

# **CODIFIED ORDINANCES OF SHAWNEE HILLS**

## **PART ONE - ADMINISTRATIVE CODE**

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## CODIFIED ORDINANCES OF SHAWNEE HILLS

### PART ONE - ADMINISTRATIVE CODE

#### TITLE ONE - General Provisions

Chap. 101. Codified Ordinances.

Chap. 103. Official Standards.

#### 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 Shawnee Hills, Ohio, 1996, 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 Delaware County, Ohio.
- (f) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent or employee.
- (g) "Land" or "real estate" includes rights and easements of an incorporeal nature. (ORC 701.01(F))
- (h) "Municipality" or "Village" means the Municipality of Shawnee Hills, 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.

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

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

**CROSS REFERENCES**

State standard of time - see Ohio R.C. 1.04  
State legal holidays - see Ohio R.C. 1.14, 5.20 et seq.  
State flag - see Ohio R.C. 5.02



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

**CHAPTER 121**  
**Council**

**121.01 Regular meetings.**

**121.02 Rules of Council.**

**CROSS REFERENCES**

Open meetings - see Ohio R.C. 121.22  
General powers - see Ohio R.C. 715.03, 731.47  
To establish sewer rates - see Ohio R.C. 729.49  
Composition and terms - see Ohio R.C. 731.09  
Qualifications - see Ohio R.C. 731.12, 731.44  
Vacancy - see Ohio R.C. 731.43  
Meetings - see Ohio R.C. 731.44, 731.46  
Rules and journal - see Ohio R.C. 731.45

**121.01 REGULAR MEETINGS.**

Council shall meet in regular session at Council chambers at 7:00 p.m. on the second and fourth Monday of each Month.

**121.02 RULES OF COUNCIL.**

(a) Purpose. These rules shall be used by the Council of the Village of Shawnee Hills in order to conduct its business in an orderly and lawful manner. All ordinances and resolutions or parts of all ordinances and resolutions inconsistent herewith be and are hereby repealed and this section shall take effect according to law.

(b) Definitions.

- (1) Quorum: A quorum at any meeting of Council shall consist of a majority of members of Council.
- (2) Majority: Four members of Council shall constitute a majority for the normal transaction of business.
- (3) Two-third majority: A two-thirds majority shall mean four (4) members of Council.
- (4) Three-fourths majority: A three-fourths majority shall mean five (5) members of Council. (Ord. 1-99. Passed 3-8-99.)

- (c) (1) Standing committees. Council shall have the following standing committees with the responsibilities and set forth below:
- A. Finance Committee. Review, investigate, and recommend Council action in all fiscal matters before Council; including budgets, appropriations, taxes, assessments, employee wages and relations, expenditures and general monetary policy which shall include investigating grant opportunities and other special assignments.
  - B. Utilities, Service, and Technology (UST) Committee. Review, investigate and recommend Council action in all matters regarding public utilities. This includes, but shall not be limited to, the sanitary sewers, Ohio Edison Electric Co., Del Co Water Co., telephone or cellular service providers, and natural gas companies. Also review, investigate, and recommend Council action in all matters of streets, storm sewers, recreational facilities, beautification, public park lands, and other special assignments. Also review, investigate, and recommend Council action in all matters related to digital/electronic information and technology. This includes, but shall not be limited to, the planning, development, and/or implementation of policies, procedures, and technology (existing and emerging hardware or software) necessary to help the Village communicate internally and externally.
  - C. Safety Committee. Review, investigate, and recommend Council action in all matters of public buildings, traffic safety, police protection, fire protection, civil defense, building code and inspection, and other special assignments.
  - D. Rules Committee. Review, investigate, and recommend all amendments to the Rules of Council. The Rules Committee shall meet at least once each year to review the standing Rules of Council.
  - E. The President Pro Tempore shall appoint a representative and alternate to the Delaware County Regional Planning Commission, and confirmed by a majority vote of Council.  
The appointment shall be effective for the calendar year of the appointment. The appointment shall be limited to a member of Council, a member of Board of Zoning Appeals, Planning and Zoning Commission, or the Architectural Board of Review. The appointed representative may be removed at any time by a majority vote of Council. (Ord. 3-2014. Passed 3-10-14.)

- (2) Special committees. The President Pro Tempore may from time to time appoint special committees for limited purposes, subject to the approval of a majority of Council. The statement of purpose for all special committees shall contain a section setting forth the length of time required to complete their special purpose.
- (3) Composition of committees. Standing and special committees shall consist of not less than two members of Council, appointed by the President Pro Tempore and approved by a majority vote of Council. The Mayor shall be an ex-officio member of all committees and shall have a vote only in the case of a tie vote by the committee members. The Clerk shall be a non-voting member of the Finance Committee.  
(Ord. 1-99. Passed 3-8-99; Ord. 20-99. Passed 12-13-99.)
- (4) Duties of committee chairman. The Chairman shall:
  - A. Appoint a vice-chairman to serve in the chairman's absence.
  - B. Receive all items for consideration by the committee. Prepare an agenda for each committee meeting.
  - C. Assign each new piece of legislation which is to be considered by a committee, to members of the committee who shall be the "sponsor" of the legislation. The sponsor shall present an overview of the proposed legislation at the first reading.  
(Ord. 1-99. Passed 3-8-99.)
  - D. Be responsible for the delivery, not less than two days before the next scheduled meeting, of the agenda to the Clerk-Treasurer for distribution. (Ord. 09-2004. Passed 7-26-04.)
  - E. Provide copies of whatever supporting material is available, that is germane to the discussion of items on the agenda. If supporting material is unchanged between meetings it need be provided only upon its first availability. Whenever possible, supporting material shall be delivered with the agenda.
  - F. Be responsible for maintaining an up to date status of all legislation directed to the committee until such time as legislation has received final approval or disapproval of Council or is declared null and void.
  - G. Maintain the status of legislation by inclusion of all active legislation as agenda discussion items for every committee meeting without exception. Should a piece of legislation become inactive whether tabled, held in committee or withdrawn by an applicant, such information will be noted in the committee agenda following the discussion items including the reason for inactivity.  
(Ord. 1-99. Passed 3-8-99.)

- H. When having been directed by the presiding officer of Council to conduct a study, review, investigation, or to make recommendations, the Committee and Committee Chairman shall assure that the subject matter is continued on the committee agenda as an active discussion item until such time as the committee report is completed and submitted to Council. Upon reference by the presiding officer to the Committee, Council shall table the legislation, if such legislation is currently on the Village agenda. Such items or legislation may be removed from the table by simple majority vote of Council. (Ord. 23-2006. Passed 8-28-06.)
  - I. If desired, appoint as many citizen advisory members as may be necessary, however, no citizen advisory members shall vote on the recommendations of the committee but may concur in either the majority or minority reports. (Ord. 1-99. Passed 3-8-99.)
  - J. Report Committee meetings at a regular Council meeting following a Committee meeting. The Committees report will serve as meeting minutes. This will assure delivery of Committee meeting minutes to the Clerk of Council and the public.  
(Ord. 12-2005. Passed 10-24-05.)
- (5) Committee meetings. Meetings of all committees of Council shall be public meetings and whenever possible shall be held in public buildings, however, each committee by a majority of its voting members may elect to hold meetings wherever it deems necessary to properly further its assigned purpose, provided the committee complies with the Ohio Revised Code provisions regarding open meeting requirements. All committee meetings will be called by the Chairman of such committee or by two voting members giving notice of the date, time and place to all members of the committee, Mayor, Council members and Clerk. The Clerk shall notify all members of Council of all committee meetings. Each committee may adopt its own rules of order; however in the absence of such rules, the parliamentary procedure set forth in Robert's Rules of Order, newly revised, shall prevail. The Chairperson or each committee, except the Chairperson of the Rules Committee whose meetings are required as set forth herein may establish a regular monthly meeting time and date so as to not have any conflicting times and dates for the meetings of each committee. The Clerk shall post these meeting times and dates. (Ord. 14-2016. Passed 6-22-16.)
- (d) Agenda.
- (1) Preparation. The agenda of all meetings of Council shall be prepared by the Clerk under the guidance of the Mayor. No item requiring action may be placed on the agenda later than 4:00 p.m. on the Thursday before a regular meeting and not less than 24 hours prior to the time of a special meeting. The agenda shall indicate the name of the sponsor(s) of any ordinance or resolution which will be presented to Council.
  - (2) Delivery. It shall be the responsibility of the Clerk to be assured that the agenda is delivered to all members of Council, Mayor and Administration mailboxes in the Council room by noon on the Friday before a regular meeting and not less than 24 hours prior to the time of the special meeting.

- (3) Changes. Any change to the published agenda shall not be made other than by a majority vote in Council on the motion to amend which shall not be debatable except for a brief statement of necessity by the maker of the motion.
- (4) Order of business. The agenda shall reflect the following order of business. It is noted that this section is directory in nature and is not mandatory and is subject to the discretion of the presiding officer. (Ord. 1-99. Passed 3-8-99.)
- A. Call to Order
  - B. Pledge of Allegiance
  - C. Roll Call
  - D. Approval of Minutes of previous meeting
  - E. Approval of agenda
  - F. Solicitor
  - G. Engineer
  - H. Village Administrator
  - I. Visitors
  - J. Communications
  - K. Mayor's report
  - L. Pro tem report
  - M. Legislative Actions
    - First Readings
    - Second Readings
    - Third Readings
  - N. Committee reports
    - Finance            Rules
    - Service
    - Safety            Public Utilities
  - O. Treasurer's Report
  - P. Approval to pay the bills
  - Q. Miscellaneous Business
  - R. Adjournment.
- (Ord. 09-2004. Passed 7-26-04; Ord. 23-2006. Passed 8-28-06.)
- (5) Suspension. Any provision of this section except as noted in subsection (4) hereof, may be suspended by an affirmative vote of a three-fourths majority of Council. (Ord. 03-2003. Passed 12-10-03.)
- (6) Minutes. The Clerk shall prepare and distribute minutes by NOON the Friday before the next meeting. The meeting minutes of the Council of Shawnee Hills shall be posted on the Village website, upon council approval and before the next regularly scheduled meeting that follows the meeting in which the minutes were approved. (Ord. 23-2006. Passed 8-28-06.)
- (e) Schedule.
- (1) Schedule of Council affairs. Council shall maintain a schedule of Council affairs including therein the times, dates and places of all regularly scheduled meetings of Council, special meetings as they become necessary, regular meetings and public hearings of standing committees, and wherever possible, meetings of special committees.
- (2) Responsibility. The Clerk of Council shall prepare, maintain and revise the schedule of Council affairs under the direction of the Mayor and President of Council. An up-to-date copy of the schedule shall be available to the general public at all times in the office of the Clerk of Council.

(f) Rules Governing Deliberations. All deliberations of Council shall be governed by the Constitution of the United States, the Constitution of the State of Ohio, the Ohio Revised Code, duly enacted ordinances and resolutions of the Municipality, the Rules of Council as contained herein, and in those areas of parliamentary procedure not specifically set forth in the foregoing documents by Robert's Rules of Order, newly revised.

(g) Legislation.

- (1) Ordinances. The term "ordinance" refers to the type of action by Council which is of a general or permanent nature, creates a right, grants a franchise or involves the expenditure of money, the levying of a tax, or authorizes the purchase, lease, sale or transfer of property. Ordinances shall be presented to Council in writing and shall have the name of the sponsors. Ordinances may be placed on the agenda when submitted by a member of Council following Committee review or at any time by the Mayor, a Council Member or Administrator.
- (2) Resolutions. The term "resolution" is used in connection with the action of Council in passing legislation generally referred to a declaration of intent or purpose, the authorization of some temporary act or administrative procedure. A resolution may initiate, direct or carry out administrative duties and functions which are granted to Council under statutory laws or Municipal ordinances. Resolutions shall be presented to Council in writing and shall have the name of the sponsors. Resolutions may be placed on the agenda when submitted by a member of the Council following Committee review, or at any time by the Mayor, a Council Member or Administrator.
- (3) Suspension of rules. Suspension of rules regarding reading of ordinances or resolutions shall be as provided in the Ohio Revised Code. When a motion is properly made and seconded to suspend the rule requiring reading at three separate meeting days, no debate shall be permitted on the motion.
- (4) Emergency legislation. Emergency legislation shall be enacted as provided by the Ohio Revised Code.
- (5) Effective date. The effective date of legislation shall be as provided by the Ohio Revised Code.
- (6) Zoning ordinances. Upon submission of a zoning ordinance or any amendments thereto, the Planning Commission shall hear and review the matter for approval, disapproval or recommendations and the Commission is allowed not less than thirty days for consideration and report. Council shall hold a public hearing on the zoning ordinance or amendment with notice of the time and place as required by the Ohio R. C. 713.12. No such ordinance or amendment which violates, differs from or departs from the Planning Commission recommendations, plan or report shall take effect unless passed by not less than three-fourths of the full membership of Council. No such ordinance or amendment which agrees with the recommendation, plan or report of the Planning Commission shall take effect unless passed by a majority of members elected to Council.  
(Ord. 23-2006. Passed 8-28-06.)
- (7) Pending legislation.
  - A. All ordinances and/or resolutions that have been tabled or postponed in excess of twelve months shall be considered null and void, and any further action on the subjects covered shall be reintroduced as new legislation.

- B. Any ordinances and/or resolutions tabled to a date indefinite or definite shall be removed from the table upon a motion to remove the ordinance and /or resolution from the table with appropriate second and upon passage by a majority of Council. Any ordinance and/or resolution so removed from the table shall receive the same procedural or legislative reading, subject to the provision of subsection (7)A. hereof that such ordinance and/or resolution would have received had it not been tabled. Consequently for purposes of illustration, an ordinance or resolution which is tabled prior to its first procedural reading upon reading removed from the table shall receive its first procedural reading.
- (8) Amending legislation. Any new language or any additions to existing ordinances or resolutions shall be printed in capital letters or bold so that any change is readily apparent.
- (h) Conduct of Discussion.
- (1) Policy. When an ordinance, resolution, or motion is before Council, an adequate opportunity shall be provided for all members of Council to be heard. However, in order to expedite business and to assure that a minority cannot effectively abrogate the desire of the majority by dominating the floor and thus prevent a vote, the rules of discussion contained in the following requirements are set forth as the official policy of Council.
- (2) Conduct of presiding officer. The Presiding Officer shall recognize members and other persons who wish to address Council, prior to such member or person taking the floor. All persons not personally known by Council shall furnish their name, address, and the reason for their appearance upon request of the Presiding officer prior to being recognized. The Presiding Officer may utilize the following rules when exercising his control of the discussion of any ordinance, resolution or motion:
- A. No member or person shall be permitted to speak longer than five minutes at any one time;
- B. No member or person shall be permitted to speak more than two times for or against the proposition under consideration;
- C. While members may yield to other members, the limitations set forth in subsection (2)A. and B. hereof shall prevail;
- D. No member or person shall be permitted to speak the second time until all members have been heard at least once or a member who has not been heard wishes the floor;
- E. The Presiding Officer, subject to challenge by Council, may refuse the floor to any member or person where the tactics are obviously dilatory and not in the best interest of Council;
- F. The above rules may be suspended to permit unlimited debate by a vote of three-fourths majority of Council.  
(Ord. 03-2003. Passed 12-10-03.)
- (3) Excusal during meeting. No member shall be excused from attendance while Council is in session except upon permission of the Presiding Officer.  
(Ord. 09-2004. Passed 7-26-04.)

- (i) Voting.
- (1) Voting. Except as otherwise provided in these rules or by law, all ordinances and resolutions will be voted upon in open Council, and shall be oral roll call votes. The roll call voting shall be by sponsors first and then for the remaining members of Council as called by the Clerk. The Clerk shall call the roll and each Council member will respond either "aye" or "yes", "nay" or "no", or "abstain". No other comment shall be considered proper during the vote. The Clerk shall record the vote and the same shall be preserved in the minutes of the meeting. After the vote is complete, the Presiding Officer shall disclose the results thereof. Except as otherwise provided herein, or by law, a majority shall carry any resolution, ordinance, or motion. The Mayor shall have no vote except as provided by the Ohio Revised Code in a tie vote. The President of Council shall have a vote while conducting a Council meeting. No question concerning the vote of any member will be proper after the vote is called.
- (2) Abstaining vote. No member shall be questioned concerning the necessity of an abstaining vote. A decision to abstain is a matter personal to each member and under no condition may this action be challenged. Each member is urged to use his careful discretion in this matter. An abstaining vote shall be treated as neither a positive nor a negative vote and a member who casts an abstaining vote shall not be recorded as voting on either side of the questions.
- (j) Amendments of Rules; Adoption and Reenactment. The rules of Council as established in this section may be amended by legislation adopted by a majority of Council after proper action by the Rules Committee.
- (k) Acting Clerk. In the emergency absence of the Clerk, the Presiding Officer shall have the authority to appoint an elected official to perform those duties of the Clerk, as Acting Clerk, per the Ohio Revised Code.
- (l) Public Notices.
- (1) Public notices are placed at:  
The Village Municipal Building,  
The Civic Association Building,  
El Vaquero Restaurant.  
As alternatives: Strader's Garden Center, Experienced Possessions and Cuttin' Up Barber Shop. (Ord. 23-2006. Passed 8-28-06.)
- (2) The agenda will be posted in the posting places prior to each Council meeting and the minutes of each Council meeting will be posted for two weeks after approval by Council.  
(Ord. 03-2003. Passed 2-10-03.)
- (m) Newspapers Designated for Legal Publication. The Delaware Gazette and the Columbus Dispatch are hereby designated as newspapers in which legal publications required by law may be published.
- (n) Executive Sessions.
- (1) No tape recorders shall be permitted in Executive Session.
- (2) No votes shall be taken in Executive Session as required by Ohio law.

(o) Order and Decorum. The Presiding Officer of Council shall preserve order and decorum and confine members in debate to the question. He/she may, in common with any member call any member to order who shall violate any of the rules and shall, when in the chair, decide all questions of order, subject to an appeal to the Council on the demand of two members. On such appeal there shall be no debate, but the members making the appeal may briefly state his reasons for the same, and the Presiding Officer shall have the same right to a similar statement. A majority vote of Council shall decide the appeal.

The Presiding Officer shall have the opportunity to express opinions in an impartial manner. The Presiding Officer's function is solely to see that the business properly brought before Council is conducted in an orderly manner, and that the members of Council observe the rules of procedure.

(p) Absences. Every member of Council is expected to attend all Council and assigned committee meetings. If a member becomes aware his or her need to miss a meeting, they will be required to notify the Mayor of the necessity and file with the Mayor a written copy of any committee reports he or she would have given at the meeting.

Council may punish or expel any member for disorderly conduct or a violation of its rules and declare the seat vacant for absence without valid excuse where such absence has continued for two months. No expulsion shall take place without the concurrence of two-thirds of all members elected and until the member has been notified of the charges against him and has had an opportunity to be heard as required by State law. (Ord. 1-99. Passed 3-8-99.)

(q) President Pro Tempore. The President Pro Tempore shall act as liaison between the Council and the Executive branches where necessary. (Ord. 20-99. Passed 12-13-99.)



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

**123.01 Posting legislation.**

**CROSS REFERENCES**

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

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

Adoption of technical codes - see Ohio R.C. 731.231

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

Emergency measures - see Ohio R.C. 731.42

**123.01 POSTING LEGISLATION.**

Council shall from time to time select five of the most public places in the Village for the posting of all Ordinances and Resolutions.



**TITLE FIVE - Administrative**

- Chap. 131. Mayor.
- Chap. 133. Fiscal Officer.
- Chap. 135. Village Administrator.
- Chap. 139. Solicitor.
- Chap. 141. Police Department.
- Chap. 143. Fire Department.
- Chap. 145. Building Department.
- Chap. 147. Architectural Board of Review.
- Chap. 149. Employment Provisions.

**CHAPTER 131**

**Mayor**

**131.01 Businessmen's advisory committee.**

**CROSS REFERENCES**

- Removal from office - see Ohio R.C. 3.07 et seq.
- Election, term, qualifications and powers - see Ohio R.C. 733.24
- To be Council president - see Ohio R.C. 733.24
- Vacancy - see Ohio R.C. 733.25
- General duties - see Ohio R.C. 733.30
- Reports to Council - see Ohio R.C. 733.32, 733.41

**131.01 BUSINESSMEN'S ADVISORY COMMITTEE.**

(a) There is hereby set up an businessmen's advisory committee to consist of five business persons from Shawnee Hills as an advisory committee to the Mayor.

(b) There shall be no compensation or salary to anyone serving on this committee.  
(Ord. 452-84. Passed 2-27-84.)



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

<b>133.01</b>	<b>Office established.</b>	<b>133.03</b>	<b>Deposit of public funds.</b>
<b>133.02</b>	<b>Notification of land/lot splits. (Repealed)</b>	<b>133.04</b>	<b>Storm water utility.</b>
		<b>133.05</b>	<b>Storm sewer system fund.</b>

**CROSS REFERENCES**

Uniform Bond Law - see Ohio R.C. Ch. 133  
 Auditing accounts - see Ohio R.C. 733.12 et seq.  
 Election and term - see Ohio R.C. 733.26  
 Powers and duties - see Ohio R.C. 733.27  
 Appropriation and expenditure - see Ohio R.C. 5705.41  
 Merger of offices of Clerk and Treasurer - see Ohio R.C. 733.261

**133.01 OFFICE ESTABLISHED.**

(a) The position of "Village Fiscal Officer" be created and the elected office of "Village Clerk-Treasurer" be abolished.

(b) The effective date of this section shall be April 1, 2005. The Fiscal Officer shall attend, report, post and record minutes of all Council meetings.

(c) This position will be subject to criminal background and credit check and must possess a valid driver's license and proof of insurance.  
 (Ord. 1-2005. Passed 3-7-05.)

**133.02 NOTIFICATION OF LAND/LOT SPLITS. (REPEALED)**

EDITOR'S NOTE: Former Section 133.02 was repealed by Ordinance 09-2015.

**133.03 DEPOSIT OF PUBLIC FUNDS.**

(a) If the total of all public monies received in any given day exceed one thousand dollars (\$1000) the funds will be deposited with the properly designated financial institution on the next business day following the day of receipt.

(b) If the total of all public monies received in any given day do not exceed one thousand dollars (\$1000), the funds are to be deposited with the properly designated financial institution within three business days following receipt of the funds.

(c) All public funds are to be kept in a secured location until time of deposit.  
(Ord. 13-2002. Passed 6-10-02.)

#### **133.04 STORM WATER UTILITY.**

(a) There is hereby created a Storm Water Utility for the Village of Shawnee Hills.

(b) The Fiscal Officer is hereby authorized to establish a separate fund and line item in the fiscal records of the Village, which fund shall be used only for the collection of storm water utility fees and the disbursement as payment of storm water fees, to the City of Columbus, as may be billed and due.

(c) There is hereby adopted a storm water fee, upon Village residents and land owners. The Village storm water utility fee shall be a dollar for dollar pass through of storm water charges assessed by the City of Columbus on the Village, Village residents and land owners, whether residential or commercial, whether flat fee or otherwise.

(d) The Storm Water Utility fees collected shall be deposited into the Storm Water Utility fund and may be used for payment of such fees owed to the City of Columbus.

(e) The City of Columbus Code which set forth fees and rates, including but not limited to pass through rates are hereby incorporated by reference in this section, so that any rate/fee increases or decreases can be collected by the Village from Village residents and land owners.

(f) It is specifically contemplated by the Village, with this section that the Village may at some time in the future need to study and assess a separate, Village storm water fee, so as to maintain compliance with the OEPA rules for Storm Water Management. Any study or recommendations which result in a fee assessment for collection upon Village residents or land owners shall be separately passed by ordinance. Fees collected may be deposited into the storm water utility fund herein created, for the same purposes as set forth above.  
(Ord. 18-2007. Passed 5-21-07.)

#### **133.05 STORM SEWER SYSTEM FUND.**

(a) That the Village Fiscal Officer is hereby authorized to create a Storm Sewer System Fund.

(b) Money deposited into the fund will come from fees adopted by the Village, fees passed through to the Village by the City of Columbus, other fees imposed by regulatory agencies, grant funds, recouped funds from storm water management activities and other such funds as may be storm sewer/storm water related. The purpose of any expenditure from the fund will be limited to Storm Sewer System improvements and storm water management activities concluding costs associated with said improvements and any fees imposed by the City of Columbus or other regulatory agencies. (Ord. 19-2007. Passed 5-21-07.)

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

- |   |                                      |
|---|--------------------------------------|
| <b>135.01</b> Established.<br><b>135.02</b> Powers and duties.<br><b>135.03</b> Board of Public Affairs<br>abolished. | <b>135.04</b> Street Superintendent. |
|---|--------------------------------------|

**CROSS REFERENCES**

- Appointment, removal - see Ohio R.C. 735.271  
Power to contract - see Ohio R.C. 731.141  
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. 14-01. Passed 9-10-01.)

**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.  
(Ord. 14-01. Passed 9-10-01.)

**135.03 BOARD OF PUBLIC AFFAIRS ABOLISHED.**

After the effective date of this chapter, the appointment of Village Administrator by the Mayor, and his or her confirmation by the Council, the Board of Public Affairs shall be abolished in accordance with Ohio R.C. 735.272.  
(Ord. 14-01. Passed 9-10-01.)

**135.04 STREET SUPERINTENDENT.**

(a) The position of Street Superintendent shall be appointed by the Mayor and confirmed by the legislative authority thereof for a term of one year.

(b) The Street Superintendent shall work under the supervision of the Village Administrator and according to the job description as designated to that position.  
(Ord. 3-99. Passed 5-10-99.)



**CHAPTER 139**  
**Solicitor**

**139.01 Duties.**

**CROSS REFERENCES**

Legal counsel - see Ohio R.C. 733.48

Preparation of bonds - see Ohio R.C. 733.70

**139.01 DUTIES.**

(a) The Village Solicitor shall serve as legal counsel for the Village or for any department or official thereof.

(b) The Solicitor shall prepare and review contracts, resolutions, ordinances and other documents and advise Village officials on such matters by telephone, office conferences and in writing.



**CHAPTER 141  
Police Department**

**141.01 Rules and regulations.**

**141.02 Auxiliary police unit.**

**CROSS REFERENCES**

Police Officer training certificate required for permanent employment - see Ohio R.C. 109.77  
Composition - see Ohio R.C. 715.05, 737.16  
General powers and duties - see Ohio R.C. 731.11, 737.18  
Powers and duties of Police Chief - 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  
Police and Fireman's Disability and Pension Fund - see Ohio R.C. Ch. 742

**141.01 RULES AND REGULATIONS.**

The rules and regulations for the Police Department are on file at the Municipal Building.

**141.02 AUXILIARY POLICE UNIT.**

(a) The Village does hereby establish an auxiliary police unit within the Police Department of the Village and provide for the regulation of auxiliary police officers.

(b) The Mayor shall be the Executive head of the auxiliary police unit and shall make all appointments and removals of auxiliary police officer, subject to any general rules prescribed by Council. (Ord. 551-86. Passed 12-15-86.)



**CHAPTER 143**  
**Fire Department**

EDITOR'S NOTE: There are no sections in Chapter 143. This chapter has been established to provide a place for cross references and future legislation.

**CROSS REFERENCES**

Composition - see Ohio R.C. 715.05, 737.21 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

Police and Firemen's Disability and Pension Fund - see Ohio R.C. Ch. 742

**CHAPTER 145**  
**Building Department**

**145.01 Established.**

**145.03 Time limit on building permits.**

**145.02 Powers and duties.**

**CROSS REFERENCES**

Building Code - Part Thirteen of Codified Ordinances

**145.01 ESTABLISHED.**

The Shawnee Hills Building Department is hereby established.  
(Ord. 06-97. Passed 4-28-97.)

**145.02 POWERS AND DUTIES.**

The Building Department shall have full authority to enforce all laws, statutes and regulations as provided and authorized in the Ohio Revised Code and the Ohio Administrative Code pursuant to the Certification approved by the Ohio Board of Building Standards.  
(Ord. 06-97. Passed 4-28-97.)

**145.03 TIME LIMIT ON BUILDING PERMITS.**

(a) The property owner has one year from the date of an approved building permit to obtain an occupancy permit. For an accessory building, the purpose of this section is met when the exterior is completed to a point the structure can be used for the purpose stated in the permit application.

(b) The Planning Commission may grant up to a 90 day extension for completion of the project upon petition by the applicant which demonstrates a hardship which renders the project incapable of completion within one year of the date of an approved building permit.  
(Ord. 13-01. Passed 8-13-01.)

**CHAPTER 147**  
**Architectural Board of Review**

<b>147.01</b>	<b>Members; terms; compensation.</b>	<b>147.04</b>	<b>Organization and officers.</b>
<b>147.02</b>	<b>Purpose.</b>	<b>147.05</b>	<b>Conflicts of interest.</b>
<b>147.03</b>	<b>Plan review and approval.</b>	<b>147.06</b>	<b>Proceedings.</b>

**147.01 MEMBERS; TERMS; COMPENSATION.**

The Architectural Board of Review (the "Board") shall consist of five (5) members and a first and second alternate appointed by the Mayor and confirmed by Council. Each member of the Board shall serve a three (3) year term. The terms shall be staggered so that appointments will be considered each year. The first appointments shall be: two shall be appointed for three (3) years, two shall be appointed for two (2) years and one shall be appointed for one (1) year. Alternates shall be appointed for three (3) year terms. Each term commences after the Mayor reconsiders the new appointment at the first Council meeting each year and the term of the previous appointee will continue until the Mayor has appointed a successor and said successor is confirmed by Council. No elected official and no member of the Planning and Zoning Commission or member of the Board of Zoning Appeals shall serve on this Board. A vacancy occurring during the term of any member shall be filled for the unexpired term of that member. The regular Board members shall be paid twenty-five dollars (\$25.00) per meeting. The Village Zoning/Code Enforcement Officer shall keep records of the Board and notify all persons entitled to notice of the decisions of the Board. The alternate shall not be paid unless substituting for an absent member, and shall be paid \$25.00 for the meeting at which he/she attends as a substitute. The second alternate shall not be paid unless substituting for an absent member.

(Ord. 02-2004. Passed 3-22-04; Ord. 27-2006. Passed 10-9-06; Ord. 17-2007. Passed 4-23-07; Ord. 22-2010. Passed 11-8-10.)

**147.02 PURPOSE.**

The purpose of the Architectural Board of Review are to protect property on which buildings are constructed or altered, to maintain the high character of community development, and to protect real estate within the village from impairment or destruction of value, by regulating the design or advising Village Council according to proper architectural principles, the design, use of materials, finished grade lines and orientation of all new building hereafter erected, and the moving, alteration, improvement, repair, adding to or razing in whole or in part of all existing buildings. The Board shall exercise its powers and perform its duties only for the accomplishment of such purposes. (Ord. 17-2007. Passed 4-23-07.)

**147.03 PLAN REVIEW AND APPROVAL.**

(a) The Board shall review and approve, approve with conditions, or deny all plans to all commercially zoned properties within the Village of Shawnee Hills, for which rezoning is not required. For properties being commercially rezoned, the process shall be governed by Chapters 1117 or 1129. (Ord. 22-2015. Passed 8-24-15.)

(b) The applicant and/or his representative shall be present at the meeting when his application is being heard. (Ord. 22-2010. Passed 11-8-10.)

**147.04 ORGANIZATION AND OFFICERS.**

The Board shall elect a Chairman and Vice Chairman at its first meeting following the confirmation of the new members by Council in each calendar year. (Ord. 02-2004. Passed 3-22-04)

**147.05 CONFLICTS OF INTEREST.**

No member of the Architectural Review Board shall participate in the review of any work of which the member or any partner or professional associate of the member is the author, or in which the member has any direct or indirect financial interest; nor shall any member participate in the review of any project which is to occur on property abutting property owned by the member. (Ord. 02-2004. Passed 3-22-04; Ord. 17-2007. Passed 4-23-07.)

**147.06 PROCEEDINGS.**

(a) The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of the Zoning Ordinance.

(b) Regularly scheduled meetings shall be held after public posting at three locations specified for public posting set forth in Chapter 121, at least twenty-four (24) hours prior to hearing. Special meetings may be held at such times as the Board may determine, following required notice. When site specific applications for Board review are considered, the Village Zoning/Code Enforcement Officer shall give notice of such proceedings via regular U.S. mail posted ten (10) days prior to hearing to property owners adjacent, contiguous to and/or directly across the street from all exterior boundaries of the property for which the application is being filed, including all owners surrounding the subject owner's property in the event the property owner also owns property contiguous to the property which is the subject of this application.

(c) The Chairman, or in his absence, the Vice Chairman, or senior member present may administer oaths and compel the attendance of witnesses.

(d) At any meeting, only five (5) Board members may vote on any question. Upon the absence of any regular member or members, the first alternate and then the second alternate in that order shall vote in the place of the absent member(s) for that meeting.

(e) All meetings shall be open to the public. The Board shall keep a record of proceedings, showing the vote of each member upon each question, or if abstaining, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be public record and filed with the Fiscal Officer.

(f) Three (3) members of the Board shall constitute a quorum. The board shall act by resolution and the concurring vote of three (3) members of the Board shall be necessary to take action on the Plans of the applicant in any matter over which this Board has jurisdiction. The Board shall issue a Board Order and Certificate of Appropriateness when applicable, or issue a Board order upon recommendation of approval, approval with conditions or a denial.

(g) The Board shall establish additional Rules of Procedure and Methods of Operation including coordinating with the Planning and Zoning Commission in the application process for Certificate of Zoning compliance. Further, the Board shall recommend to the Planning and Zoning Commission changes or additions to the Planning and Zoning Ordinances it finds necessary to properly conduct the Board's purpose.  
(Ord. 02-2004. Passed 3-22-04; Ord. 27-2006. Passed 10-9-06.)



## **CHAPTER 149**

### **Employment Provisions**

EDITOR'S NOTE: Compensation legislation and the benefits provided therein are not codified herein since they are subject to frequent change. The Village has also adopted an Employee Handbook for Village employees. Please consult the Clerk-Treasurer for information pertaining to legislation currently in effect.

#### CROSS REFERENCES

Workers' compensation - see Ohio Const., Art. II, Sec. 35; Ohio R.C. Ch. 4123  
Wages and hours on public works - see Ohio Const., Art. II, Sec. 37;  
Ohio R.C. Ch. 4115  
Failure to give bond - see Ohio R.C. 3.30, 731.49 et seq.  
Public Employees Retirement System - see Ohio R.C. Ch. 145  
Contract interest - see Ohio R.C. 735.09; GEN. OFF. 525.10



**TITLE SEVEN - Judicial**  
Chap. 171. Mayor's Court

**CHAPTER 171**  
**Mayor's Court**

EDITOR'S NOTE: The Mayor has jurisdiction to hear and determine any prosecution for the violation of a Municipal ordinance, and has jurisdiction in all criminal causes involving moving traffic violations occurring on State highways located within the corporate limits, subject to the right of the defendant to trial by jury and before an impartial magistrate.

Ohio R.C. 2945.17 provides that an accused has a right to be tried by a jury at any trial in any court for the violation of any Ohio Statute or of any Municipal ordinance, except in cases in which the penalty involved does not exceed a fine of one hundred fifty dollars (\$150.00). Ohio R.C. 2937.08 and Criminal Rule 23(A) provide that if the court in which a defendant is charged with an offense is not a court of record (the Mayor's Court), and the charge is such that a right to a jury trial exists, such matter shall not be tried before him and shall be transferred to a court of record in the County if the defendant:

- (a) Does not waive his right to trial by jury in a serious offense case for which the penalty established by law includes confinement for more than six months, or
- (b) Demands a jury trial in a petty offense case in which the penalty prescribed is a fine greater than one hundred fifty dollars (\$150.00) and/or imprisonment for not more than six months. "Such demand must be in writing and filed with the clerk of court not less than ten days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial, whichever is later. Failure to demand a jury trial as provided in this subdivision is a complete waiver of the right thereto."

In Ward v. Village of Monroeville, Ohio, 93 S. Ct. 80 (1972), the United States Supreme Court held that where the mayor before whom the defendant was compelled to stand trial was responsible for municipal finances and the mayor's court provided a substantial portion of municipal revenues, defendant was denied a trial before a disinterested and impartial magistrate as guaranteed by the due process clause of the United States Constitution.

The Supreme Court of Ohio has adopted the "Ohio Traffic Rules" which prescribe the procedure to be followed in the Mayor's Court in traffic cases. Rule 9(A) thereof states the jury demand shall be made pursuant to Criminal Rule 23 referred to above. Rule 9 (B) sets forth the conditions under which the Mayor may hear a traffic case incorporating therein the holding in Ward v. Village of Monroeville as further interpreted in State, ex rel. Brockman v. Procter, 35 Ohio St. 2d 79 (1973): "Where, in a mayor's court, a defendant is entitled to a jury trial and a jury demand is made pursuant to Criminal Rule 23, the Mayor shall transfer the case pursuant to subdivision (C). If a jury demand is not made pursuant to Criminal Rule 23, and (or?) the defendant waives his right to jury trial in writing, a mayor may try the case if (1) his compensation as a judge is not directly dependent upon criminal case convictions, or (2) he is not the chief executive and administrative officer of the municipality and as such responsible for the financial condition of the municipality. Guilty and no contest pleas may be taken by any mayor including mayors whose compensation as a judge is directly dependent upon criminal case convictions and mayors who as chief executive and administrative officer of the municipality are responsible for the financial condition of the municipality."

The procedure for transferring a case to a court of record is set forth in Rule 9(C): "Where a transfer is required, the mayor's court shall make a written order directing the defendant to appear at the transferee court, continuing the same bail, if any, and making appearance before the transferee court a condition of bail, if any. Upon transfer, the mayor's court shall transmit to the clerk of the transferee court the ticket and all other papers in the case, and any bail taken in the case. Upon receipt of such papers the clerk of the transferee court shall set the case for trial and shall notify the defendant by ordinary mail of his trial date."

Rule 13 provides that a court shall establish a traffic violation 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

Disposition of fines and costs - see Ohio R.C. 733.40

Mayor's powers and duties - see Ohio R.C. 1905.20 et seq.

Trial - see Ohio R.C. Ch. 2938

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. 183. Motor Vehicle License Tax.

**CHAPTER 181  
Income Tax**

- |   |  |
|---|--|
| <p><b>181.01 Authority to levy tax; purpose of tax.</b></p> <p><b>181.02 Definitions.</b></p> <p><b>181.03 Imposition of tax.</b></p> <p><b>181.04 Collection at source.</b></p> <p><b>181.05 Annual return; filing.</b></p> <p><b>181.06 Credit for tax paid to other municipalities.</b></p> <p><b>181.07 Estimated taxes.</b></p> <p><b>181.08 Rounding of amounts.</b></p> <p><b>181.09 Requests for refunds.</b></p> <p><b>181.10 Second municipality imposing tax after time period allowed for refund.</b></p> <p><b>181.11 Amended returns.</b></p> <p><b>181.12 Limitations.</b></p> <p><b>181.13 Audits.</b></p> <p><b>181.14 Service of assessment.</b></p> <p><b>181.15 Administration of claims.</b></p> | <p><b>181.16 Tax information confidential.</b></p> <p><b>181.17 Fraud.</b></p> <p><b>181.18 Interest and penalties.</b></p> <p><b>181.19 Authority of Tax Administrator; verification of information.</b></p> <p><b>181.20 Request for opinion of the Tax Administrator.</b></p> <p><b>181.21 Board of Tax Review.</b></p> <p><b>181.22 Authority to create rules and regulations.</b></p> <p><b>181.23 Rental and leased property.</b></p> <p><b>181.24 Savings clause.</b></p> <p><b>181.25 Collection of tax after termination of chapter.</b></p> <p><b>181.26 Adoption of RITA Rules and Regulations.</b></p> <p><b>181.99 Violations; penalties.</b></p> |
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**181.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.**

(A) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements, the Village of Shawnee Hills (hereinafter "Village") levies an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.

- (B) (1) The annual tax is levied at a rate of 2% (two percent). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in Village. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 181.03 of this Chapter and other sections as they may apply.
- (2) Intentionally left blank.

(C) The tax on income and the withholding tax established by this Chapter 181.01 to 181.99 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). Ordinance 28-2015 does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, but rather amends Chapter 181 effective January 1, 2016 for tax years beginning on or after January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Village shall continue to administer, audit, and enforce the income tax of the Village under ORC 718 and ordinances and resolutions of the Village as that chapter and those ordinances and resolutions existed before January 1, 2016. (Ord. 28-2015. Passed 11-9-15.)

### 181.02 DEFINITIONS.

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

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) 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 (C)(24)(d) of this division, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
  - (a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
  - (b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(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 (C)(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 (C)(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 ORC;
- (h)
  - (i) Except as limited by divisions (C)(1)(h)(ii), (iii), and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.  
The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
  - (ii) No person shall use the deduction allowed by division (C)(1)(h) of this section to offset qualifying wages.
  - (iii)
    - (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(1)(h)(i) of this section.
    - (b) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (C)(1)(h)(i) of this section.
  - (iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to (C)(1)(h) of this section.
  - (v) Nothing in division (C)(1)(h)(iii)(a) of this section precludes a person from carrying forward, use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (C)(1)(h)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(1)(h)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (C)(1)(h)(iii)(a) of this section shall apply to the amount carried forward.
- (i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (V)(3)(b) of Section 181.05.

- (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 (V)(3)(b) of Section 181.05.
- If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in division (C)(48)(b) of this section, is not a publicly traded partnership that has made the election described in division (C)(24)(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 (C)(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 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 that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 181.21, and has "ASSESSMENT" written in all capital letters at the top of such finding.
- (b) "**Assessment**" does not include a notice denying a request for refund issued under division (C)(3) of Section 181.09, 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 (C)(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 Tax Review"** or "Board of Review" or "Board of Tax Appeals", or other named local board constituted to hear appeals of municipal income tax matters, means the entity created under Section 181.21.
- (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 ORC.
- (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 ORC.
- (8) **"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.
- (9) **"Domicile"** means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more than one domicile.
- (10) **"Employee"** means an individual who is an employee for federal income tax purposes.
- (11) **"Employer"** means a person that is an employer for federal income tax purposes.
- (12) **"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) Intangible income.
  - (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 (C)(12)(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 ORC to a person serving as a precinct election official to the extent that such compensation does not exceed \$1,000 for the taxable year. Such compensation in excess of \$1,000 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) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from 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 ORC. Division (C)(12)(i) of this section does not apply for purposes of Chapter 5745. of the ORC.
- (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 (C)(35) of this section.
- (m) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
- (n) An S corporation shareholder's share of net profits of the S corporation, other than any part of the share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code.
- (o) All of the income of individuals under 18 years of age.
- (p)
  - (i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 181.04 to the extent the qualifying wages are not subject to withholding for Village under either of those divisions.
  - (ii) The exemption provided in division (C)(12)(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 (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 181.04.
  - (iv) The exemption provided in division (C)(12)(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 (C)(2) of Section 181.04, 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 (C)(5) of Section 181.04, 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 (C)(12)(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 (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in Village on not more than 20 days in a taxable year.
  - (ii) The exemption provided in division (C)(12)(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 municipal corporation.
    - (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 (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 181.04 (C).
  - (iii) Compensation to which division (C)(12)(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 (C)(12)(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 ORC 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 (C) 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.
- (13) **"Form 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (14) **"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 or for filing a refund claim.
- (15) **"Gross receipts"** means the total revenue derived from sales, work done, or service rendered.
- (16) **"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 (C)(24)(d) of this division.
- (ii) For the purposes of division (C)(16)(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 (C)(16)(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 (C)(16)(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' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division(C)(12)(n) or (C)(16)(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 municipal corporation, 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.
  - (e) Intentionally left blank.
- (17) "**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 ORC, and patents, copyrights, trademarks, tradenames, 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.
- (18) "**Internal Revenue Code**" has the same meaning as in Section 5747.01 of the ORC.
- (19) "**Limited liability company**" means a limited liability company formed under Chapter 1705. of the ORC or under the laws of another state.
- (20) "**Municipal corporation**" includes a joint economic development district or joint economic development zone that levies an income tax under Section 715.691, 715.70, 715.71, or 715.74 of the ORC.
- (21) (a) "**Municipal taxable income**" means the following:
- (i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to Village under Section 181.03, and further reduced by any pre-2017 net operating loss carryforward available to the person for Village.

- (ii) (a) For an individual who is a resident of Village, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipal corporation.
    - (b) For an individual who is a nonresident of Village, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipal corporation under Section 181.03, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for Village.
  - (b) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) 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, but only to the extent the expenses do not relate to exempt income. 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 and are not related to exempt income.
- (22) "**Municipality**" means the same as the Village of Shawnee Hills. If the terms are capitalized in the ordinance they are referring to Village of Shawnee Hills. If not capitalized they refer to a municipal corporation other than the Village of Shawnee Hills.
- (23) "**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.
- (24) (a) "**Net profit**" for a person other than an individual means adjusted federal taxable income.
- (b) "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (C)(24)(b) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(1)(h) of this section.
- (c) For the purposes of this Chapter, and notwithstanding division (C)(24)(a) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

- (d) 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 by Village, may elect to be treated as a C corporation for Village. The election shall be made on the annual return for Village. Village will treat the publicly traded partnership as a C corporation if the election is so made.
- (25) "**Nonresident**" means an individual that is not a resident.
- (26) "**Ohio Business Gateway**" means the online computer network system, created under Section 125.30 of the ORC, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (27) "**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.
- (28) "**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.
- (29) "**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.
- (30) "**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.
- (31) "**Postal service**" means the United States postal service.
- (32) "**Postmark date,**" "**date of postmark,**" and similar terms include the date recorded and marked in the manner described in division (B)(3) of Section 5703.056 of the ORC.
- (33) (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 Village that was adopted by the Village before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in Village 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.
- (34) "**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.

- (35) **"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 (C)(35)(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 (C)(35)(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 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 (C)(35)(b) of this section or ORC Section 718.03, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.
- (36) **"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 (C)(36)(d) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent 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 (C)(36)(a) to (c) of this section have been met.
- (37) **"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 "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.
- (38) **"Resident"** means an individual who is domiciled in the municipal corporation as determined under Section 181.03(E).
- (39) **"S corporation"** means a person that has made an election under subchapter/ordinance S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (40) **"Schedule C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (41) **"Schedule E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) **"Schedule F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (43) **"Single member limited liability company"** means a limited liability company that has one direct member.

- (44) **"Small employer"** means any employer that had total revenue of less than \$500,000 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; compensation; 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.
- (45) **"Tax Administrator"** means the individual charged with direct responsibility for administration of an income tax levied by Village in accordance with this Chapter.
- (46) **"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 .
- (47) **"Taxable year"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (48) (a) **"Taxpayer"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter/ordinance. "Taxpayer" does not include a grantor trust or, except as provided in division (C)(48)(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 ORC 718.01 as that 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 (C)(48)(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 \$400,000.
- (49) **"Taxpayers' rights and responsibilities"** means the rights provided to taxpayers in Sections 181.09, 181.12, 181.13, 181.19(B), 181.20, 181.21, and Sections 5717.011 and 5717.03 of the ORC, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the ORC and resolutions, ordinances, and rules and regulations adopted by Village for the imposition and administration of a municipal income tax.
- (50) **"Video lottery terminal"** has the same meaning as in Section 3770.21 of the ORC.
- (51) **"Video lottery terminal sales agent"** means a lottery sales agent licensed under Chapter 3770. of the ORC to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the ORC. (Ord. 28-2015. Passed 11-9-15.)

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

The income tax levied by Village at a rate of 2% [two percent] is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in Village,

#### **Individuals.**

- (A) For residents of Village, the income tax levied herein shall be on 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. This is further detailed in the definition of income (Section 181.02 (C)(16)).
- (B) For 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 municipal corporation, 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 residents and nonresidents, income can be reduced to "Municipal Taxable Income" as defined in Section 181.02 (C)(21). Exemptions which may apply are specified in Section 181.02 (C)(12).

#### **Refundable credit for Nonqualified Deferred Compensation Plan.**

- (D) (1) As used in this division:
  - (a) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.

- (b) "Qualifying loss" means the amount of compensation attributable to a taxpayer's nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the nonqualified deferred compensation plan. The taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
- (c)
  - (i) "Qualifying tax rate" means the applicable tax rate for the taxable year for which the taxpayer paid income tax to Village with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
  - (ii) 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 Village each year with respect to the nonqualified deferred compensation plan.
- (d) "Refundable credit" means the amount of Village income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.
- (2) If, in addition to Village, a taxpayer has paid tax to other municipal corporations 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.
- (3) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to Village, for all taxable years with respect to the nonqualified deferred compensation plan.
- (4) The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:
  - (a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
  - (b) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

### Domicile.

- (E)
  - (1)
    - (a) An individual is presumed to be domiciled in Village for all or part of a taxable year if the individual was domiciled in Village on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in Village for all or part of the taxable year.
    - (b) An individual may rebut the presumption of domicile described in division (E)(1)(a) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in Village for all or part of the taxable year.

- (2) For the purpose of determining whether an individual is domiciled in Village for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
- (a) The individual's domicile in other taxable years;
  - (b) The location at which the individual is registered to vote;
  - (c) The address on the individual's driver's license;
  - (d) 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;
  - (e) The location and value of abodes owned or leased by the individual;
  - (f) Declarations, written or oral, made by the individual regarding the individual's residency;
  - (g) The primary location at which the individual is employed.
  - (h) 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 where the educational institution is located;
  - (i) The number of contact periods the individual has with Village. For the purposes of this division, an individual has one "contact period" with Village if the individual is away overnight from the individual's abode located outside of Village and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in Village.
- (3) All additional applicable factors are provided in the Rules and Regulations.

### Businesses.

- (F) This division applies to any taxpayer engaged in a business or profession in Village, unless the taxpayer is an individual who resides in Village 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 ORC.
- (1) Except as otherwise provided in division (F)(2) of this section, net profit from a business or profession conducted both within and without the boundaries of Village shall be considered as having a taxable situs in Village for purposes of municipal income taxation in the same proportion as the average ratio of the following:
- (a) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in Village during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.  
As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

- (b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in Village to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 181.04 (C);
    - (c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in Village to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
  - (2)
    - (a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in Village, the taxpayer may request, or the Tax Administrator of Village 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:
      - (i) Separate accounting;
      - (ii) The exclusion of one or more of the factors;
      - (iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;
      - (iv) A modification of one or more of the factors.
    - (b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 181.12 (A).
    - (c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 181.12 (A).
    - (d) Nothing in division (F) (2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
  - (3) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
    - (a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
      - (i) The employer;
      - (ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
      - (iii) A vendor, customer, client, or patient of a person described in (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.

- (b) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
  - (c) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (F) (3)(a) or (b) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (4) For the purposes of division (F)(1)(c) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
- (a) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in Village if, regardless of where title passes, the property meets any of the following criteria:
    - (i) The property is shipped to or delivered within Village from a stock of goods located within Village.
    - (ii) The property is delivered within Village from a location outside Village, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within Village and the sales result from such solicitation or promotion.
    - (iii) The property is shipped from a place within Village to purchasers outside the Village, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
  - (b) Gross receipts from the sale of services shall be situated to Village to the extent that such services are performed in Village.
  - (c) To the extent included in income, gross receipts from the sale of real property located in Village shall be situated to Village.
  - (d) To the extent included in income, gross receipts from rents and royalties from real property located in Village shall be situated to Village.
  - (e) Gross receipts from rents and royalties from tangible personal property shall be situated to Village based upon the extent to which the tangible personal property is used in Village.
- (5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to Village's tax only if the property generating the net profit is located in Village or if the individual taxpayer that receives the net profit is a resident of Village. Village shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

- (6) (a) 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 Village, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in Village to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
  - (b) An individual who is a resident of Village shall report the individual's net profit from all real estate activity on the individual's annual tax return for Village. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under Village's income tax ordinance.
  - (7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) 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.
  - (8) Intentionally left blank.
  - (9) Intentionally left blank.
- (Ord. 28-2015. Passed 11-9-15.)

#### **181.04 COLLECTION AT SOURCE.**

##### **Withholding provisions.**

(A) Each employer, agent of an employer, or other payer located or doing business in Village shall withhold an income tax from the qualifying wages earned and/or received by each employee in Village. Except for qualifying wages for which withholding is not required under Section 181.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 181.01, of 2%. 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.

- (B) (1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of Village 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 according to the following schedule:
  - (a) 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 Village in the preceding calendar year exceeded \$2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of Village in any month of the preceding calendar quarter exceeded \$200.

- Payment under division (B)(1)(a) of this section shall be made so that the payment is received by the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.
- (b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the 15th day of the month following the end of each calendar quarter.
  - (c) Intentionally left blank.
- (2) If the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation, the payment shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of Village. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.
  - (3) 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 Tax Administrator and Village as the return required of a non-resident 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.
  - (4) An employer, agent of an employer, or other payer is not required to withhold Village 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.
  - (5)
    - (a) 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.
    - (b) The failure of an employer, agent of an employer, or other payer to remit to Village 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.
  - (6) Compensation deferred before June 26, 2003, is not subject to Village income tax or 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.
  - (7) 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 Village until such time as the withheld amount is remitted to the Tax Administrator.

- (8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:
- (a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for Village during the preceding calendar year;
  - (b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year,;
  - (c) 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;
  - (d) 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;
  - (e) Other information as may be required by the Tax Administrator.
- (9) 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.
- (10) An employer is required to deduct and withhold Village income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but 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.
- (11) The 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

### **Occasional Entrant - Withholding.**

- (C) (1) As used in this division:
- (a) "Employer" includes a person that is a related member to or of an employer.
  - (b) "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.
  - (c) "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 (C)(2)(a)(i) 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 determined in accordance with division (C)(2)(b) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

- (d) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
  - (e) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
  - (f) "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.
  - (g) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than 20 days during the calendar year. "Worksite location" does not include the home of an employee.
- (2) (a) Subject to divisions (C)(3), (5), (6), and (7) of this section, an employer is not required to withhold Village income tax on qualifying wages paid to an employee for the performance of personal services in Village if the employee performed such services in Village on 20 or fewer days in a calendar year, unless one of the following conditions applies:
- (i) The employee's principal place of work is located in Village.

- (ii) The employee performed services at one or more presumed worksite locations in Village. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in Village at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than 20 days in a calendar year. Services can "reasonably be expected by the employer to last more than 20 days" if either of the following applies at the time the services commence:
    - (a) The nature of the services are such that it will require more than 20 days of the services to complete the services;
    - (b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than 20 days.
  - (iii) The employee is a resident of Village and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 181.04.
  - (iv) 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.
- (b) For the purposes of division (C)(2)(a) of this section, an employee shall be considered to have spent a day performing services in Village only if the employee spent more time performing services for or on behalf of the employer in Village 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:
- (i) Traveling to the location at which the employee will first perform services for the employer for the day;
  - (ii) Traveling from a location at which the employee was performing services for the employer to any other location;
  - (iii) 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;
  - (iv) Transporting or delivering property described in division (C)(2)(b)(iii) 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;

- (v) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.
- (3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) 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 that municipal corporation.
- (4) (a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in Village exceeds the 20-day threshold, the employer shall withhold and remit tax to Village for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in Village.  
(b) An employer required to begin withholding tax for Village under division (C)(4)(a) of this section may elect to withhold tax for Village for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in Village.
- (5) If an employer's fixed location is Village and the employer qualifies as a small employer as defined in Section 181.02, the employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to Village, regardless of the number of days which the employee worked outside the corporate boundaries of Village.  
To determine whether an employer qualifies as a small employer for a taxable year, a the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
- (6) Divisions (C)(2)(a) and (4) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 181.04. (Ord. 28-2015. Passed 11-9-15.)

#### **181.05 ANNUAL RETURN; FILING.**

(A) An annual Village income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.

- (1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 181.04 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 Village.

- (2) Retirees having no Municipal Taxable Income for Village income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal Taxable Income taxable to the Village, at which time the retiree shall be required to comply with all applicable provisions of this chapter.

(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 Village, 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.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) Village shall permit spouses to file a joint return.

- (F) (1) Each return required to be filed under this division 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. The return 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) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return, and amended return, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return, any other documentation necessary to support 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) The Tax Administrator may require a taxpayer that is not an individual 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.

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.

- (4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by Village 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.
- (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 ORC. 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 Village. No remittance is required if the net amount due is ten dollars or less.
    - (b) Except as otherwise provided in this Chapter, each annual net profit 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. 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 Village. No remittance is required if the net amount due is ten dollars or less.
  - (2) 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 Village's income tax return. The extended due date of Village's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
    - (a) A copy of the federal extension request shall be included with the filing of Village's income tax return.
    - (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's Village income tax return. If the request is received by the Tax Administrator on or before the date the Village income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

- (3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of a Village's income tax return. The extended due date of Village's income tax return shall be the same as the extended due date of the state income tax return.
  - (4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by Village, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.
  - (5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.
- (H) (1) For taxable years beginning after 2015, Village shall not require a taxpayer to remit tax with respect to net profits if the net amount due is ten dollars or less.
- (2) Any taxpayer not required to remit tax to Village for a taxable year pursuant to division (H)(1) of this section shall file with Village an annual net profit return under division (F)(3) of this section.

(I) 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. This division shall not apply to payments required to be made under division (B)(1)(a) of Section 181.04 or provisions for semi-monthly withholding.

(J) Taxes withheld for the Village by an employer, the agent of an employer, or other payer as described in Section 181.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by Village, unless the amounts withheld were not remitted to Village, 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 Village to be filed in accordance with this division 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.

(L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by Village, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by Village or the 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 Village's ordinance, resolution, or rules and regulations governing the filing of returns, reports, or documents.

**Filing via Ohio Business Gateway.**

- (M) (1) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file Village's income tax return, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.
- (2) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.
- (3) Nothing in this section affects the due dates for filing employer withholding tax returns.

**Extension for service in or for the armed forces.**

(N) 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 Village for both an extension of time for filing of the return and an extension of time for payment of taxes required by Village during the period of the member's or civilian's duty service, and for 180 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.

- (O) (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 181st day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate. However, taxes pursuant to a contract entered into under this division are not delinquent, and the Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
  - (2) If the Tax Administrator determines 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 municipal corporation before the 181st day after the applicant's active duty or service terminates.
  - (3) Taxes paid pursuant to a contract entered into under (O)(1) of this division are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (P) (1) Nothing in this division denies to any person described in this division the application of divisions (N) and (O) 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 a municipal corporation in accordance with this Chapter. The length of any extension granted under division (P)(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 division, "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 whose payment is extended in accordance with division (P)(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 (P)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(Q) For each taxable year to which division (N), (O), or (P) of this section applies to a taxpayer, the provisions of divisions (O)(2) and (3) 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.

**Consolidated municipal income tax return.**

- (R) 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 (R)(1) of this section.

- (4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the ORC.
- (5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the ORC.
- (S) (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 Village's 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. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (S)(2) of this section or 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 (S)(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 (S)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(T) 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 Village 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 Village. A taxpayer that is required to file a consolidated Village income tax return for a taxable year shall file a consolidated Village 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.

(U) A taxpayer shall prepare a consolidated Village 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.

- (V) (1) Except as otherwise provided in divisions (V)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 181.02, 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 Village income tax return shall make any adjustment otherwise required under Section 181.02(C)(1) 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 percent (80%) 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 Village 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 divisions (R) through (Y) of Section 181.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to Village. 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 divisions (R) through (Y) of Section 181.05, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to Village. 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 percent 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 divisions (R) through (Y) of Section 181.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to Village;
  - (b) The pass-through entity shall be subject to Village 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.

(W) Corporations filing a consolidated Village income tax return shall make the computations required under divisions (R) through (Y) of Section 181.05 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.

(X) Each corporation filing a consolidated Village income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by Village 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.

(Y) Corporations and their affiliates that made an election or entered into an agreement with Village before January 1, 2016, to file a consolidated or combined tax return with Village 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. 28-2015. Passed 11-9-15.)

#### **181.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.**

(A) Every individual taxpayer domiciled in Village who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this Chapter may claim a nonrefundable credit upon satisfactory evidence of the tax paid to the other municipality. Subject to division (C) of this section, the credit shall not exceed 100% of the amount obtained by multiplying the income, qualifying wages, commissions, net profits or other compensation subject to tax in the other municipality by the LOWER of the tax rate in such other municipality OR the rate of 1.75%.

(B) Village shall grant a credit against its tax on income to a resident of Village 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) If the amount of tax withheld or paid to the other municipality is less than the amount of tax required to be withheld or paid to the other municipality, then for purposes of division (A) of this section, "the income, qualifying wages, commissions, net profits or other compensation" subject to tax in the other municipality shall be limited to the amount computed by dividing the tax withheld or paid to the other municipality by the tax rate for that municipality.

(D) Intentionally left blank.  
(Ord. 28-2015. Passed 11-9-15.)

#### **181.07 ESTIMATED TAXES.**

(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 Village's income tax for the current taxable year.
- (2) "Tax liability" means the total taxes due to Village 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 \$200. For the purposes of this section:
- (a) Taxes withheld for Village from qualifying wages shall be considered as paid to the Village in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they 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.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
- (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 181.05 or on or before the fifteenth (15th) day of the fourth month 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 (15th) 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 Village, 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 (15th) day of the fourth month after the beginning of the taxable year, twenty-two and one-half (22.5) percent of the tax liability for the taxable year;
  - (b) On or before the fifteenth (15th) day of the sixth month after the beginning of the taxable year, forty-five (45) percent of the tax liability for the taxable year;
  - (c) On or before the fifteenth (15th) day of the ninth month after the beginning of the taxable year, sixty-seven and one-half (67.5) percent of the tax liability for the taxable year;
  - (d) On or before the fifteenth (15th) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.
- (2) 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.

- (3) On or before the fifteenth (15th) day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 181.05.
- (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 181.18 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 percent (22.5%) 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 percent (45%) 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 percent (67.5%) 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 percent (90%) 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 percent (90%) 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 percent 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 Village under Section 181.05 for that year.
  - (3) The taxpayer is an individual who resides in Village but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.  
(Ord. 28-2015. Passed 11-9-15.)

### **181.08 ROUNDING OF AMOUNTS.**

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. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

(Ord. 28-2015. Passed 11-9-15.)

**181.09 REQUESTS FOR REFUNDS.**

(A) As used in this section, "withholding tax" has the same meaning as in Section 181.18.

(B) Upon receipt of a request for a refund, the Tax Administrator, 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 municipal corporation:

- (1) Overpayments of ten dollars or more;
- (2) Amounts paid erroneously if the refund requested is ten dollars or more.

- (C)
- (1) Except as otherwise provided in this Chapter, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund.
  - (2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount for payment. Except as provided in division (C)(3) of this section, the Tax 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 181.21.

(D) A request for a refund that is received after the last day for filing specified in division (C) 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.

(E) 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 90 days after the final filing date of the annual return or 90 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 Section 181.18 (A)(4). (Ord. 28-2015. Passed 11-9-15.)

**181.10 SECOND MUNICIPALITY IMPOSING TAX AFTER TIME PERIOD ALLOWED FOR REFUND.**

(A) Income tax that has been deposited with Village, but should have been deposited with another municipality, is allowable by Village as a refund but is subject to the three-year limitation on refunds.

(B) Income tax that was deposited with another municipality but should have been deposited with Village is subject to recovery by Village. If Village's tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, Village shall allow a nonrefundable credit against the tax or withholding Village claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipality with respect to such income or wages.

(C) If Village's tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using Village's tax rate. However, if Village's tax rate is greater than the tax rate in the other municipality, the tax due in excess of the nonrefundable credit is to be paid to Village, along with any penalty and interest that accrued during the period of nonpayment.

(D) Nothing in this section permits any credit carry forward.  
(Ord. 28-2015. Passed 11-9-15.)

**181.11 AMENDED RETURNS.**

- (A) (1) If a taxpayer's tax liability shown on the annual tax return for Village changes as a result of an adjustment to the taxpayer's federal or state income tax return, the taxpayer shall file an amended return with Village. The amended return shall be filed on a form required by the Tax Administrator.
- (2) 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, no payment need be made. The amended return shall 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 only:
- (i) to determine the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; or,
  - (ii) if the applicable statute of limitations for civil actions or prosecutions under Section 181.12 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; i.e., the payment shall be the lesser of the two amounts.

- (C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (D) of this section for filing the amended return, even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is less than ten dollars, no refund need be paid by Village. A request filed under this division shall claim refund of overpayments resulting from alterations only to those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return, unless it is also filed within the time prescribed in Section 181.09.
- (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. All facts, figures, computations, and attachments may be reopened to determine the refund amount due by inclusion of all facts, figures, computations, and attachments.

(D) Within 60 days after the final determination of any federal or state tax liability affecting the taxpayer's Village's tax liability, that taxpayer shall make and file an amended Village return showing income subject to Village income tax based upon such final determination of federal or state tax liability. The taxpayer shall pay any additional Village income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than ten dollars. (Ord. 28-2015. Passed 11-9-15.)

#### **181.12 LIMITATIONS.**

- (A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the later 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 the Board of Tax Review the request described in Section 181.21. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review 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 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 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 181.09.

- (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 Village 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 Board of Tax Review, 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 resultant amount due is less than the amount paid, a refund will be paid in the amount of the overpayment as provided by Section 181.09, with interest on that amount as provided by division (E) of Section 181.09.

(E) No civil action to recover Village 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. 28-2015. Passed 11-9-15.)

### **181.13 AUDITS.**

(A) At or before the commencement of an audit, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during the audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of a 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. (Ord. 28-2015. Passed 11-9-15.)

#### **181.14 SERVICE OF ASSESSMENT.**

(A) As used in this section:

- (1) "Last known address" means the address the Tax Administrator has at the time a document is originally sent by certified mail, or any address the Tax Administrator can ascertain using reasonable means such as the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC.
- (2) "Undeliverable address" means an address to which the postal service or an authorized delivery service under Section 5703.056 of the ORC is not able to deliver an assessment of the Tax Administrator, except when the reason for non-delivery is because the addressee fails to acknowledge or accept the assessment.

(B) Subject to division (C) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the ORC. With the permission of the person affected by an assessment, 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.

- (C) (1) (a) If certified mail is returned because of an undeliverable address, a Tax Administrator shall utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC. If the Tax Administrator is unable to ascertain a new last known address, the assessment shall be sent by ordinary mail and considered served. If the ordinary mail is subsequently returned because of an undeliverable address, the assessment remains appealable within 60 days after the assessment's postmark.

- (b) Once the Tax Administrator or other Village official, or the designee of either, serves an assessment on the person to whom the assessment is directed, the person may protest the ruling of that assessment by filing an appeal with the local board of tax review within 60 days after the receipt of service. The delivery of an assessment of the Tax Administrator under division (C)(1)(a) of this section is prima facie evidence that delivery is complete and that the assessment is served.
- (2) If mailing of an assessment by a Tax Administrator by certified mail is returned for some cause other than an undeliverable address, the Tax Administrator shall resend the assessment by ordinary mail. The assessment shall show the date the Tax Administrator sends the assessment and include the following statement:  
"This assessment is deemed to be served on the addressee under applicable law ten days from the date this assessment was mailed by the Tax Administrator as shown on the assessment, and all periods within which an appeal may be filed apply from and after that date."  
Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima facie evidence that delivery of the assessment was completed ten days after the Tax Administrator sent the assessment by ordinary mail and that the assessment was served.  
If the ordinary mail is subsequently returned because of an undeliverable address, the Tax Administrator shall proceed under division (C)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (D) of this section.
- (D) (1) A person disputing the presumption of delivery and service under division (C) of this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent by certified mail was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment. 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 20 percent, 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 (D)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within 60 days after the initial contact by the Tax Administrator or other Village 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.

(E) Nothing in this section prohibits the Tax Administrator or the Tax Administrator's designee from delivering an assessment by a Tax Administrator by personal service.

(F) Collection actions taken upon any assessment being appealed under division (C)(1)(b) of this section, including those on which a claim has been delivered for collection, shall be stayed upon the pendency of an appeal under this section.

(G) Additional regulations as detailed in the Rules and Regulations shall apply. (Ord. 28-2015. Passed 11-9-15.)

#### **181.15 ADMINISTRATION OF CLAIMS.**

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

(B) Nothing in this Chapter prohibits a Tax Administrator from doing either of the following if such action is in the best interests of the municipal corporation:

- (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.

(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 be to the benefit of only the parties to the compromise or agreement, and shall not eliminate or otherwise affect the liability of any other person.

(E) 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. (Ord. 28-2015. Passed 11-9-15.)

#### **181.16 TAX INFORMATION CONFIDENTIAL.**

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter 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 Village as authorized by this Chapter. The Tax Administrator 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 tax commissioner, and tax administrators of other municipal corporations.

(B) This section does not prohibit Village from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers. (Ord. 28-2015. Passed 11-9-15.)

**181.17 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 Village ordinance or state law to be filed with a 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 Village or the Tax Administrator. (Ord. 28-2015. Passed 11-9-15.)

**181.18 INTEREST AND PENALTIES.**

(A) As used in this section:

- (1) "Applicable law" means this Chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by Village provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of Village.
- (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" means any income tax, estimated income tax, and withholding tax imposed by Village 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 the Tax Administrator or Village 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 applies 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 Village 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 and regulations, as adopted before January 1, 2016, of Village to which the return is to be filed or the payment is to be made.

(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fails, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Village any return required to be filed, the following penalties and interest shall apply:

- (1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.
  - (2) (a) With respect to unpaid income tax and unpaid estimated income tax, Village may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.
  - (b) With respect to any unpaid withholding tax, Village may impose a penalty equal to fifty percent (50%) of the amount not timely paid.
- (3) With respect to returns other than estimated income tax returns, Village may impose a penalty of \$25 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 \$150 for each failure.

(D) Nothing in this section requires Village to refund or credit any penalty, amount of interest, charges, or additional fees that Village has properly imposed or collected before January 1, 2016.

(E) Nothing in this section limits the authority of Village to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.

(F) By the 31st day of October of each year Village shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(G) Village may impose on the taxpayer, employer, any agent of the employer, or any other payer Village's post-judgment collection costs and fees, including attorney's fees. (Ord. 28-2015. Passed 11-9-15.)

### **181.19 AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION.**

#### **Authority.**

(A) Nothing in this Chapter shall limit the authority of the Tax Administrator to perform any of the following duties or functions, unless the performance of such duties or functions is expressly limited by a provision of the ORC:

- (1) (a) Exercise all powers whatsoever of an query 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.
- (b) 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 Village's income tax ordinance;
- (2) Appoint agents and prescribe their powers and duties;
- (3) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (4) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, for any reason overpaid. In addition, the Tax Administrator may investigate any claim of overpayment and, if the Tax Administrator finds that there has been an overpayment, make a written statement of the Tax Administrator's findings, and approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this Chapter;
- (5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 181.03;
- (7) (a) Make all tax findings, determinations, computations, 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, re-determine, or correct any tax findings, determinations, computations, or orders the Tax Administrator has made.
- (b) If an appeal has been filed with the Board of Tax Review or other appropriate tribunal, the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, or order which the Tax Administrator has made, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
- (8) Destroy any or all returns or other tax documents in the manner authorized by law;
- (9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 181.04.

**Verification of accuracy of returns and determination of liability.**

- (B) (1) A Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter

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

- (2) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator 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 Village or for the withholding of such tax.
- (3) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.
- (4) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal or state income tax returns under this section shall fail to comply.

#### **Identification information.**

- (C) (1) Nothing in this Chapter prohibits the Tax Administrator from requiring 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.
- (2) (a) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within 30 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 181.18, in addition to any applicable penalty described in Section 181.27.

- (b) 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 (C) of Section 181.19 within 30 days after filing the next tax document requiring such identifying information, nothing in this Chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 181.18.
- (c) The penalties provided for under divisions (C)(2)(a) and (b) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 181.27 for a violation of Section 181.17 and any other penalties that may be imposed by the Tax Administrator by law.  
(Ord. 28-2015. Passed 11-9-15.)

#### **181.20 REQUEST FOR 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 in accordance with the Rules and Regulations.

(C) 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.

(D) A Tax Administrator may refuse to offer an opinion on any request received under this section. Such refusal is not subject to appeal.

(E) An opinion of the Tax Administrator binds the 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.

(F) An opinion of the Tax Administrator issued under this section is not subject to appeal. (Ord. 28-2015. Passed 11-9-15.)

#### **181.21 BOARD OF TAX REVIEW.**

- (A) (1) The Board of Tax Review shall consist of three members. Two members shall be appointed by the legislative authority of Village, but such appointees may not be employees, elected officials, or contractors with Village at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the Mayor. This member may be an employee of Village, 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.
- (2) The term for members of the Board of Tax Review Village shall be two years. There is no limit on the number of terms that a member may serve if the member is reappointed by the legislative authority. The board member appointed by the Mayor shall serve at the discretion of the Mayor.

- (3) Members of the Board of Tax Review appointed by the legislative authority may be removed by the legislative authority by majority vote for malfeasance, misfeasance, or nonfeasance in office. To remove such a member, the legislative authority must give the member a copy of the charges against the member and afford the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten days' notice. The decision by the legislative authority on the charges is final and not appealable.
- (4) A member of the Board of Tax Review who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (5) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within 60 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 of Tax Review shall impair the power and authority of the remaining members to exercise all the powers of the Board of Tax Review.
- (6) If a member is temporarily unable to serve on the Board of Tax Review 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 of Tax Review in the member's place. The appointment of such an individual shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(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.

(C) Any person who has been issued an assessment may appeal the assessment to the Board of Tax Review by filing a request with the Board of Tax Review. 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 60 days after the taxpayer receives the assessment.

(D) The Board of Tax Review shall schedule a hearing to be held within 60 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 of Tax Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of Tax Review may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within 120 days after the first day of the hearing unless the parties agree otherwise.

(E) The Board of Tax Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Tax Review shall issue a final determination on the appeal within 90 days after the Board of Tax Review'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 15 days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board of Tax Review's final determination as provided in Section 5717.011 of the ORC.

(F) The Board of Tax Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the ORC. Hearings requested by a taxpayer before a Board of Tax Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the ORC. (Ord. 28-2015. Passed 11-9-15.)

#### **181.22 AUTHORITY TO CREATE RULES AND REGULATIONS.**

(A) Nothing in this Chapter prohibits the legislative authority of Village, or a Tax Administrator pursuant to authority granted to the Tax Administrator by resolution or ordinance, to adopt rules to administer an income tax imposed by Village in accordance with this Chapter. Such rules shall not conflict with or be inconsistent with any provision of this Chapter. Taxpayers are hereby required to comply not only with the requirements of this Chapter, but also to comply with the Rules and Regulations.

(B) All rules adopted under this section shall be published and posted on the internet. (Ord. 28-2015. Passed 11-9-15.)

#### **181.23 RENTAL AND LEASED PROPERTY. THIS SECTION INTENTIONALLY LEFT BLANK**

#### **181.24 SAVINGS CLAUSE.**

This Chapter shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. It is hereby declared to be the intention of Council that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence, or part hereof, not been included therein.

(Ord. 28-2015. Passed 11-9-15.)

#### **181.25 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

(A) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 181.12 and Section 181.27 hereof.

(B) Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Section 181.05 and Section 181.04 of this Chapter as though the same were continuing. (Ord. 28-2015. Passed 11-9-15.)

**181.26 ADOPTION OF RITA RULES AND REGULATIONS.**

The Village hereby adopts the Regional Income Tax Agency (RITA) Rules & Regulations, including amendments that may be made from time to time, for use as the Village's Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of the Village Income Tax Ordinance and the RITA Rules & Regulations, the Ordinance will supersede. Until and if the contractual relationship between the Village and RITA ceases, Section 181.26 will supersede all other provisions within Ordinance 181 regarding promulgation of rules and regulations by the Tax Administrator. (Ord. 28-2015. Passed 11-9-15.)

**181.99 VIOLATIONS; PENALTIES.**

(A) Whoever violates Section 181.17, division (A) of Section 181.16, or Section 181.04 by failing to remit Village 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 \$1,000 or imprisonment for a term of up to six months, or both. If the individual that commits the violation is an employee, or official, of Village, the individual is subject to discharge from employment or dismissal from office.

(B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 181.16 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. If the individual that commits the violation is an employee, or official, of Village, the individual is subject to discharge from employment or dismissal from office.

(C) Each instance of access or disclosure in violation of division (A) of Section 181.16 constitutes a separate offense.

(D) If not otherwise specified herein, no person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter;
- (2) File any incomplete or false return;
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter;
- (4) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;
- (5) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;
- (6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;
- (7) Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Administrator authorized hereby;
- (8) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;
- (9) 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.

(E) Any person who violates any of the provisions in Section 181.27 (D) shall be subject to the penalties provided for in Section 181.27(A) of this Chapter. (Ord. 28-2015. Passed 11-9-15.)

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

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|---|--|
| <b>183.01</b> Levy of annual tax on motor vehicles. | <b>183.03</b> Payment of the tax.      |
| <b>183.02</b> Duration of the tax.                  | <b>183.04</b> Disposition of proceeds. |

**CROSS REFERENCES**

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

**183.01 LEVY OF ANNUAL TAX ON MOTOR VEHICLES.**

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

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

(c) As used in this chapter, "motor vehicle" means any and all vehicles included within the definition of motor vehicles in Ohio R.C. 4501.01 and 4505.01.  
(Ord. 572-87. Passed 9-15-87.)

**183.02 DURATION OF THE TAX.**

The tax imposed by this chapter shall apply to and be in effect for the registration year commencing January 1, 1988, and shall continue in effect and application during each registration year thereafter. (Ord. 572-87. Passed 9-15-87.)

**183.03 PAYMENT OF THE TAX.**

The tax imposed by this chapter shall be paid to the Registrar of Motor Vehicles of the State of Ohio or to a Deputy Registrar at the time application for registration of a motor vehicle is made as provided in Ohio R.C. 4503.10. (Ord. 572-87. Passed 9-15-87.)

**183.04 DISPOSITION OF PROCEEDS.**

All moneys derived from the tax hereinbefore levied shall be used by the Village of Shawnee Hills for the purposes specified in this chapter.  
(Ord. 572-87. Passed 9-15-87.)

