

CODIFIED ORDINANCES OF FAYETTE
PART ONE - ADMINISTRATIVE CODE

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CODIFIED ORDINANCES OF
PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

Chap. 101. Codified Ordinances.
Chap. 103. Public Meetings.
Chap. 105. Village Offices.

CHAPTER 101
Codified Ordinances

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

CROSS REFERENCES

See sectional histories for similar State law
Statute of limitations on prosecutions - see Ohio R.C.
718.06; GEN. OFF. 501.06
Codification in book form - see Ohio R.C. 731.23
Imprisonment until fine and costs are paid - see Ohio R.C.
1905.30, 2947.14
Citation issuance for minor misdemeanors - see Ohio R.C.
2935.26 et seq.
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 Fayette, Ohio, 2008, 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 Fulton County, Ohio.
- (f) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent or employee.
- (g) "Land" or "real estate" includes rights and easements of an incorporeal nature. (ORC 701.01(F))
- (h) "Municipality" or "Village" means the Village of Fayette, 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) A. 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 that is not a Sunday or a legal holiday.

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

C. As used in subsections (c)(1) and (c)(2) of this section, legal holiday means the following days:

1. The first day of January, known as New Year's Day;
2. The third Monday in January, known as Martin Luther King, Jr. Day;
3. The third Monday in February, known as Washington-Lincoln Day;
4. The day designated in the "Act of June 28, 1968", 82 Stat. 250, 5 U.S.C. § 6103, as amended, for the commemoration of Memorial Day;
5. The nineteenth day of June, known as Juneteenth day;
6. The fourth day of July, known as Independence Day;
7. The first Monday in September, known as Labor Day;
8. The second Monday in October, known as Columbus Day;
9. The eleventh day of November, known as Veteran's Day;
10. The fourth Thursday in November, known as Thanksgiving Day;
11. The twenty-fifth day of December, known as Christmas Day; and
12. Any day appointed and recommended by the Governor of this state or the President of the United States as a holiday.

D. If any day designated in this section as a legal holiday falls on a 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 fifty dollars (\$150.00). A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

CHAPTER 103 **Public Meetings**

103.01	Definitions.	103.05	Notification of discussion of specific types of public business.
103.02	Notice of regular and organizational meetings.	103.06	General provisions.
103.03	Notice of special meetings.		
103.04	Notice to news media of special meetings.		

CROSS REFERENCES

Open meetings - see Ohio R.C. 121.22(F)

103.01 DEFINITIONS.

As used in this chapter:

- (a) "Clerk" means the Fiscal Officer of the Village of Fayette, Ohio.
- (b) "Day" means calendar day.
- (c) "Meeting" means any prearranged discussion of the public business of the Municipal Body by a majority of the members of the Municipal Body.
- (d) "Municipal Body" means each of the following:
 - (1) Council;
 - (2) Planning Commission;
 - (3) Board of Zoning Appeals;
 - (4) Recreation Board;
 - (5) Tree Commission;
 any committees or subcommittees of the above Municipal Bodies and any other board, commission, committee or similar decision-making body of the Village authorized by Council.
- (e) "Post" means to post in an area accessible to the public during the usual business hours at the entrance to the Village Offices and placement upon the internet at www.villageoffayette.com.
A notice identifying the locations at which notifications will be posted pursuant to this chapter shall be published by the Clerk within ten calendar days after the adoption of this chapter.
- (f) "Published" means published once in a newspaper having a general circulation in the Municipality, as defined in Ohio R.C. 7.12, except that no portion of such newspaper need be printed in the Municipality.

(g) "Special meeting" means a meeting which is neither a regular meeting nor an adjournment of a regular or special meeting to another time or day to consider items specifically stated on the original agenda of such regular or special meeting.

(h) "Written notification" means notification in writing sent to the email address of the person for whom such notification is intended as shown on the records kept by the Clerk under this chapter, or in any way delivered to such person.

(Ord. 2016-04. Passed 5-25-16.)

103.02 NOTICE OF REGULAR AND ORGANIZATIONAL MEETINGS.

(a) The Clerk shall post a statement of the time and place of regular meetings of each Municipal Body for each calendar year not later than the second day preceding the day of the first regular meeting (other than the organizational meeting) of the calendar year of that Municipal Body. The Clerk shall check at reasonable intervals to ensure that such statement remains so posted during such calendar year. If at any time during the calendar year the time or place of regular meetings, or of any regular meeting, is changed on a permanent or temporary basis, a statement of the time and place of such changed regular meetings shall be so posted by the Clerk at least twenty-four hours before the time of the first changed regular meeting.

(b) The Clerk shall post a statement of the time and place of any organizational meeting of a Municipal Body at least twenty-four hours before the time of such organizational meeting.

(c) Upon the adjournment of any regular or special meeting to another day, the Clerk shall promptly post notice of the time and place of such adjourned meeting.

(d) In addition to the posting of the statements as provided in subsections (a) and (b) hereof, the Clerk shall cause to be published once a statement of the time and place of regular meetings for the calendar year of each Municipal Body. Such publication shall occur no later than the day preceding the day of the first such regular meeting of the calendar year.

(Ord. 2016-04. Passed 5-25-16.)

103.03 NOTICE OF SPECIAL MEETINGS.

(a) Except in the case of a special meeting referred to in Section 103.04(d), the Clerk shall, no later than twenty-four hours before the time of a special meeting of a Municipal Body, post a statement of the time, place and purposes of such special meeting.

(b) The statement under this section and the notifications under Section 103.04 shall state such specific or general purpose or purposes then known to the Clerk to be intended to be considered at such special meeting and only those purposes contained in the statement may properly come before such Municipal Body at such meeting to be considered and acted upon.

(Ord. 2016-04. Passed 5-25-16.)

103.04 NOTICE TO NEWS MEDIA OF SPECIAL MEETINGS.

(a) Any news media organization that desires to be given advance notification of special meetings of a Municipal Body shall file with the Clerk a written request therefor.

Except in the event of an emergency requiring immediate official action as referred to in subsection (d) hereof, a special meeting shall not be held unless at least twenty-four hours advance notice of the time, place and purposes of such special meeting is given to the news media that have requested such advance notification in accordance with subsection (b) hereof.

(b) News media requests for such advance notification of special meetings shall specify: the Municipal Body that is the subject of such request; the name of the news media; the name and email addresses of at least two persons to whom written notifications to the news media may be emailed.

Any such request shall be effective for one year from the date of filing with the Clerk or until the Clerk receives written notice from such news media cancelling or modifying such request, whichever is earlier. Each requesting news media shall be informed of such period of effectiveness at the time it files its request. Such requests may be modified or extended only by filing a complete new request with the Clerk. A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the Village, the Municipal Body that is the subject of such request, and the Clerk.

(c) The Clerk shall give written notification to the news media that have requested such advance notification in accordance with subsection (b) hereof, of the time, place and purposes of each special meeting, at least twenty-four hours prior to the time of such special meeting.

(d) In the event of an emergency requiring immediate official action, a special meeting may be held without giving twenty-four hours advance notification thereof to the requesting news media. The persons calling such meeting, or any one or more of such persons or the Clerk on their behalf, shall immediately give written notification of the time, place and purposes of such special meeting to such news media that have requested such advance notification in accordance with subsection (b) hereof. The minutes or the call, or both, of any such special meeting shall state the general nature of the emergency requiring immediate official action.

(Ord. 2016-04. Passed 5-25-16.)

103.05 NOTIFICATION OF DISCUSSION OF SPECIFIC TYPES OF PUBLIC BUSINESS.

(a) Any person, upon written request and payment of a \$10.00 annual fee, and as provided herein, may obtain reasonable advance notification of all meetings at which any specific type of public business is scheduled to be discussed.

(b) Such person may file a written request with the Clerk specifying: the person's name and email address through which the person can be reached during and outside of business hours; the specific type of public business the discussion of which the person is requesting advance notification; the Municipal Body that is the subject of such request; and the number of calendar months (not to exceed twelve) which the request covers. Such request may be cancelled by request from such person to the Clerk.

(c) Such requests may be modified or extended only by filing a complete new request with the Clerk. A request shall not be deemed to be made unless it is complete in all respects, including payment of the required fee, and such request may be conclusively relied on by the Village, the Municipal Body that is the subject of such request, and the Clerk.

(Ord. 2016-04. Passed 5-25-16.)

103.06 GENERAL PROVISIONS.

(a) Any person may visit or telephone the office of the Clerk during that office's regular office hours to determine, based on information available at that office: the time and place of regular meetings; the time, place and purposes of any then known special meetings; and whether the available agenda of any such future meeting states that any specific type of public business, identified by such person, is to be discussed at such meeting.

(b) Any notification provided herein to be given by the Clerk may be given by any person acting in behalf of or under the authority of the Clerk.

(c) A reasonable attempt at notification shall constitute notification in compliance with this chapter.

(d) A certificate by the Clerk as to compliance with this chapter shall be conclusive upon this Village and the Municipal Body involved.
(Ord. 2016-04. Passed 5-25-16.)

CHAPTER 105

Village Offices

105.01 Operating hours of Village offices and departments.

105.01 OPERATING HOURS OF VILLAGE OFFICES AND DEPARTMENTS.

(a) The regular hours of the Village administrative offices shall be from 9:00 a.m. to 5:00 p.m. each Monday through Friday, except on approved holidays or when otherwise authorized by the Village Council. During the quarterly billing periods for the Village utilities, the administrative office shall remain open on Saturday, from 9:00 a.m. until noon. The quarterly billing period shall consist of the first and second week of the quarter. Administrative staff members shall stagger their lunch hours so that the office can remain open throughout the work day. In the event that an adequate number of the administrative staff is not available to keep the office open during the lunch hour, the office may be closed, with the approval of the Village Administrator, from noon until 1:00 p.m.

(b) The regular hours of the Village Street Department shall be from 7:00 a.m. to 4:00 p.m. each Monday through Friday, except on approved holidays or when otherwise authorized by the Village Council. The Village Administrator shall direct the Street Department Supervisor to establish an on-call schedule in which Street Department employees rotate on-call status. Unless excused by the Village Administrator, all Street Department employees shall be available on a seven day, twenty-four hour on-call basis. Employees of the Street Department shall receive a one-hour lunch break and two, fifteen minute breaks per day. Lunch breaks shall be taken from noon until 1:00 p.m. when possible; however, they may be adjusted by the Street Department Supervisor, when necessary in order to accommodate the work schedule.

(c) The regular hours of the Village Water and Sewer Departments shall be from 7:00 a.m. to 4:00 p.m. each Monday through Friday, except on approved holidays or when otherwise authorized by the Village Council. The Village Administrator shall direct the Utilities Supervisor to establish an on-call schedule in which Water and Sewer Department employees rotate on-call status. Unless excused by the Village Administrator, all Water and Sewer Department employees shall be available on a seven day, twenty-four hour on-call basis. Employees of the Water and Sewer Departments shall receive a one-hour lunch break and two, fifteen minute breaks per day. Lunch breaks shall be taken from noon until 1:00 p.m. when possible; however, they may be adjusted by the Utilities Supervisor, when necessary in order to accommodate the work schedule.

(d) The Village Administrator shall have the authority to implement flex-time for Village personnel provided that the flexible schedule does not negatively impact the performance or efficiency of the Village work force. All employee requests for flexible scheduling must be approved by the Village Administrator. Flex-time shall be defined for the purposes of this section as a plan that allows the employee or employer to set a work schedule within a range that is wider than the standard eight-hour work day. The work schedule may consist of split shifts or staggered starting and ending times.

(e) The regular hours of the Police Department shall be established by the Police Chief, through administrative order which shall be approved by the Village Council.
(Ord. 97-04. Passed 2-13-97.)

**TITLE THREE - Legislative
Chap. 111. Council.**

**CHAPTER 111
Council**

EDITOR'S NOTE: The rules of Council have been passed by motion. Copies are on file at Village Hall.

CROSS REFERENCES

Composition - see Ohio R.C. 731.09
President pro tempore - see Ohio R.C. 731.10 et seq., 733.25
Qualifications - see Ohio R.C. 731.12, 731.44
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
Misconduct - see Ohio R.C. 733.72 et seq.
Open meetings - see Ohio R.C. 121.22
Contract interest - see GEN. OFF. 525.10

(NOTE: The next printed page is page 21.)

TITLE FIVE - Administrative

- Chap. 123. Mayor.
- Chap. 127. Fiscal Officer.
- Chap. 131. Village Administrator.
- Chap. 135. Solicitor.
- Chap. 139. Police Department.
- Chap. 143. Recreation Board.
- Chap. 147. Employment Provisions.

CHAPTER 123
Mayor

EDITOR'S NOTE: There are no sections in Chapter 123. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

- Removal from office - see Ohio R.C. 3.07 et seq.
- Acting Mayor - see Ohio R.C. 731.10 et seq., 733.25
- To appoint and remove auxiliary officers - see Ohio R.C. 737.161
- Election, term, qualification 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 et seq.
- Reports to Council - see Ohio R.C. 733.32, 733.41
- Protest of excessive expenditures - see Ohio R.C. 733.33
- Charges of delinquent officers - see Ohio R.C. 733.34 et seq.
- Disposition of fines and other moneys - see Ohio R.C. 733.40
- Salary - see Ohio R.C. 1905.21

CHAPTER 127

Fiscal Officer

127.01 Fiscal officer.

127.02 Investment policy.

127.03 Identity theft policy.

CROSS REFERENCES

Uniform Bond Law - see Ohio R.C. Ch. 133

Uniform Depository Act - see Ohio R.C. Ch. 135

Auditing accounts - see Ohio R.C. 733.12 et seq.

Village fiscal officer - see Ohio R.C. 733.262

Powers and duties - see Ohio R.C. 733.27

127.01 FISCAL OFFICER.

(a) The Village hereby ordains that the appointed office of Village Fiscal Officer shall replace the combined office of Clerk-Treasurer in accordance with all applicable provisions of Ohio R.C. 733.262, and any other related legislation.

(b) The Village Fiscal Officer appointed hereunder and in accordance with the provisions of Ohio R.C. 733.262 shall perform all duties provided by law for the Village Clerk-Treasurer, and such other duties consistent with the nature of such office or offices that are provided for, from time to time, by municipal ordinance.

(c) The Mayor is hereby authorized to appoint a Village Fiscal Officer subject to approval by a majority vote of this Council.

(d) The Mayor is hereby directed to file a certified copy of this chapter with the Fulton County Board of Elections not less than 105 days before the day of the next succeeding municipal election at which the Village Clerk-Treasurer would otherwise have been elected.
(Ord. 2003-01. Passed 6-26-03.)

127.02 INVESTMENT POLICY.

(a) There is hereby enacted the Village of Fayette Investment Policy, appended to and made a part of original Ordinance 2000-23.

(b) Said Policy shall comply in all aspects with Ohio R.C. Chapter 135.

(c) All entities conducting business with the Village Fiscal Officer as authorized by this Investment Policy must sign the Investment Policy thereby acknowledging their agreement to abide by the Policy's contents and acknowledging their comprehension and receipt of this policy.

(d) The Fiscal Officer is directed to file a copy of the Investment Policy with the Auditor of State. Amendments to this Investment Policy must be filed with the Auditor of State within fifteen days of the effective date of the amendment.

(Ord. 2000-23. Passed 12-18-00.)

127.03 IDENTITY THEFT POLICY.

EDITOR'S NOTE: Pursuant to Resolution 2009-05, passed April 23, 2009, Council has adopted an Identity Theft Policy to help protect employees, customers, contractors and the Municipality from damages related to the loss or misuse of sensitive information.

CHAPTER 131 Village Administrator

131.01 Position created.	131.04 Areas of responsibility.
131.02 Powers; duties; functions.	131.05 Duties and responsibilities.
131.03 Residency.	

CROSS REFERENCES

Appointments, removal - see Ohio R.C. 745.271
Powers to contract - see Ohio R.C. 731.141
Board of Trustees of Public Affairs abolished - see Ohio R.C. 735.272
Powers and duties - see Ohio R.C. 735.271, 735.273

131.01 POSITION CREATED.

In accordance with Ohio R.C. 735.271, there is hereby created the position of Village Administrator. (Ord. 76-7. Passed 12-22-76.)

131.02 POWERS; DUTIES; FUNCTIONS.

The Village Administrator shall have those powers, duties and functions as provided by the general laws of the State of Ohio, and, in addition thereto, to the extent permitted by law, shall have the following powers, duties and functions:

- (a) Manage and supervise the water and sewage systems of the Village, including the making of by-laws and regulations, to the extent not repugnant to municipal ordinances and resolutions, deemed necessary by him for the safe, economical and efficient management and protection of such water and sewage systems.
- (b) Manage and supervise the improvement and repair of streets, alleys, public lands, bridges, sidewalks, sewers, water lines, drains, ditches, culverts and watercourses within the Village, including the lighting, sprinkling and cleaning of all streets, alleys and public buildings and places.
(Ord. 76-7. Passed 12-22-76.)
- (c) Appoint to positions authorized by the Council, after the prior consultation and approval of the Mayor and the Council, such approval action to take place at regularly scheduled meetings of the Council, all other officers, all employees (both full-time and part-time), agents, clerks, and assistants, and file said applications in writing with the Fiscal Officer of the Village within thirty days of making said appointment(s).

(d) Be the purchasing agent for all Village offices, departments, divisions, boards and commissions and shall make contracts, purchase supplies, services, materials, and provide labor for any work under the supervision of the Village Administrator, all in accordance with the provisions of Ohio R.C. 731.141 and other applicable statutory provisions, and incidental to said powers, duties and functions, to the extent not repugnant to the ordinances of the Village, shall promulgate written rules and regulations to be followed by all Village officers and employees relative to the requisitioning of supplies, services, materials, and work for their respective offices, departments, boards, or commissions. The Village Administrator shall obtain the approval of the Council of the purchase of any capital improvements or services which costs more than two thousand dollars (\$2,000) unless, in the opinion of the Village Administrator, an emergency condition(s) in which the general health or safety of the Village is endangered either exists or would exist if the purchase of specific capital improvements or services were not made in an expeditious manner and so is necessary before the approval of the Council can be obtained.
(Ord. 95-12. Passed 9-28-95.)

(e) Supervise and coordinate all offices and departments of the Village.
(f) Perform or cause to be performed such special tasks as may from time to time be assigned by Council of the Village.
(Ord. 76-7. Passed 12-22-76.)

131.03 RESIDENCY.

The requirement for the Village Administrator to live within the boundaries of the Village within six months of the date of hire as defined in Ohio R.C. 735.271 is waived in accordance with Ohio R.C. 735.271. Specific residency requirements for the Village Administrator shall be stipulated at the time of hire and promulgated by separate ordinance.
(Ord. 95-12.)

131.04 AREAS OF RESPONSIBILITIES.

(a) General. Directs and coordinates administration of Village government in accordance with policies determined by Village Council or the Mayor.

(b) Supervision Received. Works under the general direction of Council and the Mayor.

(c) Supervision Exercised. Actively manages and administers, directly or through his organization staff, all the affairs and activities of the Village that have been assigned to him.

(d) Qualifications. Must be of excellent moral character and reputation. Must speak effectively before large and small groups. Must write well and have a good command of written and spoken English. Must be a good manager and leader capable of carrying out the duties and responsibilities of his office.
(Ord. 76-8. Passed 12-22-76.)

131.05 DUTIES AND RESPONSIBILITIES.

(a) Planning.

- (1) Develop short-term and long range plans to carry out the policies of the Village.
- (2) Act as a technical advisor to the Mayor and Council.
- (3) Be responsible for establishment of internal practices and procedures consistent with policies set down by Council.

(4) Perform all related duties involved in planning and budgeting, maintaining organizational efficiency and accomplishing a high quality of service and programs.

(b) Financial.

(1) Prepare the operational and special budgets which give basic guidance to the Council and organizational staff.

(2) Safeguard the monies and properties of the organization at all times, being particularly attentive to his fiduciary responsibility.

(3) Assume full responsibility for all charges for services and billings to customers of the Water and Sewage Departments, also for all other collection in the area of responsibility that relates to his office.

(4) Review and analyze variations for the policies and budget and if necessary, request action by Council to permit implementing alternative plans.

(5) The Village Administrator will be responsible for a monthly report to Council concerning the state of the Village. This report should include any of these applicable areas:

A. Committee and departmental budgets (including needed changes).
B. Short term and long term plans or projects.
C. Data or information requested by Council.
D. Citizen complaints.
E. Newly established rules and regulations for departments.
F. Purchases between \$100.00 - \$2,000.
G. Recommendations for additions or deletions to Village employees.

(c) Staff.

(1) Recommend additions to or deletions from the department for which he is responsible, with the approval of the Mayor.

(2) Assure qualified professional services and programs.

(3) Develop his personnel and assure that they are trained to their work. Include training programs as required.

(4) Delegate responsibility and corresponding authority to the lowest level consistent with good operational practice.

(5) Counsel and advise his staff both in a professional and personal manner.

(6) Be ever mindful of the rights and welfare of the employees assuring that safety rules and practices are enforced for the protection of the physical, mental and emotional well being of the persons serviced in conformance with all laws and professionally accepted practices.

(d) Operation.

(1) Manage and administer, directly or through his staff, the day-to-day affairs of the Village.

(2) Make administrative checks as are required to assure the effectiveness and reliability of his organizational system and procedures.

(3) Maintain a perpetual inventory of all Village properties, equipment and supplies. Take a physical inventory annually.

(4) Responsible for directing and controlling operations of all departments assigned to him. Departmental functions include water, sewage, streets, zoning, cemetery, and collections. He is also responsible for the budgetary activities of the following departments: Police, Fire and Parks.

(5) Collects data and follow-up on items pertaining to the Village as requested by Council or Council members or the Mayor.

(e) Public Relations.

- (1) Develop, implement and maintain a positive public relations program.
- (2) Be responsible for all communications involving citizens' complaints and other informational demands.
- (3) Be responsible for review of all departmental releases as they relate to his departmental control prior to their publication.

(Ord. 76-8. Passed 12-22-76.)

CHAPTER 135

Solicitor

EDITOR'S NOTE: There are no sections in Chapter 135. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Conflict of interest - see Ohio R.C. 120.39
Legal counsel - see Ohio R.C. 733.48
Preparation of bonds - see Ohio R.C. 733.70
Member of Records Commission - see ADM. 141.01
Member of Income Tax Board of Review - see ADM. 185.14

CHAPTER 139 Police Department

139.01 Police Chief; responsibilities.

139.02 Auxiliary Police Unit.

CROSS REFERENCES

Peace officer training certificate required for permanent employment - see Ohio R.C. 109.77
Police protection contracts - see Ohio R.C. 505.441, 737.04
Composition - see Ohio R.C. 715.06, 737.16
General powers and duties - see Ohio R.C. 737.11, 737.18
Auxiliary police unit - see Ohio R.C. 737.161
Probation period; final appointment - see Ohio R.C. 737.17
Removal and appeal - see Ohio R.C. 737.171

139.01 POLICE CHIEF; RESPONSIBILITIES.

(a) The Chief of Police shall be solely responsible for promulgating rules and regulations to be followed by Police Department personnel and said rules and regulations are to be considered confidential as they deal with personnel matters pertaining to Department employees.

(b) Before permanent rules and regulations of the Department proposed by the Chief of Police shall go into effect, they shall be first submitted to the Village Administrator and Village Attorney for comment, and shall then be submitted to the Police Committee of Council for review.

(c) The Police Committee of Council shall present the final proposed regulation for Council's comment, and said regulations shall go into effect the day of the meeting of Council when said regulations in final form are submitted unless Council, by motion, votes to the contrary.

(d) Nothing in this section is to be interpreted to give any unilateral authority to Chief of Police regarding financial affairs pertaining to the Police Department which shall remain with the Village Administrator, the Village Fiscal Officer, and the Village Council as their duties are set forth in regulations and ordinances of the Village and statutes of the State of Ohio.
(Ord. 1989-2. Passed 3-23-89.)

139.02 AUXILIARY POLICE UNIT.

(a) It is necessary and desirable to establish an Auxiliary Police Unit within the Police Department of the Village as authorized by Ohio R.C. 737.161.

(b) The Mayor shall be the executive head of the Auxiliary Police Unit.

(c) The Mayor shall make all appointments and removals of the Auxiliary Police Officers subject to confirmation by Council.

(d) The Mayor shall prescribe the rules and regulations for the organization, training, administration and control and conduct of the Auxiliary Police Unit, except as herein specifically provided.

(e) The Police Chief shall have exclusive control of the stationing and transfer of all Auxiliary Police Officers, under such general rules and regulations as the Mayor prescribes, except as herein specifically provided.

(f) The following rules and procedures set out will govern the direction and operation of said Auxiliary Police Unit:

- (1) Any candidate for the post of Auxiliary Policeman will be an American citizen and at least the legal age prescribed by law.
- (2) Any candidate for the post of Auxiliary Policeman must declare on his application for appointment any physical disabilities which may handicap him in the performance of his duties.
- (3) Said applicant must avail himself of sufficient time for the training deemed necessary for the membership of the Auxiliary Police Unit.
- (4) Any person seeking to become a member of said unit shall submit an application upon forms provided. The Chief of Police will review said application and make whatever investigation he deems necessary and forthwith present his recommendation to the Mayor. Upon approval by the Mayor and appointment, the applicant will be placed before Council for confirmation of the appointment so made.
- (5) No applicant, having been convicted of a felony or serious crime will be approved for membership. In addition, no applicant having intemperate, immoral or lascivious habits will be approved for membership.
- (6) All Auxiliary Policemen shall wear the same type of uniform as prescribed by the Chief of Police.
- (7) No Auxiliary Policeman shall be authorized to carry firearms, unless on official police duty.
- (8) The Chief of Police or the regular full-time police officer present shall discharge all police functions at all times; the Auxiliary Policeman shall assist and be under the direction of the full-time officer present.
- (9) The Auxiliary Policeman is to perform those duties as assigned by the Chief of Police or his designated replacement in his absence.
- (10) Where possible, the Auxiliary Policeman is to immediately furnish assistance to the Police Department in case of an emergency as declared by the Mayor, Council and/or the Chief of Police.
- (11) The Auxiliary Policeman shall conduct himself in such a manner that will bring honor and respect to the Auxiliary Police Unit, the Fayette Police Department and the Village.
- (12) The Auxiliary Policeman will not release information concerning the work of the Auxiliary Police or Regular Police to the public. All inquiries shall be directed to the Chief of Police or his designated spokesman.
- (13) All matters pertaining to the inventory, care and authorized purchase of equipment, the issuance of same and any related record keeping shall be the sole responsibility of the Chief of Police.

- (14) The Auxiliary Police Department is authorized to organize and elect officers for the purpose of conducting its own business meetings.
- (15) The Chief of Police is authorized to call special meetings of the Auxiliary Police Unit.
- (16) Compensation to members of the Auxiliary Police Unit shall be one dollar (\$1.00) per year, except when said Auxiliary Policeman is replacing a full-time police officer not reporting on his regular schedule due to sickness, leave, vacation or emergency; in such instance, the Auxiliary Policeman will be paid at a rate of one dollar and twenty-five cents (\$1.25) to five dollars (\$5.00) per hour.
- (17) Each Auxiliary Policeman is required to serve sixteen free hours per month. The required minimum of sixteen hours will be served at the discretion of the Chief of Police.
- (18) The provisions of the Fayette Village Police Department, Rules and Regulations, effective January 1, 1973, and any amendments or supplements thereto, are hereby adopted by reference and made fully applicable to the Auxiliary Police Unit and all members thereof.
(Ord. 74-17. Passed 1-9-75.)

CHAPTER 143 Recreation Board

143.01 Established.
143.02 Members; term.

143.03 Compensation.
143.04 Vacancies.

CROSS REFERENCES

Bonds for recreational facilities - see Ohio R.C. 133.032, 755.17
Power to construct recreation centers - see Ohio R.C. 717.01
Authority to establish - see Ohio R.C. 755.13
Composition; terms, vacancy - see Ohio R.C. 755.14
Organization; rules and regulations - see Ohio R.C. 755.15
Tax levy - see Ohio R.C. 5705.19(H)

143.01 ESTABLISHED.

There hereby is established the Fayette Recreation Board with the power to equip, operate and maintain playgrounds, playfields, gymnasiums, public baths, swimming pools and recreation centers and facilities and which shall possess all the powers and be subject to all the responsibilities as set forth in Ohio R.C. 755.12 to 755.18, inclusive.

(Ord. 75-9. Passed 11-13-75.)

143.02 MEMBERS; TERM.

(a) The Fayette Recreation Board shall consist of five persons, two of whom shall be members of the Board of Education of the Gorham-Fayette School District or members appointed by such Board of Education and all other members of the Recreation Board shall be appointed by the Mayor with consent of Council.

(b) All members of the Fayette Recreation Board shall serve for terms of five years, except that the members first appointed shall be appointed for such terms that the term of one member shall expire annually thereafter.

(Ord. 75-9. Passed 11-13-75.)

143.03 COMPENSATION.

The members of the Fayette Recreation Board shall serve without pay.
(Ord. 75-9. Passed 11-13-75.)

143.04 VACANCIES.

Vacancies in the Board occurring otherwise than by the expiration of a term shall be for the unexpired term and shall be filled in the same manner as the original appointments.
(Ord. 75-9. Passed 11-13-75.)

CHAPTER 147 **Employment Provisions**

EDITOR'S NOTE: Compensatory and benefit legislation is not included in the Codified Ordinances since it is subject to frequent change. An employee handbook setting forth personnel practices and benefits is published separately by the Village.

CROSS REFERENCES

Workers' Compensation - see Ohio Const., Art. II, Sec. 35;
Ohio R.C. Ch. 4123
Public Employees Retirement System - see Ohio R.C. Ch. 145
Expenses for attendance at conference or convention - see Ohio
R.C. 733.79
Vacation credit - see Ohio R.C. 9.44

TITLE SEVEN - Taxation

Chap. 165. Income Tax.
 Chap. 166. Income Tax Effective January 1, 2016.
 Chap. 169. License Tax.
 Chap. 171. Replacement Operating Levy Funds.

CHAPTER 165 **Income Tax**

165.01	Definitions.	165.10	Collection of unpaid taxes.
165.02	Purpose; imposition of tax.	165.11	Violations; penalties.
165.03	Effective date.	165.12	Allocation of funds.
165.04	Return and payment of tax.	165.13	Board of Review.
165.05	Collection at source.	165.14	Savings clause.
165.06	Declarations.	165.15	Exemptions.
165.07	Duties of the Village Income Tax Administrator.	165.16	Refunds.
165.071	Adoption of RITA rules and regulations.	165.17	Reciprocity provision; credit for tax paid to other municipalities.
165.08	Investigative powers of the Village Income Tax Administrator.	165.18	Effective period.
165.09	Interest and penalties.		

CROSS REFERENCES

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

165.01 DEFINITIONS.

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

- (a) "Adjusted Federal Taxable Income" means a "C" corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute "Adjusted Federal Taxable Income" as if the pass-through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.
- (b) "Association" means a partnership, limited partnership, limited liability company or any other form of unincorporated enterprise.

- (c) "Board of Review" means the Board created by and constituted as provided in Section 165.13 of this chapter.
- (d) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association, or any other entity.
- (e) "Corporation" means a corporation or joint stock association, including Chapter S Corporations as defined in the federal tax code, 26 U.S.C. 1361, organized under the laws of the United States, the State, or any other state, territory, foreign country, or dependency.
- (f) "Domicile" means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.
- (g) "Employee" means an individual who receives wages, salary, commission or other type of compensation or other income in the service of an employer.
- (h) "Employer" means an individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation or other income basis.
- (i) "Fiscal Year" means an accounting period of twelve (12) months or less ending on any date other than December 31st.
- (j) "Gross Receipts" means the total revenue derived from sales, work done, or service rendered, before any deductions, exceptions, or credits are claimed.
- (k) "Income" means all monies derived from any source whatsoever, including but not limited to:
 - (1) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the Village of Fayette.
 - (2) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in the Village of Fayette.
 - (3) The portion attributable to the city of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the Village of Fayette.
- (l) "Municipality" means the Village of Fayette.
- (m) "Net profits" mean, for taxable years prior to 2004, the net gain from the operation of a business, profession, or enterprise, after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system (i.e., either cash or accrual) used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this chapter, and Federal and State and other taxes based on income, and in case of an association, without deduction of salaries paid to partners and other owners; and as otherwise adjusted to the requirements of this chapter and the rules & regulations promulgated by the Municipality. (For taxable years 2004 and later, see "adjusted federal taxable income".)
- (n) "Nonresident" means an individual domiciled outside the Village.
- (o) "Nonresident unincorporated business entity" means an unincorporated business entity not having a place of business within the Village.
- (p) "Other Entity" means any agency, association, authority, body, commission, organization or person not previously named or defined and includes fiduciaries located within the Village.

- (q) "Person" means every natural person, partnership, limited partnership, corporation, fiduciary, or association. Whenever used in any clause prescribing and imposing a penalty, the term person as applied to any association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.
- (r) "Place of Business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (s) "Qualifying wage" means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employees' income from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by the Village of Fayette. This definition is effective January 1, 2004.
- (t) "Resident" means an individual domiciled in the Village.
- (u) "Resident unincorporated business entity" means an unincorporated business entity having a place of business within the Village.
- (v) "Taxable income" means income minus the deductions and credits allowed by this chapter. (See "Income" definition.)
- (w) "Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (x) "Taxpayer" means a person, whether an individual, partnership, limited partnership, corporation, association, or other entity, required hereunder to file a return or to pay a tax.

The singular shall include the plural and the masculine shall include the feminine and the neuter. (Ord. 2011-02. Passed 4-4-11.)

165.02 PURPOSE; IMPOSITION OF TAX.

To provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements of the Village of Fayette, Ohio, there hereby is levied a tax upon the earnings at the rate of one and one-half percent (1.50%) upon the following:

- (1) On all qualifying wages, commissions, other compensation and other income earned or received by resident individuals of the Municipality. For further clarification "income" includes, but is not limited to, lottery, gambling, and sports winnings, and games of chance, and no deductions shall be permitted against these sources of income. However, if the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.
- (2) On all qualifying wages, commissions, other compensation and other income earned or received by nonresident individuals of the Municipality, for work done or services performed or rendered in the Municipality.
- (3) On the net profits attributable to the Municipality, earned or received by all resident unincorporated businesses, professions, and other entities derived from sales made, work done or services rendered or performed and business or other activities conducted in the Municipality.
- (4) On the portion of the distributive share of the net profits earned or received by a resident individual, partner, or owner of a resident unincorporated business entity attributable to the Municipality and not levied against such unincorporated business entity.

- (5) On the net profits attributable to the Municipality earned or received by all nonresident unincorporated businesses, professions, or other activities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Municipality.
- (6) On the portion of the distributive share of the net profits earned or received by a resident individual, partner, or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity.
- (7) On the net profits earned or received by all corporations derived from sales made, work done or services performed or rendered and business or other activities conducted in the Municipality.
- (8) The portion of the net profits attributable to the Municipality of a taxpayer conducting a business, profession, or other activity both within and without the boundaries of the Municipality shall be determined as provided in Ohio R.C. 718.
- (9) Pursuant to R.C. 718.01 et. seq. the Municipality does not allow net operating carryforward. (Ord. 2011-02. Passed 4-4-11.)

165.03 EFFECTIVE DATE.

Said tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after January 1, 1971, and with respect to the net profits of businesses, professions and other activities earned on and after January 1, 1971; provided, however, that where the fiscal year of the business, profession, or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be earned on and after January 1, 1971, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis.

(Ord. 2011-02. Passed 4-4-11.)

165.04 RETURN AND PAYMENT OF TAX.

(a) Each person eighteen years of age or older who is or was a resident of the Village of Fayette at any time during a taxable year, whether or not a tax is due thereon, shall make and file a return on or before April 15 of each year, on a form obtainable from the Village Income Tax Administrator, setting forth the aggregate amount of salary, wages, or other compensation and net profits earned by him during the preceding year or period and subject to said tax, together with other pertinent information as the Village Income Tax Administrator may require. Provided, however, that when the final return is made from a fiscal year or other period different from the calendar year, the return shall be made within 105 days from the end of said fiscal year or other period. Each taxpayer who is required to file a final return shall file with the final return all W-2 statements, 1099 forms, or similar forms which designate the wages, salaries, commissions and other compensation earned.

(b) The return shall also show the amount of the tax imposed on such earnings and profits. The taxpayer making the said return shall, at the time of the filing thereof, pay to the Village Income Tax Administrator the amount of taxes shown as due thereon. Provided, however, that where any portion of said tax shall have been paid by such taxpayer pursuant to the provisions of Section 165.05 and/or Section 165.06, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said final return.

(c) The return of an employer or employers showing the amount of tax deducted by said employer or employers from the salaries, wages or compensation of any employee, and paid by him or them to the Village Income Tax Administrator, shall be accepted as the return required of any employee whose sole income subject to the tax as provided in Section 165.02, is such salary, wages or compensation.

(d) Upon written request of the taxpayer, the Village Income Tax Administrator may extend the time for filing the annual return for a period of not more than six months or not more than thirty days beyond any extension requested of and granted by the Bureau of Internal Revenue for the filing of the federal income tax return.

(e) Any affiliated group of corporations subject to the tax imposed by this Chapter may file a consolidated income tax return only if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(Ord. 2011-02. Passed 4-4-11.)

165.05 COLLECTION AT SOURCE.

(a) Each employer within the Village of Fayette, Ohio, who employs within the Village one or more persons on a salary, wage, commission or other compensation basis, excluding exempted incomes set forth in Section 165.15, shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax as provided in Section 165.02, of salaries, wages, commissions or other compensation due by the said employer to the said employee and shall make a return and pay to the Village Income Tax Administrator the amount of taxes so deducted as follows:

- (1) For the three months ending March 31st, on or before April 30th;
- (2) For the three months ending June 30th, on or before July 31st;
- (3) For the three months ending September 30th, on or before October 31st;
- (4) For the three months ending December 31st, on or before January 31st.

(b) Said return shall be on a form prescribed by the Village Income Tax Administrator. Such employer, in collecting said tax, shall be deemed to hold the same as trustee for the benefit of the Village of Fayette, Ohio, until payment is made by such employer to the Village of Fayette, Ohio, and any such tax collected by such employer from his employees shall, until same is paid to the Village of Fayette, Ohio, be deemed a trust fund in the hands of such employer.

(Ord. 2011-02. Passed 4-4-11.)

165.06 DECLARATIONS.

(a) Every taxpayer who anticipates any income which is not subject to the provisions of Section 165.05 shall file a declaration of the estimated tax for the taxable year of 1971. Such declaration shall be filed on or before April 15, 1971, and thereafter a similar declaration shall be filed for each calendar year on or before April 15th of each ensuing year for the duration of the taxes referred to herein, by all such taxpayers.

(b) Such declaration shall be filed upon a form prescribed by the Village Income Tax Administrator, which form may simply state that the figures used in making such declaration are the figures used in making the declaration of the estimate for the federal income tax, provided that it is understood that such figures may be modified according to the provisions of this chapter so that the declaration required by this section shall set forth only such income as is taxable under the provisions of this chapter.

(c) The declaration of estimated tax to be paid to the Village by taxpayers who are individuals shall be filed on April 30th of each year and shall be accompanied by payment of at least one-fourth of ninety percent (90%) of the estimated annual tax, and at least a similar amount shall be paid on or before July 31st, October 31st of such year, and January 31st of the next year.

The declaration of estimated tax to be paid to the Village by corporations and associations shall be filed on April 30th of each year and shall be accompanied by a payment of at least one-fourth of ninety percent (90%) of the estimated annual tax and at least a similar amount shall be paid on or before June 15, September 15, and December 15. In the case of a fiscal year taxpayer the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.

Provided, however, that such estimate may be amended at the time of the making of any quarterly payment, and further provided that on or before April 15th of the year following that for which such declaration was filed, a final return shall be filed and any balance which may be due the Village of Fayette, Ohio, shall be paid therewith.

Should it appear that such taxpayer has paid more than the amount of tax to which the Village of Fayette, Ohio, is entitled, a refund of the amount so overpaid shall be made, or same may be applied toward the declaration of tax due for the ensuing year.

Claims for refunds shall be made on forms prescribed by and obtainable from the Village Income Tax Administrator.

(Ord. 2011-02. Passed 4-4-11.)

165.07 DUTIES OF THE VILLAGE INCOME TAX ADMINISTRATOR.

(a) It shall be the duty of the Village Income Tax Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received. All cashiers handling tax monies shall be subject directly to the Village Income Tax Administrator and shall give daily accountings to the Village Income Tax Administrator.

(b) It shall be the duty of the Village Income Tax Administrator to enforce payment of all taxes owing the Village of Fayette, Ohio, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(c) The Village Income Tax Administrator is hereby charged with the enforcement of the provisions of this chapter and to enforce the rules and regulations of Council relating to any matter or thing pertaining to the collection of Village income taxes and the administration and enforcement of the provisions of this chapter, including provisions for the examination and correction of returns and payments.

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

(e) Subject to the consent of the Board of Review or pursuant to regulations approved by said Board, the Village Income Tax Administrator shall have the power to compromise any interest or penalty, or both, imposed by this chapter.

(f) A Department of Taxation is hereby created within the Office of the Village Fiscal Officer of the Village of Fayette. Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by the Council of the Village of Fayette, Ohio, and shall receive such salary as may be determined by Council. The Village Fiscal Officer shall make all appointments of personnel and purchase all equipment, supplies and materials for the Department of Taxation. The Department of Taxation shall be charged with the administration and operation of this chapter, under the direction of the Village Income Tax Administrator. The Village Income Tax Administrator shall prescribe the form and method of accounts and reports for said department, as well as the forms for taxpayers' returns and declarations and shall be charged with the internal examination of audit of all accounts, and shall exhibit accurate records showing the amount received from each taxpayer and the date of said receipt. The Village Income Tax Administrator shall also make written report to Council annually of all monies collected hereunder during the preceding year.

(Ord. 2011-02. Passed 4-4-11.)

165.071 ADOPTION OF RITA RULES AND REGULATIONS.

The Municipality hereby adopts the Regional Income Tax Agency (RITA) Rules and Regulations, including amendments that may be made from time to time, for use as the Municipality's Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of this chapter and the RITA Rules and Regulations, this chapter will supersede. Until and if the contractual relationship between the Municipality and RITA ceases, this section will supersede all other provisions within Chapter 165 regarding promulgation of rules and regulations by the Tax Administrator. (Ord. 2017-07. Passed 5-10-17.)

165.08 INVESTIGATIVE POWERS OF THE VILLAGE INCOME TAX ADMINISTRATOR.

(a) The Village Income Tax Administrator or his duly authorized agent or employee, is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the Village Income Tax Administrator or his duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations as are hereby authorized.

(b) The Village Income Tax Administrator, or his duly authorized agent or employee, is hereby authorized to examine any person, employer, or employee under oath, concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, wherever he believes such persons have knowledge of such income.

(c) The refusal to produce books, papers, records, and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with any order or subpoena of the Village Income Tax Administrator authorized hereby shall be deemed a violation of this Chapter, punishable as provided in Section 165.11.

(d) Tax returns and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the Village of Fayette, Ohio, for official purposes.

(e) Any information gained as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes and except in accordance with proper judicial order. Any person divulging such information shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee of the Village of Fayette, Ohio, who violates the provisions of this section relative to disclosure of confidential information shall be immediately dismissed from the service of the Village.

(Ord. 2011-02. Passed 4-4-11.)

165.09 INTEREST AND PENALTIES.

All taxes imposed by this chapter, including taxes withheld from wages by an employer and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of twelve percent (12%) per annum, and the taxpayers upon whom said taxes are imposed, and the employers required by this chapter to deduct, withhold and pay taxes imposed by this chapter shall be liable, in addition thereto, to a penalty of five percent (5%) of the amount of the unpaid tax for each month or fraction of a month for the first eighteen months of nonpayment, or twenty-five dollars (\$25.00), whichever is the greater. In addition thereto, the taxpayers and employers required to file returns and declarations under this chapter shall be liable to a penalty of twenty-five dollars (\$25.00) for failure to file a return when due, if not more than thirty days late, and fifty dollars (\$50.00) if late thirty days or more. Notwithstanding the preceding sentences, a penalty of one hundred dollars (\$100.00) shall be imposed for any taxpayer who fails to timely file twice in any three-year period. An additional penalty of two hundred dollars (\$200.00) shall be imposed upon a taxpayer to the extent the Village institutes formal legal action to recover the taxes, penalties and interest imposed by Chapter 165 of the Municipal Code. Upon recommendation of the Village Income Tax Administrator, the Board of Review may abate interest or penalties, or both, and upon appeal from the refusal of the Village Income Tax Administrator to so recommend, the Board of Review may nevertheless abate interest or penalty, or both. A fee of twenty-five dollars (\$25.00) will be charged for each check returned to the Income Tax Department by a financial institution as unpaid.

(Ord. 2011-02. Passed 4-4-11.)

165.10 COLLECTION OF UNPAID TAXES.

(a) All taxes imposed and administered by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.

(b) When a final return is filed as prescribed in Section 165.04 and a deficiency is determined to be due to the Village of Fayette, Ohio, action to collect the same shall not be commenced after three years from the due date of said return, and when a taxpayer fails to file a return, omits twenty-five percent (25%) or more of income required to be reported, or files a fraudulent return, action to collect tax due to the Village of Fayette, Ohio, shall not be commenced after six years from the due date of said return or the date the return was filed. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Village Income Tax Administrator shall be one year from the time of the final determination of the Federal tax liability.

(c) Those officers or employees having control or supervision of, or charged with, the responsibility of filing the return and making payments for a corporation or association shall be personally liable for failure to file the return or pay the taxes and penalties and interest due as required. The dissolution, bankruptcy, or reorganization of any employer does not discharge the officers' or employees' liability for a prior failure of such business to file a return or pay the taxes due. (Ord. 2011-02. Passed 4-4-11.)

165.11 VIOLATIONS; PENALTIES.

(a) The following shall be considered violations of this chapter:

- (1) Failing, neglecting or refusing to make any return or declaration required by this chapter; or
- (2) Making any incomplete, false or fraudulent return; or
- (3) Failing, neglecting or refusing to pay the tax, penalties or interest imposed by this chapter; or
- (4) Failing, neglecting or refusing to withhold the tax from employees or to remit such withholding to the Village Income Tax Administrator; or
- (5) Refusing to permit the Village Income Tax Administrator or any duly authorized agent or employee to examine books, records, and papers relating to the income or net profits of a taxpayer; or
- (6) Failing to appear before the Village Income Tax Administrator and to produce books, records and papers relating to the income or net profits of a taxpayer under order or subpoena of the Village Income Tax Administrator; or
- (7) Refusing to disclose to the Village Income Tax Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Failing to comply with the provisions of this chapter or any order or subpoena of the Village Income Tax Administrator authorized hereby; or
- (9) Giving to an employer false information as to his/her true name, correct social security number, and residence address, or failing to promptly notify an employer of any change in residence address and date thereof; or
- (10) Failing to use ordinary diligence in maintaining proper records of employees' and residence addresses, total salaries, wages, commissions, other compensation and other income paid and municipal tax withheld, or knowingly giving the Village Income Tax Administrator false information; or
- (11) Attempting to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(b) Any person who violates any of the provisions of subsection (a) hereof shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

(c) All prosecutions under this section must be commenced within two years from the time of the offense complained of, except in the case of failure to file a return, in the case of omission of twenty-five percent (25%) or more of income required to be reported, or in the case of filing a fraudulent return, in which cases the limitation of time within which prosecution must be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed.

(d) The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return or declaration, from filing such form, or from paying the tax. (Ord. 2011-02. Passed 4-4-11.)

165.12 ALLOCATION OF FUNDS.

(a) Generally.

- (l) Two percent (2%) of gross receipts from Village income tax will be allocated into a D-Fund for the use of capital projects. Providing funds for general municipal operations, police and Village capital improvements, including also Water and Sewer Departments of the Village of Fayette, Ohio.

(2) The collection from the income tax monies on or after January 1, 2008, under the provisions of subsection (a) shall be deposited directly into the Capital Projects Fund.

(b) The funds collected under the provisions of this section not otherwise allocated shall be deposited in the Income Tax Fund and said funds shall be disbursed for the period from March 25, 1988 and until repealed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof.
- (2) Not more than ninety-seven percent (97%) of net available income tax receipts received annually shall be placed in the General Fund to be used to defray operating expenses of the Village.
- (3) At least three percent (3%) of net available income tax receipts received annually shall be set aside and used for capital improvements for the Village including, but not limited to, development and construction of sanitary sewers, storm sewers and street improvements; for public buildings, parks and playgrounds; for equipment necessary for the Police, Fire, Street, Traffic and Safety Departments; for drilling new wells; and for tree planting and/or tree removal.

(Ord. 2011-02. Passed 4-4-11.)

165.13 BOARD OF REVIEW.

(a) A Board of Review, consisting of three electors of the Village of Fayette, Ohio, one to be appointed by the Mayor, one to be appointed by the Village Fiscal Officer, and the third to be selected by the two so appointed, is hereby created. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay.

(b) A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

(c) All hearings of the Board shall be conducted privately and the provisions of Section 165.08 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board of Review on appeal.

(d) Any person dissatisfied with any ruling or decision of the Village Income Tax Administrator which is made under the authority conferred by this chapter, may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Village Income Tax Administrator, and the Board of Review shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(e) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction or the State Board of Tax Appeals within sixty (60) days from the announcement of such ruling or decision.

(f) The Board of Review, as hereinbefore created, shall serve during the life of this chapter. (Ord. 2011-02. Passed 4-4-11.)

165.14 SAVINGS CLAUSE.

This chapter shall not apply to any person, firm, corporation or to any property as to whom or which it is beyond the power of Village Council of the Village of Fayette, Ohio, to impose the tax herein provided for. If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentence, clauses, sections, or other parts of this chapter. It is hereby declared to be the intention of Council of the Village of Fayette, Ohio, that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 2011-02. Passed 4-4-11.)

165.15 EXEMPTIONS.

The provisions of this chapter shall not be construed as levying a tax upon the following:

- (a) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard.
- (b) Poor relief, pensions, social security, unemployment compensation, and disability benefits received from private industry or local, state, or federal governments, or from charitable, religious, or educational organizations.
- (c) Dues, contributions, and similar payment received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations.
- (d) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sports events, and health and welfare activities conducted by bona fide charitable, religious, and educational organizations and associations.
- (e) The gross income and gross receipts of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property, or tax exempt activities.
- (f) Unemployment insurance benefits, welfare benefits, and pensions paid as a result of retirement.
- (g) Proceeds of insurance paid by reason of death of the insured; retirement disability benefits, annuities, or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (h) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation.
- (i) Gains from involuntary conversions, cancellation of indebtedness, interest on federal obligations, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (j) Earnings and income of all persons under 18 years of age, whether residents or nonresidents.
- (k) Alimony received.
- (l) Compensation paid under Section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.
- (m) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code.

- (n) Expenses reported in accordance with federal guidelines for Federal Form 2106, subject to audit and approval by the City Department of Finance.
- (o) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the States or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (P) Salaries, wages, commissions, other compensation, other income and net profits, including interest and dividends as provided in 718.01 R.C., the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the city to impose net income taxes.
- (q) Intangible income.

(Ord. 2011-02. Passed 4-4-11.)

165.16 REFUNDS.

(a) Should it appear that any taxpayer has paid more than the amount of the tax to which the Village of Fayette, Ohio, is entitled under the provisions of this chapter, a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Village Income Tax Administrator.

(b) All applications for refunds shall be made within three years of due date of final return or shall be forever barred thereafter. Provided, however, an extension may be granted by the Village Income Tax Administrator on written application.

(c) No refund will be made for an amount less than three dollars (\$3.00), and no tax will be payable if the amount owing is less than three dollars (\$3.00).

(d) The following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

- (1) A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss sustained if no distribution of money and property will be made by the NDCP.
- (2) A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.
- (3) Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.

(Ord. 2011-02. Passed 4-4-11.)

165.17 RECIPROCITY PROVISION; CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

Every individual taxpayer who resides in the Village of Fayette but who receives net profits, salaries, wages, commissions or other personal service compensation, for work done, or service performed or rendered outside of said Village, if it be made to appear that he has paid a municipal income tax on such net profits, salary, wages, commission or other compensation to another municipality, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such net profit, salary, wages, commission or compensation earned in such other municipality or municipalities where such tax is paid. As used in this section, the word "municipality" shall mean city or village but no other political subdivision.

(Ord. 2011-02. Passed 4-4-11.)

165.18 EFFECTIVE PERIOD.

This chapter shall continue effective insofar as the levy of taxes is concerned from January 1, 1971 until repealed. Said chapter, insofar as the collection of taxes levied in the aforesaid period, and actions or proceedings for collection of any tax so levied, or enforcing any provisions of said chapter are concerned, shall continue effective until all of said taxes levied in the aforesaid period 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 be have been fully terminated.

(Ord. 2011-02. Passed 4-4-11.)

CHAPTER 166
Income Tax Effective January 1, 2016

166.01 Authority to levy tax; purposes of tax; rate. 166.011 Authority to levy tax. 166.012 Purposes of tax; rate. 166.013 Allocation of funds. 166.014 Statement of procedural history; state mandated changes to municipal income tax. 166.02 Effective date. 166.03 Definitions. 166.04 Income subject to tax for individuals. 166.041 Determining municipal taxable income for individuals. 166.042 Domicile. 166.043 Exemption for member or employee of general assembly and certain judges. 166.05 Collection at source. 166.051 Collection at source; withholding from qualifying wages. 166.052 Collection at source; occasional entrant. 166.053 Collection at source; casino and VLT. 166.06 Income subject to net profit tax. 166.061 Determining municipal taxable income for taxpayers who are not individuals. 166.062 Net profit; income subject to net profit tax; alternative apportionment. 166.063 Consolidated federal income tax return. 166.064 Tax credit for businesses that foster new jobs in Ohio. 166.065 Tax credits to foster job retention. 166.07 Declaration of estimated tax. 166.08 Credit for tax paid. 166.081 Reciprocity provision; credit for income taxes paid to other units of local government. 166.082 Refundable credit for qualifying loss.	166.083 Credit for person working in Joint Economic Development District or Zone. 166.084 Credit for tax beyond statute for obtaining refund. 166.09 Annual return. 166.091 Return and payment of tax. 166.092 Return and payment of tax; individuals serving in combat zone. 166.093 Use of Ohio Business Gateway; types of filings authorized. 166.094 Extension of time to file. 166.095 Amended returns. 166.096 Refunds. 166.10 Penalty, interest, fees, and charges. 166.11 Audit. 166.12 Rounding. 166.13 Authority and powers of the Tax Administrator. 166.131 Authority of Tax Administrator; administrative powers of the Tax Administrator. 166.132 Authority of Tax Administrator; compromise of claim and payment over time. 166.133 Authority of Tax Administrator; right to examine. 166.134 Authority of Tax Administrator; requiring identifying information. 166.14 Confidentiality. 166.15 Fraud. 166.16 Opinion of the Tax Administrator. 166.17 Assessment; appeal based on presumption of delivery. 166.18 Local Board of Tax Review; appeal to local Board of Tax Review. 166.19 Actions to recover; statute of limitations. 166.20 Adoption of rules.
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166.201 Adoption of RITA rules and regulations.	166.97 Collection after termination of chapter.
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166.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX.

166.011 AUTHORITY TO LEVY TAX.

(A) The tax on income and the withholding tax established by this Chapter 166 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 166 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein. (Ord. 2015-19. Passed 12-9-15.)

166.012 PURPOSES OF TAX; RATE.

1. The purpose of the tax imposed herein is to provide funds to the Village of Fayette for all lawful purposes, including, without limitation, general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services, and facilities and capital improvements.

2. All income subject to this Chapter 166 shall be taxed at the rate of 1.5%. (Ord. 2015-19. Passed 12-9-15.)

166.013 ALLOCATION OF FUNDS.

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

(a) Generally.

- (1) At least two percent (2%) of gross receipts from Village income tax will be allocated into a D-Fund for the use of capital projects, including general municipal operations, police and Village capital improvements, Water and Sewer Departments of the Village of Fayette, Ohio.
- (2) At least two percent (2%) of gross receipts from Village income tax will be allocated into a D-Fund for the use of capital projects within the Utilities Departments of the Village of Fayette, Ohio.
- (3) The remainder of available income tax receipts received annually shall be allocated to the General Fund to be used for any other expenses of the Village.

(b) Deposits.

- (1) The collection from the income tax monies on or after January 1, 2018, under the provisions of subsection (a)(1), shall be deposited directly into the Capital Projects Fund.

- (2) The collection from the income tax monies on or after January 1, 2018, under the provisions of subsection (a)(2), shall be deposited directly into the Capital Projects Fund - Utilities.
- (3) The collection from the income tax monies on or after January 1, 2018, under the provisions of subsection (a)(3), shall be deposited directly in the General Fund. (Ord. 2018-11. Passed 12-27-18.)

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

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

(B) As mandated by H.B. 5, municipal income tax Ordinance 2015-XX, effective January 1, 2016, comprehensively amends Chapter 166 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality. (Ord. 2015-19. Passed 12-9-15.)

166.02 EFFECTIVE DATE.

(A) Ordinance 2015-19, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 166 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 2015-19 does not repeal the existing sections of Chapter 165 for any taxable year prior to 2016, but rather amends Chapter 165 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016. (Ord. 2015-19. Passed 12-9-15.)

166.03 DEFINITIONS.

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

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

As used in this chapter:

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

- (A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
- (B) Add an amount equal to five per cent of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
- (C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
- (D)
 - (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- (E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;
- (H) INTENTIONALLY OMITTED
- (I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 166.063 of this Chapter.
- (J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 166.063 of this Chapter.
If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(D) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of

capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

(2) (A) **"ASSESSMENT"** means any of the following:

- (i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;
- (ii) A full or partial denial of a refund request issued under Section 166.096 (B)(2) of this Chapter;
- (iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 166.062(B)(2) of this Chapter; or
- (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 166.062(B)(3) of this Chapter.
- (v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 166.18 of this Chapter, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

(B) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under Section 166.096 (B)(3) of this Chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.

(3) **"AUDIT"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

(4) **"BOARD OF REVIEW"** has same meaning as "Local Board of Tax Review".

(5) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.

(6) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in section 3772.01 of the Ohio Revised Code.

(7) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE,"** and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.

(8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.

(9) **"DISREGARDED ENTITY"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(10) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

(11) **"EXEMPT INCOME"** means all of the following:

- (A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;
- (B)
 - (i) Except as provided in division (11)(B)(ii) of this section, intangible income;
 - (ii) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.
- (C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.
- (D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (E) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
- (F) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
- (G) Alimony and child support received;
- (H) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;
- (I) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (11)(I) of this section does not apply for purposes of Chapter 5745. of the Ohio Revised Code.

- (J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;
- (K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;
- (L) Employee compensation that is not qualifying wages as defined in division (34) of this section;
- (M) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
- (N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.
- (O) All of the municipal taxable income earned with respect to any individual who is under eighteen years of age at any time during the taxable year.
- (P)
 - (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of Section 166.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.
 - (ii) The exemption provided in division (11)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 - (iii) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 166.052 of this Chapter
 - (iv) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:
 - (a) For qualifying wages described in division (B)(1) of Section 166.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 166.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
 - (b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(Q) (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.

(ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the Municipality.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 166.052 of this Chapter.

(iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(R) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(S) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(12) **"FORM 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(13) **"GENERIC FORM"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(14) **"INCOME"** means the following:

(A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(E) of this section.

(ii) For the purposes of division (14)(A)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section;

(b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N).

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For taxpayers that are not individuals, net profit of the taxpayer;

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 166.081 of this Chapter.

(E) INTENTIONALLY LEFT BLANK

(15) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(16) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(17) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(18) **"LOCAL BOARD OF TAX REVIEW" and "BOARD OF TAX REVIEW"** means the entity created under Section 166.18 of this Chapter.

(19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.

(20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:

- (i) For a person other than an individual, income apportioned or situated to the Municipality under Section 166.062 of this Chapter, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.
- (ii) (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
- (b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.

(iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Municipality under Section 166.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) **"MUNICIPALITY"** means the Village of Fayette.

(22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) (A) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division. (23)(C) of this section.

(B) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (23)(C) of this section.

(C) (i) The amount of such operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five (5) consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (23)(C) of this section to offset qualifying wages.

(iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty percent (50%) of the amount of the deduction otherwise allowed by division 23(C) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (23)(C) of this section without regard to the limitation of division (23)(C)(iii)(a) of this section.

- (iv) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to (23)(C) of this section.
- (v) Nothing in division (23)(C)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (23)(C)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (23)(C)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (23)(C)(iii)(a) of this section shall apply to the amount carried forward.
- (D) For the purposes of this chapter, and notwithstanding division (23)(B) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- (E)
 - (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.
 - (ii) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.
 - (iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.
 - (iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

(v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.

(25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

(27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery

(32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.

(B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.

(34) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(A) Deduct the following amounts:

- (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
- (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
- (iii) INTENTIONALLY LEFT BLANK.
- (iv) INTENTIONALLY LEFT BLANK.
- (v) Any amount included in wages that is exempt income.

(B) Add the following amounts:

- (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
- (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.
- (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.
- (iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
- (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
- (vi) Any amount not included in wages if all of the following apply:

- (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;

- (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
- (c) For no succeeding taxable year will the amount constitute wages; and
- (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(35) **"RELATED ENTITY"** means any of the following:

- (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
- (B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
- (C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;
- (D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.

(36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(37) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 166.042 of this Chapter.

(38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.

(43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(44) (a) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following (Tax Administrator does not include the state tax commissioner.):

- (A) A municipal corporation acting as the agent of another municipal corporation;
- (B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
- (C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

(b) **"TAX COMMISSIONER"** means the tax commissioner appointed under section 121.03 of the Revised Code.

(45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue CODE AND 26 C.F.R. 301.7701-15 .

(46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.

(B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

- (a) The limited liability company's single member is also a limited liability company.
- (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

- (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.
- (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
- (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
- (ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

(48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.

(50) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770. of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code. (Ord. 2017-19. Passed 12-27-17.)

166.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.

166.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS.

(A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

- (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 166.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 166.03 (14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 166.03(34).

- (ii) "Net profit" is included in "income", and is defined in Section 166.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 166.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 166.062(E).
- (iii) Section 166.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).
- (iv) "Pass Through Entity" is defined in Section 166.03(27). "Exempt Income" is defined in Section 166.03 (11) of this Chapter.
- (b) Allowable employee business expense deduction is described in (20)(B) of Section 166.03 of this Chapter, and is subject to the limitations provided in that section.
- (c) (d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 166.03 (32) of this Chapter

(B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:

- (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the Municipality as provided in Section 166.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 166.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 166.03(14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 166.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 166.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 166.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.
 - (iii) "Pass Through Entity" is defined in Section 166.03(27). "Exempt Income" is defined in Section 166.03(11) of this Chapter. "Apportioned or sitused to the Municipality as provided in Section 166.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 166.062(E).

- (d) "Allowable employee business expense deduction" as described in (20)(B) of Section 166.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.
- (e) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 166.03(32) of this Chapter.
(Ord. 2015-19. Passed 12-9-15.)

166.042 DOMICILE.

(A) As used in this section:

- (1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.
- (2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.
- (3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

(B) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

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

(C) All applicable factors are provided in Ohio Revised Code Section 718.012.
(Ord. 2015-19. Passed 12-9-15.)

166.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES.

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

(B) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge. (Ord. 2015-19. Passed 12-9-15.)

166.05 COLLECTION AT SOURCE.

166.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

(A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 166.052 of this Chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

(a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.

(b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made to the Tax Administrator not later than fifteen days after the last day of each month.

(C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under section 166.091 of this Chapter.

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

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

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

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

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

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

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

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section.
(Ord. 2017-19. Passed 12-27-19.)

166.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

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

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

(7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

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

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

(B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:

- (a) The employee's principal place of work is located in the Municipality.
- (b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:
 - (i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.

- (c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 166.051 of this Chapter.
- (d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.
- (2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
 - (a) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (b) Traveling from a location at which the employee was performing services for the employer to any other location;
 - (c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
 - (d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
 - (e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

(D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.

- (2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.
- (3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 166.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of section 166.051 of this Chapter.

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

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

(Ord. 2015-19. Passed 12-9-15.)

166.053 COLLECTION AT SOURCE; CASINO AND VLT.

(A) The Municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.

(B) If a person's winnings at a casino facility are an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.

(C) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.

- (1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the Municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the Municipality all amounts deducted and withheld during the preceding month.
- (2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
- (3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.
- (4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.
- (5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:
 - (a) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
 - (b) A certificate from the Tax Administrator indicating that no amounts are due.If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.

(D) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.

(E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

- (1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.
- (2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.
- (3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.
- (4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
- (5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

(6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

- (1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
- (2) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(G) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.

(H) If a casino operator or lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:

- (1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;
- (2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 166.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section. (Ord. 2015-19. Passed 12-9-15.)

166.06 INCOME SUBJECT TO NET PROFIT TAX.

166.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS.

"Municipal Taxable Income" for a taxpayer who is not an individual for the Municipality is calculated as follows:

(A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

- (1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.
 - (i) "Net Profit" for a person other than an individual is defined in Section 166.03(23).
 - (ii) "Adjusted Federal Taxable Income" is defined in Section 166.03(1) of this Chapter.
- (2) "Exempt Income" is defined in Section 166.03(11) of this Chapter.
- (3) "Apportionment" means the apportionment as determined by Section 166.062 of this Chapter.
- (4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 166.03 (32) of this Chapter. (Ord. 2015-19. Passed 12-27-19.)

166.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.

This section applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

- (A) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:
 - (1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
 - (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 166.052 of this Chapter;
 - (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

- (a) Separate accounting;
- (b) The exclusion of one or more of the factors;
- (c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;
- (d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of Section 166.19 of this Chapter.

(3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 166.19 of this Chapter.

(4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

- (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (a) The employer;
 - (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.
- (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
- (3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, and except as provided in division (I) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:

- (1) Gross receipts from the sale of tangible personal property shall be sitused to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if,

regardless of where title passes, the property meets any of the following criteria:

- (a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
- (b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
- (c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

- (2) Gross receipts from the sale of services shall be sitused to the municipal corporation to the extent that such services are performed in the municipal corporation.
- (3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be sitused to the municipal corporation.
- (4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be sitused to the municipal corporation.
- (5) Gross receipts from rents and royalties from tangible personal property shall be sitused to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused under this division to the municipal corporation in which the property is located.

- (F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 166.081 of this Chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 166.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(I) (1) As used in this division:

(a) "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:

- i. The taxpayer has assigned the individual to a qualifying reporting location.
- ii. The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

(b) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.

(c) "Reporting location" means either of the following:

- i. A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;
- ii. Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under Section 166.05 of this Chapter, on qualifying wages paid to an employee for the performance of personal services at that location.

(d) "Qualifying reporting location" means one of the following:

- i. The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year;

- ii. If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;
- iii. If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) or (ii) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

(2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of division (F) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election. The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation. Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(3) For the purpose of calculating the ratios described in division (A)(1) of this section, all of the following apply to a taxpayer that has made the election described in division (I)(2):

- (a) For the purpose of division (A)(1) of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be sitused to that individual's qualifying reporting location.
- (b) For the purpose of division (A)(2) of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be sitused to that individual's qualifying reporting location.

- (c) For the purpose of division (A)(3) of this section, and notwithstanding division (D) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.
- (4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (B) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.
- (5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to Section 166.05 of this Chapter. (Ord. 2023-14. Passed 12-27-23.)

166.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.

- (A) As used in this section:
 - (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
 - (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
 - (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.
 - (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
 - (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.
- (B) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.

- (a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.
- (b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or
- (c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 166.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 166.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 166.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 166.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 166.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation;

(b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 166.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

(H) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016. (Ord. 2015-19. Passed 12-9-15.)

166.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO.

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit. (Ord. 2015-19. Passed 12-9-15.)

166.065 TAX CREDITS TO FOSTER JOB RETENTION.

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

(Ord. 2015-19. Passed 12-9-15.)

166.07 DECLARATION OF ESTIMATED TAX.

(A) As used in this section:

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

(B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:

- (a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.
- (b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
- (d) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.
- (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 166.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.
- (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.
- (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

- (a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year;
- (b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;
- (c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;
- (d) For an individual, on or before the fifteenth day of the first month of the following taxable year, ninety percent of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.

(2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 166.091 of this Chapter.

(a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.

(b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.

(4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 166.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

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

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

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

- (1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
- (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 166.091 of this Chapter for that year.
- (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

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

(Ord. 2017-19. Passed 12-27-19.)

166.08 CREDIT FOR TAX PAID.

166.081 RECIPROCITY PROVISION; CREDIT FOR INCOME TAXES PAID TO OTHER UNITS OF LOCAL GOVERNMENT.

Every individual taxpayer who resides in the Village of Fayette who receives income subject to taxation pursuant to this Chapter 166, including, without limitation net profits, salaries, wages, commissions or other personal service compensation, for work done, or service performed or rendered outside of said Village, if it be made to appear that he has paid a municipal or other local income tax on such net profits, salary, wages, commission or other compensation to another Unit of Local Government, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other Unit of Local Government. The credit shall not exceed the tax assessed by this chapter on such net profit, salary, wages, commission or compensation earned in such other Unit of Local Government where such tax is paid. As used in this section, the phrase "Unit of Local Government" shall mean any city, village, county, or other special local taxing district. "Unit of Local Government" does not include the United States of America, any of the individual States or any school district.

(Ord. 2018-03. Passed 5-9-18.)

166.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

(A) As used in this section:

- (1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
- (2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

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

(3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

(B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

(C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

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

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

(Ord. 2015-19. Passed 12-9-15.)

166.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE.

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 166.081 of this Chapter. (Ord. 2015-19. Passed 12-9-15.)

166.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

(A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 166.096 of this Chapter.

(B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 166.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 166.096 of this Chapter.

(D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 166.081 of this Chapter regarding any limitation on credit shall prevail. (Ord. 2015-19. Passed 12-9-15.)

166.09 ANNUAL RETURN.

166.091 RETURN AND PAYMENT OF TAX.

(A) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

- (2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 166.051(C) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.
- (3) All resident individual taxpayers 18 years of age or older on the first day of the Taxable Year shall file an annual municipal income tax return with the Municipality, regardless of income or liability.

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

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

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

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

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

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

(G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(3) With respect to taxpayers to whom Section 166.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 166.092 of this Chapter, the provision in Section 166.092 of this Chapter prevails.

(H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under division (F)(3) and (4) of this section, unless the provisions of division (H)(3) apply.

(3) (a) A person may notify the Tax Administrator that the person does not expect to be a taxpayer subject to the Municipality income tax ordinance for a taxable year if both the following apply:

(i) The person was required to file a tax return with the Municipality for the immediately preceding taxable year because the person performed services at a worksite location (as defined in Section 166.052(A)(6)) within the Municipality.

(ii) The person no longer provides services in Municipality and does not expect to be subject to Municipality income tax for the taxable year.

(b) The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the Municipality. The affidavit shall also include the following statement: "The affiant has no plans to perform any services within the Municipality, make any sales in the Municipality, or otherwise become subject to the tax levied by the Municipality during the taxable year. If the affiant does become subject to the tax levied by the Municipality for the taxable year, the affiant agrees to be considered a taxpayer and to properly comply as a taxpayer with the Municipality income tax ordinance and rules and regulations." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (H)(3)(b) the Tax Administrator shall not require the person to file and tax return for the taxable year unless the Tax Administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change.

(d) Nothing in division (H)(3) of this section prohibits the Tax Administrator from performing an audit of the person.

(I) This division shall not apply to payments required to be made under division (B)(1)(b) of Section 166.051 of this Chapter.

- (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (2) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the time stamp assigned by the first electronic system receiving that payment.

(J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 166.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(N) (1) As used in this division, "worksit location" has the same meaning as in section 166.052 of this chapter.

(2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksit location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

(b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksit location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person.

(Ord. 2017-19. Passed 12-27-19.)

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

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this chapter during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.

(2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year. (Ord. 2015-19. Passed 12-9-15.)

166.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED.

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

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

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

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

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (Ord. 2015-19. Passed 12-9-15.)

166.094 EXTENSION OF TIME TO FILE.

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of Village of Fayette's income tax return. The extended due date of Village of Fayette'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. For tax years ending on or after January 1, 2023, the extended due date of the municipality's income tax return for a taxpayer that is not an individual shall be the 15th day of the eleventh 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.

(1) A copy of the federal extension request shall be included with the filing of the Municipality's income tax return.

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

(B) 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 the Village of Fayette's income tax return. The extended due date of the Village of Fayette's income tax return shall be the same as the extended due date of the state income tax return.

(C) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Village of Fayette, 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.

(D) If a taxpayer receives an extension for the filing of a municipal income tax return under division (A)(1), (A)(2), or (B) of this section, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

If a tax administrator violates division (D) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to \$150.

Division (D) of this section does not apply to an extension received under division (A) of this section if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under division (A) of this section or failed to file for an extension under division (A)(2) of this section.

(E) To the extent that any provision in this Section (166.094) conflicts with any provision in other sections of this chapter, the provisions in those other sections prevail.
(Ord. 2023-14. Passed 12-27-23.)

166.095 AMENDED RETURNS.

(A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.

(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under section 166.19 of this Chapter has not expired for a previously filed return. The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

(C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of section 166.19 of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 166.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. (Ord. 2015-19. Passed 12-9-15.)

166.096 REFUNDS.

(A) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

(1) Overpayments of more than ten dollars;

(2) Amounts paid erroneously if the refund requested exceeds ten dollars.

(B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

- (2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
- (3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 166.18 of this Chapter.

(C) A request for a refund that is received after the last day for filing specified in division (B) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

- (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
- (2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.
- (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of Section 166.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 166.10 of this Chapter. (Ord. 2015-19. Passed 12-9-15.)

166.10 PENALTY, INTEREST, FEES, AND CHARGES.

- (A) As used in this section:
 - (1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.
 - (2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.

- (3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.
- (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.
- (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
- (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
- (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
- (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
- (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section shall apply to the following:

- (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
- (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules,, as adopted from time to time before January 1, 2016 of this Municipality..

(C) 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 Municipality 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, the Municipality may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.
- (b) With respect to any unpaid withholding tax, the Municipality/City may impose a penalty equal to fifty percent (50%) of the amount not timely paid.

(3) (a) For tax years ending on or before December 31, 2022, with respect to returns other than estimated income tax returns, the Municipality 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 untiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure.

(b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, the Municipality may impose a penalty not exceeding \$25 for each failure to timely file each return, regardless of the liability shown thereon, except that the Municipality shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

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

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

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

(G) The Municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees. (Ord. 2017-19. Passed 12-27-19; Ord. 2023-14. Passed 12-27-23.)

166.11 AUDIT.

(A) At or before the commencement of an audit, as defined in Section 166.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.

(Ord. 2015-19. Passed 12-9-15.)

166.12 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document. (Ord. 2015-19. Passed 12-9-15.)

166.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

166.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR.

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

- (A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;
- (B) Appoint agents and prescribe their powers and duties;
- (C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;

- (E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 166.062 of this Chapter;
- (G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
- (H) Destroy any or all returns or other tax documents in the manner authorized by law;
- (I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 166.051 of this Chapter.

(Ord. 2015-19. Passed 12-9-15.)

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

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

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

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

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

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

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

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

(F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement. (Ord. 2015-19. Passed 12-9-15.)

166.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

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

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

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

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

(Ord. 2015-19. Passed 12-9-15.)

166.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION.

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 166.10 of this Chapter, in addition to any applicable penalty described in section 166.99 of this Chapter.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 166.10 of this Chapter.

(3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 166.99 of this Chapter for a violation of 166.15 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law.

(Ord. 2015-19. Passed 12-9-15.)

166.14 CONFIDENTIALITY.

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

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(Ord. 2015-19. Passed 12-9-15.)

166.15 FRAUD.

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

(Ord. 2015-19. Passed 12-9-15.)

166.16 OPINION OF THE TAX ADMINISTRATOR.

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

- (1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.
- (2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.
- (3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

- (1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;
- (2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;
- (3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;
- (4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;
- (5) The effective date of any change in the taxpayer's material facts or circumstances;
- (6) The effective date of the expiration of the opinion, if specified in the opinion.

(D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of section 166.15 of this Chapter.

(E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:

- (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;
- (2) It is the duty of the taxpayer to be aware of such changes.

(F) A Tax Administrator may refuse to offer an opinion on any request received under this section.

(G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

(H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

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

(Ord. 2015-19. Passed 12-9-15.)

166.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

(A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code.

(2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.

(3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is *prima facie* evidence that delivery is complete and that the assessment is served.

(B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time

the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.

(Ord. 2015-19. Passed 12-9-15.)

166.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW.

(A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.

(2) The Local Board of Tax Review shall consist of three members. Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.

(4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.

(5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

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

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

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

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

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

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing. (Ord. 2015-19. Passed 12-9-15.)

166.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

(A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:

- (i) Three years after the tax was due or the return was filed, whichever is later; or
- (ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

- (a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 166.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.
- (b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 166.096 of this Chapter.

(D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 166.18 of this Chapter, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 166.096 of this Chapter, with interest on that amount as provided by division (D) of this section.

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

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

(Ord. 2015-19. Passed 12-9-15.)

166.20 ADOPTION OF RULES.

(A) Pursuant to Section 718.30 of the Revised Code, the Municipality, pursuant to this Chapter, grants authority to the Tax Administrator, to adopt rules to administer the income tax imposed by the Municipality.

(B) All rules adopted under this section shall be published and posted on the internet. (Ord. 2015-19. Passed 12-9-15.)

166.201 ADOPTION OF RITA RULES AND REGULATIONS.

(A) The Municipality hereby adopts the Regional Income Tax Agency (RITA) Rules and Regulations, including amendments that may be made from time to time, for use as the Municipality's Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of this chapter and the RITA Rules and Regulations, this chapter will supersede. Until and if the contractual relationship between the Municipality and RITA ceases, this section will supersede all other provisions within Chapter 166 regarding promulgation of rules and regulations by the Tax Administrator. (Ord. 2017-07. Passed 5-10-17.)

166.27 ELECTION TO BE SUBJECT TO ORC 718.80 TO 718.95.

(A) The municipality hereby adopts and incorporates herein by reference Sections 718.80 to 718.95 of the ORC for tax years beginning on or after January 1, 2018.

(B) A taxpayer, as defined in division (C) of this section, may elect to be subject to Sections 718.80 to 718.95 of the ORC in lieu of the provisions of this Chapter.

(C) "Taxpayer" has the same meaning as in section 718.01 of the ORC, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745 of the ORC. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.

(Ord. 2023-14. Passed 12-27-23.)

166.97 COLLECTION AFTER TERMINATION OF CHAPTER.

(A) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 166.19.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 166.091 as though the same were continuing.
(Ord. 2015-19. Passed 12-9-15.)

166.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter. (Ord. 2015-19. Passed 12-9-15.)

166.99 VIOLATIONS; PENALTY.

(A) Except as provided in division (B) of this section, whoever violates Section 166.15 of this Chapter,, division (A) of Section 166.14 of this Chapter,, or Section 166.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of Section 166.14 of this Chapter constitutes a separate offense.

(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the second degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or

- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 166.051; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or
- (13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.
- (14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.
- (15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 166.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.

(Ord. 2015-19. Passed 12-9-15.)

CHAPTER 169

License Tax

169.01 Annual license tax on motor vehicles.

169.02 Additional tax on motor vehicles.

CROSS REFERENCES
Municipal license taxes - see Ohio R.C. Ch. 4504

169.01 ANNUAL LICENSE TAX ON MOTOR VEHICLES.

(a) **Definitions.**

- (1) "Motor vehicle" means all vehicles included within the definition of motor vehicle in Ohio R.C. 4501.01 and 4505.01.
- (2) "Registrar" means the Registrar of Motor Vehicles as provided in Ohio R.C. 451.002.
- (3) "Deputy Registrar" means any deputy appointed by the Registrar of Motor Vehicles pursuant to Ohio R.C. 4501.02 and 4503.03.

(b) **Levy of Annual License Tax; Use.** An annual license tax is hereby levied upon the operation of motor vehicles on the public roads or highways of the Village, for the purpose of enforcing and paying the expense of administering this section; and for planning, constructing, improving, maintaining and repairing public roads, highways, and streets; maintaining and repairing bridges and viaducts; paying the Municipal Corporation's portion of the costs and expenses of cooperating with the Department of Highways in the planning, improvement and construction of state highways; paying the Municipal Corporation's portion of the compensation, damages, costs and expenses of planning, constructing, reconstructing, improving, maintaining and repairing roads and streets, paying any costs apportioned to the Municipal Corporation under Ohio R.C. 4909.47; paying debt service charges on notes and bonds of the Municipal Corporation issued for such purposes; purchasing, erecting, and maintaining streets and traffic signs and markers; purchasing, erecting and maintaining traffic lights and signals; and to supplement revenue already available for such purposes. Such tax shall be at the rate of five dollars (\$5.00) for each motor vehicle having a district of registration, as provided in Ohio R.C. 4503.10, in the Village, and shall be paid and collected by the Registrar of Motor Vehicles of the State of Ohio, or Deputy Registrar at the time of making application for registration, as provided in Ohio R.C. 4504.09.

If the application for registration is made prior to the sixteenth day of July, the full five dollars (\$5.00) shall be paid.

If such application is made on or after the sixteenth day of July and prior to the sixteenth day of October, three-fourths of the five dollar (\$5.00) tax shall be paid.

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

If such application is made on or subsequent to the sixteenth day of January, and prior to the sixteenth day of April, one-fourth of said five dollars (\$5.00) tax shall be paid.

(c) Exemptions from Tax. The following motor vehicles shall be exempt from this license tax:

- (1) Any motor vehicle titled in the name of the State of Ohio or any of its political subdivisions.
- (2) Any motor vehicle titled in the name of a Board of Education, the United States of America or Ohio Wing Civil Air Patrol.

When the Post Office Department has the exclusive right and supervision of the use of a motor vehicle for a period of one year, under contract by a United States Civil Service employee, United States Government shall be considered the owner of such vehicle and entitled to exemption from this tax.

(d) The Fiscal Officer is directed to forward a certified copy of this section to the Registrar of Motor Vehicles of the State of Ohio.

(Ord. 70-2. Passed 3-12-70.)

169.02 ADDITIONAL TAX ON MOTOR VEHICLES.

(a) Levy of Annual Tax on Motor Vehicles. 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.

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 Fayette, Ohio.

As used in this section, "motor vehicle" means any and all vehicles included within the definition of motor vehicle in Ohio R.C. 4501.01 and 4505.01.

(b) Duration of the Tax. The tax imposed by this section 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.

(c) Payment of the Tax. The tax imposed by this section 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.

(d) Disposition of Proceeds. All moneys derived from the tax hereinbefore levied shall be used by the Village for the purposes specified in this section.

(e) Use of All Moneys Derived from the Tax. All moneys derived from the motor vehicle license tax will be used for the purpose of the upkeep and repair of all streets and alleys within the limits of the Village.

(Ord. 87-4. Passed 9-10-87.)

CHAPTER 171 **Replacement Operating Levy Funds**

171.01 Allocation of funds.

171.01 ALLOCATION OF FUNDS.

The funds collected from the 2.9 mil Village Replacement Operating Levy approved by voters in November 2012 and effective as of tax year 2013 ("Replacement Levy"), commencing January 1, 2014 and continuing so long as the Replacement Levy or any renewal thereof is in existence, shall be deposited and disbursed as follows:

- (a) Seventy-five percent (75%) of the funds collected from the Replacement Levy shall be deposited in the Village General Fund; and
- (b) Twenty-five percent (25%) of the funds collected from the Replacement Operating Levy shall be deposited in a capital improvements fund which shall be restricted to paying for the costs associated with the improvement, upgrade, extension and replacement of streets within the Village of Fayette.

(Ord. 2013-17. Passed 11-26-13.)

