency, such an ordinance will not become effective until thirty days after its passage).

111.20 ROLL CALL VOTING IS PERMITTED BUT IS NOT NECESSARY.

The Mayor may call for a roll call vote or, alternative, may simply ask that those in favor say Aye or Nay (or use some similar language). In the alternative or in addition, the Mayor may ask each Council Member to raise his or her hand to indicate a vote in favor or against a proposal. A roll call vote shall be taken if requested by any member of Council.

111.21 SELLING PRESENTATIONS PROHIBITED.

During any period in which the City is soliciting competitive bids or quotations for the purchase of some particular item or service and is deciding which to select, meetings of Council may not be used by vendors to extol the virtues of their particular products or services.

111.22 MINUTES OF MEETINGS.

Minutes of public meetings of the Council, of boards and commissions created by the Charter, and of other public bodies of the City shall be prepared and approved within a reasonable time after the meetings have been completed. Those minutes shall be public records. They need not be verbatim minutes, but instead may be summary in form, listing only agenda topics discussed, other matters of importance, and actions which involved votes of members. No minutes shall be taken of executive sessions, but a brief statement setting forth the general subjects of discussion (as those executive session subjects are identified by capital letter titles authorized by these Rules of procedure) shall be inserted into the minute book.

111.23 CONDUCT OF AUDIENCE AT PUBLIC HEARINGS AND MEETINGS.

Public hearing: A "public hearing" is that part of a public meeting during which members of the audience have a right to speak on the matter involved (subject to reasonable restrictions imposed by these Rules of Procedure and by Council). The purpose of a public hearing is to allow members of the audience to present their views to Council.

Since hearings are for citizen input, the Mayor is empowered to restrict the use of tactics that are confrontational and that do not serve to illuminate the issues at hand. Council may chose to reply to questions posed at a subsequent meeting.

Public meeting: A "public meeting" is a session at which the Council acts upon various matters of City business. It is public in that citizens have the right to attend the meeting and listen to the proceedings. The audience at a public meeting (unlike that at a public hearing) has no "right" to be heard and instead may speak only if invited by Council to do so.

The following procedures are to be followed by members of the audience who are recognized to speak at any public hearing or meeting.

A. Wait to be recognized by the Mayor before speaking.

B. Upon being recognized, rise before speaking, if requested to do so by the Mayor.

C. If there is a podium or other location at which persons addressing the Council are to speak, the person who has been recognized is to leave his or her seat and proceed to that speaking location, if requested to do so by the Mayor.

D. Before speaking, a member of the audience is to identify himself or herself by name and address, indicating if that address is within the City of Oakwood.

E. Customarily, proponents will be recognized first, followed by persons who oppose the matter or issue, with a subsequent opportunity for rebuttal.

F. Except when leave is granted by the Mayor, there is a time limit of three

minutes for each speaker. This does not apply to the person or organization who or which has filed the application, variance request or other matter being heard by the Council.

G. Avoid repeating points made by earlier speakers. The Mayor has the right to terminate comments that are redundant.

H. Comments from persons in the audience shall be addressed to the Council as a whole or to the Mayor, not to any individual member of Council, nor to proponents or opponents of the issue, nor to City staff, and not to other members of the audience.

I. Customarily, everyone will be given a chance to speak before any other person is allowed to speak twice. This does not apply to the applicant's or proponent's right to rebuttal.

J. The Council reserves the right to put an end to that portion of any meeting or hearing in which comments from the audience are allowed, so as to leave time for Council to proceed with other business.

111.24 AMENDMENT OF THESE RULES.

Since the provisions of this Chapter 111 are established by ordinance, they may not be amended by any Oakwood organization other than the City Council.

111.25 USE OF ROBERT'S RULES OF ORDER.

Beyond what is provided for in this chapter of the Codified Ordinances, the most recently revised edition of Robert's Rules of Order shall govern Council in its deliberations. Those provisions may be suspended in the same manner as other rules of procedure in this chapter.

Legislative history: Ord. 1087 passed 1/1/32; Ord. 2570 passed 6/17/68; Ord. 2755 passed 7/19/71; Ord. 3418 passed 5/21/84; Ord. 3543 passed 3/3/86; Ord. 3657 passed 6/1/87; Ord. 3724 passed 2/1/88; CHTR. 3.03 and 3.04; Ord. 4037, passed 1/21/91; Ord. 4318, passed 12/18/95.

CHAPTER 113
Ordinances and Resolutions

113.01	Publications of appropriation ordinances.	113.03	Amendments to and revisions of previous ordinances and resolutions.
113.02	Publication of general ordinances by inclusion in Codified Ordinances.	113.04	Two or more subjects in one ordinance or resolution.

CROSS REFERENCES

Ordinances and resolutions - see CHTR. Art. III.
Publication - See CHTR. 3.05, 11.08 for basic requirements as to publication of ordinances.
Ordinances and resolutions as evidence - see ORC 731.42.
Codified Ordinances - see ADM. Ch. 101.
Introduction in Council - see ADM. 111.17.

113.01 PUBLICATION OF APPROPRIATION ORDINANCES.

In lieu of publication of appropriation ordinances in a newspaper of general circulation, all such ordinances may be published by reproduction and distribution to the members of Council and to department heads, to city boards and commissions, and to all citizens who may apply for copies at the office of the Clerk of Council. This method of publication is authorized by City Charter Article III, Section 3.05.

113.02 PUBLICATION OF GENERAL ORDINANCES BY INCLUSION IN CODIFIED ORDINANCES.

Ordinances of a general nature and ordinances providing for public improvements may be published in a newspaper of general circulation in the City, including a bulletin or newsletter published by the City itself. In the alternative, any or all such ordinances may be published through being included at length in a code of revised ordinances which is made available to the public in the office of the Clerk of Council. This code shall constitute the Codified Ordinances described in Section 101.01. This method of publication is specifically authorized by City Charter Article III, Section 3.05.

113.03 AMENDMENTS TO AND REVISIONS OF PREVIOUS ORDINANCES AND RESOLUTIONS.

A. An amendment of an existing ordinance or resolution need not set forth in full the ordinance, section or paragraph thereof being amended but may instead state what words are to be added, explain where those words are to be inserted, and also set forth any words to be deleted. One method of doing this may be to type words to be added in capital or italic letters and to type dashes through, and/or put brackets or parenthesis around, any words to be deleted. (Amended by Ord. 4405, passed 3/2/98).

B. If an entire ordinance or an entire section, paragraph, or sentence is to be repealed, it shall not be necessary to set forth in full the language to be repealed. Instead, it shall be sufficient to refer to the language being repealed by its ordinance or resolution number, section number or by identifying the paragraph or sentence to be repealed.

113.04 TWO OR MORE SUBJECTS IN ONE ORDINANCE OR RESOLUTION.

Any ordinance may contain a number of separate legislative sections as long as they deal with the same general subject or with the same code within the Codified Ordinances, e.g. the Traffic Code or Building Code.

Legislative history: Ord. 2457 passed 12/19/66; Ord. 2576 passed 8/19/68; Ord. 3204 passed 6/1/81; Ord. 3544 passed 3/3/86; Ord. 4405, passed 3/2/98; CHTR. 3.02

TITLE FIVE - ADMINISTRATION

Chap. 121. Administration Generally.
Chap. 123. City Manager.
Chap. 125. Finance Department.
Chap. 127. Department of Law.
Chap. 129. Safety Department.
Chap. 131. Service Department.
Chap. 135. Water Department.
Chap. 137. Leisure Service Department.
Chap. 139. Clerk of Council.
Chap. 141. Personnel.
Chap. 143. Employment Benefits.
Chap. 145. Contracts and Purchases.
Chap. 147. Money, Investments and Funds.
Chap. 148. Municipal Income Tax.
Chap. 149. Civil Defense.
Chap. 150. Civil Preparedness Plan.
Chap. 151. Disposal of City Property.
Chap. 152. Recovery of Costs.
Chap. 153. Permits and Inspection Fees.

CHAPTER 121
Administration Generally

121.01 Departmental organization.
121.02 Officers.
121.03 Department heads.
121.04 Acting department heads.
121.05 Assistants to department heads.

CROSS REFERENCES

Departments see CHTR. 5.01 et. seq.
Manager's rules for administrative departments - see ADM. 123.03.

121.01 DEPARTMENTAL ORGANIZATION.

The administrative section of the City shall be divided, under the City Manager, into the following departments with the following heads thereof:

Finance Department	Finance Director
Law Department	Law Director (sometimes referred to as City Attorney)
Safety Department	Public Safety Director
Service Department	City Manager
Water Department	City Manager
Personnel Department	Personnel Director.

121.02 OFFICERS.

Each officer shall perform all duties required of his office by the Charter, by law and by this and other ordinances of the City; and he shall perform such other duties not in conflict therewith as may be assigned by the City Manager.

121.03 DEPARTMENT HEADS.

The heads of departments shall :

A. Be immediately responsible to the City Manager for the effective administration of their departments and all activities assigned thereto.

B. Keep informed as to the latest practices in their particular field. They shall inaugurate, with the approval of the City Manager, such new practices as appear to be of benefit to the City and to the public.

C. Submit reports of the activities of their departments when requested by the City Manager.

D. Establish and maintain a system of records and reports in sufficient detail to furnish all information necessary for proper control of departmental activities and to form a basis for the reports required by the City Manager.

E. Have power, when authorized by the City Manager, to appoint and remove their subordinates.

F. Be responsible for the proper custody and maintenance of all City property and equipment used in their departments.

121.04 ACTING DEPARTMENT HEADS.

Whenever for any reason a department head is unable to perform his duties, the City Manager may name a substitute until the disability is removed or the position becomes vacant.

121.05 ASSISTANTS TO DEPARTMENT HEADS.

Whenever for any reason the City Manager deems it necessary to provide either temporary or permanent assistants for any department head, the City Manager shall authorize the employment of same within existing appropriations.

Legislative history: Ord 2149 passed 7/11/60.

CHAPTER 123
City Manager

123.01 Duties.
123.02 Bond.
123.03 Rules and regulations.
123.04 Transfer of personnel.
123.05 Transfer of work among departments.
123.06 Assistant to City Manager.

CROSS REFERENCES

Appointment, duties, etc. - see CHTR. Art. IV.
Supervision of purchasing - see CHTR. 5.05.
Bond requirement - see CHTR. 11.02.
Custody of City seal - see ADM. 103.01.
Direction of Safety Department by City Manager - see ADM. 129.01.
Direction of Service Department by City Manager - see ADM. 131.01.
Direction of Water Department by City Manager - see ADM. 135.01.
To be purchasing agent - see ADM. 145.01.
As Director of Civil Defense - see ADM. 149.01.
Authority of City Manager to adopt traffic regulations - see TRAF. 305.03.

123.01 DUTIES.

The City Manager shall be the chief executive and administrative officer of the City. He shall perform the duties required of him by the Charter and such additional duties as may be prescribed by ordinance. He shall also serve as purchasing agent of the City.

123.02 BOND.

The City Manager shall furnish bond, as required by the Charter, in the amount of $10,000.00.

123.03 RULES AND REGULATIONS.

A. The City Manager may prescribe such general rules and regulations as he may deem necessary or expedient for the general conduct of the administrative departments. The head of each department shall, in like manner, prescribe such rules and regulations as he may deem necessary and expedient for the proper conduct of his department, not inconsistent with rules and regulations prescribed by the City Manager.

B. The City Manager may prescribe such reasonable rules and regulations as he deems necessary to regulate the use of municipal off-street parking facilities.

123.04 TRANSFER OF PERSONNEL.

The City Manager may temporarily transfer employees from one department to another department in order to expedite the work of a department or to meet increased duties of a seasonal or periodic nature which may occur within a department.

123.05 TRANSFER OF WORK AMONG DEPARTMENTS.

The City Manager may direct any department to perform work for any other department.

123.06 ASSISTANT TO THE CITY MANAGER.

The City Manager may, whenever he deems it necessary or expedient, employ an administrative assistant, who shall assist the City Manager in such manner and to such extent as the City Manager may direct.

Legislative history: Ord. 2149 passed 7/11/60; Ord. 2978 passed 11/22/76.

CHAPTER 125
Finance Department

125.01 Finance Director; duties. 125.02 Bond.

CROSS REFERENCES.

Duties - see CHTR. 5.11.
Finances of City - see CHTR. Art. VI.
Bond requirement - see CHTR. 11.02,
Loss of funds; release of liability - see ORC 131.18 et seq.
Uniform Bond Law - see ORC Ch. 133.
Uniform Depository Act - see ORC Ch. 135.
Treasury investment account - see ORC 731.56 et seq.
Contracts and purchases - see ADM. Ch. 145.
Money, investments, funds - see ADM. Ch. 147.

125.01 FINANCE DIRECTOR; DUTIES.

The Finance Department shall be under the direction of a Finance Director who shall be accountable to the City Manager and to Council. The Finance Director shall perform the following duties:

A. Keep in proper books a full and accurate record of all money received and disbursed on behalf of the City and of all money due to and from the City upon contracts and orders and shall provide for safekeeping of all such contracts and orders involving obligations to or owed by the City.

B. Receive and have custody of all money paid to the City and disburse all City money in accordance with the Charter and ordinances, signing all warrants upon the City treasury in making such disbursements.

C. Render a monthly report to the City Manager and to Council reflecting the financial condition of the City and showing monthly receipts, encumbrances and outstanding balances of all funds.

D. Certify that funds are available according to law to pay money provided by all contracts, agreements or other obligations for the expenditure of City funds. No such contract, agreement or other obligation shall be valid until so certified.

E. Make payment of the interest and principal on the bonded debt when due and keep accurate records of such debt and of such payments thereon.

F. Prepare the City payrolls.

G. Administer all employee pension and benefit funds, receiving such funds, acting as custodian thereon according to law and making disbursements therefrom, signing warrants and checks for such purposes.

H. Enter into contracts with legal depositories for the deposit of all fund of the City with such depositories, rent safe deposit boxes or otherwise provide for the safekeeping of securities and other documents for payment of money to the City, and maintain custody of all documents evidencing investments of the City and of pension and benefit funds of City employees.

I. Prepare and submit such reports as may be required by law or ordinance.

J. Assist the City Manager in the preparation of the annual budget.

125.02 BOND.

The Finance Director shall furnish bond, as required by the Charter in the sum of $50,000.00.

Legislative history: Ord. 2149 passed 7/11/60.

CHAPTER 127
Department of Law

127.01 Duties of Law Department.
127.02 Bond.
127.03 Bond counsel.

127.01 DUTIES OF LAW DEPARTMENT.

The Department of Law, through a city attorney or through attorneys in private practice who are not employees of the city, accountable to the City Manager and to Council, shall perform the following duties:

(a) Attend all meetings of Council and of Council committees, boards and commissions when requested.

(b) Advise and render opinions to Council, to the City Manager, to boards and commissions and to the administrative officers and departments on all matters of law involving the City and Council members, officers and departments in the performance of their official duties.

(c) Draft all ordinances, contracts, resolutions and other documents of a legal nature to be made and entered into by the City, and to approve the form thereof.

(d) Represent the City before all courts sitting within the State in actions at law in which the City is a party.

(e) Assist in the preparation of documents and transcripts for the issuance of bonds and notes of the City.

(f) Prosecute in the Oakwood Municipal Court all cases based on affidavits filed therein by the Division of Police and by other City officials, alleging violations of City ordinances and of State laws, and prosecute such cases as appear to the Department of Law to be meritorious, based upon affidavits filed in such Court by private parties.

(g) Perform such other duties as may be assigned to the office of the Department of Law by law, and as may be necessary and proper in the administration of the business of the City. The Law Department shall not be obligated to perform legal services for the Oakwood school district.

127.02 BOND.

The City Attorney shall furnish bond, as required by the Charter, in the amount of five thousand dollars ($5,000).

126.03 BOND COUNSEL.

Whenever Council proposes to issue bonds or notes to finance public improvements, or for any other purpose authorized by the laws of the State, the Department of Law may engage the services of any firm of recognized bond attorneys to assist the Department of Law in causing such bonds and notes to be issued and to render approving opinions thereon to purchasers of such bonds and notes.

Legislative history: Ord. 2149 passed 7/11/60; Ord. 4047 passed 4/1/91.

CHAPTER 129
Safety Department

129.01 City Manager as Safety Director; divisions.
129.02 Division of Police; composition.
129.03 Division of Police; duties.
129.04 Control of personnel; authority of City Manager.
129.05 Emergencies; responsibility of personnel.
129.06 Emergencies; appointment of additional personnel.
129.07 Chief of Police; duties.
129.08 Bond; uniforms.
129.09 Telephone-radio operators.
129.10 School traffic watchmen.
129.11 Retirement badge.
129.12 Special policemen.

CROSS REFERENCES.

Duties - see CHTR. 15.12.
State law provisions - see ORC Ch. 737.
Employment provisions = see ADM. Ch. 141.
Auxiliary police, firemen for civil defense - see ADM. 149.03.
Resisting, abusing or impersonating, see GEN. OFF. 501.05, 501.06.
False reports and alarms - see GEN. OFF. 501.07,501.08.
Bureau of Fire Prevention - see FIRE PREV. 1501.03 et seq.

129.01 CITY MANAGER AS SAFETY DIRECTOR; DIVISIONS.

The Safety Department shall be under the direction of the City Manager unless another director of that department has been appointed under Section 5.02 of the Charter of the City. The Safety Department shall be composed of the Division of Police and such other divisions as may hereafter be established.

129.02 DIVISION OF POLICE; COMPOSITION.

A. The Division of Police shall be composed of such number of persons in various ranks as may be determined by the City Manager on the basis of his judgment as to the organizational staffing which will best serve the City, commensurate with the budget restrictions within which the Division of Police must operate.

B. The Division of Police shall be classified by the City Manager as required by law and all employees and personnel of the Division of Police shall continue in the same position which they have heretofore (prior to December 18, 1967) held in the Safety Department, but subject to the modifications made by this chapter.

129.03 DIVISION OF POLICE; DUTIES.

The Division of Police shall provide a unified police and fire service in which both police and fire services are rendered by the same personnel. This division shall perform the following duties:

A. Be responsible for the preservation of the public peace and order, the prevention and detection of crime, the apprehension of violators of law and ordinances, the protection of persons and property and the enforcement of the criminal laws of the United States, of the State of Ohio and the ordinances of the City.

B. Be responsible for the prevention of fire, for control and extinguishment of fires within the City, and for the protection of lives and property endangered by fire.

129.04 CONTROL OF PERSONNEL; AUTHORITY OF CITY MANAGER.

The City Manager or his authorized representative shall have exclusive control of the stationing and transfer of all members of the Division of Police. Such personnel shall obey the instructions of the City Manager to them regarding the fulfillment of the duties recited in Section 129.03. The City Manager may prescribe more specific duties for such personnel as he may deem necessary. Further, the City Manager may prescribe such additional duties as in his discretion seem appropriate in the best interests of the City.

129.05 EMERGENCIES; RESPONSIBILITY OF PERSONNEL.

Whenever the officer in command of the Division of Police determines that an emergency has arisen or is about to arise, he shall order such members of that division to duty as are not then on duty and as in his judgment may be necessary to meet the emergency. It shall be the duty of every member of the Division of Police receiving such an order to report to duty and to comply with such order with reasonable promptness and dispatch. Members of the Division of Police so recalled to duty shall be paid additional compensation as required by the salary ordinances or labor union contract then in effect.

129.06 EMERGENCIES; APPOINTMENT OF ADDITIONAL PERSONNEL.

If the City Manager determines an emergency has arisen or is about to arise making such action necessary, he may appoint additional members to the Division of Police for temporary services. Such temporary service members shall not be in the classified service.

129.07 CHIEF OF POLICE; DUTIES.

The Safety Director shall be in charge of the operation of the Division of Police, and any reference to the Chief of Police in the ordinances of this city shall be construed as a reference to the Safety Director. The director shall be accountable to the City Manager and shall perform the following duties:

A. Formulate and recommend to the City Manager for approval policies, procedures, rules and regulations for the government and operation of the Division of Police and its personnel.

B. Be responsible for the performance by the Division of Police of the duties assigned to it by the Charter, by law and by this chapter.

C. Provide for the training and instruction of police officers.

D. Act as liaison officer in the cooperation by the City with other law enforcement agencies.

E. Perform such other duties as the City Manager may prescribe.

129.08 BOND; UNIFORMS.

Personnel of the Division of Police and all telephone-radio operators shall give bonds in the amount of $2,500.00 each, conditioned upon the faithful performance of their duties. These bonds shall not be required for school traffic watchmen. Such bonds shall be executed by a surety company authorized to do business in the state and the premium on such bonds shall be paid by the City from the general fund. The personnel of the Division of Police shall be furnished with the necessary uniforms by the City, and the cost thereof shall be paid by the City from the general fund.

129.09 TELEPHONE-RADIO OPERATORS.

The City Manager may from time to time designate patrolmen to act, for as long as the City Manager may deem it advisable, as telephone-radio operators. Such patrolmen shall, for such time as they may serve in such capacity, retain their rank and salary as patrolmen. The City Manager may also designate personnel other than members of the Division of Police to act as telephone-radio operators and, in addition, may assign such personnel to administrative duties in the Division of Police. However, such designation and assignment shall in no way be deemed to make such personnel members of the Division of Police.

129.10 SCHOOL TRAFFIC WATCHMEN.

The City Manager may assign personnel of the Division of Police, or may assign other employees of the City, to duties as school traffic watchmen. Any such other employees not part of the Division of Police shall not be deemed to become personnel of that division merely by reason of assignment to them of such duties.

129.11 RETIREMENT BADGE.

Each policeman who has retired honorably from the Division of Police and placed on pension under the pension laws of Ohio, shall be entitled to a badge indicating that such member is so retired, provided that such member shall first surrender his regular policeman's badge to the Chief of Police. The badge for such retired men shall be of such design and material as the City Manager may adopt, and it shall display on its face in plain letters the word "retired."

129.12 SPECIAL POLICEMEN.

A. Organization. The City Manager, subject to confirmation by Council, is hereby authorized to appoint special policemen who shall be organized as an auxiliary corps of the Safety Department. Such appointments shall be made by written certificate signed by the City Manager. The Safety Director shall be the executive officer of such auxiliary corps.

B. Rules and regulations. The City Manager is hereby authorized to establish rules and regulations, other than those contained in this section, relative to the selection, retention and length of service of special policemen.

C. Membership. The City Manager may appoint anyone he deems qualified to serve as a special policeman, including but not limited to present employees of the City.

D. Duties; compensation. Such special policemen shall constitute an auxiliary corps for the purpose of assisting the Safety Department. It shall be the duty of such special policemen to respond promptly to calls to duty when given by the City Manager or his authorized representative. They shall be subject to the orders of the City Manager and shall obey all the rules of the City Manager applicable to special policemen. They shall conform to the general discipline and regulations of the Safety Department. Each special police officer shall possess during the term of his appointment all the powers and privileges and perform all the duties of a patrolman in the Division of Police. No such special police officer shall be paid out of City funds for his police services, however, unless his appointment has been made upon application by the City for service exclusively on behalf of the City in one of its departments.

E. Uniforms. The City Manager or his authorized representative is hereby authorized and directed to design the special police uniform and badge and to promulgate rules as to when, where and how they shall be worn. All special policemen shall furnish at their own expense the necessary uniforms and badges so prescribed.

F. Oath. The Clerk of Council shall administer an oath to every person appointed as a special policeman pursuant to this section. The oath shall be similar to the oath administered to regular police officers of the City. In the event the Clerk of Council is absent by reason of sickness, vacation or for any other reason, such oath may be administered by a Notary Public in and for Montgomery County, Ohio.

G. Surety bond. Each special police officer shall furnish and pay for a surety bond, conditioned for the faithful performance of his duties, in the sum of $2,000.00. Such bond shall be subject to the approval of the City Attorney.

Legislative history: Ord. 690 passed 1/11/28; Ord. 1407 passed 6/19/44; Ord. 2083 passed 6/15/59; Ord. 2149 passed 7/11/60; Ord. 2520 passed 12/18/67; Ord. 2838 pass /73; Ord. 2839 passed 7/9/73; Ord. 2840 passed 7/9/73.

CHAPTER 131
Service Department

131.01 City Manager as Service Director; functions.

CROSS REFERENCES

Departments - see CHTR. 5.01 et seq.
Sewer regulations and charges see S. & P.S. Ch. 911 et seq.
Garbage and refuse collection - see S. & P.S. Ch. 931.

131.01 CITY MANAGER AS SERVICE DIRECTOR; FUNCTIONS.

A. The Service Department shall be under the direction of the City Manager unless another director of that department has been appointed under Section 5.02 of the Charter of the City.

B. Under supervision of its director, the Service Department shall perform the following duties:

1. maintain and repair the public buildings, parks and grounds owned and operated by the City.

2. maintain, repair, construct, improve and extend the public streets of the City;

3. collect, remove and dispose of garbage, rubbish, trimmings, refuse and trash from residence and other places within the City;

4. trim and prune trees and shrubbery upon the public streets and the land of the City and remove dead trees and tree stumps therefrom;

5. maintain, repair, construct, improve and extend the storm and sanitary sewer systems of the City;

6. apply and maintain all traffic control markings upon the streets and curbs of the City;

7. prepare and maintain maps and records of the streets, sewers, buildings, and premises as may be necessary to operate the department properly; and

8. perform such other duties as may be required by the City Manager.

Legislative history: Ord. 2149 passed 7/11/60; Ord. 2481 passed 7/9/73.

CHAPTER 135
Water Department

135.01 City Manager as Water Director; functions.
135.02 Appeals to Sewer and Water Appeals Board.

CROSS REFERENCES
Departments - see CHTR. 5.01 et seq.
Water service - see S. & P.S. Ch. 919.
Sprinkler systems - see Streets & Public Service Ch. 921.

135.01 CITY MANAGER AS WATER DIRECTOR; FUNCTIONS.

The Water Department shall be under the direction of the City Manager. The department shall perform the following functions:

A. operate, maintain and repair the water works system of the City including but not limited to the buildings used by that system and the department, the wells, distribution lines, meters, tanks and fire hydrants;

B. distribute through the system to the residences, hydrants and other places within the City all water pumped from City wells or purchased from other sources;

C. maintain accurate records of water pumped, purchased and sold to consumers, render invoices for water consumption to purchasers and collect payment from consumers for such water as directed by the Finance Director;

D. perform such maintenance and repair work upon the sanitary and storm sewers of the City as the City Manager may direct; and

E. perform such other duties pertaining to the distribution of water as the City Manager may direct.

135.02 APPEALS TO SEWER AND WATER APPEALS BOARD.

Persons who wish to dispute the amount of their water bills may appeal to the Sewer and Water Appeals Board as described in Chapter 167 of these Codified Ordinances.

Legislative history: Ord. 2149 passed 7/11/60.

CHAPTER 137
Leisure Services Department

137.01 Creation of Department; Director.

CROSS REFERENCES

See Chap. 171 for Leisure Services Advisory Board

137.01 CREATION OF DEPARTMENT; DIRECTOR.

A Leisure Services Department shall be part of the organizational structure of the City. It shall be under the direction of the Director of that department who shall be accountable to the City Manager and to the City Council. The Director shall perform the following duties:

A. Develop innovative leisure services programs in accordance with citizen desires.

B. Formulate and recommend to the City Manager for approval, policies, procedures, rules and regulations for the operation of the Leisure Services Department.

C. Participate in the formulation of the annual Leisure Services budget.

D. Assist in the selection and training of personnel employed through the Leisure Services Department.

E. Prepare financial data and compile reports for the City Manager relating to the operation of the Leisure Services Department.

F. Be responsible for keeping the citizens apprised of available leisure services for programming.

G. Be responsible for overseeing the activities and maintenance at all City parks.

H. Perform such other duties as may be required by the City Manager.

Legislative history: Ord. 3809, passed 11/7/88.

CHAPTER 139
Clerk of Council

139.01 Duties.

139.02 Assistant or Deputy City Manager as Clerk of Council; absence and acting clerks; compensation.

CROSS REFERENCES

Duties, etc. - see CHTR. 2.11.
Signing ordinances - see CHTR. 3.03.
Council agenda - see ADM. 111.18.

139.01 DUTIES.

The Clerk of Council shall be appointed by the Council under Charter 2.11 to perform such duties as are required of that position by the City Charter and, in addition, the following duties:

A. Serve as recording secretary to the Planning Commission, the Board of Zoning Appeals, the Personnel Appeals Board and such other boards and commissions as the City manager may direct, giving appropriate notices of meetings and advertising public hearings. The Clerk shall write and maintain in separate books the minutes of meetings and perform such other functions in regard to such bodies as may be required.

B. If appointed by the Municipal Judge, the Clerk shall serve as Clerk of the Oakwood Municipal Court, receiving separate compensation therefor.

C. Perform such other duties as may be assigned by the City Manager.

139.02 ASSISTANT OR DEPUTY CITY MANAGER AS CLERK OF COUNCIL; ABSENCE AND ACTING CLERKS; COMPENSATION.

A. If no other person has been appointed to the position, the Assistant or Deputy City Manager shall be deemed to have been appointed as the Clerk of Council to serve as such until another Clerk of Council is chosen and enters upon the duties of that office. In the meantime, the Assistant City Manager shall perform the functions of the Clerk of Council in addition to his previously assigned duties for the City.

B. As compensation for performing the additional duties of Clerk of Council, the Assistant City Manager shall be paid the sum of $500.00 per year. Such additional compensation shall be distributed over the year at the same intervals at which the Assistant City Manager presently receives a salary for the other duties performed for the City.

C. During any temporary absence of the Assistant City Manager in which he is not able to perform his additional duties as Clerk of Council, an Acting Clerk of Council may be designated by the City Manager from among those persons then employed by the City. The person so appointed shall perform the functions of the Clerk of Council in addition to that employee's previously assigned duties.

D. Any employee, except the Assistant or Deputy City Manager, performing the duties of the office of Clerk of Council shall receive additional compensation on an hourly basis for the time expended in attending Council meetings. Such compensation shall be paid at the same rate at which such employee is paid in his other position with the City, computed on the basis of an eight hour day, five days per week.

Legislative history: Ord. 2149 passed 7/11/60; Ord. 2648 passed 10/20/69.

CHAPTER 141
Personnel Matters

141.01 Authority of City Manager
to make Personnel Regulations.
141.02 Merit system/definitions.

CROSS REFERENCES

Personnel provisions - see CHTR. Art. VIII.
Oath - see CHTR. Sec. 11.01.
Bond - see CHTR. Sec. 11.02.
Deductions for dues and savings - see ORC 9.41, 9.43.
Deductions for municipal income tax - see ORC 9.42.
Transfer by Manager - see ADM. 123.04.
Employment benefits - see ADM. 143.
Subpoena power for Personnel Appeals Board - see ADM. 160.02

141.01 AUTHORITY OF CITY MANAGER TO MAKE PERSONNEL REGULATIONS.

The city manager is authorized to make personnel regulations to govern management practices on personnel matters by establishing standards and procedures and providing detail to personnel-related Charter provisions or ordinances. Such regulations are to serve as a guideline as to situations not specifically dealt with by the Charter, any personnel ordinances, or an applicable labor contract.

141.02 MERIT SYSTEM/DEFINITIONS.

A. Pursuant to Article VIII, Section 8.01, of the Charter, except as modified by Section 8.02, the merit system of employment shall prevail. Seniority shall be one factor in the determination of merit, but in no case shall seniority be deemed to supersede the application of merit employment principles. This principle of merit employment shall apply to hiring, promotion, ingrade increases and to the continued employment of any employee. It shall also be deemed to require employees to acquire and maintain the necessary skills, abilities and certifications to fulfill properly and completely the duties of the classification in which they are employed.

B. The following definitions shall apply under Chapter 141:

1. Appointing authority. The City Manager is the appointing authority for the City by authority of the City Charter.

2. Exempt classifications. Classifications specifically exempted from competitive examinations by the City Charter are:
   (a) members of Council;
   (b) Clerk of Council;
   (c) City Manager;
   (d) directors of the departments;
   (e) secretary to the City Manager;

(f) assistant to the City Manager;
(g) members of boards and commissions appointed by the Council and Advisory Committees appointed by the City Manager;
(h) temporary employees of exceptional, professional or scientific qualifications engaged as consultants;
(i) unskilled laborers; and
(j) seasonal and part-time employees.
(k) Council may act by ordinance to designate other positions which may be filled (by original appointment or by promotion) without the necessity of such examinations. The positions of utility clerk, city engineer, water plant operator, engineering technician, secretary to the director of public safety, account clerk II in the income tax department, secretary to the city engineer, secretary to the director of leisure services, assistant public works director, public works department foreman, motor equipment mechanic I/II, account clerk II in the finance department and custodian have been designated as exempt classifications which may be filled without the necessity of merit system examination.

The position of Public Safety Captain is also one which may be filled without the necessity of merit system examination. The unique duties and administrative responsibilities of the position require that professional education, experience and training be used as the selection criteria in making appointments. While the City may use a written examination as part of the selection process, the results of the examination will not serve as the primary basis for appointment to this position.

3. Classified employees. Same as non-exempt employees.

4. Non-exempt classifications. Employees not specifically exempt by the Charter of the City of Oakwood are sometimes referred to as non-exempt employees. Such non-exempt or classified employees shall be employed under the classified service of the City. Appointment to the classified services of the City shall be determined on the basis of open, competitive examinations except when there is only one qualified candidate.

5. Full-time employees. Employees scheduled to work at least forty (40) hours per week throughout the year shall be considered full-time employees and shall have all rights, benefits and obligations as determined in these Personnel Regulations. Employees in this category may be salaried or paid by the hour.

6. Calendar year. Twelve month period beginning January 1 and ending December 31 of each year.

7. Fiscal year. Same as calendar year.

8. Work year. A period of twelve consecutive months beginning on the first day of employment for any individual. All benefits shall accrue from date of employment.

9. Eligibility list. A list of potential employees who are ranked by the Personnel Officer based on their comparative standing.

(a) Original eligibility list. A list of potential employees who are ranked by the Personnel Officer according to their scores on the employment examination.

(b) Promotional eligibility list. A list of employees who are ranked by the Personnel Officer according to their scores on the promotional exam for the position which the employees have applied.

(c) Reappointment eligibility list. A list created by the Personnel Officer in which the employees shall be ranked in inverse order of their layoff.

10. Regular Part-time employees. Employees who normally work less than forty hours per week. Said employees in this category shall be paid by the hour and shall not be entitled to any benefits outlined in the Personnel Schedule or the Personnel Regulations, except for pro-rated sick leave, vacation and holiday benefits.

11. Temporary or Seasonal employees. Employees hired to complete a specified project or task and who normally work less than 1,250 hours per year. Said employees in this category shall be paid by the hour and shall not be entitled to any benefits allowed in the Personnel Schedule or the Personnel Regulations, except for holidays which may occur during their employment.

12. Probation. That period of time which begins immediately after a person becomes a full-time employee of the City. All full-time appointees shall serve a minimum probationary period of one year unless specified to the contrary in the current applicable collective bargaining agreement.

13. Personnel Appeals Board. A three member board created by the City Charter, the members of which are appointed by the City Council for the purpose of hearing appeals by City employees in the classified service who are not part of a grievance procedure under a labor contract, and who have been suspended, demoted in position or compensation, or discharged.

14. Layoff. A reduction in the work force of the City as determined by the City Manager.

15. Leaves. An authorized paid or unpaid absence or vacation from duty or employment for a specified period of time.

16. Allowances. Consist of monetary reimbursement by the City for activity which involves an extraordinary expense to the employee, e.g. meal allowance, private automobile allowance. All such allowances must be authorized in advance by the department head and approved by the City Manager for payment.

17. Retirement. To withdraw from active duty with the City of Oakwood subject to the applicable rules, regulations and statutes of the State of Ohio and after attaining the age and length of service (or disability status) necessary to immediately qualify and receive a pension in accordance with the rules of the Public Employees Retirement System or the Police and Fire Pension Fund of Ohio.

18. Resignation. Voluntary withdrawal of employment from the City. Employees resigning from the service of the City shall not be entitled to compensation for accumulated sick leave.

19. Abolishment of position. Elimination of any particular position or classification from the personnel structure of the City.

20. City. Shall mean the city of Oakwood.

Legislative history: Ord. 3831, passed 12/19/88, enacted new Chapter 141 and repealed previous Chapter 141. The following is legislative history in regard to the previous versions of this chapter: Ord. 3177, passed 12/19/60; Ord. 2587, passed 10/14/68; Ord. 2772, passed 1/3/72; Ord. 3000, passed 6/20/77; Ord. 3230; passed 10/5/81; Ord. 3131, passed 10/5/81; Ord. 3232, passed 10/19/81; Ord. 3746, passed 5/2/88; Ord. 3825, passed 11/21/88; Ord. 3832, passed 12/19/88; Ord. 4032, passed 1/7/91; Ord. 4169, passed 10/19/92; Ord. 4182, passed 2/1/93; Ord. 4197, passed 4/12/93; Ord. 4232, passed 1/3/94; Ord. 4235, passed 1/17 /94; Ord. 4255, passed 6/20/94; Ord. 4309, passed 10/16/95; Ord. 4436, passed 7/12/99; Ord. 4464, passed 7/17/00; Ord. 45 21, passed 9/23/02; Ord. 4555, passed 7/19/04; Ord. 4558, passed 8/9/04; Ord. 4811, passed 9/21/2015.
See also CHTR. 8.01, 8.02, 8.05.

BECAUSE MATERIAL WAS DELETED FROM CHAPTER 141, THIS PAGE REPRESENTS PAGES 48-74 OF THE ADMINISTRATIVE CODE.

THIS PROCEDURE IS USED TO AVOID THE NECESSITY OF RENUMBERING ALL PAGES AND DISTRIBUTING SETS TO ALL WHO HAVE CODIFIED ORDINANCES.

CHAPTER 143
Employment Benefits

143.01 Indemnification and legal defense.
143.02 Support of volunteers, employees and officials.
143.03 Service and recognition awards.

EDITOR'S NOTE:

Most employment benefits for City employees are not codified here since they are (for union employees) included in collective bargaining or (for management and non-union employees) are covered by non-codified ordinances. Compensation for City employees is not codified since it is subject to frequent change.

CROSS REFERENCES

Welfare - see Ohio Const., Art. II, Sec. 34.
Worker's compensation - see Ohio Const., Art. II, Sec. 35; ORC Ch. 4123.
Wages and hours on public works - see Ohio Const., Art. II, Sec. 37; ORC Ch. 4115.
Public Employees Retirement System - see ORC Ch. 145.
Expenses for attendance at conference or convention - see ORC 733.79.
Uniform allowance, plainclothes duty - see ADM. 129.05.
Police retirement badge - see ADM. 129.06.

143.01 INDEMNIFICATION AND LEGAL DEFENSE.

A. The City shall defend its employees, volunteers, non-employee prosecuting attorneys engaged through the city attorney, and appointed and elected officials in and from any and all lawsuits, claims, and demands based upon or arising from actions or services any such person has taken or performed within the scope of his or her responsibilities for the city, or has taken or performed as a member of non-City boards, commissions or organizations to the extent the participation in such outside organizations results from any such person's status as an employee, volunteer, such an attorney, or an official of Oakwood and is undertaken as a service for or benefit to the City of Oakwood. The same defense protection shall be provided to former employees, officials, volunteers, or such attorneys against claims, lawsuits and demands based on matters which occurred while any such person was rendering services to this city.

B. The City shall also indemnify each of its employees to the extent required by Ohio Revised Code Section 2744.07(A), and shall provide not less than the same extent of indemnification protection to its elected and appointed public officials, to its volunteers, and to non-employee prosecuting attorneys engaged through the city attorney, even though such indemnification of those officials, volunteers, or prosecuting attorneys may not be required by that Ohio statute, and shall hold all such persons harmless on such matters. The same indemnification and hold harmless protection shall be provided to former employees, officials,

volunteers, and such attorneys against claims, lawsuits and demands based on matters which occurred while any such person was rendering services to this city.

143.02 SUPPORT OF VOLUNTEERS, EMPLOYEES AND OFFICIALS.

The Finance Director may expend funds of the City as approved by the City Manager for the support of meetings and activities of volunteers, members of boards, commissions and committees, City employees and officials, and residents of the City. Meetings and activities which receive such support shall be those deemed by the City Manager to advance or promote the best interests of this City. For such purposes the City Manager may authorize the purchase of such supplies, food, beverages (including alcoholic beverages) and materials of any type as the City Manager may deem appropriate for those meetings and activities.

143.03 SERVICE AND RECOGNITION AWARDS.

In recognition of years of service and/or in recognition of special contributions made to this City by volunteers, members of boards, commissions and committees, employees and officials, the Finance Director may expend City funds as approved by the City Manager for the purchase of service and/or recognition awards. Such awards may include items of monetary value. To the extent such awards create income tax liability for the recipient, the City Manager may authorize the Finance Director to pay to the tax authorities as withholding taxes such percentage of the award value as is appropriate under applicable tax regulations.

Legislative history: Ord. 3527 passed 1/6/86; Ord. 3535 passed 2/17/86; Ord. 3726 passed 2/29/88; Ord. 3865 passed 6/5/89; Ord. 4096, passed 11/18/91.

CHAPTER 145
Purchases and Contracts

145.01 Definitions
145.02 Home Rule Declaration
145.03 Contracting Authority
145.04 Formal Bidding
145.05 Opening and Evaluation of Formal Bids
145.06 Governmental Cooperative Purchasing Programs
145.07 Purchase Orders
145.08 Collection Agency Contracts
145.09 Petty Cash

CROSS REFERENCES:

Purchasing, bidding, etc. – *see* CHTR. 5.05, *et seq.*
Finance Director to disburse funds – *see* CHTR. 5.11.
Department of Finance – *see* AC Ch. 125.

145.01 DEFINITIONS

As used in this chapter:

A. "Bid security" means appropriate security guaranteeing that if awarded, the bidder will enter into a contract conforming to the City's specifications and satisfactory to the City, and will properly secure its performance thereunder as required in the specifications. Bid security may be evidenced by :
   1. A certified check, cashier's check, or letter of credit, in form and substance satisfactory to the City Attorney, drawn upon or issued by a bank or other financial institution, in an amount not less than five percent (5%) of the amount of the bid; or
   2. A bid bond, in form and substance satisfactory to the City Attorney, from a surety company authorized to do business in the State of Ohio, in an amount not less than five percent (5%) of the amount of the bid.

B. "Competitive bidding threshold" means the greater of $50,000, or the minimum threshold contract value, as established by state law for county contracts, for utilizing formal competitive procedures.

C. "Competitive bidding," "competitive bidding procedures" and "competitive selection" mean the formal bidding procedures set forth in Sections 145.04 and 145.05.

D. "Governmental cooperative purchasing program" means, without limitation, any of the following:
   1. A program whereby political subdivisions may participate in state contracts arranged by the Office of State Purchasing (part of the Ohio Department of Administrative Services) pursuant to Revised Code 125.04;

2. Any other cooperative purchasing program that allows for participation in contracts or pricing schedules negotiated by the State of Ohio or any of its political subdivisions;
3. Any opportunity, regardless of whether the same constitutes a program, for the City to contract with a Vendor on terms that were obtained by another political subdivision through that subdivision's competitive process, where the price and other terms are favorable to the City.

E. "Informal procedures" means purchasing or contracting in any manner appropriate to the City's need or purpose, including but not limited to the solicitation of proposals, quotes or informal bids, or direct negotiation with Vendors. Informal procedures do not require competitive selection.

F. "Lowest and best responsible" means the Vendor whose bid offers the lowest price after taking into account the Vendor's prior performance history with this City or other entities, the Vendor's demonstrated capabilities, any delivery and quality requirements, and any other fact revealed through the investigation made pursuant to Section 145.05(B) that is material to selecting the Vendor best able to meet the City's need in a cost-effective, responsible manner. The term "lowest and best responsible" shall not be construed to require the City to select a Vendor based upon price alone.

G. "Vendor" and "Vendors," when so capitalized, are collective terms and include, without limitation, any seller, vendor, distributor, supplier, source, contractor or other provider of supplies, materials, equipment, labor or any other item or service whatsoever.

145.02 HOME RULE DECLARATION

The procedures described in this Chapter shall govern all purchasing and contracting for the city of Oakwood, and are intended as an exercise of the City's power of local self-government pursuant to Section 1.02 of the City Charter and Section 3, Article XVIII of the Constitution of the State of Ohio. Except to the extent that state law may be expressly incorporated, this Chapter shall supersede state law with respect to the subject matter herein. Specifically, but without limiting the superseding effect of this Chapter, the City shall not be obligated to follow the procedures set forth in Ohio Revised Code Sections 9.312, 9.313, 9.32 and 9.33 through 9.332, nor to follow the construction contract, public improvement or professional design contract procedures set forth in Chapter 153 of the Ohio Revised Code. Where this Chapter may be silent on a matter that is material to contracting and purchasing for the city of Oakwood, the City Manager is and shall be authorized to use such additional procedures as he or she deems to be in the best interest of the City.

145.03 CONTRACTING AUTHORITY

A. The City Manager is the Purchasing and Contracting Agent for the City. The Purchasing and Contracting Agent is authorized to make any contract; purchase any supplies, materials and equipment; provide labor for any work or improvement; purchase, hire or retain any services; and make any other agreement or expenditure on the City's behalf consistent with the City Charter and all applicable laws. To the extent sufficient funds have been appropriated by Council, the Purchasing and Contracting Agent may act under this Chapter

without the need for further legislative authorization. The City Manager may delegate any portion of his or her authority as Purchasing and Contracting Agent to the head of any City department.

B. If the probable cost of a purchase, or probable City obligation under a contract, will equal or exceed the competitive bidding threshold, the Purchasing and Contracting Agent shall resort to formal bidding under Section 145.04, subject to any applicable exceptions. Where the probable cost or obligation is below the competitive bidding threshold, or where an exception to formal bidding applies, the Purchasing and Contracting Agent may award the purchase or contract through informal procedures.

C. In exercising his or her authority under this Chapter, the Purchasing and Contracting Agent shall endeavor to procure items or services on terms that will minimize expense to the City while remaining consistent with delivery and quality requirements.

145.04 FORMAL BIDDING PROCEDURES

A. Formal sealed bids shall be used to determine the lowest and best responsible Vendor for the awarding of any purchase or contract that is subject to formal bidding under Section 145.03(B).

B. Formal bids shall be solicited by publishing an advertisement once a week, for not less than two weeks, in a newspaper of general circulation in the City. The advertisement shall set forth the day, hour and place of the bid opening, and shall provide contact information for the person or department responsible for distributing specifications and/or bidding instructions. If, in the discretion of the Purchasing and Contracting Agent, publication in a professional or trade publication or internet website is more likely to attract bidders appropriate to the City's need or purpose, publication may be made in that forum instead, for a similar duration.

C. Each bid must conform to the following general requirements:

1. Each bid shall contain the full name of each person or company interested therein;
2. Each bid shall be accompanied by appropriate bid security; and
3. No bid may be altered or modified after it has been delivered to the City.

D. The City may establish prequalifications or prerequisites for bidders, including but not limited to references and a statement of similar work previously performed.

E. Formal bidding shall not be required in any of the following situations, which shall constitute exceptions to the general rule set forth above in subsection (A), regardless of the probable cost or obligation to be incurred:

1. Public emergency declared in a resolution by a four-fifths vote of Council;

2. Where proximity of the supplier and/or immediate availability of the product or service is a determinative factor;
3. Where special or unusual circumstances make it advisable that the City deal with a particular Vendor on a sole-source basis;
4. Where a contract has already been entered into and a change order is sought for additional items or services, so long as all such change orders on a particular contract do not exceed twenty five percent (25%) of the original contract amount;
5. Participation in state contracts arranged by the Office of State Purchasing (part of the Ohio Department of Administrative Services) pursuant to Ohio Revised Code Section 125.04, or any other governmental cooperative purchasing program;
6. Where a purchase or contract can be obtained locally at a price below the price offered under a governmental cooperative purchasing program;
7. Contracts for professional or personal services;
8. Any other situation in which Council declares, by resolution, that the best interests of the City would be served by dispensing with the requirement of formal bidding for a particular purchase or contract; and
9. Any other exception in this chapter or allowed by the Charter or Ohio law.

145.05 OPENING AND EVALUATION OF FORMAL BIDS

A. The Purchasing and Contracting Agent shall open and publicly read the formal bids on the last day such bids may be filed with the City.

B. After sealed bids have been opened, the Purchasing and Contracting Agent may make an investigation into the responsibility of various bidders. If any contract is awarded, the Purchasing and Contracting Agent shall award such contract to the lowest and best responsible bidder. Before any contract is signed, it shall be submitted to the Finance Director for encumbrance and certification, and the contract shall also be approved as to form by the City Attorney.

C. The Purchasing and Contracting Agent may reject any individual bid, or a particular portion of all bids, in the following circumstances:

1. When there is reason to believe that collusion or combination has occurred among bidders;
2. Failure to comply with the bid specifications, unless the Purchasing and Contracting Agent waives any irregularities;
3. The Purchasing and Contracting Agent, in his or her discretion, determines that the interest of the City would be served by doing so.

D. When no bid is received in response to a solicitation for bids, or if no bid sets fixed prices applicable during the term of the contract, or if no sealed bid is received for an amount within the City's good-faith cost estimate, or when no bid fully complies with the specifications and/or bidding instructions made available to interested bidders, the Purchasing and Contracting Agent shall have the option to make the purchase through informal procedures or to readvertise so as to repeat the formal bidding process. The City Manager shall inform Council before proceeding under this provision. For purposes of this section, a rejected bid shall be deemed not to have been received by the City.

145.06 GOVERNMENTAL COOPERATIVE PURCHASING PROGRAMS

The Purchasing and Contracting Agent is authorized to make purchases and contracts by participating in any governmental cooperative purchasing program. Consistent with this authority, the Purchasing and Contracting Agent may bind the City to all lawful contract terms and conditions prescribed by such program, including payment of a reasonable fee by the City to cover administrative costs incurred by the program as a result of this City's participation. In entering into such contracts, the City Manager is authorized and directed to agree that the City will pay the Vendor directly for items the City receives.

145.07 PURCHASE ORDERS

After following the proper bidding process or after utilizing informal procedures, as appropriate, a purchase order will be prepared. All purchase orders shall be submitted to the Director of Finance and/or City Manager for certification (*see* Section 125.01(D)). Blanket purchase orders may be issued for an estimated year's supply of standardized material or services or to a supplier of various items where buying convenience or a quantity discount is a factor. The Director of Finance and/or City Manager may promulgate additional procedures, guidelines and standard practices relating to purchase orders and the purchasing process, as may be deemed necessary to facilitate proper financial record-keeping for the City.

145.08 COLLECTION AGENCY CONTRACTS

The Purchasing and Contracting Agent shall have authority to enter into contracts with collection agencies, on such terms as he or she deems to be in the best interest of the City, for collection of sums of money due this City.

145.09 PETTY CASH

If an item being purchased is $100.00 or less, the purchase may be considered a petty cash transaction. The head of the department making such purchase shall approve all petty cash purchases using the proper form, as provided by the Finance Department and consistent with procedures as may be established by the City Manager.

Legislative history: Ord. 4775, passed 07/15/13, enacted new Chapter 145 and REPEALED previous Chapter 145. Ord. 3835, passed 12/19/88, enacted new Chapter 145 and REPEALED previous Chapter 145. The following is legislative history in regard to the previous Chapter: Ord. 2149, passed 7/11/60; Ord. 2246, passed 1/21/63; Ord. 2569, passed 6/17/68; Ord. 2612, passed 2/17/69; Ord. 3235, passed 11/2/81; Ord. 3259, passed 4/19/82; Ord. 3354, passed 6/6/83; Ord. 3706, passed 11/16/87; Ord. 3707, passed 11/16/87; Ord. 3891, passed 9/11/89; Ord. 3941, passed 4/16/90; Ord. 4183, passed 3/1/93; Ord. 4184, passed 3/1/93; Ord. 4223, passed 10/18/93; Ord. 4237, passed 2/7/94; Ord. 4324, passed 3/4/96; Ord. 4386, passed 7/14/97; Ord. 4586, passed 5/2/05, effective 6/2/05.

CHAPTER 147
Money, Investments and Funds

147.01	Definitions.	147.06	Miscellaneous provisions.
147.02	Findings by the Council; inapplicability of and incorporation of state laws.	147.08	Treasury Investment Account.
		147.09	Investment of City money.
147.03	Depositories.	147.10	Capital Improvement Fund.
147.04	Security for repayment.	147.11	Beautification Fund.
147.04.1	Optional pledging requirements to allow the pooling of pledged securities.	147.12	Refuse Fund.
		147.13	Historical Preservation Fund; purpose and appropriations.
147.05	Investments other than active deposits or cash reserves.	147.14	Annual request of tax advances from the County Auditor.

CROSS REFERENCES

Purchasing, bidding, etc. - CHTR. 5.05 et seq.
Illegal contracts - see CHTR. 5.09.
Borrowing - see CHTR. Art. IX.
Deposit of public money - see ORC 117.17.
Treasury investment - see ORC 731.56 et seq.
Establishment of required funds - see ORC 5705.09.
Department of Finance - see ADM. Ch. 125.

147.01 DEFINITIONS.

As used in this chapter and unless another definition is provided or the content otherwise requires:

A. "Active deposit" means a deposit of the City's public money payable or withdrawable in whole or in part as authorized in the Consumer Checking Account Equity Act of 1980, 94 Stat. 146, 12 U.S.C.A. 1832(a).

B. "Eligible depository" means:

1. any national bank located in Ohio and any bank as defined by Section 1101.01 of the Revised Code of Ohio which is subject to inspections by the Ohio Superintendent of Banks; and

2. any domestic building and loan association as defined in ORC Section 1151.01 which is authorized to accept deposits.

C. "Public money" means all money in the treasury of the City, or money coming lawfully into the possession of the Finance Director.

D. "Uniform Depository Act" means Chapter 135 of the Revised Code of Ohio and any amendment or supplement thereto. Whenever any provision of the Uniform Depository Act is made applicable under this chapter, such provisions are applicable only to the extent that they are not in conflict with or inconsistent with the Charter and ordinances or resolutions.

147.02 FINDINGS BY THE COUNCIL; INAPPLICABILITY OF AND INCORPORATION OF STATE LAWS.

A. The Council hereby makes the following findings with respect to the authorization and the establishment of the policies and procedures for the deposit and investment of public money in the treasury:

1. The authorization and establishment of such policies and procedures are powers of local self-government which may be exercised by the City through its ordinances under Sections 3 and 7 of Article XVIII of the Ohio Constitution and Article II of the Charter.

2. The authorization and establishment of such policies and procedures are in the best interests of the City and its citizens: (a) to provide a more efficient management of the City's money and investments; and (b) to enable the City to earn a greater yield on its investments and to provide safeguards of the City's money.

B. The Uniform Depository Act shall not apply to the City, except as it may be adopted by reference under this chapter. Section 135.11 of the Revised Code of Ohio, pertaining to exemption from conflict of interest laws, shall apply to the City, however.

C. In its actions and decisions regarding the deposit and investment of public money, the City may follow the procedures of the Uniform Depository Act from time to time, may elect to proceed under this Chapter 147 in other situations, and may change this election at any time and from time to time with the result that the Uniform Depository Act may apply to certain portions of the public funds of this City while Chapter 147 may apply to other portions of those funds.

D. To the extent that this chapter is applied to any particular amount of public money, the Uniform Depository Act shall not apply to that portion of money, except as it may be adopted by reference under this chapter. As noted in paragraph B, however, ORC Section 135.11 (pertaining to exemption from conflict of interest laws) always shall apply to the City.

Section 135.11 (pertaining to exemption from conflict of interest laws) always shall apply to the City.

E. Sections 731.56 to 731.59, inclusive, of the Revised Code of Ohio shall not apply to the City, except as ORC Section 731.59 is incorporated in part in Section 147.05 of this chapter.

F. Unless incorporated by reference or otherwise made applicable in this chapter, no other provision of the Revised Code of Ohio which is inconsistent or in conflict with this chapter shall apply to the City.

147.03 DEPOSITORIES.

A. The City Manager shall determine the amount of public money which shall be available in active deposits to provide the needed cash flow to pay warrants and checks issued and outstanding (and to provide for a reasonable surplus in addition thereto) and to maximize the interest received on public money of the City. Interest on active deposits shall be paid or credited by the City's designated eligible depositories at least quarterly and when funds are withdrawn, computing the time of payment from the date of deposit. No service charge shall be made by a designated eligible depository against an Active Deposit or collected from or paid by the Finance Director unless such service charge is the same as is customarily imposed by institutions in the City receiving money on deposit subject to check, in which event the Finance Director may pay such charge. All public money of the City not deposited in active deposits shall be invested pursuant to Section 147.05.

B. The City Manager shall, by a writing filed with the Clerk of Council, designate one or more eligible depositories as the depository or depositories of the City's active deposits. In making such designation the City Manager shall consider the following:

1. the convenience of the location of the depository's offices;

2. the rate or rates of interest, if any, which the depository will pay on the active deposits;

3. the service charges, if any, that will be made for the services of the depository; and

4. any other terms or conditions with respect to the depository's acceptance of the City's active deposit.

C. The initial designation of depositories for the City's active deposits shall be for a period not to exceed six months and may be made without giving the notice hereinafter provided for. Subsequent designations of depositories for the City's active deposits shall be for a period specified in the City Manager's written designation of depositories described in the paragraph immediately above. That period shall not be less than six months nor longer than five years, and such subsequent designations shall be

made after the Finance Director has provided written notice by first-class mail to the eligible depositories having an office in the City, and such other eligible depositories as determined by the Finance Director, at least sixty days prior to the date of the action of the City Manager designating depositories for the City's active deposits.

D. Such notice shall provide an estimate of the maximum amount of such active deposits at any time during the period of designation and the proposed period of designation or alternative proposed periods of designation. It shall also request such depositories to apply in writing for all or part of the City's active deposits on or before a date and time specified in the notice. The notice to such eligible depositories shall request them to state in their applications the amount of active deposits which will be accepted by them, the rate of interest, if any, which will be paid on such active deposits, the service charges, if any, which will be made for their services, other terms or conditions with respect to the acceptance of all or part of the City's active deposits, and the location of their offices in the City, or if none are located in the City, the location of their nearest offices.

E. The notice shall include or request any other information to or from such depositories which the Finance Director deems relevant. The request for written applications or their receipt does not constitute a bidding procedure. Rather, such request and application are intended to provide relevant information to the City Manager for his or her designation pursuant to this section and to provide notice to eligible depositories that the City will receive applications and proposals for its active deposits.

F. The City Manager shall enter into a contract, approved as to form by the City Attorney, with such depositories for the appropriate period determined pursuant to this section. Such contract shall establish the rate of interest, if any, to be paid by the depository on the City's active deposits, the service charges, if any, the depository may make for its services, and other terms or conditions of the depository's acceptance of the City's active deposits.

G. The limitations of the aggregate amounts of public money that may be on deposit with eligible depositories as set forth in the Uniform Depository Act shall apply under this chapter.

147.04 SECURITY FOR REPAYMENT OF DEPOSITS.

A. Before making the initial deposit in a public depository pursuant to an award made under Section 147.03 or pursuant to an investment in a certificate of deposit under

Action 147.05(b)(7), the Finance Director shall require the institution to pledge to and deposit with him, as security for the repayment of all public money to be deposited in the depository during the period of designation, eligible securities of aggregate market value equal to the excess of the amount of public money to be at the time so deposited, over and above such amount of that money as is insured by the federal deposit insurance corporation or by any other agency or instrumentality of the federal government or of the State of Ohio as may be approved by the City Manager and City Attorney. In the alternative, the Finance Director may require such institution to deposit with the City surety company bonds or other insurance policies approved by the City Manager and City Attorney which, when executed, shall be for an amount equal to such excess amount.

B. In the case of any deposit other than the initial deposit made during the period of designation, the amount of the aggregate market value of securities required to be pledged and deposited, or the surety company bonds required to be deposited or the other insurance coverage required, shall be equal to the difference between the amount of public money on deposit in such public depository plus the amount to be so deposited, minus such portion or amount of the aggregate as is at the time insured as provided in this section. The Finance Director may require additional eligible securities to be deposited to provide for any depreciation which may occur in the market value of any of the securities so deposited.

C. The following securities shall be eligible for the purposes of this section:

1. Bonds, notes, or other obligations of the United States; or bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon, by language appearing in the instrument specifically providing such guarantee or pledge and not merely by interpretation or otherwise.

2. Bonds, notes, debentures, or other obligations or securities issued by any federal government agency or the export-import bank of Washington. In addition, bonds, notes, or other obligations guaranteed as to principal and interest by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon, by language appearing in the instrument specifically providing such guarantee or pledge and not merely by interpretation or otherwise.

3. Bonds and other obligations of this state.

4. Bonds and other obligations of any country, township, school district, municipal corporation (including the City) or other legally constituted

taxing subdivision of this state which is not at the time of such deposit in default in the payment of principal or interest on any of its bonds or other obligations, for which the full faith and credit of the issuing subdivisions is pledged.

5. Bonds of other states of the United States which have not during the ten years immediately preceding the time of such deposit defaulted in payments of either interest or principal on any of their bonds.

6. Obligations guaranteed as to principal and interest by the Ohio Student Loan Commission.

D. If the depository fails to pay over any part of the deposit made therein as provided by law, the Finance Director shall sell at public sale any of the bonds or other securities deposited with him pursuant to this section or ORC Section 131.09. Thirty days' notice of such sale shall be given in a newspaper of general circulation at the county seat of the county in which the office of the Director of Finance is located. Pursuant to division (c) of ORC Section 135.18. when a sale of bonds or other securities has been so made and upon payment to the Finance Director of the purchase money, the Finance Director shall transfer such bonds or securities. At that time the absolute ownership of such bonds or securities shall pass to the purchasers, and any surplus remaining after deducting the amount due the state or subdivision and expenses of sale shall be paid to the depository.

E. An institution designated as a depository may, by written notice to the Finance Director, designate a qualified trustee and deposit the eligible securities required by this section with the trustee for safekeeping for the account of the Finance Director and the institution as a depository, as their respective rights to and interests in such securities under this section may appear and be asserted by written notice to or demand upon the trustee pursuant to division (D) of ORC Section 135.18. In such case, the Finance Director shall accept the written receipt of the trustee describing the securities which have been so deposited, a copy of which shall also be delivered to the depository. Thereupon all such securities so deposited are, pursuant to division (D) of ORC Section 135.18, deemed to be pledged with the Director of Finance and to be deposited with him for all purposes of this section.

F. The Council may make provisions for the exchange and release of securities and the substitution of other eligible securities except where the depository has deposited eligible securities with a trustee for safekeeping as provided in this section.

G. When the depository has deposited eligible securities described in this section with a trustee for safekeeping, the depository may at any time substitute eligible securities described above having a current market value equal to or greater than the current market

value of the securities then on deposit and for which they are to be substituted, without specific authorization from the City Council or Finance Director of such substitution, only if:

1. The Finance Director has authorized the depository to make such substitution on a continuing basis during a specified period without prior approval of each substitution. Such authorization may be effected by the director sending to the trustee a written notice stating that substitution may be effected on a continuing basis during a specified period which shall not extend beyond the end of the period of designation during which the notice is given. The trustee may rely upon such notice and upon the period of authorization and the period of designation stated therein.

2. In the situation in which no continuing authorization for substitution has been given by the Finance Director, the depository notifies the Finance Director and the trustee of an intended substitution, and the Finance Director fails to object to the trustee as to the eligibility or market value of the securities being substituted within ten calendar days after the date appearing on the notice of proposed substitution. The notice to the Finance Director and to the trustee shall be given in writing and delivered personally or by certified or registered mail with a return receipt requested. The trustee may assume in any case that the notice has been delivered to the Finance Director. In order for objections of the Finance Director to be effective, receipt of the objections must be acknowledged in writing by the trustee.

3. The Finance Director gives written authorization for a substitution of specific securities.

H. The depository shall notify the Finance Director of any such substitution. Upon request from the Finance Director, the trustee shall furnish a statement of the securities pledged against such public deposits.

I. Pursuant to division (I) of ORC Section 135.18, any federal reserve bank or branch thereof located in this state is qualified to act as trustee for the safekeeping of securities under this section, even without complying with ORC Sections 1109.03, 1109.04, 1109.17 and 1109.18 or with this chapter and without becoming subject to ORC Section 1109.15 or any other law of Ohio relative to the exercise by corporations of trust powers generally. Under division (I) of ORC Section 135.18, any institution mentioned in ORC Section 135.03 which holds a certificate of qualification issued by the Superintendent of Banks, and any institution complying with ORC Sections 1109.03, 1109.04, 1109.17 and 1109.18, also is qualified to act as trustee for the safekeeping of securities, (other than those belonging to itself) under this section and under ORC Section 135.18. Pursuant to said Section 135.18 and upon application to him in writing by any such institution, the Superintendent of Banks shall investigate the applicant and ascertain whether or not it has been authorized to execute and accept trusts in Ohio and

has safe and adequate vaults and efficient supervision thereof for the storage and safekeeping within Ohio of such securities. If the superintendent finds that the applicant has been so authorized and does have such vaults and supervision thereof, he shall, pursuant to said Section 135.18, approve the application and issue a certificate to that effect. The original or any certified copy of that certificate shall be conclusive evidence that the institution therein named is qualified to act as trustee for the purposes of this section with respect to securities other than those belonging to itself.

J. Notwithstanding the fact that a depository is required to pledge eligible securities in certain amounts to secure deposits of public money, a trustee shall have no duty or obligation to determine the eligibility, market value, or face value of any securities deposited with the trustee by a depository. This applies in all situations including, without limitation, a substitution of securities. Pursuant to ORC Section 135.18, any charges or compensation of a designated trustee for acting as such under this section shall be paid by the depository and in no event shall be chargeable to the City or to the Finance Director or to any officer of the City. Pursuant to said Section 135.18, such charges or compensation shall not be a lien or charge upon the securities deposited for safekeeping prior or superior to the rights to and interests in such securities of the City or of the Finance Director. Pursuant to said Section 135.18, the Finance Director and his bondsmen or surety shall be relieved from any liability to the City or to the depository for the loss or destruction of any securities deposited with a qualified trustee pursuant to this section.

147.04.1 OPTIONAL PLEDGING REQUIREMENTS TO ALLOW THE POOLING OF PLEDGED SECURITIES.

A. In lieu of the pledging requirement prescribed elsewhere in this Chapter 147, an institution designated as a public depository at its option may pledge a single pool of eligible securities to secure the repayment of all public money deposits in the institution which are not otherwise secured pursuant to law. At all times the total value of the securities so pledged (based on the valuations prescribed in this chapter) must be at least equal to 105% of the total amount of all public deposits secured by the pooled securities, including the portion of such deposits covered by any federal deposit insurance.

B. Funds of the City of Oakwood may be secured through the use of such a pooled fund of eligible securities in the manner described in ORC Section 135.181. (Ord. 3499, passed 8/12/85.)

147.05 INVESTMENTS OTHER THAN ACTIVE DEPOSITS OR CASH RESERVE.

A. It is the policy of the City to deposit and invest public funds in a manner which will provide the maximum security with the highest investment return while meeting the daily cash flow demands of the City and conforming to all State and local statutes governing the investment of public funds.

B. All public money of the City not deposited in active deposits or kept by the Finance Director as a cash reserve as may be prescribed by the City Manager shall be invested by the Finance Director pursuant to this section. Cash balances from the several different funds of the City may be pooled for investment purposes. Unless otherwise restricted, all interest earnings will be credited to the General Fund of the City. Investments under this section need not be limited to money which will not be needed for a period of six months. The City funds subject to this section are hereinafter referred to as the "Active Portfolio".

C. The following investment and deposit objectives will be applied in the management of City funds:

The primary objective of the City's investment activities is the preservation of capital and the protection of investment principal.

1. All investment and deposit transactions must be in conformance with all applicable laws and ordinances prevailing at the time of the transaction.
2. The City's investment portfolio will remain sufficiently liquid to enable the City to meet operating requirements which might be reasonably anticipated.
3. In investing public funds, the City will strive to maximize the return on the portfolio, but will avoid assuming unreasonable investment risks.
4. The City will diversify its investments to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.
5. Banks vary in the services they provide, their service fees, interest rates on interim investments and the minimum compensating balances required for demand-deposit accounts. The City's objective is to obtain good banking services while minimizing the cost of banking services to the City.

D. Deposit and investment of City funds shall be made with the exercise of that degree of judgement and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived (hereinafter referred to as "The Prudent Person Standard").

The standard of prudence to be used by City officials involved in the deposit and investment of City funds shall be The Prudent Person Standard and shall be applied in the context of managing an overall portfolio. City officials acting in accordance with written procedures and this policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

E. Authority to manage the City's deposits and investment program is derived from the City Charter. The Director of Finance, as Chief Financial Officer of the City, shall be charged with the administration of this Policy. The Director of Finance shall have the right to assign such duties and responsibilities as he or she deems appropriate in keeping with the efficient and prudent management of such policy. Such assignment shall include explicit delegation of authority to persons responsible for investment transactions.

F. Officers and employees involved in the deposit and investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

Officers and employees involved in the deposit and investment of City funds shall disclose to the City's independent auditors any material financial interests in financial institutions that conduct business with the City and further disclose any large personal financial/investment positions that could be related to the performance of the City's portfolio.

Officers and employees involved in the investment of City funds shall subordinate their personal investment transactions to those of the City, particularly with regard to the time of purchases and sales.

G. The Director of Finance shall have established a system of controls to regulate the activities of subordinate officials. Such internal controls and compliance therewith shall be subject to review during the annual audit conducted by or on behalf of the Auditor of the State of Ohio.

H. To the extent possible, the City will attempt to match the term to maturity of its investments with anticipated cash flow requirements. Unless matched to a specific cash flow requirement, the City will not directly invest in securities maturing more than 10 years from the month of settlement. A security trading on a "When Issued" basis may be purchased or sold if all aspects of the security and the trade meet the requirements by this Policy and the settlement date is no longer then 30 days after the trade date.

As an alternative, for securities which repay principal prior to maturity, such as certain mortgage backed securities, the City will not directly invest in securities with an

expected average life of more than 10 years. Expected average lives must be substantiated by forecasts independent of the City and the dealer from which the security is purchased such as the Bloomberg System.

I. Securities shall be purchased only through:

Nationally chartered commercial banks organized within and under laws of one of the United States, which are insured through the Federal Deposit Insurance Corporation, and which are members of the Federal Reserve; or

1. Broker/dealer firms which are registered with the National Association of Securities Dealers (NASD) and are licensed to sell securities within the State of Ohio; and
2. Primary securities dealers, as designated by the Federal Reserve Bank of New York and which qualify under Securities & Exchange Commission Uniform Net Capital Rule 15c3-1.
3. The broker/dealer must meet the eligibility requirements set forth in Section I(1), above; and
4. The broker/dealer and the personnel assigned to service the City's account must be licensed to sell securities in the State of Ohio.
5. The Director of Finance shall make additions to the authorized list when the above described criteria are met.
6. The Director of Finance shall make deletions from the list as directed if and as directed by ordinance of the City Commission, upon failure of the broker/dealer to meet the foregoing investment and deposit policy requirements, or upon request of the broker/dealer.
7. The Director of Finance shall make deletions from the list at his or her discretion based on the following criteria or circumstances:

Perceived financial difficulties of the broker/dealer;

a. Consistent lack of competitiveness by the broker/dealer;
b. Lack of experience or familiarity of the account representative in providing service to large institutional accounts; or
c. When deemed in the best interest of the City.

J. The City Manager and the Finance Director may invest in any of the following classifications of obligations, all of which are hereby determined to be eligible for investment:

Bonds, notes, or other obligations of or guaranteed by the United States or those for which the faith of the United States is pledged for the payment of principal and interest thereon.

Bonds, notes, debentures or other obligations or securities issued by any federal government agency or by the export-import bank of Washington.

Discount notes of the Federal National Mortgage Association, and bonds issued by the homeowners' loan corporation, as defined in ORC Section 731.56.

Bonds and notes of the State of Ohio.

Bonds and notes of any municipal corporation (including the City) county, township or other political subdivisions of Ohio as to which there is no default or principal, interest or coupons.

The Finance Director may enter into a repurchase agreement with any eligible institution mentioned in ORC Section 135.03. The eligible institution shall submit a Master Repurchase Agreement that has been entered into between the City and that particular institution. Each Master Repurchased Agreement will provide for:

Collateralization of each repurchase agreement consisting exclusively of obligations described in sections J(1) and (2) above, the market value of which shall not be less than 102% of the principal amount of each repurchase agreement plus accrued interest;

Safekeeping of the collateral by the City's third-party safekeeping agent; and

Settlement of each repurchase agreement on a delivery-versus-payment basis.

Master repurchase agreements may provide for substitution of collateral by the broker/dealer with the agreement of the City.

Certificates of deposit of eligible depositories which may provide on their face that the amount of such deposit is payable (upon written notice) at a specified period before the date of the repayment maturity.

Insured deposit accounts in eligible depositories paying interest at a rate greater than the interest paid on the City's active deposits. Such investments must be approved in writing by the City Manager and City Attorney and such approval shall also include approval of the insurance

provided to secure and protect the City's ability to recover the principal deposited in such deposit account.

Banker's acceptances issued by banks ranked within the top 100 banks based upon asset size, or issued by banks within the State of Ohio with at least two billion dollars ($2,000,000,000).

Commercial paper which when purchased is rated at least (P-1) by Moody's Investor Services and A-1 by Standard and Poor's, and corporate notes and other debt which, when purchased, is rated AAA by Moody's Investor Services and/or Standard and Poor's.

No-Load money market mutual funds consisting exclusively of obligations described in paragraphs J(1) and (2) hereof.

The State Treasury Asset Reserve of Ohio (STAR Ohio).

K. Securities which are specifically prohibited for investment include interest-only, mortgage-backed securities or other securities for which there exists a hypothetical mathematical possibility of a negative yield, excluding default risk, if the security is held to maturity.

L. To avoid incurring unreasonable risks inherent in over-investing in specific instruments, individual financial institutions, dealers or maturities, the Director of Finance will diversify the active portfolio as follows:

Instrument Type	Maximum Percent of Active Portfolio	Maximum Percent of Portfolio by Obligor
*U.S. Treasury Obligations	100	100
*Authorized U.S. Federal agency securities and U.S. Government-sponsored corporations and instrumentalities	100	50
*Nonnegotiable certificates of deposit	100	25
*STAR Ohio	100	100
*Prime Commercial Paper	25	10
*Bankers' acceptances	25	10
*Commercial debt - demand notes	25	25
*Commercial debt - notes and bonds	25	10

M. No transaction needs to be executed when, through inadvertence or unusual circumstances, a maturity in the active portfolio causes the percentage of a type or category of investment to exceed the diversification limits set forth in section (K) above.

Any transaction executed after such infraction shall work toward returning the active portfolio to compliance with such limits.

N. The City Manager and/or the Finance Director may set lower limits on the amount of funds which can be placed in any investment category.

O. Competitive bidding will be utilized in order to strengthen the investment program in terms of level and consistency of performance. When purchasing securities, the Director of Finance will obtain the minimum number of offerings as follows:

Type of Security	Minimum Acceptable Number of Offerings
Government securities	2
Nonnegotiable certificates of deposit	3
Bankers' acceptances	2
Commercial Paper	3

P. When selling any type of security, the Director of Finance will use his or her best efforts to obtain a minimum of three (3) bids. The right is reserved to reject the offering of bid yielding the highest return if such offering or bid is inconsistent with the City's investment strategy, i.e., maturity, risk, diversification, liquidity, etc. Price and rate quotations on all trades shall be obtained from authorized financial institutions and dealers within and outside the City. In the case of a purchase of sale of securities where all other factors are considered by the Director of Finance to be equal, placement will be made in favor of the institution situated within the City if two or more offerings or bids are the same.

Q. The City Manager may order the Finance Director to sell any of the securities, obligations, or certificates of deposit or to close any accounts held as investments. Such order shall be in writing and shall specifically describe the securities, obligations, certificates of deposit or accounts and fix the date on which they are to be sold or closed. Securities, obligations, certificates of deposit or accounts ordered to be sold or closed by the City Manager shall be sold or closed for cash by the Director of Finance on the date fixed in the City Manager's order at the then current market price.

R. The Finance Director shall have authority to sell any securities, obligations, or certificates of deposit or close any accounts held as investments (without the written order of the City Manager mentioned the paragraph immediately above) for cash and for a sum not less their current market price.

S. None of the Finance Director, the City Manager, the City Attorney or the members of Council shall be held accountable or personally liable for any loss occasioned by the sale of securities, obligations, or certificates of deposit or by the closing of insured

deposit accounts authorized pursuant to this section at prices lower than their cost or balance. Any loss or expense in making such sales or closing shall be payable as other expenses of the City.

T. Investments authorized by this section shall not be made at a price in excess of the current market price. The members of Council, the City Manager, the City Attorney, and the Finance Director shall not be personally liable for or with respect to the purchase of securities, obligations, or certificates of deposit or the deposit of public money in insured deposit accounts authorized as investments pursuant to of this section. Members of Council, the City Manager and the City Attorney shall not be personally liable for any unauthorized investment by the Finance Director.

U. If any securities, obligations or certificates of deposit purchased under the authority of this section are issuable to a designated payee or to the order of a designated payee, the name of the Director of Finance and the title of his office shall be so designated. If any such securities, obligations or certificates of deposit are registerable, as to principal or interest or both, then such securities shall be registered in the name of the Finance Director as such.

V. The Finance Director shall be responsible for the safekeeping of all securities, obligations or certificates of deposit acquired by him under this section. Government securities, banker's acceptances, commercial paper and other authorized money market securities shall be settled in a delivery-versus payment method. Book entry or physical securities shall be safekept by a third-party safekeeping agent, correspondent money center bank customer custody account or Depository Trust Corporation (DTC) customer custody account. Another alternative, at the option of the City, securities may be safekept by recognized primary government securities dealers and the securities dealer subsidiaries of Ohio-based financial institutions if the securities are segregated from dealer securities into customer custodial accounts. Each delivery and safekeeping shall be evidenced by a safekeeping receipt. Any of such securities, obligations or certificates of deposit may be deposited for safekeeping with a qualified trustee as provided in ORC Section 135.18. Repurchase agreements will be processed according to subsection J hereof. If securities, obligations or certificates of deposit are not deposited with a qualified trustee, they shall be in the custody of the Finance Director and shall be kept by him in a safe deposit box or vault belonging to an eligible depository. Such safe deposit box or vault shall be opened only upon a warrant or order of the Finance Director in the presence of one or more of said Finance Director, City Attorney or City Manager or persons duly authorized as Acting Finance or Acting City Attorneys or Acting City Manager. The warrant or order to open such safe deposit box or vault shall direct the deposit or removal of such securities, obligations or certificates of deposit, clipping of coupons or other official business reason for opening the box or vault. A report of what is placed in, removed from or other official business conducted shall be signed, on the same day of the opening of the box or vault, by the officer witnessing such opening and the Finance Director. Such report shall be retained by the Finance Director.

W. Upon the expiration of the term of office of the Finance Director or in the event of a vacancy in that office by reason of death, resignation, removal from office, or otherwise, the Finance Director or his legal representative shall transfer and deliver to his successor all securities, obligations and certificates of deposit held by him. For the securities, obligations and certificates of deposit so transferred and delivered, such Director shall be credited with and his successor shall be charged with the amount of money invested in such securities, obligations and certificates of deposit.

X. Whenever securities, obligations or certificates of deposit acquired under this section mature and become due and payable, the Finance Director shall present them for payment according to their tenor and shall collect the moneys payable thereon. The money so collected shall be treated as public money subject to the provisions of this chapter.

Y. The Finance Director shall maintain accounts in which he shall make appropriate entries of all transactions relating to the investment of treasury funds. He shall keep a record of the number and maturity of interest coupons on instruments in which the City has invested.

Z. On and after the 1st day of March, 1982, the Finance Director shall provide to the City Manager periodic reports in such detail and at such times as required by the City Manager. Those reports shall show the deposits, withdrawals and balances in the various depositories of the City and all investments purchased, sold and held.

Amended by Ord. 4421, passed 9/14/98.

147.06 MISCELLANEOUS PROVISIONS.

A. The Finance Director, the City Manager, City Attorney and members of Council and their bondsmen or sureties shall be relieved from any liability for the loss of any public money deposited or invested pursuant to and in compliance with this chapter, including but not limited to losses occasioned by the failure of any depository.

B. Section 731.55 of the Ohio Revised Code shall be applicable to the City, and the insurance authorized by authorized such section may be procured by the City Manager with the costs of such insurance to be paid by the City.

147.08 TREASURY INVESTMENT ACCOUNT.

There is hereby created, pursuant to ORC Section 731.56, a Treasury Investment Account.

147.09 INVESTMENT OF CITY MONEY.

Whenever there is money in the City treasury which will be required to be used by the City for a period of six months or more, such money may, in lieu of being deposited in a bank, be invested in obligations of the City, in bonds or other obligations of the United States or those for the payment of principal and interest of which the faith of the United States is pledged, or in other obligations as enumerated in ORC 731.56. Such investments shall be authorized and made in accordance with the provisions of ORC 731.57.

147.10 CAPITAL IMPROVEMENT FUND.

The Finance Director is authorized and directed to establish a fund known as the Capital Improvement Fund to be used for the purpose of receiving and disbursing money for the making of improvements and the purchase of equipment having a useful life of more than one year.

147.11 BEAUTIFICATION FUND.

A. The Finance Director is authorized and directed to establish a fund known as the Beautification Fund to be used for the purpose of receiving, holding and expending municipal funds appropriated for the purpose of beautification of public streets, parks and other public ways and places within the City.

B. Within such fund the Finance Director shall establish a trust account. Within that trust account all money received by the City as gifts for beautification purposes shall be held in trust for the purposes of adding to the beauty of the public streets, avenues, boulevards, grounds and other public places of the City. All gifts of money received by the City for such purposes shall be credited to such fund and used for no other purpose.

147.12 REFUSE FUND.

The Finance Director is authorized and directed to establish a fund known as the Refuse Fund to be used for the purpose of receiving, holding and expending all municipal funds received or appropriated for the purposes of refuse collection and refuse disposal.

147.13 HISTORICAL PRESERVATION FUND; PURPOSE AND APPROPRIATIONS.

A. There is hereby created a trust fund known as the Historical Preservation Fund. The purpose of this Fund shall be to reserve, hold and disperse moneys donated to the City for the purpose of promulgating appreciation of (and preserving, protecting and collecting) things and objects of historical interest to the City. All gifts of money

received by the City for such purposes shall be credited to this fund and used for no other purpose.

B. In the interest of promoting historical preservation, the City may appropriate such operating money as may be deemed necessary. When such an appropriation is made it shall be credited to this fund and used solely for those purposes enumerated in Section 147.13.

147.14 ANNUAL REQUEST OF TAX ADVANCES FROM THE COUNTY AUDITOR.

The authority of the city to request each fiscal year an advance on monies in the county treasury to the credit of the city is hereby vested in the city manager. In making the request for a given fiscal year, the city manager shall certify in writing to the county auditor or to his designated deputy that this ordinance granting him the authority to request such advances remains in effect and that he requests on behalf of the city that such advances be made. Once the city manager has made the certification and request under this section for a given fiscal year, the city's director of finance is authorized during that fiscal year to request and to receive for deposit to the proper fund such monies as they accrue in the county treasury to the credit of the city. The requirement in general law that such advances be requested by resolution adopted for each fiscal year is hereby expressly superseded. (Ord. 4403, passed 2/2/98).

Legislative history: Ord. 1858 passed 2/15/54; Ord. 2353 passed 1/18/65; Ord. 2401 passed 12/20/65; Ord. 2402 passed 12/20/65; Ord. 2405 passed 12/20/65; Ord. 2407 passed 1/17/66; Ord. 2493 passed 7/12/67; Ord. 3277 passed 7/12/82; Ord. 4234, passed 1/17/94; Ord. 4403, passed 2/2/98; Ord. 4421, passed 9/14/98; Ord. 4560, passed 10/4/04– effective 11/4/04.

CHAPTER 148
Municipal Income Tax

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CROSS REFERENCES

Confidentiality of Info. - see ORC Ch 718.07
Power to levy income tax - see Ohio Const., Art. XII, Sec. 8.
Payroll deductions - see ORC 9.42.
Municipal income taxes - see ORC Ch. 718.
Subpoena power of Board of Tax Appeals - see ADMN. 160.02

148.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities, and capital improvements of the City of Oakwood, there shall be and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

148.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning. The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned date.

ADJUSTED FEDERAL TAXABLE INCOME – A corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

b. Add an amount equal to five percent (5%) of intangible income deducted under this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.

c. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.

d.

(i) Except as provided in division (d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (d)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

g. If the taxpayer is not a corporation, and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a corporation except:

(i) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as deductible expenses; and

(ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts

paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

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

ASSOCIATION - A partnership, limited partnership, limited liability company, trust, estate, or any other form of unincorporated enterprise or pass-through entity owned by two or more persons.

BOARD OF ADJUDICATION - The board created by and constituted as provided in section 148.13 of this chapter.

BOARD OF TAX APPEALS - The board created by and constituted as provided in section 148.13 of this chapter.

BUSINESS - An enterprise, profession, undertaking or other activity of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity. The term "business" shall include, but not necessarily be limited to, the sale, rental, lease, license, management, or other use of real and/or tangible personal property.

COMPENSATION – Any remuneration for work done or services provided and shall include, but shall not be limited to, salaries, wages, including vacation pay and sick pay, commissions, bonuses, tips, severance pay, supplemental unemployment pay, or any other remuneration for work done or services provided, that is paid to or constructively received by the recipient, and whether paid in cash or in property. That portion of gross compensation which may be deferred under a federally recognized plan is compensation for purposes of this chapter and is subject to taxation and to withholding under the provisions of this chapter.

CORPORATION - 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.

DAY - A calendar day or any portion thereof.

DOMICILE – With respect to any individual, a place of abode to which, whenever away therefrom, the individual intends to return.

EMPLOYEE - One who works for wages, salary, commission or other type of compensation in the service of an employer.

EMPLOYER - An individual, partnership, association, corporation, governmental body, unit, agency, or any other entity, whether or not organized for profit, having a place of business or doing business within the City of Oakwood and who or which employs one or more persons on a salary, wage, commission, or other compensation basis.

FISCAL YEAR - An accounting period of twelve months or less ending on any day other than December 31.

FORM 2106 – Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code. (generally used to report employee business expenses)

GENERIC FORM – An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. The generic form, once completed and filed, must contain all of the information required to be submitted with the municipality's prescribed returns, reports, or documents. Such generic form shall become the actual form it is intended to replace, subject to any and all rules and regulations set forth in the Ohio Revised Code and/or Municipal Ordinances.

GOOD CAUSE – Includes, but is not limited to, the avoidance of hardship and the efficient administration of the enforcement of the provisions of this chapter.

GROSS RECEIPTS - The total income of a taxpayer from whatever source derived.

INCOME FROM A PASS-THROUGH ENTITY – Partnership income of partners, membership interests of members of a limited liability company, or other distributive or proportionate ownership shares of income from other pass-through entities.

INCOME TAX - The Income Tax Administrator of the City of Oakwood, Ohio, aka Tax Administrator, aka Administrator, aka Tax Director, aka Superintendent, or the person executing the duties of that position. The person appointed to administer the Oakwood Income Tax Ordinance and to direct the operation of the Oakwood Income Tax Department.

INDIVIDUAL – A natural person.

INTANGIBLE INCOME – Income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms 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 or other similar games of chance.

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

INTERNET – The international computer network of both federal and nonfederal interoperable packet-switched data networks, including the graphical sub network known as the World Wide Web.

LIMITED LIABILITY COMPANY – A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the analogous laws of another state.

NET OPERATING LOSS (NOL) – The net loss from all operations and/or the complete or partial sale or disposition of a business or the assets thereof, after provision for all ordinary and necessary expenses, paid or accrued in accordance with the accounting method used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this chapter, federal, state, or other taxes based on income and, in the case of an association, without deduction of compensation to owners, and otherwise adjusted to the requirements of this chapter. Net operating losses may not be carried backward or forward to offset taxable income in past or future years.

NET PROFITS - The "net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in section 148.03, required to be reported on Schedule C, Schedule E or Schedule F of federal tax returns.

NONQUALIFIED DEFERRED COMPENSATION PLAN – A compensation plan described in section 3121(v)(2) (C) of the Internal Revenue Code.

NON-RESIDENT - Any individual who is not domiciled in the City of Oakwood, as defined in this Chapter 148.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY - An unincorporated business entity not having an office or place of business within the City of Oakwood.

OHIO BUSINESS GATEWAY - The online computer network system initially created by the Ohio Department of Administrative Services under section 125.30 of the Revised Code, that allows private businesses to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

OTHER ACTIVITY - Any undertaking, not otherwise specifically defined herein, which is normally entered into for profit or gain, including but not limited to lottery, contest and gambling winnings, as well as prizes and awards; rental of real and personal

property and any business conducted by a trust or guardianship estate.

OWNER – A sole-proprietor, partner of a partnership, a member of a limited liability company, or other person with an ownership interest in a pass-through entity.

OWNER'S PROPORTIONATE SHARE – With respect to each owner of a pass-through entity, the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

PASS-THROUGH ENTITY – A partnership, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

PERSON - Every natural person, fiduciary, association, corporation, governmental entity and any other entity. Whenever used in any section prescribing and imposing a penalty, the term "person" includes a shareholder, officer or employee of a corporation, a trustee of a trust, and a member, owner, officer or employee of an association, who as such shareholder, trustee, owner, officer, employee or member is under a duty to perform the act in respect of which the violation occurs.

PLACE OF BUSINESS - Any office (other than that of a mere statutory agent appointed to receive service of process), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his employees or agents.

PRINCIPAL PLACE OF BUSINESS – In the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business is in the municipality where the headquarters is situated. In the case of an employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

QUALIFIED PLAN – A retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.

QUALIFYING WAGES – Wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code. Qualifying wages include compensation arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, and the sale, exchange, or other disposition of stock purchased under a stock option; as well as the compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code.

RENTAL UNIT – Any physical space, including but not limited to any office, factory, retail store, warehouse, storage facility, residential dwelling, or other space or property, which is rented or leased to any person.

RESIDENT - An Individual domiciled in the City of Oakwood. Maintaining a place of abode within the City of Oakwood for a total of 183 days or more within any twelve month period shall be deemed presumptive proof of residency.

RESIDENT UNINCORPORATED BUSINESS ENTITY - An unincorporated business entity having a place of business within the City of Oakwood.

RETURN – Any original or amended City income tax return.

RETURN PREPARER – Any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer. However, a taxpayer may complete and/or file his own tax return.

S CORPORATION – A corporation which has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year. An S Corporation shall be taxed for municipal purposes in the same manner as a C corporation; distributions to shareholders/owners are considered non-taxable, and S corporation losses are not deductible by individual shareholders/owners.

SCHEDULE C – Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code. (Generally used to report self-employment income or loss)

SCHEDULE E – Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code. (Generally used to report rental income or loss and distributive share of income or loss to owners/partners)

SCHEDULE F – Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code. (Generally used to report farm income or loss)

SCHELULE K-1 – Internal Revenue Service Schedule K-1 filed by a pass-through entity pursuant to the Internal Revenue Code. (Generally used to report owner's / partner's distributive share of partnership income or loss)

TAXABLE INCOME - Qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, including lottery winnings, gambling proceeds, prizes, awards, and proceeds from contests and other games of chance; the net profit of a sole proprietorship as required to be reported by the taxpayer on schedule C or F; the net profit of an individual from rental and/or other activity required to be reported on schedule E; and adjusted federal taxable income from the operation of a business, adjusted in accordance with the provisions of

this Chapter.

TAXABLE YEAR - The corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

TAXPAYER - A person, whether an individual, partnership, association, corporation or other entity, required by this chapter to file a return or pay or withhold a tax. "Taxpayer" does not include any person that is a disregarded entity for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity.

148.03 IMPOSITION OF TAX.

A. An annual tax for the purposes specified in Section 148.01 shall be imposed for the period beginning May 1, 1968 at the rate of one percent per annum upon the items described below in this section.

B. Beginning June 1, 1974 an additional annual tax for the purpose of providing funds for essential municipal service and operation, capital improvement and for payment of debt shall be imposed in the same manner at the rate of one-half percent per annum upon items described below in this section.

C. Beginning April 1, 1975 an additional annual tax for the same purpose described in paragraph B above shall be imposed in the same manner at the rate of one-half percent per annum.

D. Beginning October 1, 1984 an additional annual tax for the same purpose described in paragraph B above shall be imposed in the same manner at the rate of one-half percent per annum.

E. The various tax rates referred to above shall be imposed on the following items:

1. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents, regardless of whether such income is earned within or outside the city limits of Oakwood.

2. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by non-residents for work done, or services performed or rendered in the City of Oakwood.

3. a. Residents: On the portion attributable to the City of Oakwood of the net profits earned and accrued or received by all resident associations, unincorporated businesses, pass-through entities, and other resident entities, derived from sales made, work done, services performed or rendered, and

business or other activities conducted in the City of Oakwood.

b. Residents: On the portion of the distributive share of net profits earned and accrued or received by a resident partner or owner of a resident unincorporated business entity or pass-through entity not attributable to the City of Oakwood and not levied against such unincorporated entity or pass-through entity.

4. a. Non-residents: On the portion attributable to the City of Oakwood of the net profits earned and accrued or received by all non-resident associations, unincorporated businesses, pass-through entities and other non-resident unincorporated entities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the City of Oakwood, whether or not such association or other unincorporated business entity has an office or place of business in the City of Oakwood.

b. Resident partner or owner of non-resident, unincorporated business: On the portion of the distributive share of the net profits earned and accrued or received by a resident partner or resident owner of a non-resident association or unincorporated business or pass-through entity which portion is not attributable to the City of Oakwood and not levied against such unincorporated business or pass-through entity.

5. Corporations: On the portion attributable to the City of Oakwood of the net profit of corporations for sales made, work done, services performed or rendered and business or other activities conducted in the City of Oakwood, whether or not the corporations have an office or place of business in the City of Oakwood using as a base the taxpayer's adjusted federal taxable income. This section does not apply to any taxpayer required to file a return under section 5745.03 of the Revised Code (concerning Electric Light Companies).

6. Net profit from business or rental activity required to be reported on schedule C or schedule E and attributable to the sale, rental and/or management of real property located within the boundaries of Oakwood shall be considered as having a taxable situs in the City of Oakwood. Accordingly, such compensation shall be taxable to Oakwood.

F. Allocation of Profit: Where a person, association or corporation (other than a taxpayer required to file a return under section 5745.03 of the Revised Code) conducts

a business both within and without the City, the portion of the entire net profit of such business to be allocated as having been earned in or otherwise attributable to the City may be determined from the books and records of such business, if such business maintains bona fide records which disclose with reasonable accuracy what portion of its net profit is attributable to that part of its activities conducted within the City. In the absence of such records, the portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City of Oakwood shall be determined as follows:

1. Multiply the entire net profits by a business allocation percentage to be the average ratio of:

   a. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business in the City of Oakwood during the taxable period in proportion to the average original cost of all the real and tangible personal property owned or used by the taxpayer in the business during the same period, wherever situated.

   b. As used in the preceding paragraph, real property shall include that rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by 8.

   c. Wages, salaries, and other compensation paid or accrued during the taxable period to persons employed in the business for services performed in the City of Oakwood in proportion to wages, salaries, and other compensation paid or accrued during the same period to persons employed in the business, wherever their services are performed.

   d. Gross receipts of the business from sales made and services performed during the taxable period in the City of Oakwood to gross receipts of the business during the same period from sales and services, wherever made or performed.

   e. If the foregoing apportionment formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

   f. A factor is excluded when it does not exist anywhere, that is, when the denominator is zero (0).

2. As used above this section, "sales made in the City of Oakwood" means:

a. All sales of tangible personal property delivered to an address within the City of Oakwood (regardless of where title passes) if shipped or delivered from a stock of goods located within the City.

b. All sales of tangible personal property delivered within the City of Oakwood (regardless of where title passes and even though transported from a point outside the City) if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.

c. All sales of tangible personal property which is shipped from a place within the City of Oakwood to purchasers outside the City (regardless of where title passes) if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

d. All sales and leases of real estate which is located within the boundaries of the City of Oakwood.

G. The portion of a taxpayer's net business operating loss allocable to the City may be applied against the portion of such taxpayer's net profit allocable to the City for the taxable year. Applicable schedules must all be completed.

1. Losses from business activities reportable on federal schedule C, E and/or F may not be used to offset qualifying wages, commissions or other compensation earned or received by residents or nonresidents of the city.

H. A person who receives wages or compensation taxable under this chapter and who pays business expenses without reimbursement from his employer or association, shall be entitled to a deduction for such expenses, to the same extent that such expenses qualify as business expense deductions for federal purposes, and provided that such expenses are determined by the Tax Administrator to be ordinary, necessary and incurred in earning the related income subject to tax under this chapter, but the deduction shall not exceed the amount of income to which such expenses are directly attributable. The amount allowed as a deduction for unreimbursed, ordinary and necessary, employee business expenses shall be limited to that amount which exceeds 2% of the employee's gross income, as computed on Schedule A of the taxpayer's federal tax return.

I. For the purpose of this section, the taxable base shall be determined in accordance with federal tax interpretations, when applicable, and with the accounting method used by the taxpayer for federal income taxes adjusted to the requirements of this chapter.

J. Consolidated returns.

1. Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Tax Administrator.

2. A consolidated City return may be filed with respect to a taxable year by a group of corporations which are affiliated through stock ownership if that affiliated group filed a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code for the same taxable year. A consolidated City return must include all companies that are affiliated. If the Tax Administrator finds net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.

K. Exceptions. The tax provided for herein shall not be levied upon:

1. The military pay or allowances of members of the Armed Forces of the United States and of their reserve components, including the Ohio National Guard;

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

3. Poor relief, unemployment insurance benefits, qualifying old age pensions or similar payments including disability benefits received from local, state or federal governments or charitable, religious or educational organizations;

4. Proceeds of insurance paid by reason of the death of the insured, qualifying pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered, from whatever source derived;

5. Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations;

6. Personal earnings of all persons under 18 years of age.

7. Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio which the City of Oakwood is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business);

8. Intangible income;

9. Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars shall be taxable, but the payer of such compensation shall not be required to withhold any tax from that compensation;

10. Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306 of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the City of Oakwood, or the headquarters of the authority or commission is located within the City of Oakwood;

11. The income of a public utility, when that utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code, except that the income of an electric company, combined company, and telephone company, as defined in section 5727.01 of the Revised Code shall be taxed;

12. An S corporation shareholder's distributive share of net profits of the S corporation;

13. Salaries, wages, commissions and other compensation and net profits the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce, including all items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code.

14. Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the

power of the City of Oakwood to impose net income taxes.

15. The compensation of an individual if all of the following apply:

(a) The individual does not reside in that municipal corporation.

(b) The compensation is paid for personal services performed by the individual in that municipal corporation on twelve or fewer days in the calendar year.

(c) In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside that municipal corporation and the individual pays tax on compensation described in Division (B) of this section to the municipal corporation, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.

(d) The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter.

148.04 EFFECTIVE PERIOD.

The various taxes referred to in Section 148.03 above shall be levied, collected and paid with respect to the wages, commissions and other compensation received during the periods beginning on the dates set forth below. Similarly these taxes shall be levied with respect to the net profits of business, professions or other activities earned and accrued or received during the period beginning on the following dates:

May 1, 1968 for the one percent tax in paragraph A of section 148.03;

June 1, 1974 for the one-half percent tax in paragraph B of that section;

April 1, 1975 for the one-half percent tax in paragraph C of that section;

October 1, 1984 for the one-half percent tax in paragraph D of that section.

148.05 MANDATORY FILING OF RETURN; PAYMENT OF TAX.

A. Each person who engages in business, or other activity or whose qualifying wages, commissions or other compensation is subject to the tax imposed by this chapter shall make and file a return on or before April 15 of each year, whether or not any tax is due from such person. In addition, every resident shall make and file a return in a similar manner, whether or not a tax is due from such resident, excepting those residents under 18 years of age and excepting residents who are retired and who have no income

subject to this tax and have so notified the superintendent in writing.

B. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation and other taxable income of an employee, and paid by the employer or employers to the Tax Administrator may be accepted as the return required of such employee whose sole income subject to tax under this Tax Code is such qualifying wages, commissions, other compensation and other taxable income.

C. The return shall be filed with the Tax Administrator on a form prescribed and furnished by or obtainable upon request from the Tax Administrator or upon a generic form which contains all of the following information and which generic form otherwise complies with all of the City's rules and ordinances governing the filing of returns, reports, and documents:

1. The aggregate amounts of qualifying wages, commissions and other compensation received by him and gross income from business, profession or other activity earned during the preceding year and subject to said tax, less allowable expenses incurred in the acquisition of such gross income;

2. The amount of the tax imposed by this chapter on such earnings and profits; and

3. Such other pertinent statements, information returns or other information as the Tax Administrator may require.

D. Nothwithstanding subsection 148.05(C), for taxable years beginning on or after January 1, 2005, a taxpayer subject to Oakwood's tax on the net profit from a business or profession may file its municipal income tax return or estimated municipal tax return, and may make payment of amounts due on such returns, by using the Ohio business Gateway.

E. Except as set forth in subsection (D), the taxpayer making a return shall, at the time of the filing thereof, pay to the City through the Tax Administrator the amount of taxes shown as due thereon. Credit shall be allowed for:

1. Any portion of the tax so due which was withheld at the source pursuant to the provisions of Section 148.06 of this chapter;

2. Any portion of said tax which was paid in advance by the taxpayer pursuant to the provisions of Section 148.07 of this chapter; and

3. Tax paid to another municipality as provided by Section 148.15 of this chapter.

F. Subject to the limitations contained in Section 148.11 of this chapter, any taxpayer who has overpaid the amount of tax to which the City is entitled may have part or all of such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded.

G. Amended returns.

1. Where necessary, an amended return must be filed in order to report additional income and any additional tax due or to claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 148.11. Such amended returns shall be on a form meeting original filing requirements, clearly marked AMENDED. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return without the approval of the Tax Administrator.

2. Nothwithstanding the limitations contained in Section 148.11, within three months from the final determination of any federal tax liability affecting the taxpayer's City of Oakwood tax liability, such taxpayer shall make and file an amended City of Oakwood return showing income subject to the City of Oakwood tax based upon such final determination of federal tax liability and shall pay any additional tax shown due thereon or make claim for refund of any overpayment.

H. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns. Failure to do so shall be deemed to be a violation of this section, but the taxpayer shall have ten days after notification by the Tax Administrator to file such items.

148.06 COLLECTION AT SOURCE.

A. Each employer shall at the time of the payment of any qualifying wages, withhold the taxes levied by Section 148.03 of this chapter from the qualifying wages of his employees who are subject to the provisions of this chapter. In making such withholding, the employer shall compute the tax to the nearest full cent so that mills of five or more shall be increased to the next full cent and mills less than five shall be dropped. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his total earnings. Each employer shall, on or before the last day of each month, make a return and pay to the Tax Administrator, the tax withheld during the preceding month. The Tax Administrator shall

have authority, however, to approve the filing of returns and payments of the tax withheld on a quarterly basis. In such case, the employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30 and December 31, make a return and pay to the city the tax withheld during the preceding calendar quarter. Such approval for quarterly filings and payments may be withdrawn by the Tax Administrator when it is to the best interest of the City of Oakwood to do so. The Tax Administrator shall provide, by regulation the manner in which such approval is to be granted or withdrawn.

B. The employer shall be liable for the payment of the tax required to be withheld, whether or not such tax has in fact been withheld. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

C. The failure of an employer to remit to Oakwood the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

D. Such employer shall be deemed to hold withheld taxes as a Trustee for the benefit of the City of Oakwood; and any such withheld taxes shall, until paid to the City, be deemed to be a trust fund in the hands of the employer.

E. No person shall be required to withhold the tax on the wages or other compensation paid any domestic servant employed by him exclusively in or about such person's residence, even though that residence is in the City of Oakwood; but every such domestic servant employee shall be subject to all the requirements of this chapter.

F. On or before January 31 of each year, each employer shall file a withholding return on a form prescribed by and obtainable upon request from the Tax Administrator setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of taxes withheld and such other information as may be required by the rules and regulations adopted by the Tax Administrator. If the total City Income Tax withheld from any employee includes tax withheld for another municipality, the amount of such tax and the name of the municipality for which it was withheld shall be separately shown on the annual withholding return.

G. Any employer may report the amount of municipal income tax withheld from qualifying wages paid or on or after January 1, 2007, and may make remittance of such amounts by using the Ohio Business Gateway.

H. Any person who is required herein to withhold City Income Tax from compensation shall pay all such City Income tax to the City in accordance with the provisions of this Chapter. In the event the City Income Tax required to be withheld from the compensation of employees are not so withheld or are not paid to the City in

accordance with the provisions of this section, any person, including but not limited to all shareholders, officers, owners, managers, employees, and trustees, having control or supervision of or charged with the responsibility of filing the withholding return and making payment of City Income tax withheld are jointly and severally personally liable for the City Income Tax withheld, not returned, or not paid to the City as well as any related interest and penalties, and are also criminally liable under the provisions of Section 148.12. The liquidation, dissolution, termination, death, or bankruptcy of any person does not discharge such person's liability for a failure of such person to file withholding returns or withhold or pay City Income Taxes required to be withheld.

I. Any person required by the Internal Revenue Code to report, on an Internal Revenue Service Form 1099, payments made by such person to any individual not treated by such person as an employee for services performed by such individual shall also report such payment to the City where such services or any portion thereof were performed in the City, or where such payee is a resident of the City. Such report shall be made on a form prescribed by the Tax Administrator, which form shall include the name, address, federal taxpayer identification number, the amount of the payments made to each payee, and the percentage of such payments attributable to the City. Federal forms 1099 may be submitted in lieu of such report. Such return or forms shall be filed annually on or before February 28 of each year.

148.07 DECLARATION OF ESTIMATED TAX.

A. Every person who anticipates the receipt of any taxable income which is not subject to Section 148.06 of this chapter, or who engages in any business or other activity subject to the tax imposed by Section 148.03, shall file a declaration setting forth such person's estimated taxable income together with the estimated tax due thereon, if any.

B. The filing date for a declaration of estimated income and estimated tax shall be as follows:

1. On or before April 15 of each year, or on or before the fifteenth day of the fourth month after the date the taxpayer becomes subject to the provisions of this chapter.

2. Any taxpayer reporting on a fiscal year basis shall file a declaration on the fifteenth day of the fourth month after the beginning of each fiscal year or period.

C. Form for (and amendment of) estimated tax deductions.

1. Such declaration shall be filed upon a form furnished by or obtainable upon request from the Tax Administrator, which form or forms shall contain a statement that the figures used in making such declaration are the figures used in making the declaration of the

estimate of the taxpayer's federal income tax liability, adjusted to report that income which is taxable under the provisions of this chapter. Credit shall be taken for the City of Oakwood tax to be withheld. In accordance with the provisions of Section 148.15, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

2. The original declaration (or any subsequent amendment thereof) may be amended at any time.

3. An amended declaration must be filed on or before January 31 of the following year or, in the case of a taxpayer on a fiscal year, on or before the date fixed by regulation of the Tax Administrator if it appears that the original declaration made for such taxable year underestimated the taxpayer's income by ten percent or more. At such time a payment shall be made which, together with prior payments, is sufficient to pay the taxpayer's entire estimated liability. If upon the filing of the return required by Section 148.05, it appears that the taxpayer did not pay ninety percent of his tax liability as shown on said return on or before January 31 (or the date fixed by regulations, whichever is applicable), the difference between ninety percent of the taxpayer's tax liability and the amount of estimated tax actually so paid shall be subject to the interest and penalty provisions of Section 148.10 of this chapter.

D. Payment of estimated tax amounts shall be made as follows:

1. At least one fourth of the estimated annual tax, less credit, shall be paid when the declaration is to be filed; and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year. If an amended declaration of estimated tax has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

2. The last quarterly payment of estimated tax need not be made if the taxpayer files his final return and pays the balance of the tax due thereon within forty five days following the end of the taxable year.

148.08 DUTIES AND POWERS OF THE TAX ADMINISTRATOR.

A. It shall be the duty of the Tax Administrator to receive tax payments from the taxpayers, to keep an accurate record thereof, and to report daily all money so received. In addition, the Tax Administrator shall enforce payment of all taxes owed to the City and shall keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or to make any return,

including taxes withheld, and showing the dates and amounts of payments thereof.

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

C. If the Tax Administrator determines that a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may, subject to Subparagraph C 1 c of this Section 148.08, assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

1. General provisions as to assessment, interest and penalties and other decisions of the Tax Administrator:

a. Proposed assessments. If the Tax Administrator determines that a taxpayer has a tax liability for which he has filed no return, has filed an incorrect return or has failed to pay the full amount of tax due, the Tax Administrator may cause the issuance of a proposed assessment showing the amount of tax due together with any penalty and interest that may have accrued thereon.

i. Such proposed assessment shall be served upon the taxpayer in person or by mailing to his last known address together with a notice setting forth the taxpayer's right to appeal the assessment and the manner in which to appeal. Proof of mailing furnished by the U.S. Post Office shall be presumptive proof of receipt thereof by the addressee.

ii. A taxpayer may, within thirty days after the date the proposed assessment was served or mailed, file a written protest with the Tax Administrator, or the taxpayer may proceed as under subsection 148.08(b)(i) below. If no protest is filed to a proposed assessment, it shall become final thirty days after being served unless the taxpayer has elected to proceed under subsection 148.08(b)(i). If a protest is filed, within thirty days after receipt of the protest, the Tax Administrator shall give the protestant an opportunity to be heard, and the Tax Administrator may extend the date of hearing for good cause shown. Said hearing shall be a meeting with the Tax

Administrator at which the taxpayer may present records and facts in support of his or her position. Based on the facts and documentation gathered at the hearing, the Tax Administrator shall withdraw, adjust or reaffirm the assessment by issuance of a final assessment.

b. After a proposed assessment becomes final, notice of such final assessment may be issued and shall be served in the same manner as a proposed assessment. Said notice shall inform the taxpayer of his/her right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

i. A taxpayer who is aggrieved by a decision by the tax administrator and who has filed with the City the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision shall have thirty days after the date the Tax Administrator issued the final assessment or other decision aggrieving the taxpayer to file written notice of appeal with the Board of Tax Appeals. Such written notice of appeal shall state why the decision should be deemed incorrect or unlawful and shall be filed in a sealed envelope plainly marked "Appeal to Board of Tax Appeals" and mailed or delivered to the Tax Administrator who shall, open the appeal envelope and deliver such appeal to the Chairman of the Board of Tax Appeals or, if the Chairman is not available, to the Vice-Chairman of that board.

ii. Within thirty days of receipt of the "Appeal to Board of Tax Appeals", the Tax Administrator shall also deliver to the board in a similar manner a certified transcript of all actions taken with respect to said final assessment. Such transcript shall be open to inspection by the appellant and his/her counsel.

iii. Any taxpayer against whom a final assessment has been issued or who has otherwise been aggrieved by a decision of the Tax Administrator and who has properly filed a notice of appeal shall be granted a hearing by the Board of Tax Appeals within forty-five days after the Board has received the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear

before the Board. The Tax Administrator shall be deemed a party to the appeal. At such hearing the appellant and the Tax Administrator shall be given opportunity to present evidence relating to the said final assessment. The appellant shall proceed first and shall have the burden of proof.

iv. The Board of Tax Appeals shall issue a decision to affirm, reverse or modify the final assessment within ninety days after the conclusion of the hearing and shall furnish a copy of its decision by ordinary mail to all of the parties to the appeal within fifteen days after issuance of its decision.

c. A taxpayer aggrieved by a decision shall have sixty (60) days after notification of the municipal Board of Tax Appeals' decision to file a notice of appeal with the State Board of Tax Appeals or court of common pleas as provided in Ohio Revised Code section 5717.011. A copy of such notice of appeal shall be served on the Tax Administrator by hand delivery or mail on the date of filing. After sixty (60) days have elapsed without such appeal, the decision of the Municipal Board shall be deemed final, and any such resulting balance or required documentation shall be submitted within fifteen (15) days from expiration of the sixty (60) day period, including any related charges of penalty and/or interest.

d. When any taxpayer subject to the provisions of this chapter has filed a return indicating the amount of tax due and has failed to pay said tax to the Tax Administrator as required by this Chapter, the Tax Administrator need not issue an assessment but may proceed under the provisions of Sections 148.11 and 148.12 of this chapter. (See 148.12 A 2.) When any taxpayer subject to the provisions of this chapter has failed to file a return as required by this chapter, the Tax Administrator need not issue an assessment but may proceed under the provisions of section 148.12 B of this chapter.

e. Prior to receipt of final assessment notification, a taxpayer who is dissatisfied with any ruling or decision of Tax Administrator may appeal to the Board of Tax Appeals within 30 days from the announcement of such ruling or decision. Such written notice of appeal shall be specific in nature and filed in accordance with sub-section C 1 b i of this Section 148.08.

2. Assessment provisions affecting employers:

a. If the Tax Administrator determines that an employer subject to the provisions of this chapter, has failed to withhold tax, has failed to file a return for tax withheld and/or has failed to pay the full amount of said taxes, the Tax Administrator may issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon. Thereafter the provisions of Paragraphs C 1 of this Section 148.08 shall apply.

b. When an employer subject to the provisions of this chapter has filed a return indicating the amount of tax withheld and has failed to pay said tax to the Tax Administrator as required by this chapter, the Tax Administrator may proceed under the provisions of Sections 148.11 and 148.12 of this chapter and need not issue an assessment as provided in this Section 148.08. (See Section 148.12 A 2.)

D. Payment of tax assessments shall be made as follows:

1. Any taxpayer or employer who has not filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him shall pay the amount thereof within thirty days after service of such final assessment.

2. Any taxpayer or employer who has filed a notice of appeal to the Board of Tax Appeals shall pay the amount determined to be due by the Board of Tax Appeals and/or submit the information/documentation deemed to be necessary as ruled by the Board of Tax Appeals within fifteen (15) days after service on him of the Board's decision.

E. Extensions: The Tax Administrator shall have the authority, when requested by the taxpayer and for good cause shown, to extend the time of making and filing any return The Tax Administrator may require a tentative return, accompanied by the amount of tax set forth therein as being due, by the date the return normally is due.

1. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Administrator no later than the last day on which the municipal income tax return is due.

2. For taxable years beginning after 2003, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has

been extended.

3. Any taxpayer that is subject to Oakwood municipal tax on the net profit from a business or profession and has received an extension to file federal income tax return shall not be required to notify the City of Oakwood of the federal extension and shall not be required to file the municipal income tax return until the last day of the month to which the due date for filing the federal return has been extended, provided that, on or before the date for filing the municipal income tax return, the person notified the Tax Administrator of the federal extension through the Ohio business gateway.

4. The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:

   a. fails to timely file the request; or

   b. fails to file a copy of the federal extension request, (if applicable); or

   c. owes the municipality any delinquent income tax, penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax; or

   d. has failed to file any required income tax return, report, or other related document for a prior tax period.

5. The granting of an extension for filing a municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest shall apply to any unpaid tax during the period of extension at the rates and in the manner set forth in section 148.10.

F. When requested by a taxpayer, the Tax Administrator may authorize partial payments of unpaid taxes if in his judgment the taxpayer is unable, due to hardship conditions, to pay the full amount of the tax when due and such deferred payments are the best means of accomplishing the intent of this chapter. The Tax Administrator shall not authorize an extension of time for the payment of said taxes due for more than 12 months beyond the date of the filing of the request.

148.09 INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

A. The Tax Administrator or any authorized employee is hereby authorized to examine the books, papers, records and copies of federal income tax returns of any employer or of any taxpayer or person subject to, or whom

the Tax Administrator believes is subject to, the provisions of this chapter. The official duties of the Finance Director shall include overseeing the work of the Tax Administrator and said Finance Director shall have access to and the right to inspect all records required to perform his or her legally delegated duties of overseeing administration and enforcement of the tax laws of the city of Oakwood. The purpose of such examination shall be to verify the accuracy of any return made or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer and supposed taxpayer is hereby directed and required to furnish within ten days following a written request by the Tax Administrator or his duly authorized agent or employee the means, facilities and opportunity for making such examinations.

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

C. The refusal to produce books, papers, records and copies of federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Tax Administrator authorized hereby shall be deemed a violation of this section, punishable as provided in Section 148.12 of this chapter.

D. Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes which shall include but shall not be limited to the exchange of income tax information with other government entities, and except when ordered by a court of competent jurisdiction. Any person divulging such information in violation of this section shall, upon conviction thereof, be deemed guilty of a first degree misdemeanor. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City of Oakwood who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

1. Notwithstanding anything to the contrary, the Tax Administrator may release to the Finance Department statistics, for use in preparation and publication of the Comprehensive Annual Financial Report, statistics in a form that does not disclose information with respect to particular taxpayers. For purposes of this section, statistics shall mean (i) the ranking, in order of the total amount withheld (without revealing the actual amount withheld) and remitted to the city, of the top ten (10) income tax withholders by year; and (ii) aggregate income tax paid or withheld by taxpayer type.

E. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid, whichever is later.

148.10 INTEREST AND PENALTIES.

A. All taxes imposed and all sums of money withheld or required to be withheld by employers under the provisions of this chapter which remain unpaid ten days after they become due shall bear interest at the rate of one and one-half percent per month or fraction thereof.

B. In addition to interest as provided in paragraph A hereof, underpayment penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due, on net income (of an individual, business or other taxable entity) one-half of one percent per month (or fraction thereof) or ten percent of the net taxes due, whichever is greater.
2. For failure to withhold and/or remit taxes due on employees' wages withheld from employees, three percent per month (or fraction thereof) or ten percent of the taxes to have been withheld or remitted, whichever is greater.
3. When the taxpayer has failed to file a declaration on which he has estimated and paid a tax at least equal to the tax paid for the previous year, or a tax at least equal to ninety percent of the actual tax due for the current year, or has failed to file a final return and pay the total tax on or before the end of the month following the end of his taxable year, ten percent of the difference between ninety percent of the actual tax for the year and the amount paid through withholding and/or declaration.
4. Except in the case of fraud, the underpayment penalty shall not exceed fifty percent of the unpaid tax.

C. Exceptions. An underpayment penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed. In the absence of fraud, neither underpayment penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed under this chapter and the additional tax is paid within three months after final determination of the federal tax liability.

D. After receiving the recommendation of the Tax Administrator, and except in the case of fraud, the Board of Adjudication may abate underpayment penalty or interest, or both in individual cases and/or may adopt, alter or revoke a general policy regarding the abatement of underpayment penalty, interest or both, and apply that policy to taxpayers.

E. In no case shall underpayment penalty and/or interest charges be levied when the total of such underpayment penalty and/or interest amounts to less than $1.00.

F. Any person required to withhold the tax who knowingly fails to do so or to pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof shall be liable to an underpayment penalty equal to the total amount of the tax evaded or not withheld or not paid over. No other underpayment penalty under this section shall be applied to any offense to which this underpayment penalty is applied.

G. For failure to file any complete income tax or withholding return by the due date, including due dates extended as set forth in Section 148.08(E), there shall be due a non-filing penalty in addition to all other penalties and interest, even if no tax is due. This non-filing penalty shall apply to any return filed, or required to be filed, on or after January 1, 2014. The amount of the non-filing penalty shall be twenty-five dollars ($25.00) for any return that is filed from one (1) to thirty (30) calendar days after the due date, and shall increase to fifty dollars ($50.00) thereafter. In cases where a return is filed but incomplete and the defect is timely cured in response to a request from the Tax Administrator, the Tax Administrator shall have discretion to waive the non-filing penalty.

H. Interest and underpayment penalty, but no non-filing penalty will be assessed where an extension has been granted by the Tax Administrator and the final tax paid within the period as extended.

148.11 COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS.

A. All taxes imposed by this chapter shall be collectible by civil suit as other debts of like amount are recoverable, together with any interest and penalties, and attorneys' reasonable fees incurred by the city with regard to that litigation; any legal services rendered leading up to litigation and any legal services rendered in connection with collection efforts whether or not litigation results. Except in the case of fraud, omission of twenty five percent of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed whichever is later; provided, however, that if the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Tax Administrator shall be one year from the time of the final determination of the federal tax liability.

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

C. The tax liability of a non-resident working both inside and outside the corporate limits of the city shall be computed on the formula of the total number of days worked in the city, divided by the total number of days worked during the year,

excluding holidays, vacation and sick leave time, and the resulting percentage applied to the total related annual income from gross wages, salaries and other compensation. Where no records can be substantiated regarding the total number of days worked during the year, the figure 260 is to be used as the base number of days worked. A listing of the specific dates and work locations for days worked outside the corporate limits of the city and employer certification shall be required.

D. Where a non-resident works both inside and outside the corporate limits of the City of Oakwood, but such work does not conform to a day in or a day out pattern, such as a mail carrier route, a substitute refund computation may be used, at the discretion of the Tax Administrator, whereby the employer certifies the percentage of time the employee worked in various jurisdictions during the year.

E. Additional amounts of less than $1.00 shall not be refunded or assessed.

148.12 CRIMINAL PENALTIES.

A. Exceptions from the criminal penalties of this section are as follows:

1. Any person subject to the provisions of this chapter who has filed an incorrect return or who has failed to pay the full amount of tax due shall not be deemed to have committed an offense punishable under the provisions of this section until any assessment issued against him under Section 148.08 above has become final and the time for payment thereof has expired.

2. Any person who has filed a return under the provisions of this chapter indicating the amount of tax due and has failed to pay said tax, together with any penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax, penalties or interest due as provided in Paragraph B 3 below until the date of filing such return, or until such time as any assessment issued against that person under Section 148.08 above has become final and the time for payment thereof has expired, whichever occurs earlier. (See Section 148.08 C 1 c and C 2 b.)

B. Every person shall be guilty of a first degree misdemeanor for each of the following acts which such person may do:

1. Recklessly fail or knowingly refuse to make any return or declaration required by this chapter; or

2. Knowingly make an incorrect return; or

3. Knowingly fail or refuse to pay any obligations imposed by this chapter; or

4. Knowingly fail or refuse to withhold the tax from his employees and remit such withholding to the Tax Administrator; or

5. Knowingly refuse to permit the Tax Administrator or duly authorized agent or employee to examine his employer's books, records, papers and copies of federal income tax returns relating to the income or net profits of a taxpayer; or

6. Knowingly fail to appear before the Tax Administrator and to produce his employer's books, records, papers or copies of federal income tax returns relating to the income or net profits of a taxpayer; or

7. Knowingly refuse to disclose to the Tax Administrator any information with respect to the income or net profit of a taxpayer; or

8. Knowingly fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or

9. Knowingly attempt to do anything whatever to evade the payment of the whole or any part of the obligations imposed by this chapter.

C. In addition to the meaning prescribed in Section 148.02 of this chapter, the term "person" as used in this section shall include (in the case of an association or corporation not having any partner, member or officer within the City of Oakwood) any employee or agent of such association or corporation who can be found within the corporate limits of the City.

D. All prosecutions under this section must be commenced within three years after the commission of the offense, except that in the case of fraud, failure to file a return, or the omission of twenty five percent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

E. The failure of any employer, taxpayer or person to obtain or receive any form shall not excuse him from the duty of completing and filing such form or from paying the tax.

148.13 BOARD OF ADJUDICATION AND BOARD OF TAX APPEALS.

A. Board of Adjudication.

1. A Board of Adjudication is hereby created to consist of the City Manager or a person designated by him, the Director of Finance or a person designated by him, and the City Attorney or his/her designated Assistant City Attorney. The board may select one of its

members each year to serve for a one year term as chairman and may elect a secretary in similar manner. A majority of the members of the board shall constitute a quorum.

2. The board shall adopt its own procedural rules and shall keep a record of its proceedings. All hearings of the board shall be conducted privately and the provisions of Section 148.09 above with reference to the confidential character of information required to be disclosed by this chapter shall apply to all matters presented to the Board of Adjudication.

3. After receiving the request or recommendation of the Tax Administrator as to modification of any assessment of, or collection procedure or refund regarding, any tax, penalty and/or interest, the board shall have the authority to make a decision on any such matter in individual cases and/or to adopt, alter or revoke a general policy to be followed as to all taxpayers.

B. Board of Tax Appeals. (See ADMIN 160.02 for subpoena power)

1. A Board of Tax Appeals is hereby created consisting of three representative citizens of the City of Oakwood (who are not employees of the city but who may serve on other citizen boards and commissions of the city) to be appointed by the City Council for a term of three years. One of the members of the board shall be chosen by the members as chairman of the board, and all may receive per diem compensation if such compensation is authorized by the City Council. A majority of the members of the board shall constitute a quorum.

2. The board may adopt its own procedural rules and keep a record of its proceedings. Such records are not public records available for inspection under Ohio Revised Code 149.43. All hearings by the board may be conducted privately and the provisions of Section 148.09 above with reference to the confidential character of information required to be disclosed by this chapter shall apply to all matters presented before the board. Hearings requested by a taxpayer before the Board are not meetings of a public body subject to Ohio Revised Code section 121.22 or to Oakwood Ordinance section 111.15.

3. The board shall have jurisdiction to hear appeals filed by taxpayers as provided in Section 148.08 of this chapter and to affirm, reverse or modify any assessment, ruling or decision, or any part thereof made by the Tax Administrator from which such an appeal has been filed. The board shall determine the facts and shall apply the

income tax law as set forth in this chapter but shall not have authority to vary or waive or refuse to apply any provision of the municipal income tax law of this City.

148.14 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be allocated in such manner as may be determined by the Council of the City of Oakwood.

148.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

A. If a resident of the City of Oakwood is subject to a municipal income tax in another municipality as well as in this City, he shall not pay a total municipal income tax (on the same income) greater than the tax imposed at the highest rate to which he is subject.

B. Every individual who resides in the City of Oakwood who receives net profits, qualifying wages, commissions or other taxable income for work done or services performed or rendered outside the City of Oakwood, and who is liable and has paid to another municipality an income tax on the same income taxable and taxed under this chapter, shall be allowed a credit against the tax imposed by this chapter (on the same income to the extent such income is taxed under this chapter) of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the Oakwood tax imposed on the income earned in the other municipality(ies) where such tax is paid.

The amount of net profit income earned in and taxed by a given municipality (as a percentage of total net profit income attributable to taxing and non-taxing jurisdictions) shall be used to determine each municipality's contribution to net Oakwood taxable income, prior to calculation of the resident city credit for taxes paid to other cities on net profit income. The rate to be used for calculation of this credit shall be the lesser of the resident city tax rate or the appropriate rate at which such income was taxed by such other municipality. The resident city credit(s) for taxes paid to another municipality(ies) on business activity net profits shall be calculated as follows:

Oakwood net profits taxable income ($) X municipality contribution (%) X tax rate (%) = allowable credit.

C. A claim for refund or credit under this section may be made in such manner as the superintendent may by regulation provide.

148.16 SAVING CLAUSE.

The income tax of the City of Oakwood shall not apply to any person or income who or which is beyond the power of the City Council to tax under this chapter. If any sentence, clause, section or part of this chapter, or any tax against any individual or any

of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter or tax and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter or tax. It is hereby declared to be the intention of the Council of the City of Oakwood that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

148.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

A. If the municipal income tax levied by this chapter is replaced, the provisions of this chapter shall continue in effect (insofar as the collection of taxes levied hereunder and proceedings to enforce any language of this chapter are concerned) until all of said taxes are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated.

B. If this chapter is repealed, annual returns due for all or any part of the last effective year of the municipal income tax of this City shall be due on the date provided in Sections 148.05 and 148.06 above as though this chapter were still in effect.

Legislative History: Ord. 2558, passed 4/15/68; Ord. 2857, passed 1/7/74; Ord. 2864, passed 3/8/74; Ord. 2881, passed 5/20/74; Ord. 2910, passed 3/17/75; Ord. 2945; passed 12/22/75; Ord. 3416, passed 4/16/84; Ord. 3417, passed 5/21/84; Ord. 3444, passed 8/27/84; Ord. 3450, passed 9/10/84; Ord. 3451, passed 10/1/84; Ord. 3506, passed 10/7/85; Ord. 3507, passed 10/7/85; Ord. 3512, passed 10/21/85; Ord. 3526, passed 12/16/85; Ord. 3592, passed 10/20/86; Ord. 3659, passed 6/1/87; Ord. 3818, passed 11/21/88; Ord. 3911, passed 11/6/89; Ord. 3983, passed 7/9/90; Ord. 4026, passed 12/17/90; Ord. 4041, passed 2/4/91; Ord. 4048, passed 4/1/91; Ord. 4102, passed 12/23/91; Ord. 4145, passed 7/29/92; Ord. 4178, passed 12/21/92; Ord. 4219, passed 10/4/93; Ord. 4355, passed 12/16/96; Ord. 4470, passed 8/21/00; Ord. 4473, passed 11/20/00 - effective 1/1/01; Ord. 4541, passed 9/15/03 – effective 10/15/03; Ord. 4559, passed 10/4/04; Ord. 4683, passed 9/21/09 – effective 10/21/09; Ord. 4685, passed 12/14/09; Ord. 4781, passed 12/9/13.

CITY OF OAKWOOD
MUNICIPAL INCOME TAX
RULES AND REGULATIONS

ARTICLE XIX
SPECIAL RULINGS

ALIMONY

Alimony payments are not deductible from the gross income of the payer; likewise, alimony payments are not taxable to the recipient.

BANKRUPTCY

1. Taxes due are not canceled by a discharge in bankruptcy and any balance due may be collected by civil suit.
2. Interest and penalties accruing after the filing of a petition in bankruptcy are recoverable. (Bruning vs. 192 Federal Supplement 826)

BANKS

1. State banks cannot be taxed on their income from intangibles, but are taxable on other income in the same manner as other corporations. (Ohio Finance vs. City of Toledo)
2. Expenses incurred in securing non-tangible income may not be considered, in calculating the net profits from taxable income. (Art. III, A.6, C.07))
3. Banks cannot be required to file separate returns for their banking and real estate activities.

BULIDING AND LOAN COMPANIES

Only their income from intangibles and capital gains is exempt from taxation. (Ohio Finance vs. Toledo)

CAPITAL GAINS

1. Capital gains from the sale or exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned.
2. Any amount received on a sale or other disposition of tangible personal property used in trade or business in excess of book value, shall be treated as taxable income under the Ordinance to the extent of depreciation allowable after January 1, 1962. The balance shall be treated as a capital gain.
3. Ordinary gain realized from the disposition of real property (held more than six (6) months) used in trade or business shall be treated as taxable income in the same amount as computed for Federal purposes in accordance with existing Internal Revenue Codes.
4. If taxpayer shows over 50% of his gross income as attributable to capital gains, it should be verified that he is not actually engaged in such business.

CAPITAL LOSSES

Capital losses are not deductible.

CARRIERS

Carriers operating under a certificate by the P.U.C.O. are immune, under the Ohio Revised Code exemption of motor carriers, from City income tax, even though the certificate under which they are operating is held by someone else.

CHURCHES

Income from property owned by churches and not incidental to its activities is taxable. (To the extent such income is not derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.) (Section 148.03. I 1)

CONTRIBUTIONS

Allowable deductions by corporations only. Limited to 10% of city base income. Carry-over and carry-back will not be recognized as a deduction.

CREDITING OF PAYMENTS

1. Payments to be applied first to settlement of assessment of oldest year unless taxpayer specifies the payment is for taxes of a particular year.
2. A tax payment submitted for one year cannot be credited to an assessment for a prior year without notifying the taxpayers.

DIVISION OF FUNDS

The Tax Administrator may grant permission to file on a separate accounting basis providing each division doing business in the City files for all taxable years on such basis.

EMPLOYEE

1. The question of whether an individual is an employee or an independent contractor is determined on the basis of how he is treated for Federal income Tax purposes. If any of the following is done, the individual is an employee:
   A. Wages withheld for federal income tax purposes
   B. Withholding for Social Security.
   C. Payment of Workmen's Compensation by an employer for his/her benefit.
2. Employee is to be considered as reporting on a cash basis.
3. Contributions by an employer to a retirement system on behalf of his employees are deductible in the same amount and at the same time as permitted by the appropriate section of the Internal Revenue Code.
4. Schedule A – Expenses (with the exception of 2106 Employee Business Expenses) are personal deductions of a wage earner; not deductible for city income tax purposes.

ESTATES

Taxes owed by decedents may be collected from his estate and the mere fact that an estate is not probated does not cancel a tax obligation.

EXEMPTION

Burden of proof is on the prospective taxpayer.

EXPENSES

1. Judgment of personal injuries taken against an owner of real property used in business is a deductible expense.
2. Attorneys fees that are related to taxable activities are deductible expenses.
3. Unless the taxpayer can present definite records of actual costs, a formula of 5% of unearned income will be considered as the applicable expense incurred in the production of non-taxable income. The ratio of non-taxable income to total income will often be a more equitable percentage.
4. The 5% add back rule applies only to the net profits on business and professions, not to persons whose only taxable income is from wages.

FEDERAL EMPLOYEES

1. Taxable by city on the same basis as any privately employed person. (Buck Act 1940-4 U.S.C. Section 105-100), Ohio (Porges vs. Schiele, Hamilton County Court Common Pleas, #A-164981, 9-9-59), Springfield vs. Saunders, Clark County Court of Appeals (1962, 179 N/E2nd 370)
2. Non-residents are taxable even though working in area within the City exclusively under the jurisdiction of the United States. (Thompson vs. Philadelphia (1958) 258 F.2d 320, Ort, den.

358 U.S. 931, 79 S ct 317, 43h. den. 2/24/59)

FEES
Fees paid a realtor for arranging a loan are taxable.

FELLOWSHIP GRANTS
Fellowship grants are not taxable to the extent of tuition, room and board. Stipends received for work done and services performed are taxable.

FORMULA
1. Required where the parent corporation sells its products to its local officers at a profit.
2. Geographic location of mobile equipment governs its tax liability both when in use and at rest.
3. Wages, salaries and other compensation for personal services are defined as payments made by the employer directly to employees and not to any sub-contractor. Therefore, individual payments for labor to a sub-contractor may not be included as wages in computing the percentage applicable to Oakwood.

GROUND RENTS
1. Ground rents are defined as income received from perpetual leases which the lesser does nothing to receive the rents. A monthly rental contract is not ground rent even though the lessee does nothing.
2. To be earned income, it must be the result of labor, management or supervision of real estate (Murray vs. Philadelphia 363 Pa524); and since ground rents are the same as receipts from intangibles, they are not taxable.

GROUP TERM INSURANCE
Employer paid premiums for group term life insurance for coverage up to $50,000 are not taxed to the employee. The cost of coverage over $50,000 provided by one or more employers is taxable to the employee in his tax year in which the premiums are paid. (IRS Code Sec. 79)

INCOME
Payments for suggestions for improving a business are taxable.

INDEPENDENT CONTRACTORS
List of independent contractors must be furnished even though payment is on a commission basis.

INSURANCE
1. When a domestic insurance company has filed a certificate that it is so classified, it need not file a declaration or final return. (5725.18 Revised Code)
2. With respect to non-resident agents, if sales only are used, situs of personal life insurance is the residence of the insured. Sales of commercial life insurance, partnership insurance, etc. is the business location of the insured.
3. Terminal payments: when a guaranteed continuance of wages for a specified period has been agreed to with a union, such payments are considered insurance and not taxable as wages when no personal services are performed.

INSURANCE AGENTS
Commissions received by heirs, after the death of the agent, are not earned income and non-taxable.

INTANGIBLE INCOME
1. The Tax Administrator may require proof of payment of the 5% state tax measured by yield before declaring such income exempt.
2. Dealers in intangibles are not taxed on that income which is subject to taxation under the

Intangible Tax Law of Ohio.

3. Income from collection of notes purchased at a discount form the seller of merchandise is intangible income and not taxable if the purchaser shows proof of payment of the 5% intangible tax to the State. However, the mercantile company retaining its notes cannot claim these as intangible income.

INVESTMENT INTEREST EXPENSE

Investment interest expense is deductible only to the extent that it is a result of a taxable operation.

LOANS

By professional persons to clients are not deductible.

LOSSES

1. Audit: On the basis of municipal, not federal regulations.
2. Business losses only will be permitted.

MANUFACTURERS' AGENTS

Sales by persons who are independent contractors who do not come under the definition of an employee may not be used in computing the sales factor of the formula by the taxpayer selling to such independent contractor.

MOVING EXPENSES

All reimbursements and other payments to both old and new employees for moving expenses are to be included in gross income. (I.R.S code Section 82, I.82-1 (2) (2) and (3). For allowable expenses refer to section 217 I.R.S. Code.

NON RESIDENT

1. Non-resident employers doing business in a municipality must withhold on their employees.
2. A non-resident is taxable on entire pay until substantiation from employer is submitted.

PAY

1. Severance pay is taxable.
2. Sick and vacation pay is taxable on the same ratio as normal earnings.

RECORDS

1. Refunds may be withheld from an employee until the employer has filed withholding statements and paid the tax.
2. All forms required, including current declarations, completed schedules, and the furnishings of any information requested by an Auditor, are to be filed before a refund is processed.
3. Where an employee also has outside income upon which he has filed and paid, substantiation of the amount over-withheld will be required by the employer.
4. Refunds will not be made to an individual or business moving from the city until a return for the portion of the year involved has been filed and audited.

RENTALS

1. Received by a corporation from property outside the corporate limits are not taxable, even though the stockholders may be residents.
2. Fair rental value of a parsonage is not considered taxable income.

RESIDENCE

1. An individual retaining his domicile within the city is liable for the tax on his wages even though said wages are received for work done outside the city.

RETIREMENT PLANS

1. Contributions by an individual to the following retirement plans are not to be excluded from taxable income:
   A. Keogh Plans
   B. Individual Retirement Accounts (IRA)
   C. State of Ohio Deferred Compensation Plans
   D. International City Managers Association Retirement Cor. (I.C.M.A.)
   E. Tax Shelter Annuities
   F. 401-K

   Income tax notice was effective January 1, 1975. (Law Dept. Opinion 7/21/77)

2. Other plans:
   There are varying types of retirement and benefit plans employers may establish for their employees. Due to this variety, no specific statement as to the taxable or non-taxable status to the employee can be made. The determination of the taxable status of these plans will be on an individual basis.

3. For the purpose of determining compensation that is subject to the municipal income tax of this city, the gross wages or other compensation of any person subject to a retirement plan "pick up" by this city or any other public employer shall include the "pick up" portion paid by the employer, whereas for federal and state income tax purposes that portion shall not be deemed to be part of any wages, salary or other compensation.

RETURNS

1. Any firm engaged in business in the city must file until declared non-taxable.
2. Returns are required even where the tax liability is the same as the amount declared or almost entirely from non-taxable sources.
3. Where a corporation owning other companies has reported on a consolidated basis, they must continue to do so and where the taxpayer has been reporting for each of its companies, it must continue such separate system until change is authorized by the Tax Administrator.
4. Formula
   Expenses of a national organization filing under separate accounting may not be disallowed merely because they pertain to the national office.
5. Trustees
   Trustees are required to file returns on the trust even though the tax is paid by the recipient and the said return must give the names and addresses of the beneficiaries of the trust.
6. Married persons may file joint returns.

ROYALTIES

Royalties are taxable if not taxed by the State as productive intangible investments such as income from patents and copyrights. Royalties derived from land leases (mineral rights, oil, gravel, etc.) are taxable.

SOLICITATION

1. Soliciting within the corporate limits on a regular basis is a taxable activity regardless of where the sale is consummated.
2. Telephone orders given as a result of telephone solicitation made outside the corporate limits with no other solicitation are not taxable.

STATE INCOME TAXES

No credit will be allowed for state income taxes paid, but credit will be allowed for taxes owed and paid another municipality on the same income within or outside the State of Ohio.

STOCK OPTIONS EXERCISED

Qualified: When stock acquired under a qualified stock option is sold or exchanged before it is held 3 years, there may be ordinary income (difference between option price and market value on date of exercise) plus capital gain for any amount received above the market value on date of exercise. That portion considered to be ordinary income is subject to municipal tax. That portion considered capital gain is not taxable.

Non-Qualified: Based on I.R.S. Code Section 421, the employee will realize income at the time when the option is exercised and the spread between the option price and fair market value of the stock will be compensation taxable as ordinary income at the time of exercise.

TRUSTEE

The trustee has primary responsibility for reporting and paying taxes on income taxable under the Ordinances. However, this does not relieve the beneficiary of the responsibility when the trustee does not report and pay.

VOW OF POVERTY

Salaries and wages are not considered received by the individual member but by the order of organization. Section 501d of the I.R.S. Code prohibits taxation of apostolic associations or organizations.

WITHHOLDING

Non-resident employers not required to withhold but doing so voluntarily will be assessed for late filing of withholding taxes.

CHAPTER 148-1
Municipal Income Tax
Effective January 1, 2016
For taxable years beginning on or after January 1, 2016

148-1.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE

148-1.011 AUTHORITY TO LEVY TAX

148-1.012 PURPOSES OF TAX; RATE

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148-1.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX

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148-1.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS

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148-1.05 COLLECTION AT SOURCE

148-1.051 COLLECTION AT SOURCE; WITHHOLDING FROM WAGES

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148-1.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY

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148-1.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS

148-1.20 ADOPTION OF RULES

148-1.97 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER

148-1.98 SAVINGS CLAUSE

148-1.99 VIOLATIONS - PENALTY

148-1.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE

148-1.011 AUTHORITY TO LEVY TAX

(A) The tax on income and the withholding tax established by this Chapter 148-1 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 148-1 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

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

(Source: ORC 718.04)

148-1.012 PURPOSES OF TAX; RATE

(A) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities, and capital improvements of the City of Oakwood, there shall be and is hereby levied a tax on salaries, wages, commissions and other taxable income, and on net profits, as hereinafter provided.

(B) The tax levied herein shall be imposed at the rate of two and one-half percent (2 ½%) per annum, which rate is an aggregation of rates duly approved by voters of the Municipality and originally taking effect on or about May 1, 1968; June 1, 1974; April 1, 1975; and October 1, 1984.

(Source: ORC 718.04)

148-1.013 ALLOCATION OF FUNDS

The funds collected under the provisions of this chapter shall be allocated in such manner as may be determined by the Council of the City of Oakwood.

148-1.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX

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

(B) As mandated by H.B. 5, municipal income tax Ordinance 4812, effective January 1, 2016, enacts Chapter 148-1 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.

148-1.02 EFFECTIVE DATE

(A) Ordinance 4812, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 148-1 apply to taxable years beginning 2016 and succeeding taxable years.
(B) Ordinance 4812 does not repeal the existing Chapter 148, which remains in full force and effect for any taxable year prior to 2016, but rather enacts Chapter 148-1 as a parallel taxation ordinance effective January 1, 2016, applying to taxable years beginning on or after January 1, 2016 only. 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 Chapter 148.

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

148-1.03 DEFINITIONS

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

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

As used in this chapter:
(1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

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

(C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(D) (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

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

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

(G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;

(H) (i) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.

(iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section.

(iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (1)(H) of this section.

(v) Nothing in division (1)(H)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(H)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (1)(H)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(H)(iii)(a) of this section shall apply to the amount carried forward.

(I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 148-1.063 of this Chapter.

(J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 148-1.063 of this Chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(D) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of

capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

(2) (A) **"ASSESSMENT"** means any of the following:

(i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;

(ii) A full or partial denial of a refund request issued under Section 148-1.096 (B)(2) of this Chapter;

(iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 148-1.062(B)(2) of this Chapter; or

(iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 148-1.062(B)(3) of this Chapter.

(v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 148-1.18 of this Chapter, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

(B) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under Section 148-1.096 (B)(3) of this Chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.

(3) **"AUDIT"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax

(4) **"BOARD OF REVIEW"** has same meaning as "Local Board of Tax Review".

(5) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.

(6) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in section 3772.01 of the Ohio Revised Code.

(7) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE,"** and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.

(8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.

(9) "**DISREGARDED ENTITY**" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(10) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

(11) "**EXEMPT INCOME**" means all of the following:

(A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;

(B) (i) Except as provided in division (11)(B)(ii) of this section, intangible income;

(ii) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.

(C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

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

(E) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

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

(G) Alimony and child support received;

(H) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;

(I) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (11)(I) of this section does not apply for purposes of Chapter 5745 of the Ohio Revised Code.

(J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;

(K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;

(L) Employee compensation that is not qualifying wages as defined in division (34) of this section;

(M) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

(N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

(O) All of the municipal taxable income earned by individuals under eighteen years of age.

(P) (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of Section 148-1.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.

(ii) The exemption provided in division (11)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 148-1.052 of this Chapter

(iv) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in division (B)(1) of Section 148-1.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 148-1.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(Q) (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.

(ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the Municipality.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 148-1.052 of this Chapter.

(iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(R) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(S) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(12) "**FORM 2106**" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(13) "**GENERIC FORM**" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(14) "**INCOME**" means the following:

(A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(D) of this section.

(ii) For the purposes of division (14)(A)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section;

(b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N) or division 14(E) of this Section.

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For taxpayers that are not individuals, net profit of the taxpayer;

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such

winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 148-1.081 of this Chapter.

(E) INTENTIONALLY LEFT BLANK

(15) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(16) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(17) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(18) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under Section 148-1.18 of this Chapter..

(19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.

(20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:

(i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situsted to the Municipality under Section 148-1.062 of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

(ii) (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.

(iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situsted to the Municipality under Section 148-1.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the

amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) **"MUNICIPALITY"** means the city of Oakwood.

(22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) (A) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income.

(B) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.

(C) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(D) (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(ii) For the purposes of this chapter, and not withstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

(iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.

(iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

(v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation

on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.

(25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

(27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course if its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery

(32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.

(B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.

(34) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(A) Deduct the following amounts:

(i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

(iii) INTENTIONALLY LEFT BLANK.

(iv) INTENTIONALLY LEFT BLANK.

(v) Any amount included in wages that is exempt income.

(B) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.

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

(v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.

(vi) Any amount not included in wages if all of the following apply:

(a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;

(b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;

(c) For no succeeding taxable year will the amount constitute wages; and

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(35) **"RELATED ENTITY"** means any of the following:

(A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the

corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;

(D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.

(36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(37) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 148-1.042 of this Chapter.

(38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.

(43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(44) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:

(A) A municipal corporation acting as the agent of another municipal corporation;

(B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;

(C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

(45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .

(46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.

(B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company.

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

(c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

(e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

(ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

(48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.

(50) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770. of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code.

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

148-1.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS

148-1.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS

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

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 148-1.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 148-1.03 (14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 148-1.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 148-1.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 148-1.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 148-1.062(E).

(iii) Section 148-1.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).

(iv) "Pass Through Entity" is defined in Section 148-1.03(27).

(b) "Exempt Income" is defined in Section 148-1.03 (11) of this Chapter.

(c) Allowable employee business expense deduction is described in (20)(B) of Section 148-1.03 of this Chapter, and is subject to the limitations provided in that section.

(d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 148-1.03 (32) of this Chapter

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

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or situsted to the Municipality as provided in Section 148-1.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 148-1.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 148-1.03(14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 148-1.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 148-1.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 148-1.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

(iii) "Pass Through Entity" is defined in Section 148-1.03(27).

(b) "Exempt Income" is defined in Section 148-1.03(11) of this Chapter.

(c) "Apportioned or situsted to the Municipality as provided in Section 148-1.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 148-1.062(E).

(d) "Allowable employee business expense deduction" as described in (20)(B) of Section 148-1.03 of this Chapter, is subject to the limitations

provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.

(e) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 148-1.03(32) of this Chapter.

148-1.042 DOMICILE

(A) As used in this section:

(1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.

(2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.

(3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

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

(1) The individual's domicile in other taxable years;

(2) The location at which the individual is registered to vote;

(3) The address on the individual's driver's license;

(4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;

(5) The location and value of abodes owned or leased by the individual;

(6) Declarations, written or oral, made by the individual regarding the individual's residency;

(7) The primary location at which the individual is employed.

(8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;

(9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

(C) All applicable factors are provided in Ohio Revised Code Section 718.012.

(Source: ORC 718.012)

148-1.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES

(A) Only the municipal corporation of residence shall be permitted to levy a tax on the

income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

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

(Source: ORC 718.50)

148-1.05 COLLECTION AT SOURCE

148-1.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES

(A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 148-1.052 of this Chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

(a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) 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) INTENTIONALLY LEFT BLANK.

(d) INTENTIONALLY LEFT BLANK.

(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 148-1.091 of this Chapter,

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

(E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

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

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

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

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

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

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

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

(Source: ORC 718.03)

148-1.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT

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

(1) "Employer" includes a person that is a related member to or of an employer.

(2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.

(3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

(4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.

(7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

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

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

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

(a) The employee's principal place of work is located in the Municipality.

(b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:

(i) The nature of the services are such that it will require more than

twenty days of actual services to complete the services;

(ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.

(c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 148-1.051 of this Chapter.

(d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.

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

(a) Traveling to the location at which the employee will first perform services for the employer for the day;

(b) Traveling from a location at which the employee was performing services for the employer to any other location;

(c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;

(d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

(e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

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

(D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.

(2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

(3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 148-1.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
(F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of section 148-1.051 of this Chapter.
(G) INTENTIONALLY LEFT BLANK.

(Source: ORC 718.011; ORC 718.01)

148-1.053 COLLECTION AT SOURCE; CASINO AND VLT

(A) The Municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.
(B) If a person's winnings at a casino facility are an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.
(C) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the Municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the Municipality all amounts deducted and withheld during the preceding month.

(2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.

(4) A casino operator that fails to file a return and remit the amounts deducted and

withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:

(a) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;

(b) A certificate from the Tax Administrator indicating that no amounts are due.

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

(6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.

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

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

(1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.

(2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.

(3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.

(4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the

person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

(6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

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

(1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;

(2) A certificate from the Tax Administrator indicating that no amounts are due.

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

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

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

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

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

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 148-1.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.

(Source: ORC 718.031)

148-1.06 INCOME SUBJECT TO NET PROFIT TAX

148-1.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS

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

(A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.

(i) "Net Profit" for a person other than an individual is defined in Section 148-1.03(23).

(ii) "Adjusted Federal Taxable Income" is defined in Section 148-1.03(1) of this Chapter.

(2) "Exempt Income" is defined in Section 148-1.03(11) of this Chapter.

(3) "Apportionment" means the apportionment as determined by Section 148-1.062 of this Chapter.

(4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 148-1.03 (32) of this Chapter.

(Source: ORC 718.01)

148-1.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT

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

(A) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

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

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not-required to be withheld under section 148-1.052 of this Chapter;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

(a) Separate accounting;

(b) The exclusion of one or more of the factors;

(c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;

(d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely

filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of Section 148-1.19 of this Chapter.

(3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 148-1.19 of this Chapter.

(4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

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

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

(a) The employer;

(b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situsted to a municipal corporation as follows:

(1) Gross receipts from the sale of tangible personal property shall be situsted to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

(a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

(b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.

(c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(2) Gross receipts from the sale of services shall be situsted to the municipal corporation to the extent that such services are performed in the municipal corporation.

(3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situsted to the municipal corporation.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situsted to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be

sitused to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

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

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

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

(2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 148-1.081 of this Chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 148-1.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

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

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

(Source: ORC 718.02)

148-1.063 CONSOLIDATED FEDERAL INCOME TAX RETURN

(A) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division

(A)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.

(5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

(B) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.

(a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.

(b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or

(c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

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

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

(E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 148-1.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 148-1.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit

or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 148-1.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situsedto a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 148-1.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situsedto a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 148-1.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situsedto a municipal corporation;

(b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 148-1.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

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

(Source: ORC 718.06)

148-1.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the Municipality. If a credit is granted under this

section, it shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

(Source: ORC 718.15)

148-1.065 TAX CREDITS TO FOSTER JOB RETENTION

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

(Source: ORC 718.151)

148-1.07 DECLARATION OF ESTIMATED TAX

(A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:

(a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(d) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 148-1.091 of

this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

(a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year;

(b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;

(c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;

(d) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.

(2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 148-1.091 of this Chapter.

(a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.

(b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.

(4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 148-1.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

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

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

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

(1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 148-1.091 of this Chapter for that year.

(3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

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

(Source: 718.08)

148-1.08 CREDIT FOR TAX PAID

148-1.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

(A) If a resident of the City of Oakwood is subject to a municipal income tax in another municipality as well as in this City, he shall not pay a total municipal income tax (on the same income) greater than the tax imposed at the highest rate to which he is subject.

(B) Every individual who resides in the City of Oakwood who receives net profits, qualifying wages, commissions or other taxable income for work done or services performed or rendered outside the City of Oakwood, and who is liable and has paid to another municipality an income tax on the same income taxable and taxed under this chapter, shall be allowed a credit against the tax imposed by this chapter (on the same income to the extent such income is taxed under this chapter) of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the Oakwood tax imposed on the income earned in the other municipality(ies) where such tax is paid. The amount of income reported on federal Schedules C, E, and F, earned in and taxed by a given municipality (as a percentage of total income reported on federal Schedules C, E, and F, attributable to taxing and non-taxing jurisdictions) shall be used to determine each municipality's contribution to Oakwood net profit taxable income, prior to calculation of the resident city credit for taxes paid to other cities on net profit income. The rate to be used for calculation of this credit shall be the lesser of the resident city tax rate or the appropriate rate at which such income was taxed by such other municipality. The

resident city credit(s) for taxes paid to another municipality(ies) on net profit income shall be calculated as follows:

Oakwood net profit taxable income ($) X municipality contribution (%) X tax rate (%) = allowable credit.

148-1.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS

(A) As used in this section:

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

(2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

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

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

(B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

(C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

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

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

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

(Source: ORC 718.021)

148-1.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 148-1.081 of this Chapter.

(Source: ORC 718.16)

148-1.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND

(A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 148-1.096 of this Chapter.

(B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 148-1.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 148-1.096 of this Chapter.

(D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 148-1.081 of this Chapter regarding any limitation on credit shall prevail.

(Source: ORC 718.121)

148-1.09 ANNUAL RETURN

148-1.091 RETURN AND PAYMENT OF TAX

(A) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 148-1.051(C) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, 18 years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability, provided however that no return shall be required from residents who meet all of the following requirements:

(a) The resident is retired;

(b) The resident has no income subject to this tax and has so notified the Tax Administrator in writing; and

(c) The resident has filed a final tax return with the Municipality.

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

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

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

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

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

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's

Internal Revenue Service form 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

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

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

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(3) With respect to taxpayers to whom Section 148-1.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 148-

1.092 of this Chapter, the provision in Section 148-1.092 of this Chapter prevails.

(H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under division (F)(3) and (4) of this section.

(I) This division shall not apply to payments required to be made under division (B)(1)(b) of Section 148-1.051 of this Chapter.

(1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 148-1.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

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

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

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

(N) (1) As used in this division, "worksite location" has the same meaning as in section

148-1.052 of this chapter.

(2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

(b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person.

(Source: ORC 718.05)

148-1.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE

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

terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.

(2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

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

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

(Source: ORC 718.052)

148-1.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED

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

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

using the Ohio Business Gateway.
(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.
(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.
(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

(Source: ORC 718.051)

148-1.094 EXTENSION OF TIME TO FILE

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.
(B) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.
(C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.
(D) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

(Source: ORC 718.05)

148-1.095 AMENDED RETURNS

(A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.
(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.
(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify

the Tax Administrator before filing the amended return.

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under section 148-1.19 of this Chapter has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

(C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of this section for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 148-1.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened.

(Source: ORC 718.12, 718.41)

148-1.096 REFUNDS

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

(1) Overpayments of more than ten dollars;

(2) Amounts paid erroneously if the refund requested exceeds ten dollars.

(B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the

denial, and instructions for requesting an assessment that may be appealed under Section 148-1.18 of this Chapter.

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

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of Section 148-1.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 148-1.10 of this Chapter.

(Source: ORC 718.19148-1.)

148-1.10 PENALTY, INTEREST, FEES, AND CHARGES

(A) As used in this section:

(1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by

the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section shall apply to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules,, as adopted from time to time before January 1, 2016 of this Municipality.

(C) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.

(1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

(2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.

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

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

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

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

(G). The Municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees.

(Source: ORC 718.27)

148-1.11 AUDIT

(A) At or before the commencement of an audit, as defined in Section 148-1.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

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

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

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

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

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

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.

(Source: ORC 718.36)

148-1.12 ROUNDING

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

(Source: ORC 718.25)

148-1.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR

148-1.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR

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

(A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;

(B) Appoint agents and prescribe their powers and duties;

(C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

(D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;

(E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 148-1.062 of this Chapter;

(G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(H) Destroy any or all returns or other tax documents in the manner authorized by law;

(I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 148-1.051 of this Chapter.

(Source: ORC 718.24)

148-1.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME

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

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

(1) Compromise a claim;

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

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

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

(E) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

(2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

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

(Source: 718.28)

148-1.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE

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

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

(C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant,

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

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

(Source: ORC 718.23)

148-1.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION

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

(B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 148-1.10 of this Chapter, in addition to any applicable penalty described in section 148-1.99 of this Chapter.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 148-1.10 of this Chapter.

(3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 148-1.99 of this Chapter for a violation of 148-1.15 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law.

(Source: ORC 718.26)

148-1.14 CONFIDENTIALITY

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

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

(Source: ORC 718.13)

148-1.15 FRAUD

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

(Source: ORC 718.35)

148-1.16 OPINION OF THE TAX ADMINISTRATOR

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

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

(1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.

(2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.

(3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

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

(1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

(2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;

(3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;

(4) If the opinion of the Tax Administrator was based on the interpretation of federal

law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

(5) The effective date of any change in the taxpayer's material facts or circumstances;

(6) The effective date of the expiration of the opinion, if specified in the opinion.

(D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of section 148-1.15 of this Chapter.

(E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:

(1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;

(2) It is the duty of the taxpayer to be aware of such changes.

(F) A Tax Administrator may refuse to offer an opinion on any request received under this section.

(G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

(H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

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

(Source: ORC 718.38)

148-1.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY

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

(2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.

(3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.

(B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.

(Source: ORC 718.18)

148-1.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW

(A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.

(2) The Local Board of Tax Review shall consist of three members. The three members of the Local Board of Tax Review may be domiciled in the Municipality, but the appointing authority may consider membership from individuals who are not domiciled within the Municipality. Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.

(4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.

(5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy

on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

(7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(8) INTENTIONALLY LEFT BLANK.

(9) INTENTIONALLY LEFT BLANK.

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

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

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

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

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

(Source: ORC 718.11)

148-1.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS

(A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:

(i) Three years after the tax was due or the return was filed, whichever is later; or

(ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 148-1.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

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

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 148-1.096 of this Chapter.

(D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 148-1.18 of this Chapter, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 148-1.096 of this Chapter, with interest on that amount as provided by division (D) of this section.

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

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

(F) The Law Director or the Law Director's designee shall have the power to compromise any civil matter arising under this tax ordinance.

(Source: ORC 718.12)

148-1.20 ADOPTION OF RULES

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

(Source: ORC 718.30)

148-1.97 COLLECTION AFTER TERMINATION OF CHAPTER

(A) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 148-1.19.
(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 148-1.091 as though the same were continuing.

148-1.98 SAVINGS CLAUSE

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

148-1.99 VIOLATIONS; PENALTY

(A) Except as provided in division (B) of this section, whoever violates Section 148-1.15 of this Chapter, division (A) of Section 148-1.14 of this Chapter, or Section 148-1.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.
(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.
(C) Each instance of access or disclosure in violation of division (A) of Section 148-1.14 of this Chapter constitutes a separate offense.
(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the first degree. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

(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 148-1.051; or

(5) Neglect or refuse to withhold or remit municipal income tax from employees; or

(6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or

(7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

(8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or

(9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or

(10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or

(11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or

(12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.

(14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 148-1.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.

(E) The Law Director or the Law Director's designee shall have the power to compromise any criminal matter arising under this tax ordinance.

(Source: ORC 718.99)

Legislative History: *Ord. 4812, passed 11/2/2015 (effective 1/1/2016)*

CHAPTER 149
Civil Preparedness

149.01 City Manager as Director; subordinates; duties.
149.02 Administrative officers.
149.03 Appointment of auxiliary police, firemen; emblem.
149.04 Fees and bonds.
149.05 Termination of appointment.

CROSS REFERENCES
Continuity of local government in enemy attack - see ORC Ch. 161.
Alternate seats of local government in enemy attack - see ORC 5915.041.

149.01 CITY MANAGER AS DIRECTOR; SUBORDINATES; DUTIES.

The City Manager shall be the administrative head and Director of Civil Preparedness and shall serve as such without compensation. The City Manager may appoint an assistant director and/or a civilian director, responsible to the City Manager. The City Manager shall have such duties and responsibilities as are provided in ORC 5915.06.

149.02 ADMINISTRATIVE OFFICERS.

The City Manager is hereby authorized to appoint such administrative officers as may be required to assist him in administering and operating the civil defense organization for the City. Such officers shall serve without compensation, and shall act under the direction of the City Manager.

149.03 APPOINTMENT OF AUXILIARY POLICE, FIREMEN; EMBLEM.

A. The City Manager may appoint as many auxiliary police and firemen as may be deemed necessary to accomplish the purpose of providing a defense for the people against enemy action and other disasters. During their terms of service, but only during such times as they may be ordered to perform services by the director of Civil Defense and only while actually acting in line of duty under such orders, such auxiliary police and firemen shall possess all the powers and privileges and perform all the duties of police in the Division of Police. Such auxiliary police and firemen shall serve without compensation from the City, however, and their service shall not qualify or assist to qualify them for participation in any of the emoluments, privileges or benefits of the Police and Firemen's Disability and Pension Fund as established by state law.

B. Auxiliary police and firemen shall wear such identifying emblems as may be prescribed by the Director of Civil Preparedness while acting under orders as referred to in paragraph a of this section. No auxiliary police or firemen shall attempt to carry out any order, rule or regulation promulgated under the authority conferred by this chapter when he is not wearing that identifying emblem.

149.04 FEES AND BONDS.

No application or other fee shall be required of any applicant for appointment as an auxiliary policeman or fireman under the provisions of this chapter, nor shall a surety bond be required of him.

149.05 TERMINATION OF APPOINTMENT.

Any person appointed as auxiliary policeman or fireman who is determined by the City Manager to have been guilty of any conduct unbecoming a member of the police and fire forces of the City, or guilty of the violation of any ordinance of the City or law of the state or of the United States, shall have his appointment terminated by the City manager.

Legislative History: Ord. 1760, passed 5/21/51; Ord. 1764, passed 2/2/53.

CHAPTER 150
Civil Preparedness Plan

150.01 Definitions.
150.02 Organization and appointments.
150.03 Emergency powers and duties.
150.04 Civil preparedness plan and programs.
159.05 No municipal or private liability.
150.06 Violations.
150.07 Penalty.
150.08 Severability.
150.09 Conflicting ordinances, orders, rules and regulations suspended.

150.01 DEFINITIONS.

The following definitions shall apply in the interpretation of this Chapter:

A. "Civil Preparedness" means the ability to carry out the basic government functions of maintaining the public peace, health and safety during a civil emergency.

B. "Civil Emergency" means an event that would require a significant diversion of routine municipal resource and service scheduling, for the purpose of eliminating or reducing any danger to persons or their property.

C. "Disaster" includes but is not limited to extraordinary fire, flood, storm, epidemic or other impending or actual calamity endangering or threatening to endanger health, life or property or constituted government.

D. "Civil Preparedness Forces" means the employees, equipment and facilities of all City departments, boards, institutions and commissions; and, in addition, it shall include all volunteer personnel, equipment and facilities contributed by, or obtained from, volunteer persons or agencies.

E. "Volunteer" means one who contributes a service, equipment or facilities to the civil preparedness organization without remuneration.

F. "Civil Preparedness Volunteer" means any person duly registered, identified and appointed by the Director of the Office of Civil Preparedness and assigned to participate in the civil defense activity.

G. "Director" shall mean the City Manager or his designated alternate duly appointed in accordance with Section 4.03 of the City Charter.

H. "Regulations" shall include plans, programs, rules, restrictions, requirements and other emergency procedures deemed essential to civil preparedness.

150.02 ORGANIZATION AND APPOINTMENTS.

The City Manager is hereby authorized and directed to create an organization for civil preparedness utilizing to the fullest extent the existing agencies within this City. The City Manager, as executive head of the municipal government, shall be the Director of the civil preparedness forces of this City and shall be responsible for their organization, administration and operations. The organization shall consist of the following:

A. An Office of Civil Preparedness within the executive department of the City government and under the direction of the City Manager, and such assistants and other employees as are deemed necessary for the proper functioning of the organization.

B. The employees, equipment and facilities of all City departments, boards, institutions and commissions will participate in the civil preparedness activity. Duties assigned to a City department shall be the same or similar to the normal duties of the department.

C. Volunteer persons and agencies offering services to and accepted by the City.

150.03 EMERGENCY POWERS AND DUTIES.

The director shall have the following power and duties with regard to civil emergencies and disasters:

A. During any time period when civil emergency or disaster threatens or exists in this City and to the extent the director deems it necessary to act immediately, without the delay of waiting for action by the City Council, to protect life, health, safety and property and to preserve critical resources and duly constituted government, the director may promulgate such regulations as he deems necessary to assist such protection and preservation including, but not limited to, the following:

1. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of civil preparedness forces or to facilitate the mass movement of persons to and from critical areas within or without the City.

2. Regulations pertaining to the movement of persons to and from areas deemed to be hazardous or vulnerable to civil emergency or disaster.

3. Such other regulations as the director deems appropriate and necessary to protect life, health, safety and property and to preserve critical resources and duly constituted government.

B. During the same time periods and under the same conditions and for the same purposes as were set forth in paragraph A of this section, the director shall have the power to:

1. Direct resources to the aid of other communities when and if required in accordance with the statutes of the state or the ordinances of this City; and he may request the state or any political subdivision of the state to send aid to this City in the event the resources of this City do not appear to be adequate to cope with the civil emergency or disaster.

2. Obtain vital supplies, equipment and other properties found lacking and needed for the protection or preservation referred to in paragraph A of this section and bind the City for the fair value thereof in accordance with the provisions for purchasing during times of public emergency as specified in Section 5.06 of the City Charter, which are hereby declared to include civil emergencies as defined in Section 150.01 above.

3. Require emergency services of any City officers or employees; and, if he deems such personnel services inadequate, the director may require the services of such other person as can be obtained. All such officers, employees and other persons whose services are so required shall be entitled to any and all privileges and Immunities as are provided by state law, by the City Charter or City ordinances and, upon demand, may receive appropriate compensation for their services rendered, as determined by the City Council.

4. Coordinate the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the City of civil preparedness purposes.

5. Negotiate and conclude agreements with owners or persons in control of buildings or other property for the use of such buildings or other property for the civil preparedness purposes and designate suitable buildings as public shelters, in accordance with Section 5.06 of the City Charter.

6. Coordinate the activity of all other public and private agencies engaged in any civil preparedness activity.

150.04 CIVIL PREPAREDNESS PLAN AND PROGRAMS.

The director shall cause a civil preparedness plan to be prepared and presented to Council for adoption, modification or rejection. Such plan shall provide for use of all services, equipment, facilities and personnel of all existing departments and agencies of the City to the fullest extent for the purposes of protection and preservation as referred to in Section 150.03.

It shall be the duty of all municipal departments and agencies to perform the functions assigned by the plan, as adopted or modified by Council, and to maintain their portion of the plan in a current state of readiness at all times. The director shall conduct civil preparedness programs including but not limited to the following:

A. Through public informational programs, educate the civilian population as to actions necessary and appropriate in the event of civil emergency or disaster.

B. Conduct public practice alerts to insure the efficient operation of the civil preparedness forces and to familiarize residents with civil preparedness regulations, procedures and operations.

150.05 NO MUNICIPAL OR PRIVATE LIABILITY.

This Chapter 150 is an exercise by the City of its governmental functions for the protection of the public peace, health and safety. Neither the City, its agents or employees, nor any individual, receiver, firm, partnership, corporation, association or trustee, or any of the employees or agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this chapter, shall be liable for any damage sustained to persons or property as the result of said activity. The City shall defend, indemnify and hold harmless from such personal liability all such agents and employees of the City who meet thruway requirements of this section.

150.06 VIOLATIONS.

It shall be unlawful for any person to violate any provision of this chapter or to willfully obstruct, hinder or delay any member of the civil preparedness organization as herein defined in the enforcement or application of the provisions of this chapter or of any regulations issued thereunder.

150.07 PENALTY.

Whoever is guilty of a violation described in Section 150.06 shall be guilty of a minor misdemeanor. A second violation within six months, whether of the same provision or not, shall constitute a fourth degree misdemeanor. A third and every subsequent violation within six months of the first offense shall constitute a third degree misdemeanor.

150.08 SEVERABILITY.

Should any provision of this Chapter be declared invalid for any reason, such declaration shall not affect the validity of the remaining sections thereof, it being the legislative intent that the provisions of this chapter shall be severable.

150.09 CONFLICTING ORDINANCES, ORDERS, RULES AND REGULATIONS SUSPENDED.

At all times when regulations made and promulgated pursuant to this chapter are in effect they shall supersede all inconsistent ordinances, orders, rules and regulations.

Legislative History: Ord. 3034, passed 3/6/78; ORC Ch. 2744; Ord. 2897, passed 11/18/74.

CHAPTER 151
Disposal of Property in the Possession of the City

151.01 Purpose; Home Rule Declaration
151.02 Disposal of City Property
151.03 Disposal of Lost, Abandoned, Stolen, Seized or Forfeited Property
151.04 Leasing or Rental of City-Owned Property
151.05 Use of City Property for Utility Purposes
151.06 Items Requiring Immediate Disposal
151.07 Property Found By City Employees
151.08 Reimbursement of City Expenses

CROSS REFERENCES:

Sale or transfer of city property – *see* CHTR. 3.01.
Alternate state procedure – ORC Section 2933.41.

151.01 PURPOSE; HOME RULE DECLARATION.

Under the power of local self-government conferred upon cities by Article XVIII, Section 3 of the Ohio Constitution, and as a charter municipality under Article XVIII, Section 7 of the same, the City of Oakwood has established the procedures described in this chapter for disposal of real and personal property interests in its possession, and shall not be obligated to follow procedures set forth by state statutes, specifically including but not limited to Sections 737.29 through 737.32 and Sections 2981.11 through 2981.13 of the Ohio Revised Code. The custodial care of any property interest and its disposal under this chapter shall be deemed to constitute a governmental function within the meaning of Chapter 2744 of the Ohio Revised Code. Notwithstanding the foregoing, nothing in this chapter shall be construed to prohibit the use of procedures set forth in Section 2933.41 of the Ohio Revised Code as an optional alternative to any procedure set forth herein. All references herein to sections of the Ohio Revised Code shall also include any subsequent amendment or renumbering thereof.

151.02 DISPOSAL OF CITY PROPERTY.

A. City personal property that is no longer needed for municipal purposes, the estimated value of which is $25,000.00 or less, may be sold or disposed of by the City Manager or his or her designee without further legislative action of Council and in the manner deemed by the City Manager to be the most practical and beneficial to the city. If the estimated value of such personal property exceeds $25,000.00, it shall be disposed of only when authorized by further

ordinance of Council. Unless that ordinance requires a particular procedure, such property may be disposed of in the manner deemed by the City Manager to be the most practical and beneficial to the city.

B. City real property that is no longer needed for municipal purposes, the estimated value of which is $25,000.00 or less, may be conveyed by the City Manager in fee simple or in any lesser estate or interest, permit or license, without further legislative action of Council and in the manner deemed by the City Manager to be the most practical and beneficial to the city. If the estimated value of such real property, or the interest to be conveyed therein, exceeds $25,000.00, it may be conveyed only when authorized by further ordinance of Council, upon such terms and conditions as stated therein.

C. For purposes of determining whether a sale or disposal method is the most practical and beneficial to the city, the City Manager shall consider all factors relevant to a cost-benefit analysis. No single factor shall be controlling. Such factors may include, but are not limited to: the cost of various available methods; personnel and other City resources involved; the likely proceeds of sale; community or goodwill benefits that may be realized by donation; and any time considerations that may be relevant.

151.03 DISPOSAL OF LOST, ABANDONED, STOLEN, SEIZED OR FORFEITED PROPERTY.

A. Any property that has been lost, abandoned, stolen, or lawfully seized or forfeited, and that is in the custody of the Department of Public Safety, shall be kept safely until such time as it is no longer needed as evidence or for another lawful purpose, and shall be disposed of pursuant to this section.

B. The Department of Public Safety shall make a reasonable effort to locate the owner of property in its custody and to notify them when and where it may be claimed. If, after a period of 60 days, the department is unable to identify or locate the owner of property, or, once notified, the owner fails to claim such property, that property shall be considered "unclaimed property" and disposed of pursuant to this section. For purposes of this section, the department will be deemed to have made a reasonable effort to locate and notify a person entitled to possession of property if one or more of the following steps are taken:

1. A phone call is made to the last known phone number of the known or suspected owner of the property;
2. A letter is mailed to the last known address of the known or suspected owner of the property;

3. A brief investigation or inquiry is made by department employees for the purpose of locating or identifying the owner of the property;
4. A notice is posted in a conspicuous location at City Hall (30 Park Avenue) and at the Oakwood Community Center (105 Patterson Road), briefly describing the nature of the property in custody and inviting persons to establish their right to it.

C. Unclaimed property in the custody of the Department of Public Safety that was found and placed into the department's custody by a person not employed by the City may be returned to the finder, provided that all of the following conditions are met:

1. The property is not a weapon, firearm or dangerous ordnance;
2. The property is not drugs, drug paraphernalia, beer, intoxicating liquor or alcohol, obscene material, or any other dangerous or illegal material;
3. The owner of the found property is unknown, or cannot be located, or fails to claim the property within 60 days after a reasonable effort to locate and notify the owner as described in section 151.03(B); and
4. At the time the property was placed into the department's custody, the person who found the property signed an affidavit that they are the finder of the property in question, that they did not obtain the property illegally, that they have fully and truthfully informed the department of all circumstances surrounding the finding of the property, and that they desire to receive the property if it goes unclaimed by its rightful owner.

D. A person loses any right he may have to possession of property in either of the following circumstances:

1. The property was the subject of, or was used in a conspiracy or attempt to commit or in the commission of, a criminal offense other than a traffic offense, and such person is a conspirator, accomplice, or offender with respect to the offense;
2. Upon determination by a court of competent jurisdiction that the property should be forfeited.

E. Unclaimed and forfeited property in the custody of the Department of Public Safety shall be sold or disposed of in the manner deemed by the City Manager to be the most practical and beneficial to the city, as described in Section 151.02(C), subject to the following exceptions:

1. Drugs shall be destroyed, or shall be placed in the custody of the Secretary of the Treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

2. Weapons, firearms, and dangerous ordnance suitable for police work, or which may be traded in to offset the purchase of items suitable for police work, may be retained by the department for that purpose. Weapons or firearms suitable for sporting use, or as museum pieces or collector's items, may be sold or disposed of in the manner deemed by the City Manager to be the most practical and beneficial to the city, as described in Section 151.02(C). All other weapons, firearms, and dangerous ordnance shall be destroyed.
3. Obscene materials shall be destroyed.
4. Beer, intoxicating liquor or alcohol seized from a person who is not the holder of a permit issued under Chapters 4301 and 4303 of the Ohio Revised Code, or from a person who is an offender and the same has been forfeited to the state under Section 4301.45 or 4501.53 of the Ohio Revised Code, shall be destroyed or turned over to the Department of Liquor Control to be sold pursuant to Section 2933.41(D)(4) of the Ohio Revised Code.
5. Any other item of personal or real property forfeited under any law of the United States or the State of Ohio or ordinance of this city may be retained by the city for its own use.

151.04 LEASING OR RENTAL OF CITY-OWNED PROPERTY

Any interest in City-owned real estate or personal property may be leased or rented by the City Manager to any person or entity upon a negotiated basis, but only for such periods of time that the interest leased or rented is not needed for municipal purposes.

151.05 USE OF CITY PROPERTY FOR UTILITY PURPOSES.

Notwithstanding the provisions of Section 151.02(B), the City Manager is hereby authorized and empowered to execute such licenses, plat dedications and easements, whether temporary or permanent, to or for utilities as the City Manager may deem necessary for utility uses and to benefit the public health, safety and welfare.

151.06 ITEMS REQUIRING IMMEDIATE DISPOSAL.

Notwithstanding any other provision of this chapter, and except as necessary to preserve evidence in a pending criminal matter, the City shall have no obligation to hold or retain hazardous materials, perishable or other food and beverage items, waste, refuse, or other items that, in the City Manager's discretion, require immediate disposal. Such items may be disposed of immediately without resort to other procedures set forth in this chapter.

151.07 PROPERTY FOUND BY CITY EMPLOYEES.

If personal property is found by a City employee during the course of his or her employment, that employee shall have a duty to deliver the property into the custody of this city. Any rights which might otherwise accrue to the finder of such property shall accrue to the City, as the employer and principal of such employee.

151.08 REIMBURSEMENT OF CITY EXPENSES.

The right of any owner or finder to claim possession of property pursuant to this chapter shall be conditioned upon that person's reimbursement to the City of all direct expenses incurred by the City in connection with the transportation, care, custody, and/or disposal of said property in compliance with this chapter.

Legislative History: Ord. 2882, passed 5/20/74; Ord. 2490, passed 6/19/67; Ord. 2799, passed 3/6/73; Ord. 2802, dated 3/19/73; Ord. 2934, passed 9/15/75; Ord. 3005, passed 7/11/77; also see ORC 2933.41; Ord. 3116, passed 1/7/80; Ord. 3394, passed 1/2/84; Ord. 3961, passed 6/4/90; Ord. 4209, passed 7/19/93; Ord. 4410, passed 5/4/98; Ord. 4629, passed 5/21/07, effective 6/21/07; Ord. 4778, passed 8/5/13.

CHAPTER 152
Recovery of Costs

152.0 Recovery of third party costs.

152.01 RECOVERY OF THIRD PARTY COSTS.

A. If an application or request filed with the City requires analysis or other services by persons or organizations not part of the City staff, all costs incurred by the City for such third party services shall be the obligation of the applicant or the person making the request.

B. All application forms provided by the City shall explain this obligation and shall require the signature of the applicant.

C. If a request is involved rather than an application, the City shall not incur any third party expense until a written explanation of this obligation is presented to and signed by the person making the request.

Legislative History: Ord. 3630, passed 3/9/87.

CHAPTER 153
Permit, Inspection and Miscellaneous Fees

153.01 Authorization for, schedule of, all permit, inspection and miscellaneous fees.

153.01 AUTHORIZATION FOR, SCHEDULE OF, PERMIT, INSPECTION AND MISCELLANEOUS FEES.

A. Acting under its Zoning, Business Regulation and Building Codes and all other ordinances whatsoever, the City shall be authorized to charge and collect reasonable fees for receiving and processing applications, for the issuance of all permits, for all inspections that are necessary or appropriate to check on the matters covered by such permits or involved in such applications, and for other administrative procedures.

B. The amount to be charged for such matters shall be no greater than the administrative and out-of-pocket costs to the City of issuing the permits, making such inspections, receiving and processing the applications and requests, and for any other administrative procedures. These costs may include, but shall not be limited to, an allowance for the compensation paid to city employees who work on such matters and for their employee benefits and overhead.

Acting within that limitation on the amount to be charged, the City Manager shall set the fees for all such matters and shall list all such fees on one schedule that shall be dated and signed by the City Manager and maintained in the administrative offices of the City so as to be available to any interested persons.

Legislative History: Ord. 3686, passed 8/24/87.

CHAPTER 160
General Matters

160.01 Attendance of Members.
160.02 Subpoena Power.
160.03 Appeal rights of the city.

CROSS REFERENCES

ADA Compliance Committee - see Ch. 175
Board of Health - see Ch. 161
Budget Review Committee - Ord. 2619 (uncodified)
Business Regulation Appeals Board - see Ch. 759
Environmental Committee – see Ch. 163
Friends of Smith Gardens - Resolutions 1334, 1338, 1347
General Matters as to Boards, Commissions and Committees - see Ch. 160
General Appeals Board - see Ch. 169
Human Relations Commission - see Ch. 511.05
Leisure Services Advisory Board - se Ch. 171
Parade and Assembly Appeals Board - see Ch. 311.02
Personnel Appeals Board - see Ch. 141
Planning Commission - see Ch. 1107
Property Maintenance Appeals Board -see Ch. 17-111
Tax Appeals Board -see Ch. 148.13
Water and Sewer Appeals Board - see Ch. 167
Youth Commission - Resolution 1332
Zoning Appeals Board - see Ch. 1105

160.01 Attendance of Members

It shall be the duty of every member of each board, commission or committee of this city to be present and remain during all meetings of the body on which that member serves unless that member or a person in his or her family is ill or injured, unless extraordinary business interests demand immediate attention by that member, unless the member is absent from the city, or unless his or her absence is otherwise excused by the applicable board, commission or committee.

Members shall be deemed to be present if they participate in a meeting by means of communication equipment and in the manner described in this section. Such participation shall mean that all members participating must be able to hear each other, and all members of the public attending at the designated location of the meeting must be able to hear and to speak to each member and to each other.

Failure of any member to attend three (3) consecutive meetings without grounds or excuse for such absence as described above in this section shall constitute a violation of the duties of that public office and shall result in automatic and immediate forfeiture of office by that member.

After such automatic forfeiture of office, the member shall continue to serve in a de facto capacity until his or her successor is appointed by the City Council.

160.02 Subpoena Power.

Each board and commission created by the Charter or through an ordinance of this city shall have the power to subpoena witnesses for any appeal, variance, application or other matters as to which that board or commission has authority to issue a final administrative order appealable to the courts.

160.03 Appeal rights of the city.

Persons who apply to or receive decisions from various Oakwood boards and commissions may have certain rights of appeal to administrative or judicial bodies, as declared by state law or by ordinances. The government of the City of Oakwood shall have the same rights of appeal as such persons.

Legislative history: Ord. 3942, passed 4/16/90; Ord. 4212, passed 7/19/93; Ord. 4243, passed 3/21/94.

CHAPTER 161
Board of Health

161.01 Administrative responsibility.
161.02 Sanitary officers.

CROSS REFERENCES
Board of Health - see CHTR. Sec. 7.03.
Health, safety and sanitation - see GEN. OFF. Ch. 517.
Housing sanitation - see HSG. Ch. 1715, 1719.02.

161.01 ADMINISTRATIVE RESPONSIBILITY.

All laws, ordinances, rules and regulations relating to the health of the inhabitants of the City, as well as all laws, rules and regulations relating to sanitary conditions within the City, shall be administered and executed by the Board of Health.

161.02 SANITARY OFFICERS.

Upon request from the Board of Health, the City Manager shall detail one or more members of the Department of Safety to act as sanitary officers under the direction of the Board of Health. When so detailed, such officers shall perform such duties as they may be directed to perform by the Board of Health or the Health Commissioner, as the case may be.

Legislative History: Ord. 1153, passed 6/19/33.

CHAPTER 163
ENVIRONMENTAL COMMITTEE

163.01 Establishment and purpose
163.02 Membership; powers; compensation.

CROSS REFERENCES
Trees and shrubs – see GEN. OFF. Ch. 541.
Noxious weeds, notice to cut – see GEN. OFF. 549.02

163.01 ESTABLISHMENT AND PURPOSE

An Environmental Committee is hereby established to preserve the sylvan setting of the City, to encourage all Oakwood residents and property owners in the landscaping of their properties, to emphasize the desirability of maintaining and improving the planted and landscaped areas of the City, to promote and encourage the care and maintenance of the entire area of Oakwood so as to preserve and to continue this suburban community as a particularly desirable place to live, to emphasize the value to all Oakwood residents and property owners of a continuing campaign to maintain all property in this City in excellent condition and state of repair, and to promote the general beautification of this City.

163.02 MEMBERSHIP; POWERS; COMPENSATION.

The Environmental Committee shall consist of not less than five members who shall serve for a term of three years or until their successors are appointed, whichever first occurs. All members of the committee shall be appointed by Council through a motion passed by a majority of a quorum of Council. The committee shall have the power to appoint a technical advisory staff consisting of persons who, although not members of the committee, have special knowledge and information which may be of assistance to the committee in accomplishing its goals. All members of the committee and of such technical advisory staff shall serve without compensation and shall be selected on the basis of special skills, talents, energy and knowledge which they have to contribute toward the goals and purposes of the committee.

The committee shall study, investigate, counsel, develop and annually update a written plan of recommendation for the planning, care, preservation, pruning, replanting, removal or disposition of trees and shrubs in the parks and along the street and other public areas of the City. Such recommendations shall be made to the Council at least once each calendar year or more frequently as either the committee or the Council may deem advisable. Upon acceptance of such recommendations they shall be considered to be the operating rules for this community as to street and park trees.

Council shall have the right to review the conduct, acts and decisions of the committee in relationship to those rules relating to trees.

Legislative History: Res. 857, passed 10/16/67; Res. 870, passed 4/1/68; Res. 951, passed 12/4/72; Ord. 3249, passed 2/1/82.

CHAPTER 167
Sewer and Water Appeals Board

167.01 Board of Sewer & Water Appeals

CROSS REFERENCES

Subpoena power of this board -- see ADMIN 160.02

167.01 BOARD OF SEWER AND WATER APPEALS.

A. Creation and membership. There is hereby created a Board of Sewer and Water Appeals to conduct hearings and make determinations as authorized by this chapter. The members of the Local Board of Tax Review, as established under Chapter 148-1, shall, for the purposes set forth herein, constitute the Board of Sewer and Water Appeals. The character of the board and terms of office of its members shall be as prescribed in Codified Ordinance 148-1.18(A).

B. Claims for damages. The Board of Sewer and Water Appeals is hereby vested with jurisdiction and authority to hear and decide claims for damages based upon injuries to persons and/or property caused by the operation of the sewer and/or water systems of this City. Acting under the law of Ohio, the board shall determine all relevant issues, including but not limited to, the questions of whether or not any malfunction occurred, the existence and extent of claimed injuries and to what extent, if any, the City of Oakwood is liable for such damages. Claimants shall have the burden of proving by a preponderance of the evidence that they have the right to recover damages from the City on such claims.

C. Alleged errors in bills. Further, the board shall also have jurisdiction to hear and decide the correctness of and liability for billing statements for water service, and alleged violations of regulations of the Water Department, after public hearing as provided in the Water Department Rules and Regulations.

D. Facts and law. The board shall determine the facts and shall apply the law with regard to the sewer and/or water systems of this City, but shall not have authority to vary, to waive or to refuse to apply any provision of such law. (For subpoena power see ADMIN 160.02)

E. Meetings and rules. All meetings of the Board of Sewer and Water Appeals shall be held at the call of its chairman and at such times as the board may determine. All hearings conducted by such board shall be open to the public to the extent required by the rules of procedure set forth in Chapter 111 of the Codified Ordinances. The board shall keep minutes of its proceedings and may not adopt its own rules and procedures. The members of this board shall serve as such without compensation.

F. Right of appeal. The ultimate decisions of this board upon claims presented to it shall be final administrative decisions and shall be subject to judicial review upon appeal by either the claimant or the City to the court system in the manner provided by the statutes of Ohio.

Legislative History: Ord. 2958, passed 4/19/76; Ord. 3015, passed 11/21/77; Ord. 3073, passed 12/18/78; Ord. 3591, passed 10/20/86; Ord. 4819, passed 2/22/16.

CHAPTER 169
General Appeals Board

169.01 Board of General Appeals.

CROSS REFERENCE

Subpoena power of this board -- see ADMIN 160.02

169.01 BOARD OF GENERAL APPEALS.

A. Creation, membership and jurisdiction. There is hereby created a Board of General Appeals to conduct hearings and make determinations in such areas of jurisdiction as may be granted to this board by other ordinances of the City of Oakwood. The members of the Board of Zoning Appeals of this City shall constitute the members of this Board of General Appeals, and the terms of office shall be the same as those for the Board of Zoning Appeals. (For subpoena power see ADMIN 160.02)

B. Meetings and rules. Meetings and rules of this board shall be the same as those applicable to the Board of Zoning Appeals under Section 1105.03 and Chapter 111 of the Codified Ordinances. The members of this board shall serve as such without compensation.

C. Right of appeal to a court. The ultimate decisions of this board upon appeals and matters presented to it shall be final administrative decisions and shall be subject to judicial review upon appeal by either the original appellant or the City to the court system in the manner provided by the statutes of the State of Ohio.

Legislative History: Ord. 3463, passed 11/19/84.

CHAPTER 171
Leisure Services Advisory Board

171.01 Creation of Board; Membership. 171.02 Purpose and Chairperson.

CROSS REFERENCES

See Chap. 137 for Leisure Services Department.

171.01 CREATION OF BOARD; MEMBERSHIP.

A. A Leisure Services Advisory Board is hereby established for the purposes set forth in this chapter. It shall consist of not more than seven voting members, all of whom shall be residents of this City. One of those seven voting members may be a member of the Board of Education of the Oakwood City School District. That Board of Education shall have the right to designate which of its members shall serve in that capacity. Another voting member of the Leisure Services Advisory Board may be a member of this Council of this City. The City Council shall have the right to designate which of its members shall serve in that capacity.

B. The remaining five voting members of the board shall be appointed by the City Council. None of these five persons shall be members of the City Council or of the Board of Education. Finally, the board shall have two non-voting, ex-officio members in the persons of the City Manager of Oakwood and the Superintendent of the Oakwood School District, or their authorized representatives.

C. The members of the board shall serve without compensation. Each member shall serve for an overlapping term of four years. The ex-officio members of the board shall not serve for any definite term but instead shall continue on the board as long as they hold their respective positions with the City and the school district. The voting members of the board shall be appointed for specific terms of office.

D. The terms of the initial appointees shall be staggered as follows: the City Council and Board of Education members each shall be appointed for a term of four years; two of the voting members shall be appointed for terms of three years each; another two of the voting members shall be appointed for terms of two years each; and the last voting member shall be appointed for a one year term. As these terms of office expire, all subsequent appointments shall be for four year terms.

171.02 PURPOSE AND CHAIRPERSON.

A. The purpose of the board shall be to give advice and recommendations to the City of Oakwood with regard to leisure activities that may be conducted, and leisure services

which may be provided, by or through the Department of Leisure Services. This may include the preparation of a recommended budget showing sources and uses of funds.

B. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. The board shall keep minutes of its proceedings and shall follow the rules and procedures adopted by the City Council as Chapter 111 of the Codified Ordinances of this City. The board shall have authority to appoint such committees as it deems desirable. Those committees may include Oakwood residents who are not members of the board. The chairperson of each such committee must be a member of the board unless the board appoints some other chairperson. One of the purposes of such committees may be to serve as liaison between the Director of the Department of Leisure Services of the City and citizens who take part in the activities or use services provided by or through that department.

C. The City Council shall appoint the chairperson and vice-chairperson of the Leisure Services Advisory Board.

Legislative History: Ord. 3600, passed 11/17/86; Ord. 3827, passed 11/21/88.

Chapter 173
Miscellaneous Administrative Matters

173.01 Suspension of Applications While Other Violations Remain in Effect.

173.01 SUSPENSION OF APPLICATIONS WHILE OTHER VIOLATIONS REMAIN IN EFFECT.

No applications, requests, appeals or other matters brought before the City of Oakwood regarding a particular property may be considered or heard as long as an uncontested violation of some ordinance exists as to that property.

If such an alleged violation is the subject of another pending administrative or court procedure or case, it shall be deemed to be contested until that proceeding or case has been resolved.

Legislative history: Ord. 4009, passed 10/15/90.

Chapter 175
Americans with Disabilities Act

175.01 ADA Compliance Committee, Coordinator and Grievance Procedure.

175.01 ADA COMPLIANCE COMMITTEE, COORDINATOR AND GRIEVANCE PROCEDURE.

(A) An ADA Compliance Committee is hereby created to consist of three persons as described in that federal statute. The city council shall appoint the members of this committee and shall designate one member as chairperson. The term of each member shall be for three years. Any member may be removed by majority vote of Council.

(B) The city manager is hereby authorized and directed to appoint some employee of the city to the position of coordinator as required by the ADA.

(C) The city manager is also empowered and directed to adopt a grievance procedure applicable to the ADA.

Legislative history: Ord. 4110, passed 1/20/92.