

CODIFIED ORDINANCES OF TROTWOOD

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

- Chap. 101. Codified Ordinances.
- Chap. 103. Wards and Boundaries.
- Chap. 105. Financial Procedures.
- Chap. 107. Civil Defense.

TITLE THREE - Legislative

- Chap. 111. Council.
- Chap. 113. Ordinances and Resolutions.

TITLE FIVE - Administrative

- Chap. 123. Manager.
- Chap. 125. Department of Law.
- Chap. 127. Department of Finance.
- Chap. 129. Department of Public Service.
- Chap. 131. Department of Public Safety.
- Chap. 133. Department of Planning and Development.
- Chap. 135. Planning and Zoning Commission.
- Chap. 137. Civil Service Commission.
- Chap. 139. Park and Recreation Board.
- Chap. 141. Trotwood Youth Council.
- Chap. 143. Records Commission.
- Chap. 145. Trotwood Ethics Commission.
- Chap. 151. Employment Provisions.

TITLE NINE - Taxation

- Chap. 183. Income Tax.
- Chap. 185. Motor Vehicle License Tax.

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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.
 Ordinances and resolutions - see ADM. Ch. 115
 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 City of Trotwood Codes of Ordinances of Trotwood, Ohio, 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 Montgomery County, Ohio.
- (f) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent or employee.
- (g) "Land" or "real estate" includes rights and easements of an incorporeal nature. (ORC 701.01(F))
- (h) "Municipality" or "City" means the City of Trotwood, Ohio.
- (i) "Oath" includes affirmation and "swear" includes affirm. (ORC 1.59(B))
- (j) "Owner", when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
- (k) "Person" includes an individual, corporation, business trust, estate, trust, partnership and association. (ORC 1.59(C))
- (l) "Premises", as applied to property, includes land and buildings.
- (m) "Property" means real and personal property. (ORC 1.59(E))
"Personal property" includes all property except real.
"Real property" includes lands, tenements and hereditaments.
- (n) "Public authority" includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.

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

101.03 RULES OF CONSTRUCTION.

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

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

- (1) The singular includes the plural, and the plural includes the singular.
- (2) Words of one gender include the other genders.
- (3) Words in the present tense include the future.
(ORC 1.43)

(c) Calendar; Computation of Time.

- (1) Definitions.
 - A. "Week" means seven consecutive days.
 - B. "Year" means twelve consecutive months.
(ORC 1.44)
- (2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.
(ORC 1.45)

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

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

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

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

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

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

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

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

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

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

(ORC 1.58)

101.05 CONSTRUCTION OF SECTION REFERENCES.

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

(ORC 1.55)

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

(ORC 1.56)

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

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

(ORC 1.23)

101.06 CONFLICTING PROVISIONS.

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

(ORC 1.46)

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

(ORC 1.51)

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

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

101.07 DETERMINATION OF LEGISLATIVE INTENT.

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

101.08 SEVERABILITY.

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

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision is guilty of a misdemeanor of the third degree. A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

CHAPTER 103
Wards and Boundaries

103.01 Districts and boundaries.

CROSS REFERENCES

Boundaries - see CHTR. Sec. 1-1

Division into districts - see CHTR. Sec. 11-5

103.01 DISTRICTS AND BOUNDARIES.

The City's four voting districts are hereby realigned pursuant to the City Charter and Ohio R.C. 731.06 into four districts as equal as practicable in population and as compact as practicable in shape. The four districts and the boundaries thereof are defined and identified on Exhibit A, attached to original Ordinance 5-92 and made a part hereof and incorporated by reference as fully as if herein specifically set forth.
(Ord. 5-92. Passed 3-2-92.)

MOUNT EXHIBIT A FROM CHAPTER 103

CHAPTER 105
Financial Procedures

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| <p>105.01 Purchasing; contracts.</p> <p>105.02 Depository selection; investments.</p> <p>105.03 City not obligated to follow state construction procedures.</p> | <p>105.04 Investment policy.</p> |
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CROSS REFERENCES

Contracts; purchasers - see Ohio R.C. 731.05, 733.22, 735.05, 737.02
 Unlawful interest in public contracts - see GEN. OFF. 525.10

105.01 PURCHASING; CONTRACTS.

(a) The City Manager, or his designee, is authorized to make any contract, purchase supplies, equipment, material or provide labor for any work for the City involving an expenditure of not more than twenty-five thousand dollars (\$25,000).

(b) When an expenditure for any purpose mentioned in subsection (a) hereof, exceeds twenty-five thousand dollars (\$25,000), the City Manager, or his designee, shall take bids and Council shall, by resolution, authorize and direct the City Manager, or his designee, to make and execute all necessary contracts and to make such expenditures according to the procedure hereafter set forth.

(c) The authorization contained in subsections (a) and (b) hereof shall include, but not be limited to, contracts involving the joint purchase of supplies, equipment, materials or to provide labor with other jurisdictions, and regional authorities, provided, however, that with respect to the City Manager's authority under subsection (a) hereof requiring no bids, he shall not have the authority to bind the City into a contract with other jurisdictions or regional authority if the City's joint or several liability thereunder may exceed twenty-five thousand dollars (\$25,000).

(d) Anything contained in subsection (a), (b) and (c) hereof notwithstanding, the City Manager is authorized to purchase any equipment without bid, if such equipment has an anticipated life of more than two years and costs no more than thirty-five thousand dollars (\$35,000), provided he shall first have obtained the written consent by a majority vote of Council. (Ord. 5-95. Passed 8-7-95.)

105.02 DEPOSITORY SELECTION; INVESTMENTS.

(a) Policy Adopted. Council hereby adopts and accepts the investment policy attached to Resolution 91-42 and made a part hereof.

(b) Agreements Authorized. The Director of Finance is authorized and directed to enter into the necessary agreements to implement this policy and invest public moneys pursuant to and in compliance with the terms of such policy.

(c) Nonliability for Losses. The Director and the City Manager shall be relieved from any liability for the loss of any public moneys deposited or invested pursuant to and in compliance with such policy, including, but not limited to, losses occasioned by the sale of any instruments, securities or obligations, the closing of any deposit accounts or the failure of any depository.

(d) Depositories. Securities purchased in accordance with the terms of this policy shall be financial institutions located within the United States or through "primary securities dealers" as designated by the Federal Reserve Bank. A list of these depositories, authorized institutions and dealers shall be maintained by the Director and available for public inspection during normal office hours throughout the course of the designation period.
(Res. 91-42. Passed 8-5-91.)

105.03 CITY NOT OBLIGATED TO FOLLOW STATE CONSTRUCTION PROCEDURES.

The City may use its own contracting and public improvement procedures instead of those provided by the Ohio Revised Code Chapter 153.

(a) The City of Trotwood, a Charter City, shall not be obligated to follow the procedures set forth in the Ohio Revised Code 9.312, 9.313, 9.32 and 9.33 through 9.332 nor to follow the construction contract, public improvement or professional design contract procedures set forth in Chapter 153 of the Ohio Revised Code.

(b) Contracts and services for persons engaged in a profession may be entered into by the City Manager, without use of formal or informal competitive procedures. A profession is an occupation requiring training in the sciences or the liberal arts and advanced study in a specialized field. Examples of professionals whose services are subject to this paragraph are architects, physicians, lawyers and/or engineers.
(Ord. 5-96. Passed 3-18-96.)

105.04 INVESTMENT POLICY.

(a) Council hereby adopts and accepts the investment policy attached to original Ordinance 9-98, and made a part hereof.

(b) The Director of Finance is authorized and directed to enter into the necessary agreements to implement this policy and invest public monies pursuant to and in compliance with the terms of such policy, and to review such policy on an annual basis.

(c) The Director of Finance and the City Manager shall be relieved from any liability for the loss of any public monies invested pursuant to and in compliance with such policy, including, but not limited to, losses occasioned by the sale of any instruments, securities or obligations, the closing of any deposit accounts or the failure of any depository.
(Ord. 9-98. Passed 7-6-98.)

CHAPTER 107
Civil Defense

107.01	Intent and purpose.	107.06	No municipal or private liability.
107.02	Definitions.	107.07	Violation of regulations.
107.03	Organization and appointments.	107.99	Penalty.
107.04	Emergency power and duties.		
107.05	Civil preparedness and disaster basic plan.		

CROSS REFERENCES

Emergency management; civil defense - see Ohio R.C. Ch. 5915

107.01 INTENT AND PURPOSE.

(a) It is the intent and purpose of this chapter to establish an office that will insure the complete and efficient utilization of all the City's facilities to cope with disaster as defined herein.

(b) The City Office of Disaster Services shall be the coordinating agency for all activity in connection with civil preparedness. It shall be the instrument through which the City Manager may exercise the authority and discharge the responsibilities vested in him pursuant to laws of the State as well as provisions of the City Charter.

(c) This chapter shall not relieve any City department of the moral responsibility or authority given to it in the City Charter or by local ordinance, nor shall it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.
(1987 Code 91.01)

107.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) "Civil preparedness" means carrying out the basic government functions of maintaining the public peace, health and safety during an emergency. This shall include plans and preparations for protection from, and relief, recovery and rehabilitation from activity in connection with disaster as defined herein. It shall not, however, include any activity that is the primary responsibility of the military forces of the United States.

- (b) "Civil preparedness forces" means the employees, equipment, and facilities of all City departments. In addition, it shall include all volunteer personnel, equipment, and facilities contributed by or obtained from volunteer persons or agencies.
- (c) "Civil preparedness volunteer" means any person duly registered, identified and appointed by the Office of Disaster Services and assigned to participate in the civil defense activity.
- (d) "Director" means the City Manager or his designated alternate duly appointed in accordance with the City Charter or the ordinances of the City.
- (e) "Disaster" includes but is not limited to, sabotage, extraordinary fire, flood, storm, epidemic, or other impending or actual calamity endangering or threatening to endanger health, life, or property or constituted government.
- (f) "Regulations" means the City Pre-Disaster Warning and Post-Disaster Plan, as well as any other emergency procedures deemed essential by the Director of Disaster Services.
- (g) "Volunteer" means contributing a service, equipment or facilities to the civil preparedness organization without remuneration.
(1987 Code 91.02)

107.03 ORGANIZATION AND APPOINTMENTS.

(a) The City Manager is authorized and directed to create an organization for disaster services utilizing to the fullest extent the existing agencies within the City. The City Manager, as executive head of the municipal government, shall be the Director of the disaster services forces of this City and shall be responsible for their organization, administration and operations.

- (b) The organization shall consist of the following:
 - (1) The City Manager shall be the Director of Disaster Services and the executive departments of the City government shall be under his direction.
 - (2) The employees, equipment and facilities of all City departments shall participate in civil defense and disaster services activity. Duties assigned to a City department shall be the same or similar to the normal duties of the department.
 - (3) Volunteer persons and agencies offering service to, and accepted by the Director.

(c) The Director shall designate and appoint a Deputy Director to assume the emergency duties of the Director in the event of his absence or inability to act, the intent being that there shall be, at all times, a Director of Disaster Services in charge in the City as required by Ohio R.C. 5915.06.
(1987 Code 91.03)

107.04 EMERGENCY POWER AND DUTIES.

- (a) The City Manager as Director shall have the following powers and duties.

- (1) The Director may exercise the emergency power and authority necessary to fulfill his general powers and duties as defined in the City Charter. The judgement of the Director shall be the sole criteria necessary to invoke emergency powers provided in the City Charter, the City ordinances and other appropriate authorities.
- (2) During any period when disaster threatens or when the City has been struck by disaster, the Director may promulgate such regulations as he deems necessary to protect life and property and preserve critical resources. These regulations may include, but shall not be limited to the following:
 - A. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of civil defense forces, or to facilitate the mass movement of persons from critical areas within or without the City;
 - B. Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster;
 - C. Any other regulations necessary to preserve public peace, health and safety; and
 - D. Regulations promulgated in accordance with the authority above shall be given widespread circulation by proclamations published and uttered by newspaper, radio and television.
 - E. All of the regulations herein contained shall have the force of ordinance when duly passed by Council.
- (3) The Director shall direct resources to the aid of other communities when required in accordance with the statutes of the State, and he may request the State, or a political subdivision of the State, to send aid to the City in case of disaster when resources of the City are no longer adequate to cope with the disaster.
- (4) The Director may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people, and bind the city for the fair value thereof.
- (5) The Director may require emergency services of any City officer or employees. If regular City forces are determined inadequate, the Director may require the services of such other personnel as he can obtain that are available, including citizen volunteers. All duly authorized persons rendering emergency service shall be entitled to the privileges and immunities as are provided by State law, the City Charter and ordinances for regular City employees and other registered and identified civil defense and disaster workers.
- (6) The Director shall cause to be prepared the Basic Plan herein referred to in Section 107.05, and to exercise his ordinary powers as City Manager, all of the specific powers conferred upon him by the City Charter and the ordinances of the City.

- (7) The Director shall be responsible for the planning, coordination and operation of the civil preparedness activity of the City. He shall maintain liaison with the State and federal authorities and the authorities of other nearby political subdivisions as to insure the most effective operation of the civil defense plan. His duties shall include, but not be limited to the following:
- A. Coordinating the recruitment of volunteer personnel and agencies to augment the personnel and facilities of the City for civil preparedness and disaster services purposes;
 - B. Development and coordination of plans for the immediate use of all the facilities, equipment, manpower and other resources of the City for the purpose of minimizing or preventing damage to persons and property; and protecting and restoring to usefulness governmental services and public utilities necessary for the public health, safety and welfare;
 - C. Negotiating and concluding agreements with owners or persons in control of buildings or other property for the civil preparedness and disaster services purposes and designating suitable buildings as public shelters;
 - D. Through public information programs, educating the civilian population as to actions necessary and required for the protection of their persons and property in case of disaster, either impending or present;
 - E. Conducting public practice alerts to insure the efficient operation of the civil preparedness and disaster services forces, and to familiarize residents with civil preparedness and disaster services regulations, procedures and operations;
 - F. Coordinating the activity of all other public and private agencies engaged in any civil preparedness and disaster services activity; and
 - G. Assuming authority and conducting any activity as he may direct to promote and execute the Civil Preparedness and Disaster Basic Plan.

(b) Council may convene to perform its legislative and administrative powers as the situation demands, and shall receive reports relative to civil preparedness and disaster services activities. Nothing in this chapter shall be construed as abridging or curtailing the powers or restrictions of Council as defined by the City Charter.

(1987 Code 91.04)

107.05 CIVIL PREPAREDNESS AND DISASTER BASIC PLAN.

The City Pre-Disaster Warning and Post-Disaster Plan, hereafter known as the Basic Plan, shall be adopted and maintained by a resolution of Council.

(1987 Code 91.05)

107.06 NO MUNICIPAL OR PRIVATE LIABILITY.

(a) This chapter is an exercise by the City of its governmental functions for the protection of the public peace, health and safety, and neither the City nor agents and representatives of the City or any individual, receiver, firm, partnership, corporation, association or trustee or any of the agents thereof in good faith carrying out, complying with or attempting to comply with an order, rule or regulation promulgated pursuant to the provisions of this chapter shall be liable for any damage sustained to persons or property as the result of that activity.

(b) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants the City the right to inspect, designate and use the whole or any part or parts of that real estate or premises for the purpose of sheltering persons during an actual or impending disaster shall not be civilly liable for the death of, or injury to any persons on or about any real estate or premises under that license, privilege, or other permission or for loss of, or damage to the property of that person.

(1987 Code 91.06)

107.07 VIOLATION OF REGULATIONS.

No person shall violate any of the provisions of this chapter or of the regulations or plans issued pursuant to the authority contained herein, or willfully obstruct, hinder or delay any member of the City Office of Disaster Services in the enforcement of the provisions of this chapter or any regulations or plan issued thereunder.

(1987 Code 91.07)

107.99 PENALTY.

Any person, firm or corporation violating any provision of this chapter or rule or regulation promulgated thereunder, upon conviction thereof, shall be deemed guilty of a misdemeanor of the third degree, and subject to imprisonment for not more than sixty days or a fine of not more than five hundred dollars (\$500.00) or both.

(1987 Code 91.99)

TITLE THREE - Legislative
Chap. 111. Council.
Chap. 113. Ordinances and Resolutions.

CHAPTER 111
Council

111.01 Regular and special meetings.

111.02 Council business.

CROSS REFERENCES

Powers - see CHTR. Art. II
Council - see CHTR. Art. III
Legislation - see CHTR. Art. IV
Elections - see CHTR. Art. VIII
Initiative, referendum, recall - see CHTR. Art. IX
Municipal Clerk - see CHTR. 6-7

111.01 REGULAR AND SPECIAL MEETINGS.

(a) Regular Meetings. In accordance with Charter Section 3.8 (Meetings), Council shall meet regularly at such times as may be prescribed by its rules but not less frequently than once each month. Council hereby reaffirms its rules for the scheduling of regular meetings at the first and third Monday of each calendar month at 7:30 p.m. in the Council Chambers of the Trotwood Government Center. In the event that a Monday shall fall upon a holiday, Council, by a majority vote, shall determine the best available day following such a regularly-scheduled Monday meeting and shall utilize that day as its regularly-scheduled meeting subject to provisions of notice as set forth in Charter and Ohio R.C. 121.22.

(b) Boards and Commissions. The City's boards and commissions shall also have regularly-scheduled meetings as prescribed by Council from time to time.

(c) Special Meetings. Pursuant to Charter Section 3.8 (Meetings), special meetings may be called by the Mayor or any three Councilmembers on twelve hours notice served on each member personally or left at his usual place of residence. The purpose of a special meeting shall be stated in the notice and no other business shall be transacted at such meeting.

- (1) Pursuant to Ohio R.C. 121.22(F), a public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action. In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place and purpose of the meeting.
- (2) However, it is the belief of the City that its Charter, under the Home Rule Power of the Ohio Constitution, supersedes Ohio R.C. Section 121.22 requiring twenty-four hours' notice as opposed to twelve hours' notice as set forth in Charter Section 3.8. Therefore, the City does hereby establish its rule to call special meetings by its Mayor or any three members of Council on twenty-four hours' notice served on each member personally or left at his usual place of residence. The purpose of a special meeting shall be stated in the notice and no other business shall be transacted at such meeting, as set forth in Charter Section 3.8.

(d) Notification. The City hereby establishes a rule that any person may, upon request and payment of a reasonable fee in the amount as set forth by Council from time to time, obtain reasonable advance notification of all meetings in which any specific type of public business is to be discussed. In addition, those who request advance notification of all meetings shall provide self-addressed stamped envelopes to the Municipal Clerk, for advance notification pursuant to Ohio R.C. Section 121.22(F).
(1987 Code Sec. 30.03)

111.02 COUNCIL BUSINESS.

(a) Agendas. Agendas shall be prepared by the Clerk of Council for each regular Council meeting. Nothing in this section shall prevent the introduction of new business not listed on the agenda.

- (b) Order of Business. The order of the agenda shall be as follows:
- (1) Call to order;
 - (2) Pledge of Allegiance to the flag;
 - (3) Roll call;
 - (4) Action on minutes of previous meetings;
 - (5) Public hearings;
 - (6) Resolutions;
 - (7) Old and new business:
 - A. Mayor;
 - B. City Manager;
 - C. Council members;
 - D. Staff;
 - (8) Visitors and communications.

(c) Public Participation at Meetings. If an item is on the agenda, interested citizens desiring to speak shall do so following the introduction of the topic when recognized by the Mayor or presiding person. If the topic is not on the agenda, it shall be discussed under Visitors and Communications. Individuals recognized to speak will:

- (1) State their name and address;
- (2) Address remarks to the Mayor or presiding person;
- (3) Respond to Council member's questions, if any;
- (4) Limit comments to the subjects under discussion, if agenda items;
- (5) Limit comments to three minutes unless such time is extended upon request by the Mayor or presiding person, whose decision shall be subject to objection by any member of the Council in which case the decision to extend comments shall be made by a majority vote of those Councilmembers present.

(Ord. 22-98. Passed 12-7-98.)

CHAPTER 113
Ordinances and Resolutions

113.01 Adoption of technical codes by reference.

CROSS REFERENCES

Ordinances and resolutions - see CHTR. 4-1
Majority required - see CHTR. 4-2
Form - see CHTR. 4-3
Enactment - see CHTR. 4-4
Effective date - see CHTR. 4-5
Emergency ordinances - see CHTR. 4-6

113.01 ADOPTION OF TECHNICAL CODES BY REFERENCE.

(a) Council may, by ordinance, adopt standard ordinances and codes prepared by the State or any department, board, or other agency or political subdivision of the State, or any standard or model ordinance or code prepared and promulgated by a public or private organization, including but not limited to codes and regulations pertaining to fire, fire hazards, fire prevention, plumbing code, electrical code, building code, refrigeration machinery code, piping code, boiler code, heating code, air conditioning code, housing code, and any other matters as Council may determine to be appropriate for adoption by reference, by incorporation by reference.

(b) The ordinance adopting any standard ordinance or code shall make reference to the date and source of the standard ordinance or code without reproducing the same at length in the ordinance. In such cases, publication of the standard ordinance or code shall not be required, but copies of the code shall be kept at all times in the office of the Municipal Clerk and available for reference by interested persons and copies of the standard ordinance and code shall be available for sale by the Clerk.

(c) If the standard ordinance or code, after its adoption by reference by Council, is amended, Council may adopt the amendment or change by incorporation by reference in an ordinance under the same procedure as is established herein for the adoption of the original standard ordinance or code without the necessity of setting forth in full in the ordinance the provisions either of the amendment or change to the original ordinance or the standard ordinance or code.

(1987 Code 10.13)

TITLE FIVE - Administrative

- Chap. 123. Manager.
- Chap. 125. Department of Law.
- Chap. 127. Department of Finance.
- Chap. 129. Department of Public Service.
- Chap. 131. Department of Public Safety.
- Chap. 133. Department of Planning and Development.
- Chap. 135. Planning and Zoning Commission.
- Chap. 137. Civil Service Commission.
- Chap. 139. Park and Recreation Board.
- Chap. 141. Trotwood Youth Council.
- Chap. 143. Records Commission.
- Chap. 145. Trotwood Ethics Commission.
- Chap. 151. Employment Provisions.

CHAPTER 123
Manager

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

CROSS REFERENCES

- Appointment - see CHTR. 5-1
- Qualifications - see CHTR. 5-2
- Powers and duties - see CHTR. 5-3
- Resignation - see CHTR. 5-5
- Removal - see CHTR. 5-6
- Absence or disability - see CHTR. 5-7
- Acting Manager - see CHTR. 5-8

CHAPTER 125
Department of Law

EDITOR'S NOTE: There are no sections in Chapter 125. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Established - see CHTR. 6-1
Department of Law - see CHTR. 6-3
Statutory powers and duties - see Ohio R.C. 733.51
et seq.

CHAPTER 127
Department of Finance

EDITOR'S NOTE: There are no sections in Chapter 127. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Established - see CHTR. 6-1

Department of Finance - see CHTR. 6-4

Statutory powers and duties - see Ohio R.C. 733.11 et seq.

Contracts, purchasing - see ADM. Ch. 105

CHAPTER 129
Department of Public Service

EDITOR'S NOTE: There are no sections in Chapter 129. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Established - see CHTR. 6-1

Department of Public Service - see CHTR. 6-5

Statutory powers and duties - see Ohio R.C. Ch. 735

CHAPTER 131
Department of Public Safety

EDITOR'S NOTE: By motion of Council passed December 21, 1992, the City Manager was appointed Public Safety Director. There are no sections in Chapter 131. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Established - see CHTR. 6-1

Department of Public Safety- see CHTR. 6-6

Statutory law - see Ohio R.C. Ch. 737

Police Department employment provisions - see ADM. Ch. 151

CHAPTER 133
Department of Planning and Development

EDITOR'S NOTE: There are no sections in Chapter 133. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES
Department established - see CHTR. 6-8

CHAPTER 135
Planning and Zoning Commission

135.01 Planning Commission and Zoning Appeals Board separated.

CROSS REFERENCES

Established - see CHTR. 7-1

Powers and duties of Planning Commission - see CHTR. 7-3

Powers and duties of Board of Zoning Appeals - see
CHTR. 7-4

**135.01 PLANNING COMMISSION AND ZONING APPEALS BOARD
SEPARATED.**

(a) Council hereby separates the combined body known as the Board of Planning and Zoning Appeals, previously combined by Resolution 77-55, passed the 6th day of July, 1977, and substitutes and reestablishes two separate boards and commissions, as follows:

(b) The Council reestablishes a Planning Commission, consisting of five electors of the Municipality appointed by Council, to serve without compensation, for a staggered term of five years. Council shall have the right to remove any Commission or Board member for cause, and to fill vacancies by majority vote. The Manager or his designee shall serve as an ex officio member of the Planning Commission, without voting power.

(c) The Council further reestablishes a separate Board of Zoning Appeals, consisting of five electors of the Municipality appointed by Council, to serve without compensation, for a staggered term of five years. Council shall have the right to remove any Commission or Board Member for cause, and to fill vacancies by majority vote. The Manager or his designee shall serve as an ex officio member of the Board of Zoning Appeals, without voting power.

(d) Both the Planning Commission and Board of Zoning Appeals shall elect its own chairman for a one-year term, at the first regular meeting after appointment of Council, and shall adopt rules and procedures not inconsistent with the Charter, ordinance of Council, or general law.

(e) The powers and duties of the Planning Commission are set forth in Section 7-3 of the Charter. Said powers and duties are incorporated herein by reference.

(f) The Board of Zoning Appeals powers and duties are set forth in Section 7-4 of the Charter. Said powers and duties are incorporated herein by reference.

(g) The newly separated Planning Commission and Board of Zoning Appeals may include any or a portion of previous members from the combined Commission up to five members. The membership shall be appointed by separate resolution including the named member and date of term coinciding with the effective date of this section.

(h) All matters, cases, applications and proceedings submitted prior to the separated Planning Commission and Board of Zoning Appeals shall be considered by the appropriate successor Commission or Board as a continuing matter and shall be concluded accordingly. Previous and subsequent conditional use permits and applications shall be heard by the Planning Commission.

(i) All other provisions of Article VII, Commissions and Boards, of the Charter, not herein specifically amended or modified, shall remain in full force and effect.
(Ord. 19-96. Passed 10-7-96.)

CHAPTER 139
Park and Recreation Board

EDITOR'S NOTE: There are no sections in Chapter 139. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Established - see CHTR. 7-1

Powers and duties - see CHTR. 7-7

Statutory powers and duties - see Ohio R.C. 755.13
et seq.

CHAPTER 137
Civil Service Commission

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

CROSS REFERENCES

Established - see CHTR. 7-1
Powers and duties - see CHTR. 7-5
Classification of service - see CHTR. 7-6
State civil service law - see Ohio R.C. Ch. 124

**CHAPTER 141
Trotwood Youth Council**

141.01 Preamble and purpose.

141.02 Creation and membership.

141.03 Organization.

141.04 City Manager assistance.

CROSS REFERENCES

Authority to establish - see CHTR. 7.1

141.01 PREAMBLE AND PURPOSE.

(a) The City, recognizing its responsibility in addressing youth related problems and accomplishing positive goals related to the youth in the community, hereby declares, as a matter of public policy, that the City will partnership with its youth in addressing youth issues in the community.

(b) In accordance with the foregoing preamble, the purposes of this chapter are to:

- (1) Provide for a Trotwood Youth City Council;
- (2) Provide for its organization;
- (3) Provide a means for the youth of the City to acquire a greater knowledge of and appreciation for the political process of the City through active participation.

(c) In order to achieve it purposes, the Trotwood Youth Council shall serve and represent the youth in the community by working to:

- (1) Keep the Trotwood City Council informed as to the needs and issues facing the youth in the community;
- (2) Plan and implement sound educational, cultural and recreational activities for youth in the City with the support and guidance of the City;
- (3) Provide service and leadership opportunities for the youth of the City by collaborating with City officials, officers, the school and other community organizations;
- (4) Enhance the level of self respect in youth by providing opportunities for meaningful involvement, learning experiences, accomplishment and positive reinforcement;

- (5) Emphasize respect for the rights and property of others through example;
- (6) Promote community pride and minimize potential negative influences among youth.
(Ord. 53-01. Passed 10-15-01.)

141.02 CREATION AND MEMBERSHIP.

- (a) There is hereby created a Trotwood Youth City Council for the City.
- (b) The Council shall consist of any Trotwood resident then enrolled in grades 9 through 12 who has submitted an application and has secured the permission of his/her parent/guardian to participate in the program.
(Ord. 53-01. Passed 10-15-01.)

141.03 ORGANIZATION.

- (a) The Youth Council shall establish a charter providing for the Council's organization duties and responsibilities.
- (b) The Youth Council shall from time to time establish goals and objectives and programs to achieve same.
(Ord. 53-01. Passed 10-15-01.)

141.04 CITY MANAGER ASSISTANCE.

The City Manager may designate staff members as necessary and is authorized to assist the Youth Council in carrying out its functions.
(Ord. 53-01. Passed 10-15-01.)

(NOTE: The next printed page is page 43.)

CHAPTER 143
Records Commission

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| <p>143.01 Creation; composition; employees; meetings.</p> <p>143.02 Functions.</p> | <p>143.03 Records disposal procedure.</p> |
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CROSS REFERENCES

Authority to establish - see CHTR. 6-2
Records commissions - see Ohio R.C. 149.39

143.01 CREATION; COMPOSITION; EMPLOYEES; MEETINGS.

There is hereby created, as required by Ohio R.C. 149.39, a Records Commission composed of the City Manager, Finance Director, the Law Director and a citizen appointed by the City Manager. The Commission shall appoint a Secretary, who may or may not be a member of the Commission and who shall serve at the pleasure of the Commission. The Commission may employ an archivist to serve under its direction. The Commission shall meet at least once every six months, and upon call of the Chairperson.
(1987 Code, Sec. 32.53A)

143.02 FUNCTIONS.

The functions of the Records Commission shall be to provide rules for retention and disposal of records of the City, and to review applications for one-time records disposal and schedules of records retention and disposition submitted by City offices. Records may be disposed of by the Commission pursuant to the procedure outlined in this chapter. The Commission may at any time review any schedule it has previously approved, and for good cause shown may revise that schedule.
(1987 Code, Sec. 32.53B)

143.03 RECORDS DISPOSAL PROCEDURE.

When City records have been approved for disposal, a list of such records shall be sent to the State Auditor. If he disapproves of the action by the Records Commission, in whole or in part, he shall so inform the Commission within a period of sixty days and these records shall not be destroyed. Before public records are disposed of, the State Historical Society shall be informed and given the opportunity for a period of sixty days to select for its custody such public records as it considers to be of continuing historical value.
(1987 Code, Sec. 32.53C)

CHAPTER 145
Trotwood Ethics Commission

145.01	Creation; members; rules.	145.04	Confidential information.
145.02	Complaint procedure.	145.05	Proceedings not affected.
145.03	Oaths, subpoenas, dispositions.		

CROSS REFERENCES

Authority to establish - see CHTR. 6-2
Public offices - ethics - see Ohio R.C. Ch. 102

145.01 CREATION; MEMBERS; RULES.

Council hereby adopts and creates a commission to be known as the "Trotwood Ethics Commission." Such Commission shall consist of the remaining members of Council holding office at the time of a formal complaint filed against a Councilmember, and all members of Council at the time a formal complaint is filed against any board member and/or commission member established within the City under the terms of the Charter of the City or under legislation by Council.

- (a) Such Commission shall continue in office regardless of the results of any election until such time as a decision is made on a specific complaint. The Chairperson of such Commission, hereafter known as the TEC, shall be selected by the Commission after a formal charge has been filed and received.
- (b) The TEC shall adopt its own rules and procedures subject to the requirements herein.
(1987 Code, Sec. 32.54A)

145.02 COMPLAINT PROCEDURE.

(a) The Trotwood Ethics Commission shall receive and may initiate complaints against any Councilmembers and/or members of any board or commission established by the City through its Charter or other legislation within the City, subject to the provisions of Resolution 87-5, concerning conduct alleged to be in violation of such Resolution.

(b) All complaints shall be by affidavit made of personal knowledge, subject to the penalties of perjury. Complaints by the TEC shall be by affidavit, based upon a reasonable cause to believe that a violation has occurred. The TEC shall investigate charges presented to it. The TEC may request further information, including the specific amount of income from a source, from any person filing with the TEC if the information sought is directly relevant to the complaint or charges received by the TEC pursuant to this section. Such information is confidential.

- (1) The person so requested shall furnish information to the TEC within fifteen days from the date of the request unless the person files an action for declaratory judgment challenging the legitimacy of the request to the County Court of Common Pleas.
- (2) The requested information need not be furnished to the TEC during the pendency of judicial proceedings. Proceedings of the TEC in connection therewith shall be kept confidential, except as otherwise provided by this section. Before the TEC proceeds to take any formal action against a person who is the subject of an investigation based on charges presented to the TEC, a complaint shall be filed against the person. If the TEC finds that a complaint is not frivolous and there is reasonable cause to believe that the facts alleged in the complaint constitute a violation of Resolution 87-5, it shall hold a hearing. If the TEC does not so find, it shall dismiss the complaint.
- (3) The person against whom the complaint is directed shall be given reasonable notice by certified mail of the date, time and place of a hearing, a statement of the charges and the violation directly involved, and shall be given the opportunity to be represented by counsel, to have counsel appointed for him if he is unable to afford counsel without undue hardship, to examine the evidence against him, to produce evidence and to call and subpoena witnesses in his defense, to confront his accusers, and to cross examine witnesses. The TEC shall have a stenographic record made of the hearing. The hearing shall be closed to the public.
- (4) If upon the basis of the hearing the TEC finds, based upon a preponderance (defined as a greater weight) of the evidence, that the facts alleged in the complaint are true and constitute a violation of Resolution 87-5, it shall report its findings to the appropriate prosecuting authority for proceedings and prosecution of the violations, in addition to having the right to declare the seat of the Councilmember, board member and/or commission member vacant, by resolution of Council, five members concurring, pursuant to Charter Section 3-4.
- (5) If the TEC does not find based upon a preponderance (defined as the greater weight) of the evidence, that the facts alleged in the complaint are true and constitute a violation of Resolution 87-5, or if the TEC has not scheduled a hearing within thirty days after the complaint is filed, or has not finally disposed of the complaint within six months, ninety days after it has been heard, it shall dismiss the complaint; and upon the request of the accused person, make a public report of the findings, but in such case all evidence and the record of the hearing shall remain confidential unless the accused person also requests that the evidence and record be made public. Upon request of the accused person, the TEC shall make the evidence and the record available for public inspection.
(1987 Code, Sec. 32.54B, C)

145.03 OATHS, SUBPOENAS, DISPOSITIONS.

The Trotwood Ethics Commission or a member of the TEC may administer oaths and the TEC may issue subpoenas to any person in the State, compelling the attendance of witnesses and the production of relevant papers, books, accounts and records. The TEC shall issue any such subpoena upon the request of the accused person. Upon refusal of any person to obey a subpoena, or to be sworn or to answer as a witness, the TEC may apply to the County Court of Common Pleas under the appropriate section of State law. The Court shall hold proceedings in accordance with Ohio R.C. Chapter 2705. The TEC or the accused person may take the deposition of witnesses residing within or without the State in the same manner prescribed by law for the taking of depositions in a civil action in the Common Pleas Court. The report of the TEC activities shall indicate the inappropriate conduct alleged in each complaint, and all papers, records, affidavits and documents upon any complaint, inquiry or investigation relating to the proceedings shall be sealed in a private and confidential manner, except as otherwise provided in this section.
(1987 Code, Sec. 32.54D)

145.04 CONFIDENTIAL INFORMATION.

No member of the Trotwood Ethics Commission shall divulge any information, or any books, papers or documents presented to the TEC without the consent in writing of the appropriate TEC member or members unless such books, papers or documents were presented at a public hearing.
(1987 Code, Sec. 32.54E)

145.05 PROCEEDINGS NOT AFFECTED.

This chapter shall not affect any of the rights to proceed against a City Councilmember or any other commission member and/or board member of the City for a violation of Ohio R.C. 2921.01 et seq., Offenses Against Justice and Public Administration.
(1987 Code, Sec. 32.54F)

CHAPTER 151
Employment Provisions

151.01	Definitions.	151.12	Safety shoes.
151.02	Police uniform allowance.	151.13	Tuition reimbursement.
151.03	Additional equipment for police officers.	151.14	Longevity supplement.
151.04	Overtime compensation/call-in pay.	151.15	Retirement conversion of sick leave.
151.05	Sick leave; funeral leave.	151.16	Tuition reimbursement.
151.06	Retirement conversion of sick leave.	151.17	Injury leave.
151.07	Holidays.	151.18	Indemnification.
151.08	Vacations.	151.19	Legal defense.
151.09	Health insurance.		
151.10	Injury leave.		
151.11	Employee pool membership.		

CROSS REFERENCES

Workers compensation - see Ohio R.C. Ch. 4123
Wages and hours on public works - see Ohio R.C. Ch. 4123
PERS - see Ohio R.C. Ch. 145
Collective bargaining - see Ohio R.C. Ch. 4117

151.01 DEFINITIONS.

For the purpose of this chapter, full-time employees shall be defined as those who work a minimum of 40 hours per week, and who have successfully completed a twelve (12) month probationary period. Part-time employees shall be defined as those employees who work less than forty (40) hours per week, and who have successfully completed twelve (12) months of continuous part-time employment. Part-time employees who work more than thirty (30) hours per week shall be eligible for benefits on a pro-rata basis.
(Ord. 29-02. Passed 12-16-02.)

151.02 POLICE UNIFORM ALLOWANCE.

All new employees shall receive an initial uniform issue. All non-probationary police officers shall be entitled to prompt reimbursement (within 14-21 days) for uniform purchases and replacement in an annual amount not to exceed eight hundred dollars (\$800.00). The uniform allowance may be used for:

- (a) The purchase and replacement of uniforms, equipment and job related accessories including approved books and software, and
 - (b) The purchase of one (1) firearm during the period 8/1/00 through 7/31/03.
- (Ord. 29-02. Passed 12-16-02.)

151.03 ADDITIONAL EQUIPMENT FOR POLICE OFFICERS.

The City shall supply five hundred dollars (\$500.00) for one (1) ballistic vest to each new employee after which the City shall repair and/or replace the vest in accordance with manufacturer's standards without deductions from the uniform allowance. The City will also repair or replace vests damaged in connection with an assault while on duty. (Ord. 29-02. Passed 12-16-02.)

151.04 OVERTIME COMPENSATION/CALL-IN PAY.

(a) When any employee, with the exception of the City Manager, Assistant Directors, Program Coordinator, Police and Fire Captains, and all other Directors are required to continue working extra time beyond the scheduled work day or week, that employee shall be compensated for such overtime either at a rate of one and one-half (1-1/2) times the employee's regular rate of pay or at the discretion of the Department Head, receive compensatory time at the rate of one and one-half (1-1/2) times the amount of time worked beyond the scheduled work week, or in accordance with applicable State and/or Federal legislation.

(b) In the event that a classified/non-exempt employee is recalled and reports to duty after completion of the scheduled work shift, said employee shall be compensated for a minimum of two hours pay calculated at overtime rate for call-in duty. Call-in duty exceeding the two-hour minimum shall be considered overtime and compensated according to the overtime provisions of this Chapter. (Ord. 29-02. Passed 12-16-02.)

151.05 SICK LEAVE; FUNERAL LEAVE.

(a) Each full-time employee of the Municipality shall be entitled to 1-1/4 days of paid sick leave for each month of completed service. Employees may use sick leave upon prior approval of the responsible administrative officer of the department, for absence due to illness, funeral leave, injury or exposure to contagious disease, which could be communicated to other employees. Unused sick leave shall be cumulative without limit for employees hired before January 1, 2004 but otherwise shall be limited to 1200 hours. Part-time employees shall be entitled to sick leave based on the percentage of actual hours worked. The responsible administrative authority of the department may require the employee to furnish a satisfactory affidavit, or a certificate from a licensed physician, as to the nature of the employee's illness or other acceptable reason for absence as provided in this section. No sick leave may be granted an employee after the employee's retirement or termination of employment.

(b) An employee shall be granted time off with pay for the purposes of attending the funeral of a member of the employee's immediate family. The employee shall be entitled to three (3) work days off not deducted from any leave in the case of death of the spouse, child or parent (or person acting in Loco Parentis) of the employee or his spouse. In case of death of the brother, sister or grandparent of an employee or spouse, the employee will be granted up to 3 days funeral leave, with such time to be deducted from any available leave time as designated by the employee. (An additional 2 deductible days may be granted if travel is necessary).

(c) An employee who has prior service with the State of Ohio or any political subdivision of the State of Ohio shall be credited with any unused balance of accumulated sick leave upon presenting proper documentation of said prior service within 60 days after commencement of employment.

(d) Sick leave accumulated by employees hired before January 1, 2004, above 75 days/600 hours may be converted to vacation time at a ratio of three days of accrued sick leave to one day of vacation. Vacation time earned in this manner shall not exceed ten (10) days in any calendar year and shall be granted in accordance with the City's administrative policies and procedures. For sick leave accumulated after January 1, 1998, sick leave may also be exchanged for pay at the rate of 3 days sick leave for 1 day's pay, not to exceed ten (10) days of pay per calendar year. No sick leave may be exchanged for pay prior to January 1, 1996. Upon resignation in good standing, the employee may exercise this conversion option. Upon these conditions, the total pay out may not exceed twenty (20) days. Under no circumstances may accrued sick leave of less than 75 days be converted to vacation leave at the time of termination.

(e) Effective January 1, 1998, employees may earn one (1) additional personal day for every six (6) months, which is one (1) day for not using any sick leave time for that six (6) month period. Personal days under this section shall not be accumulated and must be used within the following six (6) month period or may be taken as pay at the employee's option. However, any personal day under this section which cannot be scheduled within the appropriate six (6) month period due to the operational needs of the department may be carried over for an additional six (6) month period.

(f) Sick Leave Donation Program. This program is established so that employees of the City of Trotwood may make voluntary donations of their earned sick leave to other employees for humanitarian reasons, and is available to those employees in need because of serious or catastrophic illness or injury, and who have exhausted all other paid leave including sick, vacation, holiday and personal. This program does not supersede or replace other retirement or disability programs.

When the Human Resource Manager is made aware of the need for sick leave donations, a notice will be posted advising all City employees of this need. Any eligible employee may then voluntarily elect to contribute permanently sick leave credits for this employee. The Following Criteria will apply:

- (1) Only regular, full-time, non-probationary, employees are eligible to donate sick leave credits or to be a recipient of a donation. The employee must have at least forty (40) sick leave credits (320 hours) accumulated at the time of donation.
- (2) A sick leave credit will be defined as eight (8) hours and will not have an hourly rate attached.
- (3) An employee may contribute only five (5) sick leave credits (40 hours) per year.
- (4) A sick leave credit donation is permanent and therefore cannot be returned to the donor or converted to cash by the donee's estate.
- (5) The sick leave credits will be used in place of the employee's regularly scheduled work days to the extent they are necessary.
- (6) A donated sick leave credit will not count as a separate absence for the donating employee.
- (7) Donated sick leave credits can be used to cover retroactive unpaid regularly scheduled work days.
- (8) An employee will not accrue holiday pay, vacation or sick leave while receiving donated sick leave.
- (9) An employee will be eligible for this program up to one year after he/she has exhausted all accumulated paid leave (sick, vacation, personal).

- (10) An employee's illness or disability must be certified by a physician.
- (11) When an employee is about to exhaust his own accumulated sick leave, a request for donated sick leave may be made in writing to the Manager. The physician's certification must be attached to the request. The City will determine eligibility for donations and that determination will be final. Employees who have documented disciplinary action within the preceding three (3) years of sick leave abuse are automatically ineligible for this program. If it is determined that an employee is eligible to receive donated sick leave credits; notice of need will be posted, and any eligible employee may donate sick leave. An employee who voluntarily chooses to donate sick leave credits must complete a Sick Leave Donation Form and submit it to the immediate supervisor who will in turn submit this form to the Manager. A copy of the donation form will be maintained in the donor's personnel file, and a copy to payroll to deduct the credit from the employee's sick leave balance.
(Ord. 28-03. Passed 12-1-03.)

151.06 RETIREMENT CONVERSION OF SICK LEAVE.

(a) Each full-time employee of the Municipality hired before January 1, 2004, may elect at the time of retirement to be paid in cash for the value of his/her accrued but unused sick leave credit according to the following schedule.

- (1) Employees with at least 10 years but less than 20 years of service may receive one-third of their total unused sick leave balance, up to 125 days (1,000 hours).
- (2) Employees with more than 20 years of service may receive one-half of their total unused sick leave balance, up to 130 days (1,040).
- (3) Retirement eligibility shall be based upon prevailing Public Employees Retirement System (PERS) or Police and Fire Disability and Pension Fund (PFDPF) rules and regulations.

(b) Each full-time employee hired on or after January 1, 2004 may elect at the time of retirement to be paid in cash for the value of his/her accrued but unused sick leave credit according to the following schedule.

- (1) Employees with at least 10 years but less than 20 years of service may receive one-third of their total unused sick leave balance, up to 480 hours.
- (2) Employees with more than 20 years of service may receive one-half of their total unused sick leave balance, up to 480 hours.
- (3) Retire eligibility shall be based upon prevailing Public Employees Retirement System (PERS) or Police and Fire Disability and Pension Fund (PFDPF) rules and regulations.

(c) Any full-time employee of the Municipality with ten or more years of continued service with the City is entitled to have any former employment with the State of Ohio or any of its political subdivisions counted as service with the Municipality for the purpose of computing the amount of retirement conversion sick leave. Any new employees, hereinafter employed by the City from the date of the effective passage of this section, shall not be permitted to compute the amount of retirement sick leave based on former employment with the City or employment with the State of Ohio or any of its political subdivisions. Any full-time employee with less than ten years of continuous service with the City on the effective date of the passage of this section shall not be entitled to have any former employment with the City or any of its political subdivisions counted as service with the Municipality for the purpose of computing the amount of retirement conversion sick leave.

(d) Such payment shall be based on the employee's rate of pay at the time of retirement. Payment of sick leave on this basis shall be considered to eliminate all sick leave credit accrued by the employee at that time. Such payment shall be made only once to any employee. The maximum number of sick leave days, which may be converted under this provision, shall be based on tenure as set forth in subsection (a) hereof.
(Ord. 28-03. Passed 12-1-03.)

151.07 HOLIDAYS.

(a) Each full-time employee of the Municipality shall receive the following paid holidays each year: New Year's Day, Martin Luther King, Jr. Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the Day After, Christmas Day, and Five Personal Days. Said Personal Days can be taken at the discretion of the employee with prior approval of the employee's Department Head or City Manager, but may not be carried over into the next calendar year. In the event any of the above holidays fall on a Sunday, the day after shall be observed as the holiday. In the event any of the above holidays fall on a Saturday, the day before shall be observed as the holiday.

(b) Any full-time employee whose scheduled day off falls on one of the holidays observed by the City, shall receive either an amount equal to his/her regular day's salary or be given compensatory time off at some future date at the discretion of the Department Head.

(c) All full-time employees and all part-time employees, with the exception of the City Manager, Assistant Directors, and all Directors who are scheduled on duty or who are called in to duty on the day on which a holiday is observed shall receive, in addition to their holiday pay, compensation for such time worked on the holiday at a rate of one and one-half (1-1/2) times the employee's regular rate of pay or at the discretion of the Department Head, receive in lieu of their holiday pay compensatory time off at the rate of one and one-half (1-1/2) times worked on the holiday, or in accordance with applicable State and/or Federal legislation.
(Ord. 29-02. Passed 12-16-02.)

151.08 VACATIONS.

(a) Each full-time employee of the Municipality working regular hours shall earn vacation leave at the following rate:

UNINTERRUPTED SERVICE	VACATION LEAVE
After One Year, but less than Two Years	Five (5) Working Days
After Two Years, but less than Five Years	Ten (10) Working Days
After Five Years, but less than Eight Years	Twelve (12) Working Days
After Eight Years, but less than Ten Years	Thirteen (13) Working Days
After Ten Years, but less than Thirteen Years	Fifteen (15) Working Days

UNINTERRUPTED SERVICE	VACATION LEAVE
After Thirteen Years, but less than Fifteen Years	Seventeen (17) Working Days
After Fifteen Years, but less than Twenty Years	Twenty (20) Working Days
After Twenty Years of Continuous Service	Twenty-Five (25) Working Days

Provided that any employee who attains one year of service prior to December 31, 2004 shall receive ten (10) days of vacation.

(b) In addition to earned vacation leave under this provision, sick leave accrued above 75 days may be converted to vacation leave according to the provision of Section 151.05.

(c) All eligible employees are expected to take a minimum of Five (5) days of vacation each year. Probationary full-time Employees may use five days of vacation after six months of employment and departmental approval. The remaining vacation leave will be granted upon their first anniversary date. If an Employee is denied vacation time due to departmental needs, the City Manager may authorize a six-month carry over of vacation time.

(d) No more than one year's accumulation may be carried forward from year to year which will be based on the employee's Anniversary date.

- (e) After completion of twelve (12) months of employment with the City of Trotwood:
- (1) All prior full-time service with the State of Ohio or any political subdivision of the State of Ohio including active duty or active duty for training with the Ohio Army of Ohio Air National Guard; and/or
 - (2) Up to four (4) years active duty with the armed forces of the United States with honorable discharge therefrom, shall be counted as service with the City of Trotwood for purpose of computing vacation leave.

(f) The City Manager may elect to count prior service with any other state or political subdivision of a state and/or service with agencies of the federal government as service with the City of Trotwood for purpose of computing vacation leave. Eligible employees shall present documentation of said prior service within sixty (60) days after commencement of employment or the effective date of this section, whichever is later.

(g) All vacation leave must be approved in advance by the Department Head and shall be administered according to the City's Rules and Regulations at least one week prior to the vacation. (Ord. 28-03. Passed 12-1-03.)

151.09 HEALTH INSURANCE.

(a) One or more comprehensive medical Insurance plans selected by the City shall be offered to all eligible full-time employees effective the first day of employment. Effective February 1, 2003, from among multiple available plans, the City Manager may as a general policy in the interest of the City's budgetary situation, designate a sole plan be made available to new employees and restrict switches between plans by existing employees. Except as otherwise provided in bargaining agreements, the City shall contribute toward the monthly insurance premium charges of the selected plan the amount shown in the following schedule, plus 50 percent of the premium cost in excess of the scheduled amount:

<u>Coverage Eligibility</u>				
Plan Year	Single	Employee & Spouse	Employee & Children	Family
Oct. 2001-Sept 02	\$175.00	\$368.00	\$333.00	\$526.00
Oct. 2002-Sept 03	\$193.00	\$405.00	\$366.00	\$579.00
Oct. 2003-Sept 04	\$212.30	\$446.00	\$402.60	\$637.00

The balance of the monthly premium cost will be paid by the employee through payroll deductions.

(b) Health insurance shall also be offered to Council Members of the City. Council Members who desire this coverage will be responsible for 100% of the cost of coverage.

(c) Eligible employees who decline the Health Insurance coverage, will have the option to receive 25% of the premium for what the City would pay for their appropriate class of coverage. This option shall not apply to employees who are eligible for coverage through another employee of the City. This option would be paid at the end of each quarter. The City Manager will promulgate such rules as may be necessary to implement this program.
(Ord. 29-02. Passed 12-16-02.)

151.10 INJURY LEAVE.

Employees injured on the job in a work related incident which was not caused by the negligence of the injured employee may, at the discretion of the City Manager, be granted injury leave up to the maximum of ninety (90) days. Injury leave granted by the City Manager shall not be deducted from the employee's accumulated sick leave balance. Injury leave shall be administered according to the provisions of the City's Personnel Rules and Regulations. The injured employee shall be required to file a mandatory filing with the Worker's Compensation Bureau and any monies received from the Bureau of Worker's Compensation shall be a credit toward any monies due and owing by the City as and for injury leave. The City shall be responsible for the waiting period or differential between the Bureau of Worker's Compensation and City pay. The ninety (90) day provision hereinabove referred to shall be within twelve (12) months following the date of the injury in the work related incident. Proof of the injury shall be required and submitted by the employee to the City Manager prior to any compensation being received. The employee injured in a work related incident shall not recover or be entitled to any accumulated sick leave in addition to compensation pay as for injury leave. The employee may not recover any sum as injury leave over and above the ordinary full-time regularly scheduled earnings.

If at the end of this ninety (90) day period, the employee is still disabled, the leave may be extended at the employer's discretion, for an additional ninety (90) day period.
(Ord. 29-02. Passed 12-16-02.)

151.11 EMPLOYEE POOL MEMBERSHIP.

All full-time and part-time employees of the Municipality will be entitled to receive a membership at 1/2 the cost of regular membership fees to the Trotwood Municipal Pool. The Membership will include the employee, the employee's spouse, and any dependent children who are eighteen (18) years of age or younger, and will be valid during regular Municipal Pool operating hours. (Ord. 29-02. Passed 12-16-02.)

151.12 SAFETY SHOES.

Full-time employees of the Service Department and Parks Department shall be reimbursed for the cost of safety shoes in an amount equal to Seventy-Five Percent (75%) or Seventy-Five Dollars (\$75.00), whichever is less.

- (a) Reimbursement for Safety Shoes will be paid in the even Numbered calendar years.
(Ord. 29-02. Passed 12-16-02.)

151.13 TUITION REIMBURSEMENT.

The tuition reimbursement program provides reimbursement for training and educational courses that are job-related or degree-related. Job related courses are those courses specifically related to your job duties while degree related Courses are defined as those required to complete an Undergraduate or graduate degree specifically designated by The City as "critical need".

- (a) Any full-time employee who has completed six (6) months of the probationary period as evidenced by the employee's six-Month Performance evaluation prior to the starting date of the course is eligible.
- (b) Education or training must be obtained at an approved or accredited college, university, secondary school, or technical institute, or related educational institute or school.

- (c) Employees will be reimbursed for one-half of the full cost of tuition, enrollment or application fees and laboratory fees up to a maximum of seven (7) credit hours or \$500 in reimbursement per term, whichever is less. You must receive a satisfactory grade of "C" for undergraduate work or "B" for graduate work. Reimbursement will not be paid for courses in which a lower grade is received.
- (d) Requests for participation in the program must be filed and approved in advance using the Tuition Reimbursement Participation Request Form. Approval is subject to the availability of budgeted funds.
- (e) When you complete your course, you then submit two (2) copies of your grade report and proof of fee payment within thirty (30) days showing that you have satisfactorily completed the course or courses.
- (f) If you leave City employment within one (1) year after completing a course or courses under this program, you must refund to the City all money received for courses taken within one (1) year of your termination date.
- (g) Employees whose services are terminated by the City are not required to make such refunds.
- (h) The City will not reimburse fees for a program of study for which you have received a scholarship, grant or subsidy.
(Ord. 29-02. Passed 12-16-02.)

151.14 LONGEVITY SUPPLEMENT.

A longevity supplement shall be paid in a lump sum annually to each full-time employee hired before January 1, 2004 not covered by a collective bargaining agreement and satisfying the following tenure requirements. The amount of compensation shall be determined according to completed years of continuous full-time service with the City of Trotwood based upon the following schedule:

Completed Years of Employment as of January 1	Longevity Supplement Amount
10 to 14 Years	\$ 520
15 to 19 Years	\$1,040
20 Years and above	\$1,560

The supplement shall be paid in a separate check in January each Calendar year. However, in 2001, the supplement shall be paid as soon as practicable after the effective date of this amendment.

In accordance with requirements of the Fair Labor Standards Act, the longevity supplement shall be deemed added to each non-exempt employee's total wages for the previous calendar year for purposes of computing an adjusted regular hourly rate for said year and computing any additional overtime to which the given employee may be entitled.

(Ord. 28-03. Passed 12-1-03.)

(EDITOR'S NOTE: Sections 151.15 to 151.17 apply to Fire Department employees in the Trotwood Fire and Rescue Division who work a shift consisting of 24 hours on duty followed by 48 hours off duty.)

151.15 RETIREMENT CONVERSION OF SICK LEAVE.

An employee who works a 24/48 hours shift shall calculate one day of sick leave as twelve (12) hours for the purpose of retirement conversion.

(See 151.08 (e) (f) (g)).

(Ord. 29-02. Passed 12-16-02.)

151.16 TUITION REIMBURSEMENT.

(See 151.13 Tuition Reimbursement which applies.)

(Ord. 29-02. Passed 12-16-02.)

151.17 INJURY LEAVE.

(See 151.10 which applies.)

(Ord. 29-02. Passed 12-16-02.)

151.18 INDEMNIFICATION.

The City shall indemnify each of its employees to the extent required by Ohio R.C. 2744.07(A), and shall provide the same extent of indemnification to its appointed and elected public officials, even though such indemnification of those officials may not be required by Ohio R.C. 2744.07(A).

(1987 Code, Sec. 38.01)

151.19 LEGAL DEFENSE.

The City shall defend its employees, and both its appointed and elected officials, in and from any and all suits, claims, charges and demands based upon or arising from actions or services such persons have taken or performed within the scope of their responsibilities. The obligation of the City to defend such persons shall exclude the defense of any action taken by the City itself against any such person.

(1987 Code, Sec. 38.02)

CHAPTER 183
Income Tax

183.01 Purpose.	183.10 Interest and penalties.
183.02 Definitions.	183.11 Collection of unpaid taxes and refunds of overpayments.
183.03 Imposition of tax.	183.12 Board of Tax Appeals.
183.04 Effective period.	183.13 Allocation of funds.
183.05 Return and payment of tax.	183.14 Credit for tax paid to another municipality or Joint Economic Development District.
183.06 Collection at source.	183.15 Collection of tax after termination of chapter.
183.07 Declarations.	183.16 Information by landlords.
183.08 Appointment and duties of Tax Administrator.	183.17 Savings clause.
183.09 Investigative powers of Tax Administrator; penalty for divulging confidential information.	183.99 Violations and penalties.

CROSS REFERENCES

Debt and tax limitations - see CHTR. Art. 10, Sec. 3
Municipal income taxes - see Ohio R.C. 718.06

183.01 PURPOSE.

To provide funds for purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Trotwood there shall be levied a tax on salaries, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.
(Ord. 27-03. Passed 11-17-03.)

183.02 DEFINITIONS.

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

- (1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - A. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income;

- B. Add an amount equal to five percent (5%) of intangible income deducted under subsection (1)A. hereof, 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.
 - 1. Except as provided in subsection (1)D.2. hereof, 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;
 - 2. Subsection (1)D.1. hereof does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- E. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- F. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- G. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
 - 1. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
 - 2. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in subsection (1) hereof 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.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

- (2) "Association" means a partnership, limited partnership, S corporation or any other form of unincorporated enterprise, owned by one or more persons.

- (3) "Board of Tax Appeals" means the Board created by and constituted as provided in Section 183.12.
- (4) "Business" means an enterprise, activity, profession or undertaking or other activity of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- (5) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (6) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (7) "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.
- (8) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, having a place of business or doing business within the City and who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (9) "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.
- (10) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (11) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. The generic form, once completed and filed, must contain all of the information required to be submitted with the Municipality's prescribed returns, reports, or documents.
- (12) "Gross receipts" means total income of taxpayers from whatever source derived.
- (13) "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (14) "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 or other similar games of chance.

- (15) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.1, as amended.
- (16) "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical sub-network known as the World Wide Web.
- (17) "Joint Economic Development District" means districts created under the Ohio Revised Code sections 715.70 through 715.83, as amended from time to time.
- (18) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (19) "Municipality" means the City of Trotwood.
- (20) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Section 183.03, required to be reported on schedule C, schedule E, or schedule F.
- (21) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121 (v)(2)(C) of the Internal Revenue Code.
- (22) "Nonresident" means an individual domiciled outside the Municipality.
- (23) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
- (24) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
- (25) "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.
- (26) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
- (27) "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of:
 - A. The owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to
 - B. The total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
- (28) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in any section prescribing and imposing a penalty, "person" includes an officer or employee of a corporation, or member or employee of an association, who as such officer, employee or member is under a duty to perform the act in respect of which the violation occurs.
- (29) "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.

- (30) "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
- (31) "Qualified plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.
- (32) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.
- (33) "Resident" means an individual domiciled in the Municipality.
- (34) "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business situs is within the Municipality.
- (35) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
- (36) "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
- (37) "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (38) "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (39) "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (41) "Tax Administrator" means the person appointed to administer the Municipality's Income Tax Ordinance and to direct the operation of the Municipal Income Tax Department or the person executing the duties of the Tax Administrator.
- (42) "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Chapter.
- (43) "Taxable year" means the corresponding tax-reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (44) "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
- (45) "Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.
(Ord. 27-03. Passed 11-17-03.)

183.03 IMPOSITION OF TAX.

(a) Basis of Imposition. Subject to provisions of Section 183.01, an annual tax shall be, and is hereby, levied on and after July 1, 1993 at the rate of two and one-quarter per cent (2-1/4%) per annum upon the following:

- (1) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the Municipality;
- (2) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered, in the Municipality;
- (3) On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.
- (4) On the portion attributable to the Municipality of the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.
- (5) On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.

(b) Businesses Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Except as otherwise provided in subsection (d) hereof, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

Multiply the entire net profits of the business by a business apportionment percentage to be determined by:

- (1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation 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, 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 persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Ohio Revised Code;
 - (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
 - (4) Adding together the percentages determined in accordance with subsections (b)(1), (2) and (3) hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.
 - A. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.
 - B. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.
- (c) As used in subsection (b) hereof, "sales made in a municipal corporation" mean:
- (1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
 - (2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if 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;
 - (3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (d) The Municipality does not allow a net operating loss carry-back or carry-forward.
- (e) Losses from federal schedules cannot be used to offset qualifying wages, commissions, other compensation and other taxable income earned or received by residents or nonresidents of the Municipality.

(f) Consolidated Returns.

- (1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
- (2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

(g) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:

- (1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
- (2) Proceeds of insurance, annuities, Workers' Compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
- (3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
- (4) Gains from involuntary conversion, 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).
- (5) Alimony.
- (6) Compensation for damage to property by way of insurance or otherwise.
- (7) Interest and dividends from intangible property.
- (8) 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. (ORC 718.01)
- (9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
- (11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.

- (12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
- (13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
- (14) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
- (15) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
- (16) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:
 - A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - B. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.
- (17) The 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, except a municipal corporation may tax the following, subject to Chapter 5745. of the Ohio Revised Code:
 - A. The income of an electric company or combined company;
 - B. The income of a telephone company.As used in subsection (g)(17) hereof "combined company", "electric company", and "telephone company" have the same meanings as in section 5727.01 of the Ohio Revised Code.
- (18) An S corporation shareholder's distributive share of net profits or losses of the S corporation.
- (19) Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.
(Ord. 27-03. Passed 11-17-03.)

183.04 EFFECTIVE PERIOD.

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned and shall be levied with respect to the net profits of the businesses, professional or other activities earned from and after January 1, 1969.
(Ord. 27-03. Passed 11-17-03.)

183.05 RETURN AND PAYMENT OF TAX.

(a) Each person who engages in business or other activity or whose qualifying wage, commissions, other compensation and other taxable income is subject to the tax imposed by this Chapter, and every resident shall, whether or not a tax be due thereon, make and file on or before April 15th of each year, with the Tax Administrator a Municipal tax return on a form prescribed by and acceptable to the Tax Administrator, whether or not a tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation, and other taxable income of a nonresident employee, and paid by him or them to the Tax Administrator may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such qualifying wages, commissions, other compensation, and other taxable income.

(b) A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the Municipal return regardless of whether their federal and state returns were filed separately or jointly.

(c) The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

(d) The return shall set forth:

- (1) The aggregate amounts of qualifying wages, commissions, other compensation received, allocated, apportioned or set aside, other income defined by statute as taxable, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and
- (2) The amount of the tax imposed by this Tax Code on such earnings and profits; and
- (3) Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Tax Administrator may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this Chapter.

- (e) (1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Municipal Income Tax Return by filing a copy of the taxpayer's federal extension request with the Municipal Tax Division. Any taxpayer not required to file a federal income tax return may request an extension for filing a Municipal Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.
- (2) The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:
- A. Fails to timely file the request; or
 - B. Fails to file a copy of the federal extension request, (if applicable); or
 - C. Owes the Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
 - D. Has failed to file any required income tax return, report, or other related document for a prior tax period.
- (3) The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 183.10. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.
- (f) Payments with Returns.
- (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:
- A. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section 183.06; and
 - B. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 183.07; and
 - C. Credit to the extent allowed by Section 183.14 for tax paid to another municipality.
- (2) Subject to the limitations contained in Section 183.11 of this Tax Code, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Tax Code may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.

(g) Amended Returns.

- (1) Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid subject to the requirements and/or limitations contained in Section 183.11. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(h) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.

(Ord. 27-03. Passed 11-17-03.)

183.06 COLLECTION AT SOURCE.

(a) Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in Section 183.03 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the last day of each month, make a return and pay to the Tax Administrator the amount of taxes so deducted during the preceding month. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages. The Tax Administrator may require withholding payments to be made by electronic funds transfer or ACH.

(b) An employer is not required to make any withholding 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 the corporation with respect to whose stock the option has been issued.

- (c)
 - (1) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.
 - (2) The failure of an employer to remit to the municipal corporation the tax withheld and shown as withheld on the employee's W-2 year end statement relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(d) The Tax Administrator shall have the authority to approve the filing of quarterly withholding payments. Upon approval, the employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30 and December 31, make a return and pay the tax withheld during the preceding calendar quarter. The Tax Administrator may revoke the approval of quarterly filing and payments whenever the Tax Administrator has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section.

(e) Employer Considered as Trustee. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality, and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such tax, in fact, has been withheld.

(f) Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and are also liable under the provisions of Section 183.99 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

(g) Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year. The Tax Administrator may require the filing of such reconciliations and employee information by alternate media.

(h) In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.

(i) Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes. (Ord. 27-03. Passed 11-17-03.)

183.07 DECLARATIONS.

(a) Requirement for Filing. Every person who anticipates any taxable income which is not subject to Section 183.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 183.03, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to this Municipality in accordance with Section 183.06, such person need not file a declaration.

(b) Dates for Filing.

- (1) Such declaration shall be filed on or before April 15 of each year during the life of this Chapter, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15th) day of the fourth (4h) month following the start of each fiscal year or period.

(c) Forms; Credit for Tax Withheld or Paid Another Community.

- (1) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or an acceptable generic form, and credit shall be taken for the Municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 183.14, credit may be taken for tax to be withheld and remitted to another taxing municipality.
- (2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
- (3) For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.

- (4) For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.
 - (5) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.
- (d) Amended Declaration.
- (1) A declaration may be amended at any time.
 - (2) In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (e) Annual Return Required. On or before the fifteenth day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 183.05. (Ord. 27-03. Passed 11-17-03.)

183.08 APPOINTMENT AND DUTIES OF TAX ADMINISTRATOR.

- (a)
 - (1) It shall be the duty of the Tax Administrator to collect and receive the tax imposed by this Chapter in the manner prescribed therein, to keep an accurate record thereof, and to report all monies so received.
 - (2) It shall be the duty of the Tax Administrator to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of six (6) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.
- (b) The Tax Administrator is hereby charged with the enforcement of the provisions of this Chapter, and is hereby empowered, subject to the approval of the Board of Tax Appeals, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this Chapter, including provisions for the reexamination and correction of returns.
- (c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may determine the amount of tax appearing to be due the Municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- (d) Subject to the consent of a majority of the Board of Tax Appeals, the Tax Administrator shall have the power to compromise any liability imposed by this Tax Code.
- (e) Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter and the Rules and Regulations. (Ord. 27-03. Passed 11-17-03.)

183.09 INVESTIGATIVE POWERS OF TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Tax Administrator, or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or any person subject to, or whom 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 made, to ascertain the tax or withholdings due under this Chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax Administrator, or his duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

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

(c) The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby, shall be deemed a violation of this Chapter punishable as provided in Section 183.99.

(d) Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed or the taxes required to be withheld are paid.

(e) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter shall be confidential and no person shall 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 municipal corporation as authorized by this Chapter. The Tax Administrator of the municipal corporation may furnish copies of returns filed under this Chapter to the Internal Revenue Service and to the State Tax Commissioner.

(f) Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both.

(g) In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
(Ord. 27-03. Passed 11-17-03.)

183.10 INTEREST AND PENALTIES.

(a) All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Tax Code shall bear interest at the same rate which section 718.12 of the Ohio Revised Code of Ohio requires be paid by municipalities on their income tax refunds, i.e., the federal short-term rate as defined in section 5703.47 of the Ohio Revised Code, plus three percent (3%) per year.

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

- (1) For failure to pay taxes due, other than taxes withheld, one and one-half percent (1-1/2%) per month or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater.
- (2) For failure to remit taxes withheld or required to be withheld from employees; three percent (3%) per month or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater.
- (3) Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, twenty-five dollars (\$25.00).
- (4) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a return and paid the total tax on or before the end of the month following the end of the taxable year, ten percent (10%) of the difference between ninety percent (90%) of the actual tax for the year and the amount paid through withholding and declaration.
- (5) No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the tax year being filed.
- (6) Except in the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax.
- (7) Any employer required to file employee wage and tax statements and annual reconciliation of returns in accordance with this chapter, who fails to file such returns or statements or files incomplete returns or statements shall be subject to a penalty of \$50.00 per return or statement, up to a maximum of one thousand dollars (\$1,000) per tax year.
- (8) Any employer required to file employee wage and tax statements who fails to file electronically when required by the Tax Administrator shall be assessed a penalty of one dollar (\$1.00) per record in all years.
- (9) The Tax Administrator may establish a fee to cover printing, postage and personnel costs for forms requested in quantities of ten or more per request.
- (10) The Tax Administrator may establish fees for reproduction of returns, associated schedules and statements when requested by the taxpayer.
- (11) An Administrative charge of twenty dollars (\$20.00) will be assessed for check returned by a bank or financial institution as unpaid for any reason whatsoever.

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Administrator; and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after the final determination of the federal tax liability.

(d) Computed penalties of less than five dollars (\$5.00) for a first violation shall not be assessed. However, notification to the taxpayer of a first time violation will be made.

(e) Upon recommendation of the Tax Administrator, the Board of Tax Appeals may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest concerning an item of income or expense, the Board may nevertheless abate penalty or interest, or both.
(Ord. 27-03. Passed 11-17-03.)

183.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this Chapter shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations the period within which an additional assessment may be made by the Tax Administrator shall be extended one (1) year from the time of the final determination of the federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

(c) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio R.C. 5703.47.

(d) Amounts of less than five dollars (\$5.00) shall not be collected or refunded.
(Ord. 27-03. Passed 11-17-03.)

183.12 BOARD OF TAX APPEALS.

(a) A Board of Tax Appeals, consisting of a chairperson and two members to be appointed by Council, is hereby created and shall be maintained to hear appeals. The members of the Board shall be appointed for a term of two years, however, the members of the first Board shall be appointed for one, two and three years respectively. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board shall be conducted privately and the provisions of Section 183.09 with reference to the confidential character of information required to be disclosed by the Chapter shall apply to such matters as may be heard before the Board on appeal.

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

(c) Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(d) Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the Municipality the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision.

(e) The imposition of penalty and interest as prescribed in these Codified Ordinances of the Municipality is not a sole basis for an appeal, unless the appellant can show that the charges assessed were either unlawful or incorrect.

(f) The Board shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.

(g) The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Administrator may appeal the Board's decision as provided in section 5717.011 of the Ohio Revised Code.

(h) Each Board created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code.
(Ord. 27-03. Passed 11-17-03.)

183.13 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be allocated in such manner as may be determined by Council.
(Ord. 27-03. Passed 11-17-03.)

183.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR JOINT ECONOMIC DEVELOPMENT DISTRICT.

(a) Where a resident of the Municipality is subject to a municipal income tax in another municipality, he shall not pay a total municipal income tax on the other income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in the Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Municipality, if it appears that he has paid a municipal income tax on the same income taxable under this Chapter to another municipality, shall be allowed a credit against the tax imposed by this Chapter of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the tax assessed by this Chapter on such income earned in such other municipality or municipalities where such tax is paid.

(c) The Municipality shall grant a credit against the tax imposed by this Chapter to every taxpayer 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. The credit shall not exceed the tax assessed by this Chapter on such income earned in such joint economic development zone or joint economic development district where such tax is paid.

(d) Effective with the 2004 tax year, except as provided in subsection (e) hereof if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.

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

(f) A claim for refund or credit under this section shall be made in such manner as the Tax Administrator may by regulation provide.
(Ord. 27-03. Passed 11-17-03.)

183.15 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all the taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 183.11 and 183.99.

(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 Sections 183.05 and 183.06 as though the same were continuing. (Ord. 27-03. Passed 11-17-03.)

183.16 INFORMATION BY LANDLORDS.

(a) On January 1 and July 1 of each year, all owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Administrator a report showing the name, address and phone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Municipality.

(b) Within thirty (30) days after a new tenant occupies rental property of any kind within the Municipality, all owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Administrator a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Municipality.

(c) Within thirty (30) days after a tenant vacates an apartment, room or other rental property located within the Municipality, the owner of such vacated rental property shall file with the Tax Administrator a report showing the date of vacation from the rental property and a forwarding address. (Ord. 27-03. Passed 11-17-03.)

183.17 SAVING CLAUSE.

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

(Ord. 27-03. Passed 11-17-03.)

183.99 VIOLATIONS AND PENALTIES.

- (a) Any person who shall:
- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
 - (2) Knowingly make an incomplete, false or fraudulent return; or
 - (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter; or
 - (4) Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Administrator; or
 - (5) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers, or federal income tax returns; or
 - (6) Fail to appear before the Tax Administrator and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Administrator; or
 - (7) Refuse to disclose to the Tax Administrator any information with respect to such person's or such person's employer's income or net profits; or
 - (8) Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
 - (9) Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the Tax Administrator false information; or
 - (10) Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Administrator; or
 - (11) Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 183.07; or
 - (12) Fail to cause the tax withheld from the qualifying wages of the employees pursuant to this Chapter to be paid to the Municipality in accordance with the provisions of Section 183.06; or
 - (13) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter;

for which violation no penalty is otherwise provided, is guilty of a misdemeanor in the third degree and shall be penalized as provided in the General Offenses Code.

(b) All prosecutions under this section must be commenced within the time specified in Ohio R.C. 718.12.

(c) Statute of Limitations.

- (1) Civil actions to recover Municipal income taxes and penalties and interest on Municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.
- (2) Prosecutions for an offense made punishable under this Chapter shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense. (ORC 718.12)

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

(e) The term "person" as used in this section shall, in addition to the meaning prescribed Section 183.02, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.
(Ord. 27-03. Passed 11-17-03.)

CHAPTER 185
Motor Vehicle License Tax

185.01 Collection authorized; use of.

CROSS REFERENCES

Authority to levy - see Ohio R.C. 4504.06, 4504.17 et seq., 4504.172

185.01 COLLECTION AUTHORIZED; USE OF.

The State of Ohio is hereby authorized to collect an additional five dollars (\$5.00) on all motor vehicle registrations within the City.

- (a) 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.
- (b) This tax shall be paid to the State Registrar of Motor Vehicles 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.
- (c) All money derived from this tax shall be used by the City for the purposes set forth in Ohio R.C. 4504.172 and 4504.06.
(1987 Code, Sec. 71.04C)