

# **CODIFIED ORDINANCES OF GENEVA-ON-THE-LAKE**

## **PART ONE - ADMINISTRATIVE CODE**

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**CODIFIED ORDINANCES OF GENEVA-ON-THE-LAKE**

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**TITLE ONE - General Provisions**

Chap. 101. Codified Ordinances.

Chap. 103. Official Standards.

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**CHAPTER 101**  
**Codified Ordinances**

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**CROSS REFERENCES**

See sectional histories for similar State law

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

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

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

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

Ordinances and resolutions - see ADM. Ch. 123

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

**101.01 DESIGNATION; CITATION; HEADINGS.**

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Geneva-on-the-Lake, Ohio, 2007 for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances. (ORC 1.01)

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

**101.02 GENERAL DEFINITIONS.**

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

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

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

### **101.03 RULES OF CONSTRUCTION.**

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

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

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

(ORC 1.43)

(c) Calendar; Computation of Time.

(1) Definitions.

- A. "Week" means seven consecutive days.
- B. "Year" means twelve consecutive months.

(ORC 1.44)

- (2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.  
(ORC 1.45)

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

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

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

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

#### **101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.**

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

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

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

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

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

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

#### **101.05 CONSTRUCTION OF SECTION REFERENCES.**

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

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

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

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

#### **101.06 CONFLICTING PROVISIONS.**

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

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

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

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

#### **101.07 DETERMINATION OF LEGISLATIVE INTENT.**

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

#### **101.08 SEVERABILITY.**

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

#### **101.99 GENERAL PENALTY.**

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



**CHAPTER 103**  
**Official Standards**

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

**CROSS REFERENCES**

State standard of time - see Ohio R.C. 1.04

State legal holidays - see Ohio R.C. 1.14, 5.20 et seq.

State flag - see Ohio R.C. 5.01



**TITLE THREE - Legislative**

Chap. 121. Council.

Chap. 123. Ordinances and Resolutions.

**CHAPTER 121  
Council**

**121.01 Rules of Council.**

**121.02 Compensation.**

**CROSS REFERENCES**

General powers - see Ohio R.C. 715.03, 731.47

Composition and term - see Ohio R.C. 731.09

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

Qualifications - see Ohio R.C. 731.12, 731.44

Powers as to salaries and bonds - see Ohio R.C. 731.13,  
731.49 et seq.

Vacancy - see Ohio R.C. 731.43

Meetings - see Ohio R.C. 731.44, 731.46

Rules and journal - see Ohio R.C. 731.45

Hearings against delinquent officers - see Ohio R.C.  
733.35 et seq.

Removal or suspension of Fire Chief or firemen - see Ohio R.C.  
733.35 et seq., 737.72 et seq.

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

Contract interest - see Ohio R.C. 733.78, 2918.08,  
2818.09 et seq.

Removal or suspension of Marshal or policemen - see Ohio R.C.  
737.171

**121.01 RULES OF COUNCIL.**

**RULE 1 - MEETINGS**

Regular meetings of the Geneva on the Lake Village Council shall be held at the Geneva on the Lake Village Hall, which shall convene at 7:00 p.m., official time, on the third Mondays of each month.

The Mayor or any two members of Council may call Special Meetings upon 12 hours notice to each member, served personally or left at their usual place of business or residence. Any member may waive, in writing, notice of any Special Meeting.

It shall be the duty of the Mayor to inform the public and media in accordance with the Ohio Revised Code "Open Meetings Law" and GOTL Ordinance No. 719.

**RULE 2 - HOLIDAY MEETINGS**

When any Regular Meeting of the Village Council falls on a legal holiday, the Council may meet in regular session on the following day, at the place and hour fixed by the rule governing the same.

**RULE 3 - OPEN PROCEEDING**

At a Regular Meeting or Special Meeting, the Mayor shall take the chair at the appointed time and shall immediately call the Council to order; the Mayor shall then cause the Journal of the preceding session to be read and disposed of, unless otherwise ordered by Council. In the absence of the Mayor, the President Pro Tempore of Council shall perform such duties as are imposed upon the Mayor. In the absence of both the Mayor and President Pro Tempore of Council, the Council may appoint a temporary Chairman of Council.

**RULE 4 - PRESIDING OFFICERS**

The Mayor shall preserve order and decorum and confine members in debate to the question. The Mayor in common with any other member may call any member to order if said member shall violate any of the rules. The Mayor shall, when in the chair, decide all questions of order, subject to any appeal to the Council on the demand of two members. On such appeal there shall be no debate, but the member making the appeal may briefly state the reason for the same, and the Presiding Officer shall have the same right to a similar statement.

**RULE 5 - COUNCIL WORK SESSIONS.**

(a) At no later than the first regular meeting of the Council after its organization, the Mayor shall appoint a member of Council to chair the Finance and Ordinance work session, and a member of Council to chair each of the following Village enterprises:

- (1) Parks and Recreation
- (2) Safety, Fire and Police
- (3) Sanitation, Health and Sanitary Sewers
- (4) Streets, Sidewalks and Storm Drainage
- (5) Public Utilities, Public Buildings and Public Lands

(b) There will be a Council Work Session on the second Monday of each month at 7:00 p.m. unless the same falls upon a legal holiday in which the meeting will be held on the following Tuesday. The purpose of such meeting shall be to review village finances and to approve or authorize ordinances and resolutions. All members of Council shall have a vote and the right of discussion at such meeting.

(c) There shall be a second Council Work Session on the fourth Monday of each month at 7:00 p.m. as necessary. Any member of Council may set aside time at this work session to discuss issues related to such enterprise by filing a written request with the Council President at or prior to the second regular council meeting of each month.

(d) The chair of each enterprise shall be responsible for chairing the work session, or part thereof, as it relates to their enterprise, and shall be responsible for providing minutes of such work session at the next regular council meeting.

#### RULE 6 - AGENDA OF MEETING

The Mayor shall prepare an agenda, of scheduled matters to be brought before Council, which must be delivered to members of Council at their usual residence or place of business, not less than forty-eight (48) hours before the time of the regular Council meeting.

Any person, or representative for a group of persons, wishing to appear and make a presentation to Council shall direct a request to the Mayor, in writing. Said request shall be received by the Mayor on or before 4:00 PM, the Thursday preceding the next Council meeting. The request shall clearly state the purpose of the appearance, and the approximate number who will appear in the group. The Council shall determine the amount of time to be allotted to the person or group for the discussion or presentation of their matter. As part of the Village of Geneva on the Lake's commitment to seek citizen input and foster public debate in a free society, any citizen may address council on any public issue for no more than five minutes during the public comment section of each meeting, without notice to the mayor. Public comment may be extended at the discretion of council.

The Mayor shall also be notified of Ordinances and Resolutions to be presented, and any member of Council who wishes to bring a matter before the Council, other than the committee report, should likewise notify the Mayor of the nature of the matter.

#### RULE 7 - ORDER OF BUSINESS

The business of the regular meetings of the Council shall be conducted and transacted in the following order:

- (1) Roll call
- (2) Pledge of Allegiance
- (3) Moment of silence of prayer
- (4) Reading and disposal of Journal Minutes
- (5) Public input on matters of public interest
- (6) Other presentations to Council
- (7) Payroll passage and enabling legislation
- (8) Reports from Mayor, Clerk, Department Officials, Enterprise Chair and other Village Officers.
- (9) Appointments and Confirmations
- (10) Old Business
- (11) Ordinances and Resolutions
- (12) New Business
- (13) Adjournment

The presiding officer of Council may at any time permit a member to introduce an ordinance, motion, or resolution out of the order, unless the same be objected to by a majority of the members present.

#### RULE 8 - VOTING

Every Council member present shall vote on any question on the call of the yeas and nays, unless excused for statutory cause or proper cause by unanimous consent of the Council. Any member not being excused, who refuses to vote on any question when the yeas or nays are being taken, shall be deemed guilty of contempt of council, and may for such contempt be censured by majority vote of the Council.

The Clerk shall rotate alphabetically the roll call, motion by motion, for vote.

RULE 9 - MOTIONS: WHEN DEBATABLE: WITHDRAWAL

When a motion is made and seconded, it shall be stated by the Presiding Officer before and debate shall be in order. Any such motion, and any amendment thereto, may be withdrawn by the movers thereof at any time before decisions, if a majority of the members then present shall agree thereto.

RULE 10 - MOTIONS TO RECONSIDER

A motion to reconsider being laid on the table, may be taken up and acted upon at any time when the Council is engaged in the transaction of new or miscellaneous business.

No motion to reconsider shall be made more than once on any matter or subject, and the same number of votes shall be required to reconsider the action of Council, as was required to pass or adopt the same.

RULE 11 - DIVISION OF QUESTION

Any member may call for a division of the question, or the Presiding Officer may direct the same, and in either case, the same shall be divided if it comprehends questions so distinct that one being taken away, the other will stand as an entire question for decision.

RULE 12 - TO REFER: PRECEDENCE

When there is a question of referring a given subject to a standing committee, or to a select committee, the question of reference to a standing committee shall be put first.

RULE 13 - TO ADJOURN

The motion to adjourn shall always be in order, unless the Council is engaged in voting, and the motion to adjourn or to lay on the table, or for the previous question, shall be decided by a majority vote.

RULE 15 - ACCEPTABLE MOTIONS: ORDER OF PRECEDENCE

When a question or proposition is before the Council, or under debate, no motion shall be received except the following:

- (1) To Adjourn
- (2) To lay on the table
- (3) To adopt or reject immediately with no further debate - the previous question.
- (4) To postpone to a certain day
- (5) Refer to Committee
- (6) To amend
- (7) To postpone indefinitely

The several motions shall have precedence in the order in which they are herein arranged.

RULE 16 - INTRODUCTIONS

Ordinances and Resolutions shall be introduced only by members of the Council present, except such ordinances and resolutions as may be presented to the Council upon written recommendation of some committee of the Council.

RULE 17 - REFERENCE TO COMMITTEE ON RULES AND ORDINANCES

All Ordinances of a general or permanent nature, except the ordinances for appropriation, before their final passage, may be referred to the committee on rules and ordinances. It shall be the duty of said committee as to any ordinances so referred to it, to carefully compare the same

with all existing ordinances, upon the subject matter, and it shall report thereon any discrepancy or conflict which may exist therewith. It shall also examine and report upon the form of such discrepancy or conflict or to correct error in form. If any amendment shall be made to an ordinance, they shall recommend the change necessary to remedy such discrepancy or conflict or to correct error in form. If any amendment shall be made to any ordinance after the committee has reported thereon, it may be recommitted to said committee for further report thereon.

#### RULE 18 - REFERENCE TO WORK SESSION

Any report, resolution, ordinance or matter before the Council for consideration (except appropriation ordinances), before their final passage may be referred to a council work session. Any such committee shall consider the matter thus referred to it and report thereon to the Council without unnecessary delay.

Any matter referred to a committee may by a two-thirds vote of Council at any time prior to report of such committee, be taken from the hands of such committee for consideration.

##### (1) Reference to Council Work Session

There are times when a matter will be referred to the Council Work Session. Referral to this Committee may take place:

- A. When a major situation or problem arises on which it is felt that every member of Council should express himself.
- B. When debate or discussion in the regular meeting would consume too much time, and interfere with the regular order of business.

Council Work Sessions will discuss village issues and questions as a group, and receive the views and opinions of the members. The Work Sessions shall be governed by the rules of Council in its deliberations. The Work Session shall report its recommendations or findings to Council, upon the vote of a majority present. This report shall be in writing and signed by those concurring in the committee action. If the committee believes that further study or investigation is indicated, it may recommend to Council that the matter be referred to a certain committee. If the question deals with finances, it may recommend that the matter be turned over to the finance committee. Any report of this Council of the Whole must be voted upon, just as in the case of any other committee report.

#### RULE 19 - LIMITATION ON DEBATE OR DISCUSSION

No member of the Council while Council is in session shall engage in debate or discussion with anyone save another member of Council or the Mayor or some person who has either been granted by the Council the privilege to address the Council or is present at a Council meeting on invitation of the Council. All such debate or discussion shall be governed by Roberts Rules of Order.

Council shall not take effect until the same has been accepted by a vote of the majority of the members exclusive of the person tendering the resignation.

#### RULE 22-ROBERTS RULES OF ORDER

In the absence of any rule upon the matter of business, the Council shall be governed by "Roberts Rules of Order".

#### RULE 23 - AMENDMENT OF RULES

These rules may be amended or altered or new rules adopted by a vote of the majority of all the members elected at any meeting of the Council, on the report of a committee to which the subject has been referred at a previous meeting.

**RULE 24 - SUSPENSION OF RULES**

These rules or any of them may be temporarily suspended at any meeting of the Council, by a concurrent vote of the majority of all members elected, except when a greater number is required by law or by these rules. The vote on such suspension shall be taken by the yeas and nays and entered on the Journal. In case any rule herein shall not have been adhered to by the Council, the same shall be regarded as having been suspended.

(Ord. 2021-34. Passed 5-17-21.)

**121.02 COMPENSATION.**

Effective January 1, 2020, newly elected members of Village Council shall be paid \$100.00 per month for their services. (Ord. 2019-31. Passed 6-3-19.)



**CHAPTER 123**  
**Ordinances and Resolutions**

**123.01 Posting of ordinances.**

CROSS REFERENCES

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

**123.01 POSTING OF ORDINANCES.**

(a) The Fiscal Officer shall post, or cause to be posted, summaries of all ordinances and resolutions passed by Council within five days after passage at the following five locations:

- (1) Village Hall.
- (2) Village Right-of-Way at Geneva State Park Lodge.
- (3) Rte. 531 and Rte. 534 junction.
- (4) GOTL Chamber of Commerce.
- (5) East End Village limits, near 4717 Lake Road.

(b) Said summaries shall clearly describe the general nature of the legislation passed by Council and shall include a notice stating that the entire ordinance may be viewed in the Office of Fiscal Officer. (Ord. 2005-02. Passed 2-22-05.)



**TITLE FIVE - Administrative**

- Chap. 131. Mayor.
- Chap. 133. Fiscal Officer.
- Chap. 135. Village Administrator.
- Chap. 137. Solicitor.
- Chap. 139. Police Department.
- Chap. 141. Fire Department.
- Chap. 143. Planning Commission.
- Chap. 145. Zoning Department.
- Chap. 147. Employees Generally.
- Chap. 148. Public Records Policy.
- Chap. 149. Reutilization of Nonproductive Land.
- Chap. 151. Nuisance Abatement.

**CHAPTER 131  
Mayor**

**131.01 Authority to post traffic control signs.**

**131.02 Compensation.**

**CROSS REFERENCES**

- Removal from office - see Ohio R.C. 3.07 et seq.
- Acting Mayor - see Ohio R.C. 721.10 et seq., 733.25
- Election, term, qualifications and powers - see Ohio R.C. 733.24
- Vacancy - see Ohio R.C. 733.25
- General duties - see Ohio R.C. 733.30 et seq.
- Reports to Council - see Ohio R.C. 733.32, 733.41
- Protest of excessive expenditures - see Ohio R.C. 733.33
- Charges against delinquent officers - see Ohio R.C. 733.34 et seq.
- Disposition of fines and other moneys - see Ohio R.C. 733.40

**131.01 AUTHORITY TO POST TRAFFIC CONTROL SIGNS.**

(a) The Mayor is hereby authorized to place and post traffic control signs and regulations in the Village. Traffic Control signs and regulations shall include:

- (1) No parking and/or restricted parking.
- (2) Speed limits.
- (3) Weight limits.
- (4) Pedestrian cross walks.

(b) Prior to placing or posting traffic control signs and regulations, the Mayor shall notify Council in writing as to the manner and location of the traffic control signs and regulations.

(c) Council shall have thirty days to review and object to the proposed traffic control regulation or sign. If Council fails to object by a majority of its members the proposed regulation, then the regulation shall take full force and effect.

(d) In the event that the Mayor chooses to revoke or amend an existing traffic control sign or regulations, the Mayor shall notify Council in accordance with subsection (b) hereof and Council shall have thirty days to object in accordance with subsection (c).

(e) The Mayor's secretary/administrative assistant, shall maintain a record of all traffic regulations adopted, modified or repealed by the Mayor.

(f) Nothing in this section shall preclude the Mayor from posting traffic control regulations or signs that are already authorized by ordinance (e.g., snow ban).  
(Ord. 2007-16. Passed 3-5-07.)

### **131.02 COMPENSATION.**

Effective January 1, 2020, Mayors appointed or elected after November 5, 2019 shall be compensated at a rate of \$15,000.00 per year with annual increases thereafter of 2% per year beginning January 1, 2021 or until such time as this section is modified.  
(Ord. 2019-30. Passed 6-3-19.)

**CHAPTER 133**  
**Fiscal Officer**

<b>133.01</b>	<b>Established.</b>	<b>133.05</b>	<b>Fees for permits and other services.</b>
<b>133.02</b>	<b>Powers and duties.</b>	<b>133.06</b>	<b>Copies of Village records; fees.</b>
<b>133.03</b>	<b>Appointment.</b>	<b>133.07</b>	<b>Credit Card Policy.</b>
<b>133.04</b>	<b>Bond.</b>		

**CROSS REFERENCES**

Uniform Bond Law - see Ohio R.C. Ch. 133  
 Uniform Depository Act - see Ohio R.C. Ch. 135  
 Auditing accounts - see Ohio R.C. 733.12 et seq.  
 Books and accounts - see Ohio R.C. 733.28  
 Appropriation and expenditures - see Ohio R.C. 5705.41

**133.01 ESTABLISHED.**

In accordance with Ohio R.C. 733.262, there is created the position of Village Fiscal Officer. (Ord. 1181. Passed 6-4-03.)

**133.02 POWERS AND DUTIES.**

The Village Fiscal Officer shall have those powers, duties and functions as provided by the general laws of the State of Ohio; said Village Fiscal Officers shall have additional powers, duties, and functions that may be conferred upon the Village Fiscal Officer as established by Council and as authorized by Ohio R.C. 733.262, if any. (Ord. 1181. Passed 6-4-03.)

**133.03 APPOINTMENT.**

The Village Fiscal Officer appointed pursuant to Ohio R.C. 733.262 shall perform the duties provided by law for the Village Clerk-Treasurer and any other duties consistent with the nature of the office that are provided for by municipal ordinance. (Ord. 1181. Passed 6-4-03.)

**133.04 BOND.**

The Fiscal Officer shall furnish bond in the amount of twenty-five thousand dollars (\$25,000), which premium shall be paid for by the Village. (Ord. 1224. Passed 9-20-04.)

**133.05 FEES FOR PERMITS AND OTHER SERVICES.**

The following fees for permits and services shall be established:

- (a) EDITOR'S NOTE: Former subsection (a) was repealed by Ordinance 2016-14, passed March 7, 2016.
- (b) Sidewalk permit fee for installation or replacement shall be \$100.00.
- (c) Zoning Permit Fees and BZA Appeal fees shall be on a sliding scale:

	<u>Basic Filing Fee</u>	<u>Appeal Fee</u>
- Sign permits	\$75.00	\$100.00
- New commercial building	\$125.00	\$225.00
- New home	\$125.00	\$225.00
- All other zoning permits	\$75.00	\$100.00
- Amendments to Zoning Map and street vacations (Re-Zoning)	\$500.00	
- Change of use	\$75.00	\$100.00

- (d) Curb Cut permit fee shall be \$100.00
- (e) Sanitary Sewer permit fee shall be \$200.00.
- (f) Storm sewer, culvert, or drainage ditch installation or repair permit fee shall be \$50.00.
- (g) Any work found without a permit or Stop work Order issued shall double the respective permit fee.  
(Ord. 2020-81. Passed 12-21-20.)

**133.06 COPIES OF VILLAGE RECORDS; FEES.**

The Village shall charge for copies of Village records at the following rates:

(a) First two pages of non-police records		No charge
(b) Each additional page		Ten cents (\$.10) per page
(c) Copies for Village Visitors Bureau		Ten cents (\$.10) per page
(d) Police incident and accident reports		\$3.00 per report (plus postage)
(e) Intoxilizer fee		\$25.00
(f) Fingerprints		\$15.00
(g) Photographs	4"x6"	\$5.00
	5"x7"	\$7.00
	9"x10"	\$10.00
(h) Records check	No report	\$5.00
	Report on file	\$10.00

(Ord. 2008-06. Passed 1-22-08.)

**133.07 CREDIT CARD POLICY.**(a) Village Credit Card Authorization

- (1) Council herein approves the following individuals or positions within the Village Government who shall have authority to use the Village credit cards. The credit cards shall be kept at all times by the Fiscal Officer except when she has provided the card to an authorized user. No such user shall keep a Village credit card for more than five days. The current list of authorized users is as follows:

- A. Mayor
- B. Administrator
- C. Fiscal Officer
- D. Chief of Police

- (2) Any person listed in subsection (a)(1) above may allow a person under their direct supervision to use a Village credit card provided the card is returned to such authorized person upon the conclusion of its use, not to exceed five business days.
- (3) Village credit cards shall be titled solely in the name of the Village of Geneva on the Lake and no card shall have a maximum credit limit exceeding \$5,000.00. No authorized user can charge more than \$1,000.00 per month on a Village credit card. Emergency purchases exceeding this amount shall require joint prior authorization from the Mayor and Fiscal Officer.
- (4) The use of debit cards is strictly prohibited except for valid law enforcement purposes.
- (5) The credit cards may be utilized both in person as well as the purchase of goods over the internet, by telephone or by fax. These purchases shall be evidenced by an order of confirmation along with either the original packing slip that accompanied the purchased goods or an itemized receipt. When using the internet, the user shall insure the website where the credit card information is being placed is secure, and that all account numbers are encrypted while being passed electronically.

(b) Village Credit Card Use by Employees. The following guidelines are established to assure the proper use of the Village credit cards.

- (1) A credit card held by the Village shall be used only to pay the following work-related expenses:
  - A. Food expenses, transportation expenses, gasoline/oil expenses (Village vehicles), motor vehicle repair/maintenance expenses (Village vehicles), telephone expenses, lodging expenses, internet service provider expenses, Court filing fees and recording fees, departmental equipment and supplies, registration/enrollment fees for seminars, webinars and continuing education classes, license and membership renewal fees and other goods and services incurred on behalf of the Village. (All per diem amounts and restrictions within the travel policy are still applicable.)
- (2) No person shall use credit cards for personal purchases, including gratuities and excess daily meal allowance, gasoline for any personal vehicle, cash advances, alcoholic beverages or any other expense not related to the operations of the Village of Geneva on the Lake or within their scope of employment.
- (3) All existing purchasing policies apply to purchases made on a credit card.
- (4) No fees or interest charged by a card company because of late payments due to untimely submission of record will be paid from Village funds, unless authorized by the Village Council. Unauthorized payment of fees will be the responsibility of the employee who utilized the card, who will be personally responsible for those fees if they appear on the billing for their department.
- (5) The Fiscal Officer is responsible to make sure that any charges incurred by employees are authorized Village expenditures and that adequate funds are available within the Village approved budget.
- (6) The debit incurred as a result of the use of a credit/debit card shall be paid from monies appropriated to the specific appropriation line items of the Village of Geneva on the Lake, Ohio.

(c) Procedure.

- (1) The Fiscal Officer and the Mayor shall issue a Village credit card to a Village employee as authorized by this section and such employee shall execute a written statement acknowledging receipt of a copy of this section and agreeing to comply with its provisions.
- (2) For all credit card transactions, the employee or official using a Village card shall submit to the Fiscal Officer within five days of use the following documentation, including but not limited to, the credit card slip (customer copy), a receipt or invoice from the vendor that documents the goods or services purchased, the cost of the goods or services, the date of the purchase and such other information as the Fiscal Officer may request. Each receipt will also indicate the official Village business for which the expense was incurred.
- (3) The Fiscal Officer and Mayor may revoke any credit card use by an employee found violating any term or provision of this section or otherwise misusing the credit card. For any such violation, the Administrator may seek reimbursement of misused funds and/or disciplinary action up to and including termination. The Fiscal Officer and Administrator shall provide Council written notice of such credit card misuse, and any actions taken thereon, with thirty days of the misuse.
- (4) The Fiscal Officer, or her designee, is responsible for the physical custody of the card, and for maintaining confidentiality of all information relating to the card such as the account number and expiration date. No person shall loan a Village card to anyone not authorized by this section.
- (5) Employees are responsible for informing vendors of the sales tax exemption for Village purchases. If requested by a vendor, a State of Ohio sales tax exemption certificate is available from the Fiscal Officer's office.
- (6) In the event that a credit card is lost or stolen, the individual holding the card must notify the Fiscal Officer immediately.
- (7) Cardholders who terminate their employment or whose job duties change and no longer include purchasing must surrender their credit card immediately.
- (8) The Fiscal Officer shall file an annual report with the Village Council no later than March 15th of the following year detailing any awards or bonuses received from the use of the card.

(d) The use of a credit/debit card for any use other than those permitted may be a criminal violation. (Ord. 2019-10. Passed 3-18-19.)



**CHAPTER 135**  
**Village Administrator**

**135.01** Established.  
**135.02** Powers and duties.

**135.03** Board of Trustees abolished.  
**135.04** Deputy Village Administrator.

**CROSS REFERENCES**

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

**135.01 ESTABLISHED.**

In accordance with Ohio R.C. 735.271, there is hereby created the position of Village Administrator. (Ord. 866. Passed 3-18-85.)

**135.02 POWERS AND DUTIES.**

The Village Administrator shall have those powers, duties and functions as provided by the General laws of the State of Ohio, as well as all duties and functions as authorized by Ohio R.C. 745.273. (Ord. 866. Passed 3-18-85.)

**135.03 BOARD OF TRUSTEES ABOLISHED.**

After the effective date of this section and the appointment of the Village Administrator by the Mayor and his confirmation by Council, the Board of Trustees of Public Affairs shall be abolished in accordance with the provisions as set forth in Ohio R.C. 735.272. (Ord. 866. Passed 3-18-85.)

**135.04 DEPUTY VILLAGE ADMINISTRATOR.**

(a) The position of Deputy Village Administrator is hereby created and chosen upon appointment by the Village Administrator subject to Mayor's approval.

(b) The Deputy Village Administrator shall assist the Village Administrator in those powers, duties and functions as provided by the General laws of the State of Ohio and such other functions as may be assigned by the Village Administrator. (Ord. 2021-94. Passed 11-22-21.)



**CHAPTER 137**  
**Solicitor**

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

**CROSS REFERENCES**  
Legal counsel - see Ohio R.C. 733.48



**CHAPTER 139**  
**Police Department**

- 139.01 Auxiliary Police Department.**                      **139.03 Sergeant position created.**  
**139.02 Rules and regulations.**

CROSS REFERENCES

- Distribution of obscenity statutes by Attorney General - see Ohio R.C. 109.40  
Assistance of State Criminal Bureau - see Ohio R.C. 109.51 et seq.  
Forwarding fingerprints and data to State Criminal Bureau - see Ohio R.C. 109.58 et seq.  
Police protection contracts - see Ohio R.C. 505.441, 737.04  
Composition - see Ohio R.C. 715.05, 737.16  
General powers and duties - see Ohio R.C. 737.11, 737.18  
Appointment of Marshal - see Ohio R.C. 737.15  
Auxiliary police unit - see Ohio R.C. 737.161, 737.19  
Probationary period; final appointment - see Ohio R.C. 737.17  
Removal and appeal - see Ohio R.C. 737.171  
Recovered property and disposition - see Ohio R.C. 737.29 et seq.

**139.01 AUXILIARY POLICE DEPARTMENT.**

There is hereby established within the Village of Geneva-on-the-Lake Police Department, an Auxiliary Police Unit. The Mayor shall be the Executive Head of said Auxiliary Police Unit.

- (a) Number of Members. Said Auxiliary Police shall at no time exceed fifty members in number, each of whom shall be of good moral character and at least twenty-one years of age.
- (b) Appointment of Members. The Mayor shall make all appointments and removals of Auxiliary Police Officers. Auxiliary Police Officers shall serve so long as the Mayor may direct, or until a resignation submitted by such Officer shall be accepted by the Mayor.
- (c) Control of Unit. The Chief of Police shall be the Commanding Officer of the Auxiliary Police Unit and shall have the control of the assignment, training, stationing and the direction of work of such unit. The Auxiliary Police Unit will have all police powers, but shall perform only such police duties as assigned by the Marshal and shall act only when in the prescribed uniform or portion of uniform. The Marshal shall prescribe the time and place such uniform or portion thereof shall be worn. Such auxiliary officers shall obey the chain of command of the Police Department and shall take orders from all regular appointed members thereof.

- (d) Rules and Regulations. The Mayor shall prescribe the rules and regulations for the organization, training, administration, control and conduct of the Auxiliary Police Unit.
- (e) Uniform. The Marshall is authorized to prescribe the type of uniform or part thereof which shall be worn by members of the Auxiliary Police Unit.
- (f) Non-Liability. This section is declared by the Council to be an exercise by the Village of its police powers for the protection of the public peace, health, property, safety and general welfare, and neither the Village or agent or representative of the Village, an officer appointed under the provisions of this section, or any individual, firm, partnership, corporation or the receiver or trustees or any other agent thereof, who in good faith executes any executive order, rule or regulation promulgated pursuant to the provisions of this section shall be liable for injury or damage sustained to persons or property as the direct or proximate result of such action. (Ord. 540. Passed 7-21-66.)

### **139.02 RULES AND REGULATIONS.**

(a) The Chain of Command within the Village Police Department shall be the Chief and then Sergeant. Under no circumstances shall an auxiliary or part time (less than 40 hours per week) officer exercise any supervisory authority over a Class I, II or III officer.

(b) Prior to hiring, every Class I, II, III or IV officer shall pass a satisfactory physical and psychological examination, such cost to be paid by the Village.

(c) The Village shall provide training to any Class I, Class II, Class III or Class IV officer at its own discretion, and only with the authorization of the Chief of Police. Any training costs or monies expended by the Village in excess of one hundred dollars (\$100.00) (including lodging, mileage, tuition or other certification costs) where a Village employee applies for or obtains certification, shall be refunded to the Village if the employee fails to remain in the employment of the Village for a period of two years from the date of the certification. Said employee by requesting the Village to pay the costs of obtaining certification agrees to remain in the employment of the Village for two years from the date of obtaining certification.

(d) All Auxiliary Police Officers shall be required to volunteer a minimum of eighteen hours per month to maintain their commission with the Auxiliary. The eighteen hours of volunteer time shall consist of sixteen hours of scheduled work and two hours of training.

(e) Auxiliary Police Officers shall not receive any benefits offered other employees except PERS and Workers Compensation.

(f) The Geneva-on-the-Lake Police Department shall operate a seven day work period, beginning Sunday at 12:01 a.m. and ending Saturday night at 12:00 a.m. Police Officers shall not be compensated for court appearances that do not require their appearance by subpoena or order of the Village Solicitor.

(g) Class I-III officers in the Police Department shall receive a uniform allowance of five hundred dollars (\$500.00), per person, per year. Uniform allowance for each full time officer shall be tracked by the Chief of Police. The Chief of Police will report to the Fiscal Officer all uniform purchases and credits to purchases. The procedure for obtaining the uniform allowance is as follows:

- (1) Any full time officer shall submit to the Chief of Police a request for a uniform purchase.
- (2) The Chief of Police shall review and approve or deny their request. The Chief of Police will follow the below listed guidelines for uniform allowance approval.
  - A. Whether the item conforms to the accepted uniform of the Geneva-on-the-Lake Police Department.
  - B. Is the item approved for use by the departmental guidelines or policies.
  - C. Is the item necessary.
- (3) The Chief of Police, upon approving the request, will take the necessary actions with the Fiscal Officer to purchase the item, following the prescribed procedures for Village purchases.
- (4) No officer shall receive a lump sum cash payment or a series of payments for uniform allowance.  
(Ord. 2005-33. Passed 7-18-05; Ord. 2021-25. Passed 4-4-21.)

#### **139.03 SERGEANT POSITION CREATED.**

(a) The position of Sergeant is hereby created within the Village Police Department, effective upon the expiration of thirty days from the passage of this Section. Such a sergeant shall be chosen only upon the completion of the following:

- (1) The recommendation of the Chief of Police.
- (2) The appointment by the Mayor subject to Council approval.
- (3) The approval of a majority of members elected or appointed to Council.

(b) The Mayor can remove or demote the Sergeant only for cause and with the due process requirements of Ohio R.C. 737.19.

(c) The Sergeant shall serve as a patrol officer and supervisor, and such other functions as may be assigned by the Chief.

(d) The Sergeant shall receive all benefits as may be appropriate under the Village Personnel Code and shall be compensated at a rate of fifty cents (\$0.50) per hour above the highest rate paid a patrol officer.

(Ord. 2020-70. Passed 10-5-20.)





**CHAPTER 141  
Fire Department**

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| <p><b>141.01 Positions created; appointment and removal; compensation.</b></p> <p><b>141.02 Permit to draw water from a fire hydrant required.</b></p> | <p><b>141.03 Charges for ambulance and other emergency services.</b></p> |
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**CROSS REFERENCES**

- Fire protection contracts - see Ohio R.C. 307.05, 505.44, 717.02
- Composition - see Ohio R.C. 715.05, 737.21 et seq.
- Schooling, buildings and equipment - see Ohio R.C. 715.05, 737.23 et seq.
- Removal of Fire Chief and firemen - see Ohio R.C. 733.35 et seq., 737.22
- General duties - see Ohio R.C. 737.11
- Regulations and hours - see Ohio R.C. 737.21
- Appointment of Fire Chief and firemen - see Ohio R.C. 737.22
- Gas masks for firemen; requirements - see Ohio R.C. 3737.31

**141.01 POSITIONS CREATED; APPOINTMENT AND REMOVAL; COMPENSATION.**

- (a) The following positions are herein created within the Village Fire Department:
- (1) Assistant Chief.
  - (2) Fire Captain.
  - (3) Fire Lieutenant.
- (b) The Fire Chief, with the advice and consent of the Mayor, shall appoint persons of good standing to said positions. The Mayor may remove any person from such position upon the recommendation of the Fire Chief, with or without cause, and without appeal.
- (c) Persons appointed to such positions may be compensated for their duties in accordance with ordinance. (Ord. 2008-95. Passed 12-15-08.)

**141.02 PERMIT TO DRAW WATER FROM A FIRE HYDRANT REQUIRED.**

(a) No person shall open a fire hydrant or draw water therefrom, without a permit from the Fire Chief to do so, except when the hydrant is opened for the purpose of furnishing water to extinguish a fire or other Village purpose.

(b) The Fire Chief may issue a permit described in subsection (a) hereof upon payment of the sum of one dollar (\$1.00). (Ord. 348. Passed 3-1-48.)

**141.03 CHARGES FOR AMBULANCE AND OTHER EMERGENCY SERVICES.**

(a) All persons, except those specifically excepted by Council, shall pay the following rates and charges for ambulance and other emergency services rendered by the Fire Department through the Mayor's office or their designated collection agent. The Village or its collection agent may accept the usual, customary and reasonable rate from the second party, insurer or payer, to-wit: welfare, medicaid agencies and health and insurance companies and other providers:

RATES

(1)	Basic Life Support	\$600.00
(2)	Advanced Life Support	\$750.00
(3)	Advanced Life Support 2	\$850.00
(4)	Mileage per loaded mile	\$ 14.00

(b) The Chief of the Fire Department or a person directed by the Chief, shall file monthly Ambulance Transport Reports each transport with the Village Billing Clerk, which said Billing Clerk shall bill the appropriate and responsible party.

(c) In the event that a resident of the Village has no insurance, or in the event that their insurance pays only part of the ambulance/emt bill, then that resident shall not be obligated to pay the unpaid bill.

(Ord. 1149. Passed 11-5-01; Ord. 2007-48. Passed 9-4-07; Ord. 2012-45. Passed 6-18-12.)

**CHAPTER 143**  
**Planning Commission**

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| <p><b>143.01</b> Established.</p> <p><b>143.02</b> Ratification of acts of previous Commission.</p> <p><b>143.03</b> Meetings; records.</p> | <p><b>143.04</b> Agent for Commission.</p> <p><b>143.05</b> Removal of member.</p> |
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**CROSS REFERENCES**

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

**143.01 ESTABLISHED.**

A Village Planning Commission is herein officially established in accordance with Ohio R.C. 713.01. (Ord. 2007-08. Passed 2-20-07.)

**143.02 RATIFICATION OF ACTS OF PREVIOUS COMMISSION.**

Council recognizes that at some distant point in the past a Village Council did establish a Planning Commission, and the appointments and acts of the current Planning Commission, as well as previous commissions, are herein ratified as valid and binding acts. (Ord. 2007-08. Passed 2-20-07.)

**143.03 MEETINGS; RECORDS.**

(a) The Planning Commission shall establish a regular monthly meeting date upon which to conduct their business, and such other rules as may be necessary for their governance. The Mayor may cancel any regularly scheduled meeting if there is no business before the Commission. Special meetings may be called by the Mayor or by two members of the Planning Commission.

(b) The Mayor shall record all minutes from the Planning Commission, which the same shall be approved at the next commission meeting, and transmit the record to the Mayor's secretary/assistant for maintaining a permanent record at Village Hall. All Planning Commission records shall be maintained at Village Hall. (Ord. 2007-08. Passed 2-20-07.)

**143.04 AGENT FOR COMMISSION.**

The Mayor's secretary shall be designated the agent of the Planning Commission, and shall receive all application fees, applications, and other documents to be filed with the Commission. In consultation with the Planning Chairman, the secretary shall create an agenda for each meeting and provide copies of necessary documents to Planning Commission members unless they are too burdensome to copy, and this shall be given to the members at least forty-eight hours prior to the meeting. (Ord. 2007-08. Passed 2-20-07.)

**143.05 REMOVAL OF MEMBER.**

Except for the Mayor, any member of the Planning Commission who fails to attend three consecutive Planning Commission meetings shall be removed by the Mayor from the Commission and the Mayor, or Council, as appropriate, shall promptly replace the member removed. (Ord. 2007-08. Passed 2-20-07.)

**CHAPTER 145**  
**Zoning Department**

**145.01 Zoning Inspector.**

CROSS REFERENCES

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**145.01 ZONING INSPECTOR.**

(a) There is created the part time position of Village Zoning Inspector who shall be charged with the enforcement of the Village Zoning Code.

(b) The Zoning Inspector shall be appointed by the Mayor, with the consent of Council, and shall serve at the pleasure of the Mayor. The Zoning Inspector shall deposit all receipts collected with the Fiscal Officer with notations showing the names and addresses of those from whom the receipts were collected, and the purpose of the payment. The Zoning Inspector shall further provide monthly reports to the Mayor and Council showing all zoning permits issued, all zoning inspections, and revenues collected and such other information as the Mayor or Council may request. (Ord. 2005-10. Passed 3-21-05.)



**CHAPTER 147**  
**Employees Generally**

EDITOR'S NOTE: Pursuant to Ordinance 2006-57, passed September 5, 2006 the Village has enacted an Employment Manual as a practical guide to the benefits, terms and conditions of employment for Village employees. Copies are on file with the Fiscal Officer. Compensation provisions are not included in the Codified Ordinances since they are subject to frequent change. For compensation, consult latest salary ordinances.

**147.01 Cell phone policy.**

**147.02 Cafeteria 125 Premium Medical Plan.**

**147.03 Public Works employees uniform allowance.**

**CROSS REFERENCES**

Welfare - see Ohio Const., Art. II, Sec. 34  
 Workers' compensation - see Ohio Const., Art. II, Sec. 35;  
     Ohio R.C. Ch. 4123  
 All officers must take oath - see Ohio Const., Art. XV,  
     Sec. 7; Ohio R.C. 3.22, 733.68  
 Blanket bonds - see Ohio R.C. 3.06  
 Failure to give bond - see Ohio R.C. 3.30, 731.49 et seq.  
 Validity of bond - see Ohio R.C. 3.34, 733.71, 3929.14 et seq.  
 Public Employees Retirement System - see Ohio R.C. Ch. 145  
 Council to fix salaries and bonds - see Ohio R.C. 731.13,  
     731.49 et seq.  
 Notice when new bond required - see Ohio R.C. 731.50, 733.69  
 Approval of bonds - see Ohio R.C. 733.70  
 Expenses for attendance at conference or convention - see  
     Ohio R.C. 733.79

**147.01 CELL PHONE POLICY.**

The Village adopts the following cell phone policy for Village employees, effective June 1, 2011:

- (a) The Village shall supply its Administrator and EMT ambulance with a cell phone at no cost for up to 900 minutes per month. Such personnel shall use such cell phone only for Village purposes and shall not use cell phone for any personal calls or other calls not related to legitimate purposes of the Village.

- (b) The Village shall terminate the cell phone agreements for all other full-time Village employees. Such employees utilizing personal cell phones for Village business shall notify the Fiscal Officer in writing of such use, and shall receive a monthly stipend of thirty dollars (\$30.00) per month. No employee shall receive more than one such stipend. A monthly stipend shall only be provided from the date of such notification, and the first and last month shall be pro-rated. Those employees who provide the Fiscal Officer by the 20<sup>th</sup> day of each month with a copy of their previous month's phone bill and who demonstrate use of the phone for Village purposes shall not be taxed for such stipend; those employees who do not do so shall receive a 1099 form for the previous year's stipend less those amounts demonstrated to be used for Village purposes.  
(Ord. 2011-41. Passed 5-16-11.)

**147.02 CAFETERIA 125 PREMIUM MEDICAL PLAN.**

(a) A Cafeteria 125 Payment of Premium Plan is hereby adopted in substantial conformity with Exhibit "A" attached to Ordinance 2015-88 which is the Premium Only Plan Document for the medical insurance provided to the employees of the Village of Geneva-on-the-Lake.

(b) Council expressly finds that the Payment of Premium Plan, in substantial conformity with that set forth in Exhibit "A" attached to Ordinance 2015-88 is consistent with Section 405 of the Village of Geneva-on-the-Lake Employee Handbook entitled "Health Insurance".

(c) The Fiscal Officer shall serve as the Plan Administrator for the Cafeteria 125 Payment of Premium Plan.

(d) The summary plan description in substantial conformity with that attached to Ordinance 2015-88 as Exhibit "B" is hereby approved, accepted and authorized.

(e) Council hereby authorizes the administration of the Village to do all things that are necessary to institute the Payment of Premium Plan on or before January 1, 2016, so that the employees of the Village or Geneva-on-the-Lake receive the benefit of the Cafeteria 125 Payment of Premium Plan authorized by this section, beginning on January 1, 2016.  
(Ord. 2015-88. Passed 12-7-15.)

**147.03 PUBLIC WORKS EMPLOYEES UNIFORM ALLOWANCE.**

Public Works employees shall receive a uniform allowance of one hundred fifty dollars (\$150.00) per person, per year, for steel-toe boots.  
(Ord. 2021-25. Passed 4-4-21.)



**CHAPTER 148**  
**Public Records Policy**

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| <p><b>148.01 Introduction.</b></p> <p><b>148.02 Hours and costs.</b></p> <p><b>148.03 How to make a public records request.</b></p> <p><b>148.04 Definition of public records.</b></p> | <p><b>148.05 Records that will not be released.</b></p> <p><b>148.06 Limitations; questions or concerns.</b></p> |
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**148.01 INTRODUCTION.**

We are an open government. We welcome participation by our citizens. We believe openness leads to a better informed public, which leads to more transparent government and better public policy. Citizens are entitled to access government records and the Ohio Public Records Act should be interpreted liberally in favor of disclosure. (Ord. 2009-33. Passed 5-4-09.)

**148.02 HOURS AND COSTS.**

You may make public records requests in the Village between the hours of 9:00 a.m. and 5:00 p.m. on weekdays, excluding government holidays.

Requests for a large number of copies or copies of maps, plans and drawings, typically measuring 24" x 36", or 30" x 42", may require that the request be reproduced by an outside vendor identified by the Village. In those instances, the Village will forward the documents to the vendor for reproduction. You must pay the vendor, in advance, for the reproduction cost. You will also be responsible for retrieving your reproduced items from the vendor.

For in-house copies of public records on 8.5" x 11", 8.5" x 14" or 11" x 17" one sided paper, the copy cost is ten cents (\$.10) per page. Any other forms of media will be provided at actual cost. We may require you to pay the estimated copy costs before copies are made. There is not charge for in-house copy requests that result in a cost less than one dollar (\$1.00). However, if records are mailed to you, we may charge you, in advance, postage costs and the cost of mailing materials. (Ord. 2009-33. Passed 5-4-09.)

**148.03 HOW TO MAKE A PUBLIC RECORDS REQUEST.**

We will provide prompt inspection of public records and copies of public records in a reasonable period of time. When you make a request, we will ask you to complete a "Public Records Request Form," which will help us locate the records and expedite your request. You are not legally required to fill out the form, identify yourself, or give the purpose of your request. If the records cannot be provided while you wait, we will contact you when the records are available. (Ord. 2009-33. Passed 5-4-09.)

**148.04 DEFINITION OF PUBLIC RECORDS.**

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

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

You may ask for a copy of our records retention schedule, which will familiarize you with the types of records available.  
(Ord. 2009-33. Passed 5-4-09.)

**148.05 RECORDS THAT WILL NOT BE RELEASED.**

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

- (a) Attorney-client privileged information and trial preparation records.
- (b) Social security numbers.
- (c) Records of ongoing investigations.
- (d) Medical records.
- (e) BMV records.
- (f) Records that a judge ordered to be sealed per a statute.
- (g) Peace officer, firefighter, EMT, Prosecutor, Assistant Prosecutor, children's services worker, or correction officer, residential and familial information.  
(ORC 149.43(A)(7); Ord. 2009-33. Passed 5-4-09.)

**148.06 LIMITATIONS; QUESTIONS OR CONCERNS.**

(a) Limitations. We may limit to ten the number of public records mailed to you, unless you certify in writing that you do not intend to use the records for commercial purposes. We will not provide copies of public records that we create or receive after your original request is completed.

(b) Questions or Concerns. If you have questions or concerns about Ohio Public Records law, please contact your State legislator. You can find contact information at [www.Ohio.gov](http://www.Ohio.gov). For questions directed to the Village, you may call (440) 466-8197.  
(Ord. 2009-33. Passed 5-4-09.)

**CHAPTER 149**  
**Reutilization of Nonproductive Land**

**149.01 Adoption of Ohio R.C. Chapter  
5722.**

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**149.01 ADOPTION OF OHIO R.C. CHAPTER 5722.**

The Village of Geneva on the Lake, Ohio, adopts, in its entirety, Chapter 5722 of the Ohio Revised Code, specifically including, but not limited to, Sections 5722.02 to 5722.15, to facilitate the effective reutilization of nonproductive land situated within the Village.  
(Ord. 2009-88. Passed 10-5-09.)



**CHAPTER 151**  
**Nuisance Abatement**

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| <p><b>151.01 Public nuisance declared.</b></p> <p><b>151.02 Notice to property owner; when Village may abate nuisance.</b></p> <p><b>151.03 Subsequent nuisance activity; cost assessment.</b></p> <p><b>151.04 Notice of cost assessment; service of notice.</b></p> <p><b>151.05 Property owner to request reconsideration.</b></p> | <p><b>151.06 Nuisance abatement Board of Appeals.</b></p> <p><b>151.07 Final decision on request for reconsideration; costs a lien.</b></p> <p><b>151.08 Actions not to affect or limit Village's legal authority.</b></p> <p><b>151.09 False information as violation of Code.</b></p> |
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**CROSS REFERENCES**

Animal nuisances - see GEN. OFF. 505.08, 505.16  
Unsafe structures - see BLDG. 1341.01

**151.01 PUBLIC NUISANCE DECLARED.**

The following activities occurring at a residential dwelling unit, and engaged in by an owner, occupant or invitee of the owner or occupant of a residential dwelling unit, are hereby declared to be public nuisances:

- (a) Any violations under Sections 505.01 (running at large), 505.09 (barking or howling dogs), 505.05 (killing or injuring animals), and 505.07/071 (cruelty to animals) of the Codified Ordinances and similar statutes of the State of Ohio;
- (b) Any disorderly conduct, disturbance of the peace, noise or other violation of Chapter 509 of the Codified Ordinances and similar statutes of the State of Ohio;
- (c) Any drug abuse violation under Chapter 513 of the Codified Ordinances and similar statutes of the State of Ohio and any felony violation under Ohio R.C. Chapter 2925;
- (d) Any gambling violation under Chapter 517 of the Codified Ordinances and similar statutes of the State of Ohio;
- (e) Any health, safety, or sanitation violation under Chapter 521 of the Codified Ordinances, or Property Maintenance Code violations under Chapter 1311 and similar statutes of the State of Ohio;
- (f) Any obstruction of official business violation under Section 525.07 of the Codified Ordinances and similar statutes of the State of Ohio;

- (g) Any alcohol violation under Chapter 529 of the Codified Ordinances and similar statutes of the State of Ohio;
- (h) Any obscenity or sex offense under Chapter 533 of the Codified Ordinances and similar statutes of the State of Ohio;
- (i) Any offense against another person under Chapter 537 of the Codified Ordinances and similar statutes of the State of Ohio;
- (j) Any offense against property under Chapter 541 of the Codified Ordinances and similar statutes of the State of Ohio;
- (k) Any theft violation under Chapter 545 of the Codified Ordinances and similar statutes of the State of Ohio;
- (l) Any weapons, explosives, firearm or handgun violation under Chapter 549 of the Codified Ordinances and similar statutes of the State of Ohio;
- (m) Any activity engaged in by a person less than eighteen years of age which would constitute a violation of an offense listed in this section if committed by an adult. (Ord. 2012-53. Passed 8-6-12.)

**151.02 NOTICE TO PROPERTY OWNER; WHEN VILLAGE MAY ABATEMENT NUISANCE.**

The Chief of Police or his designee, upon finding that three or more nuisance activities declared in Section 151.01 have occurred at a residential dwelling unit, including houses, apartments, studios or any other type of room rented out (including hotels, motels and bed and breakfast) within any six-month period, shall cause a written notice and order to be served on the owner of the property declaring that such property is a nuisance property. The notice and order shall set forth the nature of the nuisances, the estimated costs to respond to and abate a similar future nuisance, and state that the owner may avoid being charged the costs of response and abatement by taking steps to prevent any further nuisance activities as set forth in this section. The notice shall further state that if a fourth or subsequent nuisance activity as declared in Section 151.01 occurs within six months of the date of the notice, the Village may abate the nuisance by responding to the activities using administrative and law enforcement actions, and the costs of such abatement shall be assessed on the nuisance property. Notice shall be served on the owner personally or by certified mail and regular mail to the person's residence, regular place of business or last known address. If the certified or regular mail is returned undelivered, a copy shall be posted in a conspicuous place in or on the person's residence, regular place of business, last known address, or the property affected. (Ord. 2012-53. Passed 8-6-12.)

**151.03 SUBSEQUENT NUISANCE ACTIVITY; COST ASSESSMENT.**

(a) If within six months of the date of the notice referred to in Section 151.02, a fourth or subsequent nuisance activity as declared in Section 151.01 occurs, the Village may abate the nuisance by responding to the activities using administrative and law enforcement action, and the costs of such abatement shall be assessed on the nuisance property. The costs of such response and abatement shall be calculated as set forth in subsection (b) hereof. Any further nuisance activity that occurs within six months of a nuisance activity for which the owner has been given notice of assessment may be charged to the owner.

(b) Costs of abatement shall be calculated by multiplying the highest hourly cost of a patrol officer by the number of police officers involved in the response to abate the nuisance activity times the number of hours required by the police officers to abate the nuisance in hourly increments, with a minimum of one hour and include an administrative charge of two hundred dollars (\$200.00) or ten percent (10%) of the costs of abatement, whichever is greater. (Ord. 2012-53. Passed 8-6-12.)

**151.04 NOTICE OF COST ASSESSMENT; SERVICE OF NOTICE.**

The Chief of Police shall provide notice to the owner of the nuisance property of the Village's intent to assess the costs of responses and abatement against the owner's property. Such notice shall contain a description of the nuisance activity that is the basis for the notice of intent to assess the property, and the cost to abate. Notice shall be served as set forth in Section 151.02. (Ord. 2012-53. Passed 8-6-12.)

**151.05 PROPERTY OWNER TO REQUEST RECONSIDERATION.**

The owner of a nuisance property who receives a notice from the Chief of Police or his designee pursuant to Section 151.02 may request reconsideration of such notice by submitting a written request to the Chief of Police within thirty days of the date of the notice.

- (a) If, after a timely request for reconsideration is submitted, the Chief of Police finds that the facts presented do not support the assessment of costs, the Chief shall grant the request and rescind the notice. Otherwise, the Chief shall deny the request.
- (b) The property owner may appeal denial of the request by submitting a written request within thirty days to the Chief of Police for a hearing before the Nuisance Abatement Board of Appeals.
- (c) A request for reconsideration or appeal shall not stay any actions by the Village to abate any nuisance activity.

(Ord. 2012-53. Passed 8-6-12.)

**151.06 NUISANCE ABATEMENT BOARD OF APPEALS.**

(a) There is hereby created a Nuisance Abatement Board of Appeals which shall consist of the Administrator or their designee, the Chairperson of the Public Safety Committee of Village Council or their designee, and three members of the community at large, appointed by the Mayor and subject to approval of the Council. The members of the community at large shall serve for three years and until a successor is appointed and qualified. Members shall serve without compensation.

(b) The Nuisance Abatement Board of Appeals shall hear any appeals made in accordance with this section.

(c) Hearing of Appeal. In any such appeal, the Village must show by a preponderance of the evidence that each violation stated in the notice being appealed has occurred, and that the intent of the Village to assess the property for abatement costs is justified. The Village shall not have to show that there has been a conviction for a criminal offense to show the existence of a nuisance. The Village shall be deemed to have failed to have met this standard if the owner demonstrates by a preponderance of evidence that:

- (1) He was not the owner at the time of any of the nuisance activity that is the basis of the notice; or
- (2) He had knowledge of the nuisance activity, but has promptly and vigorously taken all actions necessary to abate each nuisance including, without limitation, compliance with the requirements of Ohio R.C. 5321.17(C) and 5321.04(A)(9); or
- (3) He had no knowledge of the nuisance activity and could not, with reasonable care and diligence, have known of the nuisance activity; and upon receipt of the notice of the declaration of the property as a nuisance property, he promptly took all actions necessary to abate the nuisance including, without limitation, compliance with the requirements of Ohio R.C. 5321.17(C) and 5321.04(A)(9).

(d) Any appeal from a decision of the Nuisance Abatement Board of Appeals shall be made pursuant to Ohio R.C. Chapter 2506.  
(Ord. 2012-53. Passed 8-6-12.)

**151.07 FINAL DECISION ON REQUEST FOR RECONSIDERATION; COSTS  
A LIEN.**

After final decisions on any requests for reconsideration or further appeals have been issued and the costs to abate have not been paid within thirty days of the notice of such decision, the costs of abatement shall be reported to the Village Fiscal Officer, who shall mail a statement of the amount thereof to the owner of the property.

If after thirty days such amount remains unpaid, the Village Fiscal Officer shall certify the total amount of the expenses, the name of the owner of the land and a sufficient description of the premises to the County Auditor, to be entered on the tax duplicate, to be a lien on the land from the date of entry and to be collected as other taxes and assessments and returned to the Village pursuant to Ohio R.C. 731.54. (Ord. 2012-53. Passed 8-6-12.)

**151.08 ACTIONS NOT TO AFFECT OR LIMIT VILLAGE'S LEGAL  
AUTHORITY.**

The declaration of a nuisance property, an order to abate a nuisance, or the assessment of costs by the Village on a property, do not affect or limit the Village's right or authority to bring criminal prosecution or legal action, including nuisance abatement and assessment as provided by law. (Ord. 2012-53. Passed 8-6-12.)

**151.09 FALSE INFORMATION AS VIOLATION OF CODE.**

Any person knowingly providing false information would be in violation of Ohio R.C. 2921.13 and/or Geneva-on-the-Lake Codified Ordinance 525.02.  
(Ord. 2012-53. Passed 8-6-12.)



**TITLE SEVEN - Judicial**  
Chap. 171. Municipal Court

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**CHAPTER 171**  
**Municipal Court**

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

**CROSS REFERENCES**

Release of Court Clerk's liability for loss of funds - see Ohio R.C. 131.18 et seq.  
Municipal court - see Ohio R.C. Ch. 1901  
Bond for Court Clerk required - see Ohio R.C. 1901.31(D)  
Commitment in lieu of fine; credit for time served - see Ohio R.C. 2947.20  
Notification to Director of liquor law convictions - see Ohio R.C. 4301.991  
Record of traffic violations - see Ohio R.C. 4513.37



**TITLE NINE - Taxation**

- Chap. 181. Income Tax.  
 Chap. 182. Municipal Income Tax Effective January 1, 2016.  
 Chap. 183. Motor Vehicle License Tax.  
 Chap. 185. Bed Tax.

**CHAPTER 181  
Income Tax**

**EDITOR'S NOTE:** See Chapter 182 for income tax effective January 1, 2016.

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| <b>181.01 Purpose.</b>   | <b>181.10 Interest and penalties.</b>                                 |
| <b>181.02 Definitions.</b>   | <b>181.11 Collection of unpaid taxes and refunds of overpayments.</b> |
| <b>181.03 Imposition of tax.</b>   | <b>181.12 Violations and penalties; time limit for prosecution.</b>   |
| <b>181.04 Effective period.</b>  | <b>181.13 Board of Review.</b>  |
| <b>181.05 Returns; time limit; extensions; payment; amended returns.</b>                                 | <b>181.14 Credit for tax paid to another municipality.</b>            |
| <b>181.06 Withholding tax; employer deemed trustee.</b>  |   |
| <b>181.07 Declaration of income; payment dates.</b>  |   |
| <b>181.08 Duties of the Administrator.</b>   |   |
| <b>181.09 Investigative powers of the Administrator; penalty for divulging confidential information.</b> |   |

**CROSS REFERENCES**

- Payroll deductions - see Ohio R.C. 9.42  
 Municipal income taxes - see Ohio R.C. Ch. 718  
 State income tax - see Ohio R.C. Ch. 5747

**181.01 PURPOSE.**

To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of this Municipality there shall be, and is hereby levied, a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.  
 (Ord. 916. Passed 3-7-88.)

**181.02 DEFINITIONS.**

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

- (a) Administrator - The individual designated by this chapter whether appointed or elected, to administer and enforce the provisions of this chapter.
- (b) Association - A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
- (c) Board of Review - The Board created by and constituted as provided in Section 181.13.
- (d) Business - An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- (e) Corporation - A corporation or joint stock association organized under the laws of the United States or Ohio, or any other state, territory, or foreign country or dependency.
- (f) Employee - One who works for wages, salary, commission or other type of compensation in the service of an employer.
- (g) Employer - An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (h) Fiscal Year - An accounting period of twelve months or less ending on any day other than December 31st.
- (i) Gross Receipts - The total income from any source whatsoever.
- (j) Net Profits - A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, with deduction of taxes imposed by this chapter, federal, state and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this chapter.
- (k) Non-Resident - An individual domiciled outside this Municipality.
- (l) Non-Resident Unincorporated Business Entity - An unincorporated business entity not having an office or place of business within this Municipality.
- (m) Person - Every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (n) Place of Business - Any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his employees regularly in attendance.
- (o) Resident - An individual domiciled in this Municipality.
- (p) Resident Unincorporated Business Entity - An unincorporated business entity having an office or place of business within this Municipality.

- (q) Taxable Income - Wages, salaries and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (r) Taxable Year - The calendar year, or the fiscal year upon the basis of which net profits are to be computed under this chapter, and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (s) Taxpayer - A person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

The singular shall include the plural, and the masculine shall include the feminine and the neuter. (Ord. 916. Passed 3-7-88.)

### **181.03 IMPOSITION OF TAX.**

(a) Subject to the provisions of Section 181.16, an annual tax for the purposes specified in Section 181.01 hereof shall be imposed on or after September 1, 2012 at the rate of one and one-half percent (1.5%) per annum upon the following:  
(Ord. 2012-28. Passed 5-7-12.)

- (1) On all salaries, wages, commissions, lottery winnings and other compensation earned or won during the effective period of this chapter by residents of the Village of Geneva-on-the-Lake, Ohio.  
(Ord. 1133. Passed 12-18-00.)
- (2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by non-residents for work done or services performed or rendered in this Municipality.
- (3) A. On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality.  
B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (4) Nonresident unincorporated business.  
A. On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all non-resident unincorporated businesses, professions, or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in this Municipality, whether or not such unincorporated business entity has an office or place of business in this Municipality.  
B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a non-resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.

- (5) On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality, whether or not such corporations have an office or place of business in this Municipality.
- (b) The portion of the net profits attributable to this Municipality of a taxpayer conducting a business, profession or other activity both within and without the boundaries of this Municipality shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.
- (c) Operating Loss Carry Forward.
- (1) The portion of a net operating loss sustained in any taxable year subsequent to (effective date of "first" ordinance permitting loss carry-forwards) allocable to this Municipality may be applied against the portion of the profit of succeeding year(s) allocable to this Municipality, until exhausted but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
  - (2) The portion of a net operating loss sustained shall be allocated to this Municipality in the same manner as provided herein for allocated net profits to this Municipality.
  - (3) The Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.
- (d) Consolidated Returns.
- (1) Filing of consolidated returns may be permitted, required or denied in accordance with Rules and Regulations prescribed by the Administrator.
  - (2) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within this Municipality constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to this Municipality. If the Administrator finds net profits are not properly allocated to this Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation of net profits to this Municipality.
- (e) The provisions of this chapter shall not be construed as levying tax upon the following income:
- (1) Military pay or allowances of members of the armed forces of the United States, or income of religious, fraternal, charitable, scientific, literary or educational institutions as to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

- (2) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, state or federal government or charitable, religious or educational organizations;
- (3) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities or gratuities not in the nature of services rendered from whatever source derived;
- (4) 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;
- (5) Alimony received;  
(Ord. 916. Passed 3-7-88.)
- (6) Personal earnings of any natural person under fifteen years of age;  
(Ord. 2008-14. Passed 3-17-08.)
- (7) Compensation for personal injuries or for damages to property by way of insurance or otherwise;
- (8) Interest subject to the Ohio Intangible Tax or specifically exempted by the Ohio Intangible Tax Law, dividends and other revenue from intangible property;
- (9) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State which the Village is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except such income from the operation of a business;
- (10) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by 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;
- (11) Salaries, wages, commission and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the Village to impose net income tax.  
(Ord. 916. Passed 3-7-88.)

#### **181.04 EFFECTIVE PERIOD.**

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professional or other activities earned on and after April 1, 1988.  
(Ord. 916. Passed 3-7-88.)

#### **181.05 RETURNS; TIME LIMIT; EXTENSIONS; PAYMENT; AMENDED RETURNS.**

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

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

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

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

- (d) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source to the provisions of Section 181.06, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.07, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 181.14 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.
- (2) A taxpayer who has overpaid the amount of tax to which this Municipality is entitled under the provisions of this chapter may have such overpayment applied any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

- (e) (1) Amended Returns: Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 181.11 and 181.14. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting of apportionment of net profits after the due date for filing the original return.
- (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's tax liability to this Municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this Municipality based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.  
(Ord. 916. Passed 3-7-88.)



**181.06 WITHHOLDING TAX; EMPLOYER DEEMED TRUSTEE.**

(a) In accordance with Rules and Regulations prescribed by the Administrator, each employer doing business within the Village of Geneva on the Lake shall deduct at the time of payment to any employee of any salary, wage, commission or other compensation, the tax of one and one-half percent (1.5%) of the gross salaries, wages, commissions or other compensation due said employee and shall, on or before the last day of each month, file a return and pay to the Administrator the amount of taxes so deducted for the previous month. Said returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the Rules and Regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in effect, been withheld, but no employer shall be required to submit such a return if no such salaries, wages, or commissions were paid for such preceding month.

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

(c) On or before January 31 of each year, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such person's residence is in the Municipality, but such employee shall be subject to all of the requirements of this chapter.

(e) The Tax Administrator for good cause may require immediate returns and payments to be submitted to his office.  
(Ord. 2009-86. Passed 10-5-09; Ord. 2012-28. Passed 5-7-12.)

**181.07 DECLARATION OF INCOME; PAYMENT DATES.**

(a) Every person who anticipates any taxable income which is not subject to Section 181.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to this Municipality in accordance with Section 181.06, such person need not file a declaration.

- (b) (1) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

- (c) (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, however, credit shall be taken for this Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.14, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing Municipality.
- (2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date and provided for herein.

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

(e) On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due this Municipality shall be paid therewith the provisions of Section 181.05 hereof. (Ord. 916. Passed 3-7-88.)

#### **181.08 DUTIES OF THE ADMINISTRATOR.**

- (a) (1) It shall be the duty of the Tax Administrator to receive the tax imposed by this chapter in the manner prescribed from the taxpayers; to keep an accurate record thereof; and to report all monies so received.
- (2) It shall be the duty of the Administrator to enforce payment of all taxes owing this Municipality, to 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 to show the dates and amounts thereof.

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

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 181.11 and 181.12 shall apply.

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

(d) Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 181.10. (Ord. 916. Passed 3-7-88.)

(e) The Fiscal Officer shall be the Tax Administrator and shall be compensated for performing all the duties required of the Tax Administrator the sum of four hundred dollars (\$400.00) per month, payable monthly effective April 1, 2013. (Ord. 2013-19. Passed 2-18-13.)

**181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

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

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

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or any officer, agent, or employee of a person subject to the tax or required to withhold tax or the provisions of this section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.12.

(d) Any information gained as a result of any returns, investigations, verifications or hearing before the Administrator, required by this chapter or authorized by these Rules and Regulations shall be confidential and no disclosure thereof shall be made except for official purpose or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor of the first degree punishable by a maximum fine of one thousand dollars (\$1,000) or imprisonment for not more than six months, or both. Each disclosure shall constitute a separate offense.

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

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid. (Ord. 916. Passed 3-7-88.)

#### **181.10 INTEREST AND PENALTIES.**

(a) All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1 ½ %) per month or fraction thereof.

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

- (1) For failure to pay tax due other than taxes withheld, one and one-half percent (1 ½ %) per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees; ten percent (10%) per month or fraction thereof.

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

(d) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both. (Ord. 916. Passed 3-7-88.)

#### **181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.**

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitation provided in subsection (a) hereof. (Ord. 916. Passed 3-7-88.)

#### **181.12 VIOLATIONS AND PENALTIES; TIME LIMIT FOR PROSECUTION.**

(a) Any person who shall do any of the following shall be guilty of a misdemeanor of first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both for each offense:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or

- (2) Make any incomplete, false or fraudulent return;
- (3) Willfully fail, neglect or refuse to pay the tax, penalties, or interest imposed by this chapter; or
- (4) Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (9) Give to an employer false information as to his true name, correct social security number and residence address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this Municipality's income tax withheld, or to knowingly give the Administrator false information; or
- (11) 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.

(b) Prosecutions for an offense made punishable under this chapter shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.  
(Ord. 916. Passed 3-7-88.)

### **181.13 BOARD OF REVIEW.**

(a) A Board of Review consisting of a chairman and two other individuals to be appointed by the Mayor and confirming by the concurrence of two-thirds of the members elected to Council is hereby created. The first appointments shall be for one year, two years and three years, and each appointment made after the expiration of such terms shall be for three years. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its proceedings. Any hearing by the Board may be conducted privately and the provisions of Section 181.09 with reference to the confidential character of the information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board of Appeal.

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

(c) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.  
(Ord. 916. Passed 3-7-88.)

**181.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.**

- (a) (1) Every individual taxpayer who resides within the Village but who receives net profits, salaries, commissions or other forms of compensation for work done or services performed outside of the Village, shall be allowed a credit against the income tax imposed by this chapter in an amount not to exceed one percent (1%) against the tax rate set in this chapter, but only when:
- A. The taxpayer has paid a municipal income tax on the same income to a municipality other than the Village of Geneva-on-the-Lake.
  - B. The taxpayer provides sufficient documentation to show that the income tax was paid to such other municipality.
  - C. Such credit shall be provided only for the tax return for the year in which the income is to be reported and taxed, and shall not apply to any delinquent return.
- (2) Any credit to be received under this subsection shall be equal to the percentage of income tax paid to such other municipality, but in no case shall the credit exceed one percent (1%) as described in this subsection.  
(Ord. 2012-30. Passed 5-7-12.)

(b) In the event a Geneva-on-the-Lake resident is entitled to credit for taxes paid another municipality, such Geneva-on-the-Lake resident is required to file a return on form in such manner as the Administrator designated by the Village may prescribe.

(c) Assignment of any claim for refund to which a Village resident may be entitled from another municipality shall tentatively accept as payment of that portion of Village income tax represented by such assignment. However, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.

(d) In the event such Village resident fails, neglects or refuses to file such return or form as is prescribed by the Administrator, he shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

(e) Any claim for credit for income taxes paid another municipality on the same income taxable hereunder or claim for or assignment of any refund due to the credit provided for herein, must be filed within three years from the date of the return. Failure to file such claim for refund or credit within the time prescribed herein shall render such credit, claim for refund or assignment null and void. (Ord. 916. Passed 3-7-88.)

**CHAPTER 182**  
**Municipal Income Tax Effective January 1, 2016**

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|----------------|---|----------------|--|
| <b>182.01</b>  | <b>Authority to levy tax; purposes of tax; rate.</b>                                    | <b>182.081</b> | <b>Credit for tax paid to another municipality.</b>                                    |
| <b>182.011</b> | <b>Authority to levy tax.</b>   | <b>182.082</b> | <b>Refundable credit for qualifying loss.</b>  |
| <b>182.012</b> | <b>Purposes of tax; rate.</b>   | <b>182.083</b> | <b>Credit for person working in joint economic development district or zone.</b>       |
| <b>182.013</b> | <b>Allocation of funds.</b>   | <b>182.084</b> | <b>Credit for tax beyond statute for obtaining refund.</b>                             |
| <b>182.014</b> | <b>Statement of procedural history; state mandated changes to Municipal Income Tax.</b> | <b>182.09</b>  | <b>Annual return.</b>  |
| <b>182.02</b>  | <b>Effective date.</b>  | <b>182.091</b> | <b>Return and payment of tax.</b>  |
| <b>182.03</b>  | <b>Definitions.</b>   | <b>182.092</b> | <b>Return and payment of tax; individuals serving in Combat Zone.</b>                  |
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| <b>182.041</b> | <b>Determining municipal taxable income for individuals.</b>                            | <b>182.094</b> | <b>Extension of time to file.</b>  |
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| <b>182.061</b> | <b>Determining municipal taxable income for taxpayers who are not individuals.</b>      | <b>182.132</b> | <b>Authority of Tax Administrator; compromise of claim and payment over time.</b>      |
| <b>182.062</b> | <b>Net profit; income subject to net profit tax; alternative apportionment.</b>         | <b>182.133</b> | <b>Authority of Tax Administrator; right to examine.</b>                               |
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| <p><b>182.18</b> Local Board of Tax Review; appeal to Local Board of Tax Review.</p> <p><b>182.19</b> Actions to recover; statute of limitations.</p> <p><b>182.20</b> Adoption of rules.</p> | <p><b>182.21</b> Rental and leased property.</p> <p><b>182.97</b> Collection after termination of chapter.</p> <p><b>182.98</b> Savings clause.</p> <p><b>182.99</b> Violations; penalty.</p> |
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## **182.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE.**

### **182.011 AUTHORITY TO LEVY TAX.**

(A) The tax on income and the withholding tax established by this Chapter 182 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 182 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.  
(Ord. 2015-83. Passed 11-16-15.)

### **182.012 PURPOSES OF TAX; RATE.**

(A) To provide funds for the purpose of general municipal operations, including personnel, repair and maintenance, services and facilities, capital improvements and such other municipal purposes as determined by the Village Council.

(B) The income tax rate shall be 1.50%.  
(Ord. 2015-83. Passed 11-16-15.)

### **182.013 ALLOCATION OF FUNDS.**

Funds received from the income tax shall be allocated each year as set forth in the appropriation ordinance passed by Village Council. (Ord. 2015-83. Passed 11-16-15.)

### **182.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX.**

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



(B) As mandated by H.B. 5, municipal income tax Ordinance 2015-83, effective January 1, 2016, comprehensively adopts Chapter 182 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.  
(Ord. 2015-83. Passed 11-16-15.)

#### **182.02 EFFECTIVE DATE.**

(A) Ordinance 2015-83, 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 182 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 2015-83 does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, but rather adopts new Chapter 182 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that Chapter and those ordinances and resolutions existed before January 1, 2016.  
(Ord. 2015-83. Passed 11-16-15.)

#### **182.03 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. Except as provided in section 718.81 of the Revised Code, if a term used in this Chapter that is not otherwise defined in this Chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

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

Except as otherwise provided in section 718.81 of the Revised Code, as used in this Chapter:

- (1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(E) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows: (Ord. 2018-10. Passed 3-5-18.)
  - (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 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;  
(Ord. 2015-83. Passed 11-16-15.)
- (H) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.  
(Ord. 2018-10. Passed 3-5-18.)

- (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 182.063 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 182.063 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 182.096 (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 182.062(B)(2) of this Chapter; or

- (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 182.062(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 182.18 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 182.096 (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) INTENTIONALLY LEFT BLANK
- (O) All of the municipal taxable income earned by individuals under fifteen (15) 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 182.052 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 182.052 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 182.052 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 182.052 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 182.052 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 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 182.081 of this Chapter.
  - (E) For residents, an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733. of the Ohio Revised Code, and the tax shall apply to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.
- (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 182.18 of this Chapter.
- (19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 718.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code. (Ord. 2015-83. Passed 11-16-15.)
- (20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:
- (i) For a person other than an individual, income, apportioned or situated to the Municipality under Section 192.062 of this Chapter, as applicable reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality. (Ord. 2018-10. Passed 3-5-18.)
  - (ii) (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
  - (b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.
  - (iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 182.062 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"** or **"VILLAGE"** means the Village of Geneva on the Lake, Ohio
- (22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations. (Ord. 2015-83. Passed 11-16-15.)
- (23) (A) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.
- (B) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income reduced by any new operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (23)(C) of this section.
- (C) (i) The amount of such net operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
- (ii) No person shall use the deduction allowed by division (23)(C) of this section to offset qualifying wages.
- (iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021 or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent of the amount of the deduction otherwise allowed by division (23)(C) of this section.
- (b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (23)(C) of this section without regard to the limitation of division (23)(C)(iii)(a) of this section.
- (iv) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a tax payer may deduct any amount pursuant to division (23)(C) of this section.

- (v) Nothing in division (23)(C)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of (23)(C)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (23)(C)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (23)(C)(iii)(a) of this section shall apply to the amount carried forward.
  - (D) For 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.
  - (E)
    - (i) For the purposes of this Chapter, and notwithstanding any other provision of this Chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.
    - (ii) 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 (E)(iii) of this section.
    - (iii) 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 (E)(ii) 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.
    - (iv) 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 (E) of this section applies to all municipal corporations in which an individual owner of the partnership resides.  
(Ord. 2018-10. Passed 3-5-18.)
- (24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.

- (25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.
- (31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery
- (32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.
- (B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.
- (33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.
- (34) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (A) Deduct the following amounts:

- (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
  - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
  - (iii) INTENTIONALLY LEFT BLANK
  - (iv) INTENTIONALLY LEFT BLANK
  - (v) Any amount included in wages that is exempt income.
- (B) Add the following amounts:
- (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
  - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.
  - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.
  - (iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
  - (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
  - (vi) Any amount not included in wages if all of the following apply:
    - (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
    - (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
    - (c) For no succeeding taxable year will the amount constitute wages; and
    - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (35) **"RELATED ENTITY"** means any of the following:
- (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) 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 percent (50%) 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 percent (50%) 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 percent (20%)" shall be substituted for "5 percent" (wherever "5 percent (5%)" 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 182.042 of this Chapter.
- (38) **"S CORPORATION"** means a person that has made an election under subChapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.
- (43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes. (Ord. 2015-83. Passed 11-16-15.)
- (44) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:
- (A) A municipal corporation acting as the agent of another municipal corporation;

- (B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
- (C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.  
"Tax Administrator" does not include the tax commissioner.  
(Ord. 2018-10. Passed 3-5-18.)
- (45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.
- (46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this Chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.
- (B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
- (a) The limited liability company's single member is also a limited liability company.
- (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
- (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.
- (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
- (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
- (ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.
- (48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

- (49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.
- (50) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770. of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code. (Ord. 2015-83. Passed 11-16-15.)
- (51) **"TAX COMMISSIONER"** means the Tax Commissioner appointed under Section 121.03 of the Revised Code. (Ord. 2018-10. Passed 3-5-18.)

#### **182.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.**

##### **182.041 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 182.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
  - (a) "Income" is defined in Section 182.03 (14) of this Chapter.
    - (i) "Qualifying Wages" is defined in Section 182.03(34).
    - (ii) "Net profit" is included in "income", and is defined in Section 182.03 (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 182.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 182.062(E).
    - (iii) Section 182.03(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 182.03(27).
  - (b) "Exempt Income" is defined in Section 182.03 (11) of this Chapter.
  - (c) Allowable employee business expense deduction is described in (20)(B) of Section 182.03 of this Chapter, and is subject to the limitations provided in that section.
  - (d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 182.03 (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 situated to the Municipality as provided in Section 182.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 182.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
  - (a) "Income" is defined in Section 182.03(14) of this Chapter.
    - (i) "Qualifying Wages" is defined in Section 182.03(34).



- (ii) "Net profit" is included in "income", and is defined in Section 182.03(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 182.03. "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 182.03(27).
- (b) "Exempt Income" is defined in Section 182.03(11) of this Chapter.
- (c) "Apportioned or situated to the Municipality as provided in Section 182.062 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 182.062(E).
- (d) "Allowable employee business expense deduction" as described in (20)(B) of Section 182.03 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 182.03(32) of this Chapter.  
(Ord. 2015-83. Passed 11-16-15.)

#### **182.042 DOMICILE.**

- (A) As used in this section:
  - (1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.
  - (2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.
  - (3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.
- (B) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
  - (1) The individual's domicile in other taxable years;
  - (2) The location at which the individual is registered to vote;
  - (3) The address on the individual's driver's license;
  - (4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;

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

(C) All applicable factors are provided in Ohio Revised Code Section 718.012. (Ord. 2015-83. Passed 11-16-15.)

#### **182.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES.**

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

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

(Ord. 2015-83. Passed 11-16-15.)

#### **182.05 COLLECTION AT SOURCE.**

##### **182.051 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 182.052 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: (Ord. 2015-83. Passed 11-16-15.)
- (a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day 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 to the Tax Administrator not later than fifteen days after the last day of each month.  
(Ord. 2016-48. Passed 9-6-16.)
- (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 182.091 of this Chapter. (Ord. 2015-83. Passed 11-16-15.)
- (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this Chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

- (2) If a payment under this chapter is made by electronic fund transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment.  
(Ord. 2016-48. Passed 9-6-16.)

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

- (E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this Chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
- (2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(G) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section.  
(Ord. 2015-83. Passed 11-16-15.)

**182.052 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 182.051 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 182.03 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 182.051 of this Chapter.

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

Notwithstanding division (D) of this section, if, during a calendar year, the number of days an individual performs personal services at a petroleum refinery exceeds twelve, the employer shall withhold tax for the municipal corporation for the first twelve days for which the employer paid qualifying wages to the individual and for all subsequent days in the calendar year on which the individual performed services at the refinery.  
(Ord. 2015-83. Passed 11-16-15.)

#### **182.053 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 percent (50%) 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 182.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.  
(Ord. 2015-83. Passed 11-16-15.)

### **182.06 INCOME SUBJECT TO NET PROFIT TAX.**

#### **182.061 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 182.03(23).
    - (ii) "Adjusted Federal Taxable Income" is defined in Section 182.03(1) of this Chapter.
  - (2) "Exempt Income" is defined in Section 182.03(11) of this Chapter.
  - (3) "Apportionment" means the apportionment as determined by Section 182.062 of this Chapter.
  - (4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 182.03(32) of this Chapter.
- (Ord. 2015-83. Passed 11-16-15.)

#### **182.062 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 182.052 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 182.19 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 182.19 of this Chapter.
- (4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
- (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
    - (a) The employer;
    - (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
    - (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

- (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
  - (3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows: (Ord. 2015-83. Passed 11-16-15.)
- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation only if, regardless of where title passes, the property meets either of the following criteria:
    - (a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
    - (b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.  
(Ord. 2018-10. Passed 3-5-18.)
  - (2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.
  - (3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.
  - (4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.
  - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.
- (E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides. A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

- (F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 182.081 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 182.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation. This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.
- (H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity. (Ord. 2015-83. Passed 11-16-15.)

### **182.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.**

- (A) As used in this section:
- (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.

- (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
  - (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.
- (B)
- (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.
    - (a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.
    - (b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or
    - (c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
  - (2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
  - (3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax. (Ord. 2015-83. Passed 11-16-15.)
  - (4) When a taxpayer makes the election allowed under Section 718.80 of the Revised Code, a valid election made by the taxpayer under division (B)(1) or (2) of this section is binding upon the tax commissioner for the remainder of the five-year period.
  - (5) When an election made under Section 718.80 of the Revised Code is terminated, a valid election made under Section 718.86 of the Revised Code is binding upon the tax administrator for the remainder of the five-year period. (Ord. 2018-10. Passed 3-5-18.)

(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 182.03(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 182.03 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 182.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
- (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 182.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

- (4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
- (a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 182.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;
  - (b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this Chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 182.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

(H) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016. (Ord. 2015-83. Passed 11-16-15.)

#### **182.064 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. (Ord. 2015-83. Passed 11-16-15.)

**182.065 TAX CREDITS TO FOSTER JOB RETENTION.**

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

(Ord. 2015-83. Passed 11-16-15.)

**182.07 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 182.091 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; (Ord. 2015-83. Passed 11-16-15.)
    - (d) For an individual, on or before the fifteenth day of the first month of the following taxable year, ninety per cent of the tax liability for the taxable year. For a person other than an individual, 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. (Ord. 2018-10. Passed 3-5-18.)
  - (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 182.091 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 182.10 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 182.091 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. (Ord. 2015-83. Passed 11-16-15.)

**182.08 CREDIT FOR TAX PAID.****182.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.**

- (A) (1) Every individual taxpayer who resides within the Village but who receives net profits, salaries, qualifying wages, commissions, rents or other personal service compensation for work done or services performed or rendered outside of the Municipality, if it is established with supporting documentation that said income is subject to municipal income tax in another municipality and that said tax has been paid to that other municipality on the same income taxable under this Chapter, shall be allowed a credit against the income tax imposed by this Chapter of the amount so paid by him or his behalf to such other municipality. The credit shall not to exceed one percent (1.0%) of the income subject to the tax of another municipality, or shall not exceed the tax rate of the other municipality, whichever is less.
- (2) If for any tax year beginning on and after January 1, 2016, a resident taxpayer's Net profit income taxable to another municipality for which credit is being taken is greater than the income taxable to Municipality, the credit shall not exceed one percent (1.0%) of the Net Profit income taxable to the Municipality.

(B) The Municipality shall grant a credit against its tax on income to a resident of 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 ORC to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation.

(C) No credit shall be allowed for payment of school district income taxes.  
(Ord. 2015-83. Passed 11-16-15.)

**182.082 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 which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.
- (B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
- (2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.
- (3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
- (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
- (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

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

- (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
  - (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.
- (Ord. 2015-83. Passed 11-16-15.)

**182.083 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 182.081 of this Chapter. (Ord. 2015-83. Passed 11-16-15.)

**182.084 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 182.096 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 182.096, 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 182.096 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 182.081 of this Chapter regarding any limitation on credit shall prevail. (Ord. 2015-83. Passed 11-16-15.)

**182.09 ANNUAL RETURN.**

**182.091 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 Section 182.051(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, fifteen (15) years of age or older, shall file an annual municipal income tax return with the Municipality regardless of income or liability.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this Chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

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

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

- (F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.
- (2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or, in the case of a return or request

required by a qualified municipal corporation, Ohio IT 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

- (3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.
  - (4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.
  - (5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
  - (6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.
- (G) (1) (a) Except as otherwise provided in this Chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

- (b) Except as otherwise provided in this Chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.
  - (c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.
- (2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this Chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.
  - (3) With respect to taxpayers to whom Section 182.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 182.092 of this Chapter, the provision in Section 182.092 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 182.051 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 182.051 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 182.052 of this Chapter.
- (2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

- (a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this Chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this Chapter.
- (b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.  
The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.
- (c) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this Chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person.  
(Ord. 2015-83. Passed 11-16-15.)

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

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in

support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this Chapter during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

- (B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.
  - (2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.
  - (3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.
  - (2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this Chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.
  - (b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to

that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

(Ord. 2015-83. Passed 11-16-15.)

### **182.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED.**

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

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

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

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

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (Ord. 2015-83. Passed 11-16-15.)

### **182.094 EXTENSION OF TIME TO FILE.**

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

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

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

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

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

(Ord. 2015-83. Passed 11-16-15.)

#### **182.095 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 182.19 of this Chapter has not expired for a previously filed return.
- (2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.



- (C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (E) of section 182.19 of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 182.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.
- (2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. (Ord. 2015-83. Passed 11-16-15.)

#### **182.096 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 182.18 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 182.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in Section 182.10 of this Chapter.  
(Ord. 2015-83. Passed 11-16-15.)

### **182.10 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 percent, plus five percent. 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. (Ord. 2018-53. Passed 11-16-15.)
- (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty not exceeding fifteen percent (15%) of the amount not timely paid shall be imposed. (Ord. 2018-10. Passed 3-5-18.)
- (3) With respect to any unpaid withholding tax, a penalty equal to fifty percent (50%) of the amount not timely paid shall be imposed.

- (4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The Municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees.

(Ord. 2015-83. Passed 11-16-15.)

#### **182.11 AUDIT.**

(A) At or before the commencement of an audit, as defined in Section 182.03(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.  
(Ord. 2015-83. Passed 11-16-15.)

### **182.12 ROUNDING.**

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this Chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.  
(Ord. 2015-83. Passed 11-16-15.)

### **182.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.**

#### **182.131 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 182.062 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 182.051 of this Chapter.  
(Ord. 2015-83. Passed 11-16-15.)

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

(A) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this Chapter.

(B) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:

- (1) Compromise a claim;
- (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

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

- (E) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

- (2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement. (Ord. 2015-83. Passed 11-16-15.)

**182.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.**

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

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

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

(D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply. (Ord. 2015-83. Passed 11-16-15.)

**182.134 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 182.10 of this Chapter, in addition to any applicable penalty described in Section 182.99 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 182.10 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 182.99 of this Chapter for a violation of 182.15 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law.  
(Ord. 2015-83. Passed 11-16-15.)

**182.14 CONFIDENTIALITY.**

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

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.  
(Ord. 2015-83. Passed 11-16-15.)



**182.15 FRAUD.**

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator. (Ord. 2015-83. Passed 11-16-15.)

**182.16 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 182.15 of this Chapter.
- (E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:
- (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;
  - (2) It is the duty of the taxpayer to be aware of such changes.
- (F) A Tax Administrator may refuse to offer an opinion on any request received under this section.
- (G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.
- (H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.
- (I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.
- (J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (F) may not be appealed.  
(Ord. 2015-83. Passed 11-16-15.)

**182.17 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 percent (20%), as determined by voting rights, of the addressee's business.
  - (2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review. (Ord. 2015-83. Passed 11-16-15.)

**182.18 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) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.
- (9) A member of a Local Board of Tax Review shall not be appointed to or serve on another such board simultaneously.

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

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

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

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

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

(Ord. 2015-83. Passed 11-16-15.)

#### **182.19 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 182.18 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 percent (25%) 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 182.096 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 182.18 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 182.096 of this Chapter, with interest on that amount as provided by division (D) of this section.

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

- (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
- (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.  
(Ord. 2015-83. Passed 11-16-15.)

#### **182.20 ADOPTION OF RULES.**

(A) Pursuant to Section 718.30 of the Ohio 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.  
(Ord. 2015-83. Passed 11-16-15.)

**182.21 RENTAL AND LEASED PROPERTY.**

(A) All property owners of real property located in the Municipality, including every owner of a mobile home park, who rent or otherwise lease the same, or any part thereof, to any person for residential dwelling purposes, including, mobile homes, apartments, rooms and other rental accommodations, during any calendar year, or part thereof, commencing with the effective date of this section, shall file with the Tax Administrator on or before the January 31 first following such calendar year a written report disclosing the name, address and also telephone number, if available, of each tenant known to have occupied on December 31 during such calendar year such apartment, room or other residential dwelling rental property.

(B) The Tax Administrator may order the appearance before him, or his duly authorized agent, of any person whom he believes to have any knowledge of the name, address and telephone number of any tenant of residential rental real property in the Village. The Tax Administrator, or his duly authorized agent, is authorized to examine any person, under oath, concerning the name, address and telephone number of any tenant of residential real property located in the Municipality. The Tax Administrator, or his duly authorized agent, may compel the production of papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such person has knowledge of the name, address and telephone number of any tenant of residential real property in the Municipality.

(C) Any property owner or person that violates one or more of the following shall be subject to Section 182.99 of this Chapter:

- (1) Fails, refuses or neglects to timely file a written report required by subsection (a) hereof;
- (2) Makes an incomplete or intentionally false written report required by subsection (a) hereof; or
- (3) Fails to appear before the Tax Administrator or any duly authorized agent and to produce and disclose any tenant information pursuant to any order or subpoena of the Tax Administrator as authorized in this section; or
- (4) Fails to comply with the provisions of this section or any order or subpoena of the Tax Administrator. (Ord. 2015-83. Passed 11-16-15.)

**182.97 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 182.19.

(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 182.091 as though the same were continuing. (Ord. 2015-83. Passed 11-16-15.)

**182.98 SAVINGS CLAUSE.**

If any sentence, clause, section or part of this Chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this Chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this Chapter. (Ord. 2015-83. Passed 11-16-15.)

**182.99 VIOLATIONS; PENALTY.**

(A) Except as provided in division (B) of this section, whoever violates Section 182.15 of this Chapter, division (A) of Section 182.14 of this Chapter, or Section 182.051 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 182.14 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 fourth degree on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the second degree; on each subsequent offense within one year after the first offense, the person 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 182.051; 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 182.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.  
(Ord. 2015-83. Passed 11-16-15.)



**CHAPTER 183**  
**Motor Vehicle License Tax**

**183.01** Levy of annual license tax;  
use.  
**183.02** Exemptions.

**183.03** Definitions.  
**183.04** Additional license tax.

**CROSS REFERENCES**

State provisions - see Ohio R.C. 4504.06, 4504.172

**183.01 LEVY OF ANNUAL LICENSE TAX; USE.**

(a) An annual license tax is hereby levied upon the operation of motor vehicles on the public roads or highways of the Village for the purpose of enforcing and paying the expense of administering this chapter; and for planning, constructing, improving, maintaining and repairing public roads, highways and streets; maintaining and repairing bridges and viaducts; paying the Municipal Corporation's portion of the costs and expenses of co-operating with the Department of Transportation in the planning, improvement and construction of State highways; paying the Municipal Corporation's portion of the compensation, damages, costs and expenses of planning, constructing, reconstructing, improving, maintaining and repairing roads and streets; paying any costs apportioned to the Municipal Corporation under Ohio R.C. 4907.47; paying debt service charges on notes or bonds of the Municipal Corporation issued for such purposes; purchasing, erecting, and maintaining streets and traffic signs and markers; purchasing, erecting and maintaining traffic lights and signals; and to supplement revenue already available for such purposes. Such tax shall be at the rate of five dollars (\$5.00) for each motor vehicle having a district of registration, as provided in Ohio R.C. 4509.10, in the Village, and shall be paid in and collected by the Registrar of Motor Vehicles of the State of Ohio, or Deputy Registrar at the time of making application for registration, as provided in Ohio R.C. 4504.09.

(b) If the application for registration is made prior to July 16th, the full five dollars (\$5.00) shall be paid.

(c) If such application is made on or after July 16th, and prior to October 16, three-fourths of the five dollars (\$5.00) shall be paid.

(d) If such application is made on or after October 16th and prior to January 16th, one-half of the five dollars (\$5.00) shall be paid.

(e) If such application is made on or subsequent to January 16th and prior to April 16th, one-fourth of said five dollars (\$5.00) shall be paid.  
(Ord. 604. Passed 8-20-70.)

**183.02 EXEMPTIONS.**

The following motor vehicles shall be exempt from this license tax:

- (a) Any motor vehicle titled in the name of the State of Ohio or any of its political subdivisions.
- (b) Any motor vehicle titled in the name of a Board of Education, the United States of America or Ohio Wing Civil Air Patrol.
- (c) When the Post Office Department has the exclusive right and supervision of the use of a motor vehicle for a period of one year, under contract by a United States Civil Service Employee, United States Government shall be considered the owner of such vehicle and entitled to exemption from this tax.  
(Ord. 604. Passed 8-20-70.)

**183.03 DEFINITIONS.**

As used in this chapter:

- (a) "Vehicles" means everything on wheels or runners, except vehicles operated exclusively on rails or tracts or from overhead electric trolley wires and vehicles belonging to any police department, municipal fire department, volunteer fire department, or salvage company in the discharge of its functions.
- (b) "Motor vehicle" means a house trailer or house semi-trailer designed for human habitation and trailers and semi-trailers whose weight exceeds 4,000 pounds, and "motor vehicle" also means any vehicle propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires, except road rollers, traction engines, power shovels, power cranes and other equipment used in construction work and not designed for or employed in general highway transportation, well drilling machinery, ditch digging machinery, farm machinery, trailers used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of twenty-five miles per hour, or less, threshing machinery, hay baling machinery, corn sheller, hammermill and agricultural tractors and machinery used in the production of horticultural, agricultural and vegetable products.
- (c) "Agricultural tractor" and "traction engine" mean any self-propelling vehicle designed or used for drawing other vehicles or wheeled machinery but having no provisions for carrying loads independently of such other vehicles, and used principally for agricultural purposes.
- (d) "Trailer" means any vehicle without motive power designed or used for carrying property or persons wholly on its own structure and for being drawn by a motor vehicle, and includes any such vehicle when formed by or operated as a combination of a semi-trailer and a vehicle of the dolly type such as that commonly known as a trailer dolly, and a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed greater than twenty-five miles per hour except a house trailer.

- (e) “House trailer” means any self-propelled and non-self propelled vehicle so designed, constructed, reconstructed, or added to by means of accessories in such manner as will permit the use and occupancy thereof for human habitation, when connected to indicated utilities, whether resting on wheels, jacks, or other temporary foundation and used or so constructed as to permit its being used as a conveyance upon the public streets or highways.
- (f) “Semi-trailer” means any vehicle of the trailer type without motive power so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rest upon and are carried by such other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes for the purpose only of registration and taxation under this chapter any vehicle of the dolly type, such as a trailer dolly, designed or used for the conversion of a semi-trailer into a trailer.
- (g) “Farm machinery” means all machines and tools used in the production, harvesting and care of farm products, including trailers used in the transport of agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a public road or highway at a speed of twenty-five miles per hour or less.  
(Ord. 604. Passed 8-20-70.)

#### **183.04 ADDITIONAL LICENSE TAX.**

- (a) Definitions. For the purpose of this section, words and phrases shall have the same meaning and effect as set forth in Section 183.03.
- (b) Exemptions. For the purposes of this section, exemptions from this tax shall be the same as those set forth in Section 183.02.
- (c) Levy of Additional Motor Vehicle License Tax.
  - (1) An additional annual license tax of five dollars (\$5.00) is hereby levied upon the operation of motor vehicles on the public roads or highways of the Village, for the purpose of enforcing and paying the expense of administering this section; and for planning, constructing, improving, maintaining and repairing public roads, highways, and streets; maintaining and repairing bridges and viaducts; paying the Municipal Corporation’s portion of the costs and expenses of cooperating with the Department of Transportation in the planning, improvement and construction of State highways; paying the Municipal Corporation’s portion of the compensation, damages, costs and expenses of planning, constructing, reconstructing, improving, maintaining and repairing roads and streets; paying any costs apportioned to the Municipal Corporation under Ohio R.C. 4907.47; paying debt service charges on notes or bonds of the Municipal Corporation issued for such purposes; purchasing, erecting and maintaining street and traffic signs and markers; purchasing, erecting, and maintaining traffic lights and signals; and to supplement revenue already available for such purposes. Such additional tax shall be at the rate of five dollars (\$5.00) for each motor vehicle having a district of registration, as provided in Ohio R.C. 4503.10, in the Village, and shall be paid in and collected by the Registrar of Motor Vehicles of the State of Ohio, or Deputy Registrar at the time of making application for registration, as provided in Ohio R.C. 4504.09.

- (2) If the application for registration is made before the sixth month of the current registration period to which the motor vehicle is assigned as provided in Ohio R.C. 4503.101, the amount of tax due shall be the full amount of the local motor vehicle license tax levied.
- (3) If the application for registration is made during or after the sixth month of the current registration period to which the motor vehicle is assigned as provided in Ohio R.C. 4503.101, and prior to the beginning of the next such registration period, the amount of the tax due is one-half of the amount of the local motor vehicle license taxes levied.

(d) Penalty. Whoever violates any provision of this section by knowingly making a false statement in an application for registration of said motor vehicle with the intent to defraud or refusing or failing to pay said motor vehicle license tax as levied and provided for in this chapter shall be deemed guilty of a fourth degree misdemeanor.  
(Ord. 997. Passed 5-28-92.)

**CHAPTER 185**  
**Bed Tax**

<b>185.01</b>	<b>Definitions.</b>	<b>185.05</b>	<b>Administrator; rules and regulations.</b>
<b>185.02</b>	<b>Excise tax on hotel lodging.</b>	<b>185.06</b>	<b>Confidential nature of reports.</b>
<b>185.03</b>	<b>Collection of lodging excise tax.</b>	<b>185.07</b>	<b>Prosecution.</b>
<b>185.04</b>	<b>Reporting-remittance filing.</b>	<b>185.08</b>	<b>Interest.</b>
		<b>185.99</b>	<b>Penalty.</b>

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**185.01 DEFINITIONS.**

For the purposes of this chapter, words and phrases shall have the following meanings:

- (a) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which one or more rooms are used for the accommodations of such guests, whether such room or rooms are in one of several structures.
  - (b) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.
  - (c) "Person" includes individuals, estates, receivers, assignees, trustees in bankruptcy, firms, partnerships, associations, joint stock companies, joint ventures, clubs, societies, corporations, the State and its political subdivisions and combinations of individuals of any form.
  - (d) "Transaction" means any agreements or lease written or oral which establishes the terms, rent rules, regulations or any other provisions concerning the use and occupancy of a "hotel" by transient guests as they are defined in this chapter.
  - (e) "Rent" means any amount of money or consideration paid or to be paid by a person for lodging, furnished or to be furnished, by a "hotel" to transient guests.
  - (f) "Village" means the Village of Geneva-on-the-Lake, Ohio.
  - (g) "Administrator" means the individual designated by this chapter, whether appointed or elected, to administer and enforce the provisions of this chapter regardless of the particular title assigned such individual.
- (Ord. 2005-27. Passed 5-2-05.)

**185.02 EXCISE TAX ON HOTEL LODGING.**

(a) There is hereby levied and imposed an excise tax of three percent (3%) on transactions by which lodging by a hotel is or is to be furnished to transient guests within the Village. The three percent (3%) excise tax levied herein is in addition to any tax imposed by the State of Ohio or any of its subdivisions.

(b) The Geneva-on-the-Lake Chamber of Commerce Convention and Visitor's Bureau shall be the designated Convention and Visitor's Bureau, and shall, upon passage, receive fifty percent (50%) and the Village 50%. (Ord. 2011-111. Passed 12-5-11.)

**185.03 COLLECTION OF LODGING EXCISE TAX.**

Every person operating a hotel within the Village of Geneva-on-the-Lake shall collect and pay over to said Village an excise tax of three percent (3%) on all transactions by which lodging is or is to be furnished to transient guests. The excise tax required to be collected under this chapter shall be deemed to be held in trust by the person required to collect the same until paid to the Village as herein provided. Payment or remittance of the tax collected may be made by check, unless payment or remittance is otherwise required by the Village of Geneva-on-the-Lake, but payment by check shall not relieve the person collecting the tax from liability for payment and remittance of the tax to the Village unless the check is honored and is in the full and correct amount. The person receiving any lodging excise tax receipts shall make out a return upon such forms and setting forth such information as the Village may require, showing the amount of the lodging excise tax for which he is liable for the reporting period and shall sign and transmit the same to the Village with a remittance for said amount; provided that the Village may in its discretion require verified annual returns from any person receiving hotel lodging excise tax revenue, setting forth such additional information as he may deem necessary to determine correctly and the amount of tax collected and payable. If the tax imposed by this chapter is not paid when due, or if there is failure to file the tax report when due, there shall be added as part of the tax a delinquency charge of one dollar (\$1.00) per day for each day that the tax is delinquent or the report not filed. (Ord. 2005-27. Passed 5-2-05.)

**185.04 REPORTING-REMITTANCE FILING.**

This tax imposed hereunder shall be collected at the time of the lodging transaction is made or when the rent is paid by the transient guest and shall be reported and remitted by the person receiving the tax to the Village monthly, no later than the last day of the month following the month in which such payment was received. Payments received after the last day of said month shall be subject to a penalty of 10%. (Ord. 2016-11. Passed 2-15-16.)



**185.05 ADMINISTRATOR; RULES AND REGULATIONS.**

(a) The Mayor shall be designated the Administrator enforcing this chapter and shall have power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied. Failure or refusal by the Administrator to comply with any such rules and regulations shall be deemed a violation of this chapter. It shall be the duty of the Administrator to enforce payment of all taxes owing the Village, to keep accurate records to a minimum of five (5) years showing the amount due from each person required to file a return under this chapter and to show the dates and amounts of payments thereof made.

(b) The Administrator is further authorized to arrange for the payment of unpaid taxes, interest and penalties, as well as to grant extensions of time for filing the returns, not to exceed thirty (30) days, without penalty and is further authorized to arrange a deferment plan of taxes, interest and penalties when the taxpayer has made request in writing and made proof to the Administrator or that, due to certain hardship conditions, he is unable to file said return or pay the tax due. Such authorizations shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter. Failure to make any deferment payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand.

(c) Whenever the Administrator has been unable to secure information from the taxpayer concerning taxable lodging transactions, the Administrator may determine the amount of lodging transactions. The Administrator may deem the amount of Lodging excise tax appearing to be due and assess the taxpayer upon the basis of such determination, together with interest and penalties as described in this chapter. Such determination of the estimated tax may be adjusted upon submission of the taxpayer of actual records from which his tax is computed the Administrator subject to the consent of the legislative authority of the Village shall have the power to compromise any interest or penalty or both imposed by this chapter.

(d) Further, the Administrator or his duly authorized agent is authorized to examine the lodging records of those persons subject to this chapter for the purpose of verifying the accuracy of any return made; or if no return was made, to ascertain the tax due under this chapter. The taxpayer shall furnish within ten (10) days following a written request by the Administrator or his duly authorized agent, the records for their examination and investigation.

(e) Further, the Administrator or his duly authorized agent is authorized to examine any person under oath concerning lodging transactions. The Administrator may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have such knowledge of the facts concerning any supposed lodging transactions of the taxpayer.  
(Ord. 2005-27. Passed 5-2-05.)

**185.06 CONFIDENTIAL NATURE OF REPORTS.**

Any information gained as result of any returns, investigations and verifications relating to lodging transactions, as well as the business of any person required to collect the tax imposed by this chapter and coming into the possession of the Village, its agents and employees, shall be held confidential. No disclosures thereof shall be made, except for official purpose or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor of the first degree, punishable by a maximum fine of one thousand dollars (\$1,000.00) or imprisonment for not more than six (6) months or both. In addition to the above penalty, any employee of this Municipality who violates the provision of this section relative to the disclosure of confidential information shall be guilty of an offense of immediate dismissal. The failure of a person to receive or procure a return or other required form shall not excuse him from filing said report or from paying the lodging excise tax.  
(Ord. 2005-27. Passed 5-2-05.)

**185.07 PROSECUTION.**

Prosecution for an offense made punishable under this section or any other provision of this chapter shall be commenced within three (3) years after the commission of the offense.  
(Ord. 2005-27. Passed 5-2-05.)

**185.08 INTEREST.**

All taxes imposed, due, collected or withheld and not paid under the provisions of this chapter and remaining unpaid after they become due shall bear interest in addition to the amount of the unpaid tax or delinquency charge at the rate of one percent (1%) per month or fraction thereof. (Ord. 2005-27. Passed 5-2-05.)

**185.99 PENALTY.**

Any person required to collect the excise tax imposed under this chapter who fails to collect the same, or fails to remit the tax to the Village in the manner prescribed in this chapter, whether such failure be the result of his or her own act or the result of acts or conditions beyond his or her control, shall nevertheless be personally liable to the Village for the amount of such tax, and shall, unless the remittance be made as herein required, be fined not more than one hundred dollars (\$100.00). Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of this chapter is committed, continued, or permitted and shall be fined not more than one hundred dollars (\$100.00) for each offense. And further, any person who shall make any false or fraudulent return or willfully fail, neglect or refuse to pay the tax penalties or interest imposed by this chapter or fail to produce records, or fail to comply with any requirements of this chapter shall be fined not more than five hundred dollars (\$500.00).  
(Ord. 2005-27. Passed 5-2-05.)

