

CODIFIED ORDINANCES OF NORTHFIELD

PART EIGHT - BUSINESS REGULATION AND TAXATION CODE

TITLE TWO - Business Regulation

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CHAPTER 802

Adult Entertainment Businesses

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CROSS REFERENCES

- Sex offenses - see GEN. OFF. Ch. 666
- Pornography - see GEN. OFF. 666.11 et seq.
- Conditional zoning permits - see P. & Z. 1220.02
- Conditional zoning certificates - see P. & Z. 1262.05(f), 1276.01
- Conditionally permitted special uses - see P. & Z. 1272.01

802.01 PURPOSE; INTENT.

(a) The purpose of this chapter is to promote the public health, safety, and general welfare of the citizens of the Village of Northfield through the regulation of adult entertainment businesses in the Village of Northfield. It is the intent of this chapter to regulate adult entertainment businesses, as defined herein, so as to prevent crime, protect the Municipality's retail trade and property values, and, in general, preserve the quality of life in the Municipality, while at the same time not suppressing First Amendment rights. Specifically, the provisions of this chapter have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including adult entertainment. Similarly, it is not the intent nor the effect of this chapter to restrict or deny access by adults to adult materials or services protected by the First Amendment, or to deny access by the distributors and exhibitors of adult entertainment in their intended market. Neither is it the intent or effect of this chapter to condone or legitimize the distribution of obscene material or services.

(b) The City Council has consulted with other communities that have experience with adult entertainment establishments. Specifically, Council members have had discussions with officials from Painesville Township and the City of Brook Park. Further, the City Council has reviewed evidence concerning the secondary effects of adult uses on the community in the cases of *City of Renton v Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v American Mini Theatres*, 426 U.S. 50 (1976), and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and from studies in other communities, including, but not limited to, Mayfield, Ohio, Brook Park, Ohio, and New York, New York. (Ord. 1999-18. Passed 3-10-99; Approved by voters 11-2-99.)

802.02 DEFINITIONS.

As used in this chapter:

- (a) "Adult book store" means an establishment which utilizes twenty-five percent or more of its retail selling area for the purpose of retail sale, rental, or display, by coin, slug-operated, electronically, electrically or mechanically- controlled still or motion picture machines, projectors, or other image-producing devices, of books, magazines, or other periodicals, films, tapes, or cassettes, which are distinguished by their emphasis on adult materials as defined in this section.
- (b) "Adult entertainment business" means an adult bookstore, adult motion picture theater, or an adult-only entertainment establishment as further defined in this section.

(c) “Adult material” means any book, magazine, newspaper, pamphlet, poster, print, picture, slide, transparency, figure, image, description, motion picture, film, videotape, photographic record, tape, or other tangible thing or service, capable of arousing interest through sight, sound or touch, and:

(1) Which material is distinguished or characterized by an emphasis on matter displaying, describing, or representing sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination; or

(2) Which service is distinguished or characterized by an emphasis on sexual activity, masturbation, sexual excitement, nudity, bestiality, or human bodily functions of elimination.

(d) “Adult motion picture theater” means a motion picture theater which is regularly used or utilizes twenty-five percent or more of its total viewing time for presenting material distinguished or characterized by an emphasis on material depicting, describing, or relating to adult material as defined in this section.

(e) “Adult only entertainment establishment” means an establishment where the patron, directly or indirectly, is charged a fee and where the establishment features entertainment or services which constitute adult material as defined in this section, or which features exhibitions, dance routines, or gyrational choreography of persons totally nude, topless or bottomless, or strippers, male or female impersonators, or similar entertainment or services which constitute adult material.

(f) “Bottomless” means less than a full, opaque covering of male or female genitals, the pubic area or the buttocks.

(g) “Nude” or “nudity” means the showing, representation, or depiction of human male or female genitals, the pubic area, or the buttocks with less than a full, opaque covering of any portion thereof, or of the female breast(s) with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernible turgid state.

(h) “Sexual activity” means sexual contact or conduct, or both.

(i) “Sexual contact” means any touching of any erogenous zone of another, including, without limitation, the thigh, genitals, buttocks, pubic region, or, if the person is female, the breast, for the purpose of sexually arousing or gratifying either person.

(j) “Sexual excitement” means the condition of the human male or female genitals, when in a state of sexual stimulation or arousal.

(k) “Topless” means the showing of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple.

(Ord. 1999-18. Passed 3-10-99; Approved by voters 11-2-99.)

802.03 LOCATION REQUIREMENTS.

No person shall cause or permit the establishment (defined as the opening of a new business, the relocation of an existing business, or the conversion of an existing business) of an adult entertainment business unless the business complies with the following criteria:

(a) Adult entertainment businesses shall only be permitted in a designated B-2 District and shall comply with all regulations within such District.

(b) No adult business shall be located within 500 feet of:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility, including, but not limited to, child day care facilities, nursery schools, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.

(3) Any public library;

(4) A boundary of a Residential District as defined in the Zoning Code;

(5) A public park or recreational area which has been designated for park or recreational activities, including, but not limited to, a park, playground, nature trails, swimming pools, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land within the Village which is under the control, operation or management of the Village park and recreation authorities;

(6) The property line of a lot devoted to a residential use as defined in the Zoning Code;

(7) An entertainment business which is oriented primarily toward children or family entertainment; or

(8) A licensed premises, licensed pursuant to the Alcoholic Beverage Control Regulations of the State of Ohio.

(c) No adult entertainment business may be established, operated or enlarged within 1,000 feet of another adult entertainment business.

(d) For the purpose of subsection (b) hereof, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where an adult entertainment business is conducted, to the nearest property line of the premises of a use listed in subsection (b) hereof. The presence of a Village, County, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance.

2E Adult Entertainment Businesses 802.04

(e) For purposes of subsection (c) hereof, the distance between any two adult entertainment businesses shall be measured in a straight line, without regard to intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which the business is located.

(Ord. 1999-18. Passed 3-10-99; Approved by voters 11-2-99.)

802.04 LICENSE REQUIRED; APPLICATION.

(a) No person shall operate an adult entertainment business without a valid adult business license issued by the Village pursuant to this section.

(b) An application for an adult business license shall be submitted to the Northfield Village Building Commissioner on a form provided by the Building Department. The application may request and the applicant shall provide such information as is reasonably necessary (including fingerprints) to enable the Village to determine whether the applicant meets the qualifications established in this chapter.

(c) An application for an adult business license shall include the following:

(1) The application shall be signed by the owner of the business.

(2) Those individuals who are to be personally responsible for the operation of the proposed adult business must be designated.

(3) If the applicant intends to operate the adult entertainment business under a name other than that of the applicant, the fictitious name to be used shall be submitted with copies of documentation evidencing the registration of the business name under Ohio law.

(4) The applicant shall include whether he or she has been convicted of any felony within the last five years and, if so, the specified criminal activity involved and the date, place and jurisdiction of each conviction.

(5) The location of the proposed adult entertainment business, including a legal description of the property, street address, and telephone number, if any.

(6) The mailing address and residential address of each applicant and each person signing the application.

(7) The driver's license number and Social Security number of each applicant and each person signing the application, or, for an entity, the applicant's Federally issued tax identification number.

(8) Proof that each applicant is a natural person at least eighteen years of age.

(9) The application must be accompanied by a current certificate and straight line drawing prepared within thirty days prior to the application by a registered land surveyor depicting the property lines in the structure containing the proposed adult entertainment business as being in compliance with Section 802.03 regarding location requirements.

(Ord. 1999-18. Passed 3-10-99; Approved by voters 11-2-99.)

802.05 LICENSE ISSUANCE.

(a) Within thirty days from the date an application is submitted to the Building Commissioner, the applicant for an adult business license shall be notified regarding the application's approval or denial. A license will not be issued if it is determined that the granting of such license would not be in compliance with the requirements of this chapter and relevant other sections and chapters of these Codified Ordinances.

(b) Upon the granting of an adult entertainment business license, it shall be displayed in a conspicuous place at or near the entrance to the business establishment so that it may be read easily at all times. It shall be both the duty of the owner and operator to display the license during the period covered by the license.

(Ord. 1999-18. Passed 3-10-99; Approved by voters 11-2-99.)

802.06 APPEALS.

(a) Any denial, suspension, or revocation of a license under this chapter may be appealed to the Planning Commission in writing within ten working days of such denial, suspension, or revocation. Unless the applicant requests a longer period, the Planning Commission must hold a hearing on the appeal within fourteen days and must issue a decision affirming or reversing the denial, suspension, or revocation within five working days after the hearing.

(b) Any decision by the Planning Commission may be appealed to the Northfield Village Council pursuant to Section 1220.02 of the Zoning Code, in writing, within ten working days of the denial, suspension or revocation. The Council must hold a hearing and render a decision within thirty days.

(c) Any decision by the Village Council shall be a final appealable order, and the applicant or licensee may, within thirty days of notice of such decision, seek prompt judicial review of such administrative action in a court of competent jurisdiction under Ohio R.C. Chapter 2506.

(d) In the event that an applicant or a licensee seeks judicial review of the Village Council's decision, the applicant or licensee shall provide written notice of such appeal to the Village Council within three working days of the filing of the appeal. Within ten working days of receiving such written notice of appeal, or within such shorter time as may be ordered by the court, the Village Council shall transmit to the court in which the appeal was sought a copy of the full administrative record for the matter, including a complete transcript of all original papers, testimony and evidence offered, heard, and taken into consideration in issuing the final order.

(Ord. 1999-18. Passed 3-10-99; Approved by voters 11-2-99.)

802.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 1999-18. Passed 3-10-99; Approved by voters 11-2-99.)

CHAPTER 804
Amusement Devices (Repealed)

EDITOR'S NOTE: Chapter 804 was repealed in its entirety by Ordinance 2014-30, passed June 25, 2014.

CROSS REFERENCES

Bingo - see GEN. OFF. 630.06 et seq.

Tampering with coin machines - see GEN. OFF. 672.05

Making or using slugs - see GEN. OFF. 672.13

Carnivals, circuses and other shows - see B.R. & T. Ch. 812

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CHAPTER 806
Armed Security Guards

806.01	Armed security guard defined.	806.09	Training; compliance with Department rules and policy.
806.02	Authority of Mayor re commissioning and licensing.	806.10	Commission application requirements; fee.
806.03	Commission cards; termination of employment.	806.11	Private security services application requirements; fee.
806.04	Authority; aid to Police Department.	806.12	Commission or license renewal, denial, suspension and revocation.
806.05	Uniforms, weapons and ammunition.	806.13	Compliance with State and Federal regulations.
806.06	Weapon discharge, arrest and conviction reports.	806.14	Commission or license required.
806.07	Security guard at labor dispute or strike.	806.99	Penalty.
806.08	Private security services.		

CROSS REFERENCES

Private investigators; security services - see Ohio R.C. Ch. 4749

Weapons and explosives - see GEN. OFF. Ch. 678

Carrying concealed weapons - see GEN. OFF. 678.02

806.01 ARMED SECURITY GUARD DEFINED.

As used in this chapter, “armed security guard” means a person armed with a deadly weapon, as defined in Section 678.01(e) of the General Offenses Code, engaged for hire or employed as a watchman, guard, private policeman or other person whose primary duty is to protect persons or property, or both, with the exception of:

(a) Any off-duty Municipal police officer, any off-duty Village of Walton Hills police officer, any off-duty City of Macedonia police officer, any off-duty Summit County Deputy Sheriff, or any bona fide officers of a recognized law enforcement department of a political subdivision in the State; or

(b) Special police of a port authority, regional transit authority, university, college or mental health retardation board, as provided for in Ohio R.C. 4973.17, or security officers provided for in Ohio R.C. 306.35.

(Ord. 1986-37. Passed 6-11-86.)

806.02 AUTHORITY OF MAYOR RE COMMISSIONING AND LICENSING.

The Mayor may commission private security guards, who shall discharge their duties within the limits of the territory set forth on their commission card and only during the hours assigned by their employer, subject to the following regulations. The Mayor may also license private security services, subject to the following regulations.

(Ord. 1986-37. Passed 6-11-86.)

806.03 COMMISSION CARDS; TERMINATION OF EMPLOYMENT.

Armed security guards shall carry their commission card at all times, with photograph attached, and shall exhibit the same for inspection upon demand of a police officer. An armed security guard shall surrender his or her card upon demand of a regular member of the Police Department, who shall forward the card to the Chief of Police with a report of such action. When an armed security guard's employment is terminated, he or she shall return his or her identification card to the Chief of Police and shall state the reason for his or her employment termination.

(Ord. 1986-37. Passed 6-11-86.)

806.04 AUTHORITY; AID TO POLICE DEPARTMENT.

An armed security guard shall have the authority to arrest any person committing a misdemeanor offense in his or her presence, but such authority does not extend to an arrest for a felony, except as the same is done as a private citizen. Armed security guards and security services shall not have the authority to obtain search warrants or arrest warrants. Armed security guards shall provide aid to a regular member of the Police Department upon a guarded premises. An armed security guard shall report to the Police Department any and all information known to such guard relative to any violation of the law.

(Ord. 1986-37. Passed 6-11-86.)

806.05 UNIFORMS, WEAPONS AND AMMUNITION.

Armed security guards shall wear a uniform, cap, badge and buttons which have been herein approved by the Chief of Police for a given place of employment. Security guards shall carry weapons only while on duty or while going to and from the premises guarded. Armed security guards shall not use or carry a firearm greater than a .357 caliber or less than a four-inch barrel handgun, and shall use only silvertip ammunition. They shall not use or carry ammunition greater than .38 caliber in size.
(Ord. 1986-37. Passed 6-11-86.)

806.06 WEAPON DISCHARGE, ARREST AND CONVICTION REPORTS.

Upon the discharge of a weapon while on duty, the armed security guard shall notify the Police Department of that fact by the end of his or her tour of duty for that day, at which time the armed security guard shall surrender his or her weapon and ammunition to the Department for investigation. In addition, the armed security guard shall submit a detailed written report to the Department, the Mayor and the Fire and Safety Committee within three days of any incident involving the discharge of his or her firearm within the Municipality, apart from a training range. An armed security guard shall report to the Department, the Mayor and the Fire and Safety Committee an arrest or conviction for any felony or offense of violence as defined in Ohio R.C. Title 29 or the General Offenses Code, and shall do so within three days of such arrest or conviction. (Ord. 1986-37. Passed 6-11-86.)

806.07 SECURITY GUARD AT LABOR DISPUTE OR STRIKE.

No armed security guard shall discharge or use any firearm during the course of a labor dispute or strike, unless such armed security guard is presented with a situation involving an imminent threat which poses a substantial risk to his or her own life or that of another and he or she acts in defense of his or her own life or that of another. Every business providing service, specifically for the purpose of protecting life or property or both during the course of a labor dispute or strike, shall report promptly to the Police Department and the Mayor the name, address, social security number and commission card number of the armed security guard to be so employed before permitting the guard to commence employment.
(Ord. 1986-37. Passed 6-11-86.)

806.08 PRIVATE SECURITY SERVICES.

Private security services, which provide armed security guards to employers, shall submit evidence of comprehensive liability coverage as provided for in Ohio R.C. 4749.03, except for services currently licensed pursuant to Ohio R.C. Chapter 4749. Further, private security services shall:

(a) Submit, for approval by the Mayor, any name tag or distinctive uniform, cap, badge and buttons to be used or worn by employees of the business (excluding clerical help);

(b) Maintain arrest records of all employees, exclusive of clerical help, and of all persons it furnishes as armed security guards, together with their address, social security number and the current armed security guard license identification number;

(c) Maintain current records of the handgun of each armed security guard, including the make, description, serial number and caliber of weapon; and

(d) Maintain records of all incidents involving the use of firearms by armed security guards. (Ord. 1986-37. Passed 6-11-86.)

806.09 TRAINING; COMPLIANCE WITH DEPARTMENT RULES AND POLICY.

All employers of armed security guards shall provide continuous training to all armed security guards that work within the Municipality. All training is to be provided in accordance with the laws of the State and in accordance with the Ohio Peace Officer Training Council. Documentation of all training shall be kept on file and reviewed by the Mayor and the Fire and Safety Committee. Armed security guards shall conform to and be in compliance with both the rules and regulations and the firearm's policy of the Police Department. (Ord. 1986-37. Passed 6-11-86.)

806.10 COMMISSION APPLICATION REQUIREMENTS; FEE.

Application requirements for a commission as an armed security guard shall be as follows:

(a) The applicant shall be twenty-one years or older.

(b) The applicant shall be a citizen of the United States.

(c) The applicant shall be able to read, write and speak the English language.

(d) The applicant shall not be addicted to the use of intoxicating liquor or drugs.

(e) The applicant shall be of sound physique, have good eyesight and not subject to vertigo, heart disease or any other infirmity, defect or disorder of the mind or body which might reasonably render him or her unfit for the duties of an armed security guard or for the use of deadly force.

(f) The applicant shall have a good reputation for integrity, shall not be under any disability set forth in Ohio R.C. 2923.13 and shall not suffer from any mental defect or disorder rendering the applicant unable to perform the duties of an armed security guard.

(g) The applicant shall pass a weapons qualification test devised by the Chief of Police or his or her designate.

(h) The applicant shall have satisfactorily completed a minimum of 160 hours in a training program approved by the Ohio Peace Officer Training Council pursuant to Ohio R.C. 109.78. A continuing training program for the applicant is to be implemented by the employer in accordance with State law

and the regulations of the Ohio Peace Officer Training Council applicable to private security guards. Certificates showing the completion of any and all courses taken by the applicant are to be forwarded to the Mayor and the Fire and Safety Committee.

(i) The applicant shall produce affidavits of his or her good character from three reputable citizens who have known him or her personally.

(j) On an application, the applicant shall list his or her full name, address, address for the last five years preceding his or her moving to the present address, age, place of birth, social security number, length of residency in the County, citizenship, place of previous employment and whether or not the applicant has ever been arrested or convicted or pleaded guilty to a felony or misdemeanor, other than a minor traffic offense.

(k) The applicant shall file three untouched photographs taken within the thirty days preceding the filing. Such photographs shall fit the identification card.

(l) The applicant shall swear or affirm before the Mayor or a notary public that the information on the application is true.

(m) The applicant shall be fingerprinted by the Police Department.

(n) The applicant shall give bond, in the amount of five thousand dollars (\$5,000), to the satisfaction of the Mayor.

(o) Except for private investigators holding a State license under Ohio R.C. Chapter 4749 and bona fide officers of a recognized law enforcement department of a political subdivision in the State, each applicant shall pay a license fee of fifty dollars (\$50.00). (Ord. 1986-37. Passed 6-11-86.)

806.11 PRIVATE SECURITY SERVICES APPLICATION REQUIREMENTS; FEE.

Application requirements for private security services shall be as follows:

(a) List the name or names under which the business is to operated;

(b) List the address of the principal place of business;

(c) List the address and the name of the owner, partner and/or shareholders owning more than ten percent of the issued and outstanding stock in the corporation;

(d) List all felony convictions in the past ten years of every owner, partner or corporate officer of the business;

(e) Swear before the Mayor or notary public that the information on the application for the license is true;

(f) List the length of time the business has been in operation and the location where the business operated in the last ten years; and

(g) Except for private investigators holding a State license under Ohio R.C. Chapter 4749 and bona fide officers of a recognized law enforcement department of a political subdivision in the State, each applicant shall pay a license fee of five hundred dollars (\$500.00).

(Ord. 1986-37. Passed 6-11-86.)

COMMISSION OR LICENSE RENEWAL, DENIAL,
SUSPENSION AND REVOCATION.

The following regulations shall apply to the renewal, denial, suspension and revocation of commissions or licenses hereunder:

(a) The Mayor and the Fire and Safety Committee shall review the records of a private security service and/or armed security guard at least once a year, and each license shall expire one year after issuance unless renewed as below.

(b) All commissions and licenses shall be renewed within ninety days prior to their expiration date. If not renewed prior to the expiration date, all authority of the commission or licenses terminates. The license fee shall be paid again with the application for renewal.

(c) Any failure to list a conviction or other information on any application shall be considered falsification of the application and shall be grounds for refusal to issue the commission or license.

(d) Any applicant denied a commission or license hereunder shall have the right to appeal to the Mayor.

(e) The commission of security guards or the license of a business providing security services may be revoked or suspended at any time by the Mayor on the following grounds:

(1) Violation of or failure to comply with any of the provisions of this chapter;

(2) Being convicted of a felony or misdemeanor involving the use or threat of the use of force or violence against the person of another or an offense involving moral turpitude;

(3) Giving a false statement to a law enforcement officer; or

(4) Giving false testimony or perjury.

(f) Any complaint, filed in writing with the Police Department, against a business providing security services or an armed security guard, or both, which alleges an act or acts described above may constitute grounds for suspension or revocation of the license of a private security service or the commission of an armed security guard.

(1) Upon the filing of a complaint, the Chief of Police, or his or her designate, shall fully investigate the matter alleged in the complaint. If he or she determines that facts exist which constitute probable cause for the suspension or revocation of the license or commission, or both, he or she shall schedule an adjudicatory hearing not earlier than fourteen days, nor later than thirty days, after receipt of the complaint, for the purpose of determining whether such business's license or armed security guard's commission shall be suspended or revoked. The Chief shall determine the date, time and place of such adjudicatory hearing.

(2) The Chief shall give notice to the business or an armed security guard, or both, at least fourteen days prior to the date of the adjudicatory hearing. Such notice shall be given by certified mail, return receipt requested, or by personal service and shall contain the time, date and place of the hearing. The notice shall include the charges or reasons for the hearings and the law or rule directly involved. The notice shall also inform the business owner or armed security guard, or both, that he or she may appear in person or by his or her attorney, that he or she may present his or her position or arguments in writing or orally, and that he or she may present evidence and/or examine witnesses appearing for or against him or her.

(3) The Mayor shall preside at the hearing and shall determine whether such business's license or an armed security guard's commission shall be suspended or revoked.

(4) A party aggrieved by the determination of the Mayor may appeal in writing to Council within thirty days of the date of the determination by the Mayor. (Ord. 1986-37. Passed 6-11-86.)

806.13 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.

Nothing contained in this chapter shall relieve any person from the provisions and prohibitions contained in Section 678.02 of the General Offenses Code, Ohio R.C. 2923.12 or any other local law, State law or Federal law.
(Ord. 1986-37. Passed 6-11-86.)

806.14 COMMISSION OR LICENSE REQUIRED.

No person shall act as an armed security guard in the Municipality without a commission issued by the Mayor, which commission shall be valid, current and not under suspension. No person shall furnish private security service in the Municipality without a license issued therefor by the Mayor, which license shall be valid, current and not under suspension. (Ord. 1986-37. Passed 6-11-86.)

806.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

BUSINESS REGULATION AND TAXATION CODE

CHAPTER 812
Carnivals, Circuses and Other Shows

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- 812.03 License application.
- 812.04 Liability insurance.
- 812.05 Income tax bond.
- 812.06 Surety bond.
- 812.07 Service of process.
- 812.08 License fees.812.09 Utility service charges.
- 812.10 License issuance; display.
- 812.11 Travel route; precautions.
- 812.12 License revocation.
- 812.13 Waiver; authority of Mayor.
- 812.99 Penalty.

CROSS REFERENCES

- Bingo - see GEN. OFF. 630.06 et seq.
- Safety of crowds at live entertainment performances - see
GEN. OFF. 636.19
- Amusement devices - see B.R. & T. Ch. 804
- Amusement tax - see B.R. & T. Ch. 892

812.0 DEFINITIONS.

As used in this chapter:

“Carnival,” in addition to the definition commonly applied thereto, means a group of two or more traveling shows, exhibitions, concessions, attractions or amusements, usually operated under one sponsorship and exhibited in, on or about the same area, place or space.

“Circus,” in addition to the definition commonly applied thereto, means a traveling show or entertainment which is exhibited under canvas or tents, which usually consists of a menagerie, aerial, acrobatic and animal feats, sideshows and related amusements, with the main attraction normally conducted twice daily.

“Other show” means any single attraction, museum, show or exhibition which is operated exclusively and directly for private gain or profit and which is not conducted in a duly licensed theater or hall or pursuant to another form of license or permit required by the Municipality. 812.0

L I C E N S E
REQUIRED.

No person shall exhibit or participate in exhibiting any circus, carnival or other show, whether under canvas, tents or otherwise, without first obtaining a license therefor from the Mayor. The fee for the license shall be in accordance with Section 812.08.

812.0 LICENSE APPLICATION.

An application, in writing, for a circus, carnival or other show license, as required by Section 812.02, shall be made to the Mayor by the owner or operator of the circus, carnival or other show, and shall contain such information about the type of operation, sanitation procedures to be followed, provisions for providing electricity, maintenance of facilities to prevent fire and such other information as the Mayor may require.

812.0 LIABILITY INSURANCE.

No circus, carnival or other show license shall be issued until proof of current liability insurance is presented to the Mayor by the applicant for the license. The liability insurance policy shall be in amounts of not less than five hundred thousand dollars (\$500,000) for one person, one million dollars (\$1,000,000) for any one accident and one hundred thousand dollars (\$100,000) for property damage.

812.0 INCOME TAX BOND.

Before the issuance of a circus, carnival or other show license by the Mayor, a cash bond in the amount of five hundred dollars (\$500.00) shall be deposited with the Finance Director. The condition of the bond shall be that upon the conclusion of the circus, carnival or other show within the Municipality, there will be an income tax accounting with the Finance Director. If there is any remaining balance, it shall be returned.

812.0 SURETY BOND.

(a) The application for a circus, carnival or other show license shall be accompanied by a five hundred dollar (\$500.00) cash or surety bond with a company licensed to do business in the State and approved by the Director of Law. The condition of the bond shall be such that the circus, carnival or other show shall keep the premises in a clean, healthful and sanitary condition to the satisfaction of the County Board of Health, the Building and Zoning Inspector and the Fire Chief.

(b) The return of such money is contingent upon the operators of the carnival, circus or other show cleaning up its debris and trash and leaving the premises, upon departure, in as good a condition as they were at the time of occupancy, normal wear and tear and acts of God excepted.

812.0 SERVICE OF PROCESS.

Prior to the issuance of a circus, carnival or other show license, the Mayor shall require that a certain named person agree, in writing, to accept all citations, notices, processes and similar legal papers from the Municipality.

812.0 LICENSE FEES.

A license for a circus, carnival or other show operated for profit shall be issued only upon payment, in advance, of the appropriate license fee to the Mayor for credit to the General Fund, in accordance with the following schedule:

For each twenty-four hour day during which a circus is maintained for exhibition, two hundred fifty dollars (\$250.00);

For each twenty-four hour day during which a carnival is maintained for exhibition, two hundred fifty dollars (\$250.00);

For each twenty-four hour day during which another show is maintained for exhibition, fifty dollars (\$50.00); and

For each parade of any circus, carnival or other show, march or organized public demonstration, the route, nature and extent of which shall be designated by the

Chief of Police and approved by the Mayor, one hundred fifty dollars (\$150.00). In addition, a deposit, as determined by the Mayor, shall be posted to provide payment for traffic control and other expenses incurred because of such parade, march or public demonstration.

812.0 UTILITY SERVICE CHARGES.

No fee for a license for a circus, carnival or other show shall be deemed to include any charge by the Municipality for water or other utility service furnished by it to any circus, carnival or other show.

812. LICENSE ISSUANCE; DISPLAY.

The Mayor may issue a circus, carnival or other show license to the owner or operator in compliance with this chapter, and the license shall be displayed at all times in a prominent location and produced upon demand by a police officer or other person designated by the Mayor.

812. TRAVEL ROUTE; PRECAUTIONS.

Any person who obtains a circus, carnival or other show license under this chapter and who desires to move any part of the circus, carnival or other show or the property thereof over any portion of a paved street of the Municipality or over any cement crosswalks therein, shall first apply to the Mayor for permission to do so. The Mayor shall designate, in writing, the route which the circus, carnival or other show shall take and shall specify the methods to be employed by the licensee to prevent injury to the pavements, crosswalks and route during the use thereof.

812. LICENSE REVOCATION.

The Mayor is hereby authorized to withdraw any circus, carnival or other show license granted under this chapter upon the occurrence of any of the following:

- Failure to maintain proper health standards;
- Improper installation of equipment, including electrical apparatus;
- Misrepresentation of the type of show;
- Creation of a fire hazard; or
- Repeated violations of ordinances of the Municipality or statutes of the State.

812. WAIVER; AUTHORITY OF MAYOR.

The Mayor is hereby authorized to waive the application of any of the provisions of this chapter to any charitable or nonprofit organization or group, or to any other person, for any reason deemed by the Mayor to justify such waiver.

812.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

CHAPTER 814
Commercial Parking Lots

- 814.01 License required; fee; issuance.
814.02 Plans; fences; openings onto highways.
814.03 License revocation.
814.99 Penalty.

CROSS REFERENCES

- Reckless driving on private property - see TRAF. 434.02(b)
Loading zones at Northfield Plaza Shopping Center - see TRAF.
452.18
Parking in shopping center, store and school areas - see TRAF.
452.19
Littering - see GEN. OFF. 660.03
Junk motor vehicle storage - see GEN. OFF. 660.07
Nuisance abatement; annual clean-up - see GEN. OFF. 660.14

814.01 LICENSE REQUIRED; FEE; ISSUANCE.

No person shall operate a commercial parking lot in the Municipality without first obtaining a license therefor. The fee for such license shall be fifty dollars (\$50.00) per year. The Mayor shall issue such a license, upon the approval of the Planning Commission. (Ord. 1969-44. Passed 6-11-69.)

814.02 PLANS; FENCES; OPENINGS ONTO HIGHWAYS.

The following requirements for the operation of any commercial parking lot, not operated in conjunction with the main business of the operator or owner of the premises, shall be applicable:

- (a) Before a parking lot may be operated as a commercial parking lot, a plot plan of the lot must be presented and approved by the Planning Commission.
(b) The complete parking lot must be enclosed the full 360 degrees with a cyclone-type fencing of at least five feet in height.
(c) No opening onto a highway may exceed the width of twenty-five feet in the fence. (Ord. 1969-44. Passed 6-11-69.)

814.03 LICENSE REVOCATION.

A license to operate a commercial parking lot may be revoked at any time, without return of the license fee, upon satisfactory proof that any violation of law or ordinance is permitted or committed upon the licensed premises.

814.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 816
Garage and Public Sales

- 816.01 Permit required.
- 816.02 Application and issuance.
- 816.03 Traffic supervision.
- 816.04 Permit fee; effective period.
- 816.05 Display of permit upon demand.
- 816.06 Sale hours.
- 816.07 Permit revocation or suspension.
- 816.08 Signs.
- 816.99 Penalty.

CROSS REFERENCES

Posting of bills and other printed matter - see GEN. OFF. 642.13

Peace disturbances - see GEN. OFF. Ch. 648

Building and Zoning Inspector; permit applications - see B. & H. 1440.13

816.01 PERMIT REQUIRED.

No person, being the owner or occupant or in control or having the management of any residential parcel of real property located within the Village, shall hold or conduct or permit to be held or conducted upon such property the sale of any household goods, equipment, utensils, appliances, personal clothing or effects or other similar personal property unless a permit has been granted therefor and the sale is conducted in accordance with the provisions of this chapter. A permit shall not be required where six items or less are offered for sale.

(Ord. 2001-69. Passed 10-24-01.)

816.02 APPLICATION AND ISSUANCE.

The application for a permit required by Section 816.01 shall be filed with the Building and Zoning Inspector. The application shall contain the name of the applicant, the address of the applicant's residence, the address where such tangible personal property is to be offered for sale, the dates on which the sale will be conducted, a general description of all of the tangible personal property included in the sale, and a statement as to whether or not such tangible personal property belongs to the applicant, and if not, the names and addresses of the other owners.

(Ord. 2001-69. Passed 10-24-01.)

816.03 TRAFFIC SUPERVISION.

A copy of the application and permit shall be delivered to the Chief of Police so that traffic may be supervised, if necessary.

(Ord. 2001-69. Passed 10-24-01.)

816.04 PERMIT FEE; EFFECTIVE PERIOD.

(a) A permit fee of one dollar (\$1.00) for the duration of each sale shall be required.

(b) A permit fee for each sale shall be valid for three consecutive days. Not more than three permits shall be issued in any 12 month period, per residence, unless there has been a bona fide sale of the residence.

(Ord. 2001-69. Passed 10-24-01.)

816.05 DISPLAY OF PERMIT UPON DEMAND.

Every applicant who is issued a permit under this chapter shall have the issued permit in his possession at all times when conducting a sale within a residential district of the Village and shall display the same upon demand of any police officer or zoning official of the Municipality and upon demand of any person who attends such sale.

(Ord. 2001-69. Passed 10-24-01.)

816.06 SALE HOURS.

No permittee under this chapter shall conduct a sale before 9:00 a.m. or after 7:00 p.m. of any day.

(Ord. 2001-69. Passed 10-24-01.)

816.07 PERMIT REVOCATION OR SUSPENSION.

A permit issued pursuant to this chapter may be revoked by the Mayor, after notice and hearing, for any of the following causes. The Mayor may temporarily suspend a permit upon evidence of the following for a period, not to exceed one week, pending a hearing.

(a) Fraud, misrepresentation or any false statements contained in the application for a permit or false information given to the Police or Building & Zoning Departments;

(b) Failure to comply with the provisions of the permit, or violating any law of the Municipality or State while conducting the sale;

(c) A conviction of the permittee for a violation of any of the provisions of this chapter;

(d) Conducting a public sale in any unlawful manner or in such a manner as to constitute a breach of the peace.

(Ord. 2001-69. Passed 10-24-01.)

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816.08 SIGNS.

No signs relating to such sales shall be mounted on any Village signs, traffic signs or any utility poles. All signs advertising such sales shall be at least six feet from the edge of any road and no larger than four square feet. In addition, the top of such signs shall be no more than 36 inches from the ground and may not be illuminated in any manner. Such signs may not be posted or placed more than 48 hours prior to the sale and must be removed within 24 hours of the final date of the sale. A fine of five dollars (\$5.00) per sign may be imposed for any sign not removed prior to the expiration of the above 24 hour period. (Ord. 2001-69. Passed 10-24-01.)

816.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. (Ord. 2001-69. Passed 10-24-01.)

CHAPTER 826
Flea Markets

826.01	Definition.	826.04	Vendor fee.
826.02	License required.	826.99	Penalty.
826.03	License fee.		

CROSS REFERENCES

Bonds for transient vendors; information to be filed; municipal regulation - see Ohio R.C. 311.37

Flea market sales of baby food or formula or drug, cosmetic or medical device prohibited - see Ohio R.C. 3715.52

Temporary place of business defined - see Ohio R.C. 5739.17

Sales of animals - see GEN. OFF. 618.06

Sales of weapons and explosives - see GEN. OFF. 678.07 et seq.

Open-air food markets - see B.R. & T. Ch. 864

826.01 DEFINITIONS.

As used in this chapter, "flea market" means a market, whether outdoors or indoors, featuring multiple vendors offering items or goods for sale at or within the same location. (Ord. 2009-42. Passed 8-26-09.)

826.02 LICENSE REQUIRED.

No person shall operate a flea market facility within the Municipality without first obtaining a license therefor. Said license shall be obtained from the Building and Zoning Inspector.

(Ord. 1982-50. Passed 2-24-82; Ord. 2009-42. Passed 8-26-09.)

826.03 LICENSE FEE.

The application fee for a flea market operator's facility license shall be fifty dollars (\$50.00). In addition, an additional license fee of fifty dollars (\$50.00) is required for each day that the facility is open to the public. Such daily license fees shall be payable to the Finance Director by the tenth day of the month following the month for which such fees are owed.

(Ord. 1982-50. passed 2-24-82; Ord. 2009-42. Passed 8-26-09.)

826.04 VENDOR FEE.

In addition to the license fee paid by the operator of the facility, each flea market vendor shall be required to pay a three dollar (\$3.00) per day fee to the Municipality for each day the vendor is open for business at the flea market. The operator of the flea market is responsible for collecting such fee from its vendors and forwarding the same for the previous month to the Finance Director by the tenth day of each month. The operator of the flea market shall keep records as to all participating vendors for each day the flea market is open and the vendor fees collected from each participating vendor. Such records shall be available for inspection by the Finance Director or by a Municipal employee or elected official designated thereby, at all reasonable times.

(Ord. 1994-56. Passed 9-14-94; Ord. 2009-42. Passed 8-26-09; 2009-44. Passed 9-23-09.)

826.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) for each offense, and be subject to up to six months in jail. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 1982-50. Passed 2-24-82; Ord. 2009-42. Passed 8-26-09.)

CHAPTER 862
Oil and Gas Wells

862.01	Definitions.
862.02	Permits.
862.03	Development standards.
862.04	Operational standards.
862.05	Future development adjacent to well and storage sites.
862.06	Administration.
862.07	State regulations incorporated by reference.
862.99	Penalty.

CROSS REFERENCES

Oil and gas - see Ohio R.C. Ch. 1509
 Hazardous and solid wastes - see Ohio R.C. Ch. 3734
 Hazardous substances - see Ohio R.C. Ch. 3751
 Gas generally - see S.U. & P.S. Ch. 1044

862.01 DEFINITIONS.

As used in this chapter:

(a) "Division of Oil and Gas" means the State of Ohio Department of Natural Resources Division of Oil and Gas.

(b) "Unitized lease" means lease arrangements between property owners and a driller which enables the driller to include more than one separately owned parcel as part of the well site and commits such parcels to compliance with the provisions of this chapter and the requirements of the Division of Oil and Gas.

(c) "Well" means any borehole, whether drilled or bored, for the purpose of exploration or production of any gas or liquid mineral, excluding potable water, and includes wells for the direct production and indirect recovery or disposal of such gas or liquid.

(d) "Well workover" means re-entering of a well for any purpose after it is initially completed or abandoned. Well workover shall not include drilling or well servicing such as the installation or servicing of artificial lift equipment or the removal of tubing obstructions such as paraffin or sand.

(Ord. 1984-39. Passed 4-25-84.)

862.02 PERMITS.

Oil and gas exploration and production are permitted within the Municipality subject to the following conditions, covenants and/or restrictions:

(a) Permit Required. No person shall commence to drill, operate or change the operation of any well, except a well for potable water, within the Municipality, or place any related equipment on the site for the drilling or operation of such well, until such person has:

(1) Wholly complied with all provisions of this chapter and has been granted a permit by the Municipality;

(2) Obtained a permit for drilling and waste disposal from the Division of Oil and Gas of the Ohio Department of Natural Resources;

(3) Paid the application fee pursuant to paragraph (b)(13) hereof; and

(4) Posted the insurance and surety bond pursuant to Section 862.06(d) and (e).

(b) Permit Application. Any person proposing to drill, complete and operate a well for oil or gas within the Municipality shall submit a written application to the Mayor, which is signed by the applicant or some person duly authorized by the applicant, and which includes:

(1) The date of such application;

(2) The name and address of the applicant, and, if the applicant is a corporation, the state of incorporation, and, if the applicant is a partnership, the names and addresses of all general partners;

(3) The number of the drilling unit, the particular lot and block number of the tract in the drilling unit on which the proposed well is to be located;

(4) The type of well, whether oil or gas, and the proposed depth of the well;

(5) The number of acres in the lease or unitized lease over which the applicant has control of oil or gas rights and which the applicant shall be required to own in fee or hold under lease or drilling contract from the owner (lots and lands across a public street shall be deemed as being contiguous);

(6) A copy of the signed lease(s) between the property owner(s) and the applicant. Such lease(s) shall explicitly incorporate this chapter by reference and shall state, in bold letters, in the body of the lease, that: A permit issued pursuant to the Gas and Oil Well Regulations of the Municipality of Northfield (Ordinance No. 1984-39) is not transferable.

Any new owner of a proposed well, or well in operation, shall be issued a new permit by the Municipality and the Division of Oil and Gas. Before such permit can be issued the new owner shall comply with all regulations, procedures and standards of this chapter including the bonding and insurance requirements;

(7) A map or maps prepared by an Ohio registered surveyor showing and containing the following data:

A. The size and dimensions of the subject tract of land or drilling unit upon which the well is to be drilled, which shall show all parcels or tracts of land, with dimensions, for which a lease has been obtained;

B. All existing buildings, parking areas, drives and natural features, such as major areas of tree cover, streams, ditches or severe topography, on the parcel and on any portion of the adjacent parcel(s) which are within 500 feet of the proposed well location;

C. The location of the proposed well and the proposed location of oil storage tanks on the subject tract of land or drilling unit;

D. The location, size and slope of all drainage facilities, tiles, ditches, etc., which lie within the work limits of the proposed well and storage tank sites;

E. The location of any existing wells or storage equipment on the tract;

F. Dimensions, in feet, from the proposed well site and all storage tanks to the boundary lines of the subject tract or drilling unit and distances to all buildings and to existing wells or storage facilities;

G. The location and the specifications of planned improvements for the proposed access drive and related gates, fences and entrance landscaping; and

H. Proposed access routes to be used going to and from the site to State or Federal highways;

(8) A statement indicating the maximum loads of vehicles used during the drilling of the well and during production and the maximum load limits on the roads to be used from the site to State or County highways;

(9) The drilling and waste disposal applications submitted to the State and copies of the permits issued in connection with these applications;

(10) A plan for the restoration of the disturbed land upon completion of the drilling operations and a plan for the total restoration of the site when the well is abandoned;

(11) A spill prevention plan, if applicable, as required by Federal law, when drainage from the well site is into a navigable waterway;

(12) The proposed complete casing program for the well; and

(13) An application fee of two thousand dollars (\$2,000) per well, which shall be refunded if the permit is denied.

(c) Permit Issuance. Gas and oil wells are permitted in the Municipality subject to these regulations unless otherwise restricted by State and local laws, and the permit shall only be granted subject to the following:

(1) The proposed application shall be processed in accordance with the procedures for granting conditional zoning certificates, as set forth in Chapter 1220 of the Planning and Zoning Code.

(2) Any permit granted by the Planning Commission, in accordance with the conditional use procedures, shall be confirmed by Council resolution. If Council does not so confirm the approval of the Commission, the permit shall be denied;

(3) No well shall be proposed or permit granted unless access to the proposed well is from the following streets:

Houghton Road

State Route

8

Ledge Road Sagamore Road

(4) No local permit shall be issued pursuant to this chapter until the applicant has received a permit for the proposed well from the Division of Oil and Gas (Department of Natural Resources) pursuant to Ohio R.C. Chapter 1509 and until a copy of such permit is submitted to the Mayor's office; and

(5) If drilling has not commenced within ninety days from the date of issuance of the permit, the permit may be revoked by the Mayor and the application fee is nonrefundable.

(Ord. 1984-39. Passed 4-25-84.)

862.03 DEVELOPMENT STANDARDS.

(a) Well Location. Drilling sites, storage tanks and other equipment shall be located to conform to the following:

(1) They shall be 200 feet from existing buildings on the tract, except as provided in paragraph (a)(2) hereof. For nonresidential buildings, except for schools and other public places of assembly, this provision may be waived, in writing, by the owner and occupant of a building nearer than 200 feet from the proposed well site or storage equipment, provided that in no case shall such well or equipment be nearer than 100 feet from such building. Such written authorization shall be included with the application;

(2) They shall be 300 feet from schools or other public places of assembly as defined in the Ohio Basic Building Code;

(3) They shall be 300 feet from adjacent properties;

(4) They shall be 200 feet from a public street, provided that storage tanks and equipment may be within 100 feet of a public street right-of-way; and

(5) Any greater distances which may be required pursuant to Ohio R.C. Chapter 1509 shall govern.

These spacing requirements shall remain in effect until the well has been plugged to the satisfaction of the Municipality and the Division of Oil and Gas.

(b) Access Drives.

(1) Access drives from drilling sites or storage equipment to the public street shall be located to have the minimum impact on adjacent residential properties.

(2) Access drives shall be constructed of gravel, plank or appropriate material, as determined by the Building and Zoning Inspector to assure that the surface is dust-free and adequate for the vehicles intended.

(3) Gravel may be required by the Building and Zoning Inspector along the access drive near the public street to prevent mud and dirt from being tracked onto the public streets.

(4) A gate shall be installed across the access drive at a point adjacent to the public road. Such gate shall be locked at all times when the access road is not being used for well related purposes. Adjacent to the gate shall be sufficient barriers by fencing, landscaping or mounding to reasonably prevent unauthorized vehicle access to the well or storage sites. Sketch drawings and/or written descriptions of the proposed gates and barriers, adequate to indicate how the objective of preventing unauthorized access shall be achieved, shall be submitted with the permit application.

(c) General Requirements.

(1) No person engaged in drilling or operating any well shall permit gas to escape or be vented into the air unless a plan for such venting, stating the amounts of gas to be vented, the times and frequency of venting and precautions to be taken, is first submitted, in writing, to the Fire Chief and approved by him or her in writing.

(2) Within thirty days after any oil and/or gas well has been completed for the production of oil and/or gas, or abandoned, the permittee shall remove any drilling rig or derrick, remove the excess sludge or mud, fill all pits and excavations, level off the surface of the working area, not allow any accumulation of sludge, oil or other offensive or dangerous substances, keep his or her premises in a sanitary and sightly condition, restore any disturbed drainage facilities and leave the premises in such a condition that no pooling of surface water shall result.

(3) Wooden derricks or steam-powered rigs shall not be permitted in connection with drilling or any workover operations.

(4) Two dual-controlled, fluid-operated blowout preventers, with working pressures equal to the maximum anticipated wellhead pressures, shall be used for all drilling or completion operations involving the use of drill pipe or tubing after the surface casing has been set. The mechanical operation of the preventers shall be checked every twenty-four hours and shall be tested with pump pressure with enough frequency to insure good working order at all times.

(5) No oil, waste water, sludge water or salt water, produced or used in connection with the drilling operation or production of oil or gas wells, shall be disposed of within the Municipality or not be permitted to empty into any sanitary sewer, storm sewer or surface drainage, unless, in an emergency, such waste is to be used by the Municipality and authorized for such use by the Mayor. However, temporary repositories for salt water, waste water or sludge water and basic sediment and water may be constructed of concrete, steel or other material and in the latter case such pits for temporary deposits shall be constructed so that no seepage shall result therefrom and so that surface water resulting from water drainage or rain cannot drain into such pits.

(6) Within six months of such completion or abandonment, the area shall be re-landscaped to assure that all areas, other than access drives, are restored with natural ground cover consistent with surrounding areas to avoid any further erosion.

(7) All producing wells, wellheads, tank batteries, pumping units and equipment appurtenant thereto shall be enclosed and protected by a six-foot galvanized or aluminum chain link-type fence with matching-type gates and effectively screened with evergreen plantings to the approval of the Building and Zoning Inspector.

(8) On residentially zoned land, each storage tank shall be a maximum of 100 barrels (4,500 gallons), and a maximum of two storage tanks shall be permitted for each well.

(9) The premises shall be kept in a clean and sanitary condition free from rubbish of every character, at all times, during the drilling operation and as long thereafter as oil and/or gas is being produced therefrom. The premises of all permittees shall be kept clear of high grass, weeds and combustible trash, or any other rubbish or debris that might constitute a fire hazard, within a radius of 100 feet around any oil tank or tanks or producing wells.

(Ord. 1984-39. Passed 4-25-84.)

862.04 OPERATIONAL STANDARDS.

(a) On-Site.

(1) Noise levels.

A. Drilling operations shall be controlled, by double exhausts, or otherwise, so that the maximum noise level of actual drilling does not exceed seventy-five decibels at a 500-foot radius from the well.

B. All pumps and equipment operated in conjunction with a producing well shall be operated with electric motors and no internal combustion engines shall be permitted.

C. All engines shall be equipped with effective mufflers of adequate size and type to match the engine used.

(2) Hours of operation. No material, equipment, tools or pipe used for either drilling or producing operations at the well, and no oil produced, shall be delivered to or removed from the well site except between the hours of 7:00 a.m. and 7:00 p.m. of any day, except in case of emergency, or unless, based on the well location, this provision is waived prior to the issuance of the permit.

(3) Warning signs. Printed signs reading "DANGER, NO SMOKING ALLOWED" or similar words shall be posted in conspicuous places on each well, storage tank or battery of tanks.

(4) Meters. Each well shall have individual meters recording the volume of production.

(5) Lighting. No lighting shall shine directly on or constitute a nuisance to adjacent properties.

(6) Well workover. Any person operating any well(s) for oil or gas within the Municipality may perform any well workover operations without a permit, except for drilling deeper, provided the operator complies with the provisions of this chapter pertaining to such work. However, no well workover shall be performed without first informing the Building and Zoning Inspector.

(b) Off -Site.

(1) Prior to construction, laying, maintaining, operating, repairing, replacing or removing pipelines on any Municipal street, sidewalk, alley or other property, the applicant shall apply to Council for an easement if the applicant:

A. Does not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located within the rights-of-way or otherwise on Municipal property;

B. Furnishes the Building and Zoning Inspector with a plat showing the location of such pipelines;

C. Constructs such lines, or causes the same to be constructed, be properly cased and vented if under a street; and

D. Grades, levels and restores such property to the same condition, as nearly as practicable, as existed when the installation of the pipeline first commenced.

(2) No person shall permit any mud, water, oil, slush or other waste matter relating to the drilling or operating of any oil and/or gas well, to escape into any adjoining lots upon which the permittee does not have contractual rights to use the surface, or upon leases not owned by the permittee, or into the alleys, streets, gutters or sewers of the Municipality.

(3) Should any mud be carried on public streets from a drilling site, the permittee shall be required to clean up the streets to the satisfaction of the Municipality. Failure of a permittee to clean up the public streets to the satisfaction of the Municipality, or failure to take specific steps to reduce mud at a given location, as requested by the Municipality, shall be grounds for revocation of a permit and forfeiture of the bond posted under Section 862.06(e), and shall also constitute a misdemeanor punishable under Section 862.99.

(4) All trucks hauling oil, sludge water, salt water, and petroleum products or byproducts shall be closed and leakproof at all times, and the intake vent and outlet valves and pump connections shall be watertight and leakproof. (Ord. 1984-39. Passed 4-25-84.)

862.05 FUTURE DEVELOPMENT ADJACENT TO WELL AND STORAGE SITES.

(a) No buildings for human occupancy shall be constructed on a well site except in compliance with the distances from the well and storage equipment specified in Section 862.03.

(b) After a well has been plugged to the satisfaction of the Municipality and the Division of Oil and Gas, the following development regulations shall apply:

(1) A minimum 100-foot radius open area shall be preserved on all sides of the plugged well. This area shall be designated as a permanent easement in any future subdivision of land.

(2) An additional easement for access, if necessary, shall be perpetually provided from a public street to the well site.

(3) No building or structures shall be constructed within the easements, pursuant to paragraphs (b)(1) and (b)(2) hereof, except fences, parking lots, walkways, playground equipment and other similar types of equipment and landscape features.

(Ord. 1984-39. Passed 4-25-84.)

862.06 ADMINISTRATION.

(a) Permits for On-Site Connections. A plumbing and heating permit from the County shall be required for any use or activity on the well site of a gas or oil well which will involve a direct connection of gas or oil lines from the wellhead.

(b) Changes of Ownership. A permit issued pursuant to this chapter is not transferable. A permit for a new owner of a proposed well, or a well in operation, shall only be issued when the new owner complies with all application procedures of this chapter and when the Municipality, according to the procedures set forth in this chapter, determines that such new owner is in compliance with all the regulations, standards, and requirements set forth herein.

(c) Inspections.

(1) Each well, related equipment and well site shall be inspected by the Municipality every six months to assure continued compliance with this chapter. Any areas of noncompliance with this chapter which are identified during these inspections shall be transmitted in writing to the owner of the well.

(2) After a reasonable period of time has elapsed, to enable the owner to correct the identified deficiency, the Municipality shall make an additional inspection (or inspections, as necessary) to assure that any areas of noncompliance have been satisfactorily corrected and that the well, related equipment and well site are in full compliance with this chapter. Fees for all such additional inspections shall accrue at the rate of fifty dollars (\$50.00) per hour with a minimum of fifty dollars (\$50.00) per inspection, and the owner shall reimburse the Municipality for all accrued costs for such additional inspections.

(d) Insurance. An applicant, before being issued a permit hereunder, shall post and maintain with the Building and Zoning Inspector, subject to the Mayor's approval, satisfactory evidence of liability insurance and yearly renewal coverage to compensate parties other than the applicant for damage arising from the activities permitted hereunder, in an amount of not less than five hundred thousand dollars (\$500,000) for property loss for each occurrence and five hundred thousand dollars (\$500,000) for bodily injury for each occurrence. The applicant shall establish such coverage for the benefit of the Municipality as well as himself, herself or itself, and shall be held to agree, by applying for the permit under this chapter, to indemnify and save the Municipality harmless from any liability or loss arising from the activities permitted hereunder. Such insurance policy shall remain in effect one year after the Municipality has received written confirmation from the Division of Oil and Gas that the well has been satisfactorily plugged in accordance with the regulations of the Division.

(e) Bonding and Bond Forfeitures.

(1) An applicant, before being issued a permit hereunder, shall execute and file with the Building and Zoning Inspector a surety bond, conditioned on compliance with the foregoing regulations, in the amount of twenty thousand dollars (\$20,000) per well, up to a maximum one hundred thousand dollars (\$100,000) per operator. The applicant may deposit with the Building and Zoning Inspector, in lieu of a surety bond, cash (or the equivalent of cash) in the amount of the surety bond prescribed above. The surety bond provided for in this section shall be executed by a surety company authorized to do business in the State. The Building and Zoning Inspector shall not approve any bond until it is personally signed and acknowledged by both principal and surety, or as to either by his or her attorney in fact, with a certified copy of the power of attorney attached thereto.

(2) The Building and Zoning Inspector shall not approve such bond unless there is attached a certificate of the Ohio Superintendent of Insurance that the company is authorized to transact a fidelity and surety business in the State. All bonds shall be given in a form to be prescribed by the Building and Zoning Inspector and shall run to the Municipality as obligee.

(3) When the Building and Zoning Inspector finds that an applicant has failed to comply with regulations hereunder, he or she shall make a finding of fact and declare any surety bond (or cash), filed to ensure compliance, forfeited in an amount sufficient to correct any condition that adversely affects the public health and safety or any condition that is prescribed in Section 862.04, whereupon the Building and Zoning Inspector shall certify the forfeiture to the Director of Law who shall proceed to collect the amount thereof, with the approval of Council. In lieu of forfeiture, the surety, at its option, may cause the condition resulting in forfeiture to be corrected or pay to the Finance Director the costs thereof. All funds collected under this section may be expended by the Municipality to correct the conditions necessitating forfeiture.

(4) The owner may be released from the surety bond one year after the Building and Zoning Inspector has received written confirmation from the Division of Oil and Gas that the well has been satisfactorily plugged in accordance with the regulations of the Division. Until the surety bond is released by the Building and Zoning Inspector in writing, such bond shall remain in full force and effect for the benefit of the Municipality.

(Ord. 1984-39. Passed 4-25-84.)

862.07 STATE REGULATIONS INCORPORATED BY REFERENCE.

All rules and regulations promulgated by the Ohio Department of Natural Resources, Division of Oil and Gas, as amended, are hereby incorporated by reference as a part of this chapter. (Ord. 1984-39. Passed 4-25-84.)

862.99 PENALTY.

Whoever violates any of the provisions of this chapter, or any order issued under authority of this chapter, is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 864
Open-Air Food Markets

- 864.01 License required; fee.
864.02 License issuance.
864.03 Clean-up bond.
864.04 License revocation.
864.99 Penalty.

CROSS REFERENCES

Taxation of food prohibited - see Ohio Const. Art. XII, §§3, 13;
Ohio R.C. 5739.02, 5739.10

Donation of perishables to needy - see Ohio R.C. 2305.37

Pure food and drug law - see Ohio R.C. Ch. 3715

Placing harmful substance in food or confection - see GEN. OFF.
636.17

Flea markets - see B.R. & T. Ch. 826

864.01 LICENSE REQUIRED; FEE.

No person shall operate an open-air food market within the Municipality without first obtaining a license therefor. The fee for such license shall be fifty dollars (\$50.00) per year or any portion thereof.

864.02 LICENSE ISSUANCE.

The Mayor is hereby authorized and directed to issue the license to any individual, firm or corporation of good reputation.
(Ord. 1964-64. Passed 4-28-64.)

864.03 CLEAN-UP BOND.

A clean-up bond of five hundred dollars (\$500,000) shall be deposited with the Finance Director at the time the license is issued, and upon approval, in writing, of the Health and Welfare Committee of Council, such bond shall be returned at the end of each season.

864.04 LICENSE REVOCATION.

The license may be revoked at any time, without return of the license fee, upon satisfactory proof that any violation of law or ordinance is permitted or committed upon the licensed premises.

864.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 866

Transient Vendors Providing Goods or Services from
Temporary or Outdoor Sales or Services Areas

- 866.01 Purpose.
- 866.02 Permitted acts.
- 866.03 Issuance of permit; criteria.
- 866.04 Display of license.
- 866.05 Application of chapter.
- 866.06 Revocation of permit.
- 866.99 Penalty.

CROSS REFERENCES

- Bonds for transient vendors; information to be filed; municipal regulation - see Ohio R.C. 311.37
- Temporary place of business defined - see Ohio R.C. 5739.17
- Flea markets - see B.R. & T. Ch. 826

866.01 PURPOSE.

The purpose of this chapter is to regulate transient vendors providing goods and services from non-permanent structures or lots.
(Ord. 2001-49. Passed 6-27-01.)

866.02 PERMITTED ACTS.

Upon the submission and approval of an application for a vendor's license pursuant to this chapter, the following acts shall be permitted:

(a) In a business, commercial, or industrial district, temporary retail sales and services, such as the sale of plants, flowers, trees, arts and crafts, or similar items on any lot or location shall be permitted for any for profit or not-for-profit individuals or organizations. A vendor's license valid for a period not to exceed 15 days shall only be issued four times for any particular lot or location within any 12 month period.

(b) In any district, temporary retail sales and services, such as sales of plants, flowers, trees, household items, arts and crafts, or similar items on any lot on which a church, school, or public use is operating shall be permitted for any not-for-profit organization. A vendor's license permit valid for a period not to exceed 15 days shall only be issued four times for any particular lot within any 12 month period.

(Ord. 2001-49. Passed 6-27-01.)

866.03 ISSUANCE OF PERMIT; CRITERIA.

(a) Any person that desires to sell or trade any goods or offer any services contemplated by this chapter in the manner specified herein shall first obtain a vendors license from the Building and Zoning Inspector. In order to obtain such a license, the applicant shall submit the following:

- (1) The name, address, and telephone number of the applicant;
 - (2) The applicant's social security number, state vendor's license number or federal tax ID number;
 - (3) A description of the goods to be sold or traded or services to be rendered;
 - (4) A map or diagram indicating the location of the property to be used and the exact location on the property on which the goods or services will be provided;
 - (5) A written statement from the property owner giving permission for such use;
- and
- (6) An application fee of fifty dollars (\$50.00).

(b) The location of the temporary sales or services area shall be located so as not to interfere with on sight traffic, required parking spaces, or adversely impact the permanent use on the property or adjacent properties.

(Ord. 2001-49. Passed 6-27-01.)

866.04 DISPLAY OF LICENSE.

The vendor's license shall be prominently displayed at the temporary sales or services area.

(Ord. 2001-49. Passed 6-27-01.)

866.05 APPLICATION OF CHAPTER.

The provisions of this chapter shall not apply to officers or employees of the Municipality, County, State, or Federal Government, or any subdivision thereof, when on official business.

(Ord. 2001-49. Passed 6-27-01.)

866.06 REVOCATION OF PERMIT.

The license may be revoked at any time, without return of the license fee, upon satisfactory proof that any violation of law or ordinance has been permitted or committed on the licensed premises by the applicant, or for the following reasons:

- (a) Fraud or misrepresentation contained in the application;
- (b) Fraud, misrepresentation, or false statements made in the course of conducting the activities;

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(c) Conduct of the business in any unlawful manner or in such manner so as to constitute a menace to the health, safety, or general welfare of the public;

(d) The applicant ceases to possess the qualifications required by this chapter for the original registration. The revocation of a permit shall be in addition to any penalty provided in Section 866.99 or any other penalty that may be imposed upon the applicant.

(Ord. 2001-49. Passed 6-27-01.)

866.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) and imprisoned for not more than 30 days. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 2001-49. Passed 6-27-01.)

CHAPTER 868
Peddlers and Solicitors

- 868.01 Definitions.
- 868.02 Registration required.
- 868.03 Application for certificate.
- 868.04 Issuance of certificate; duration.
- 868.05 Display of registration certificate; return.
- 868.06 Restrictions.
- 868.07 Trespassing in violation of posted signs.
- 868.08 Revocation of certificate.
- 868.99 Penalty.

CROSS REFERENCES

- Charitable solicitations - see Ohio R.C. Ch. 1716
- Frozen desserts - see Ohio R.C. 3717.51 et seq.
- Sale of goods and services within right-of-way of interstate and other state highways - see Ohio R.C. 5515.07
- Trespassing - see GEN. OFF. 642.10, 642.11
- Billposting - see GEN. OFF. 642.13
- Littering - see GEN. OFF. 660.03

868.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Canvassing" means any person who calls at business places or private residences without the invitation or previous consent of the owner(s) or occupant(s) of such premises for the purpose of any one or more of the following activities:
 - (1) Seeking to obtain from the occupant of any business place or residence an indication of such occupant's beliefs in regard to any social, political, religious or similar matters; or
 - (2) Seeking to influence the personal beliefs of the occupant of any business place or residence in regard to any social, political, religious or similar matters; or
 - (3) Taking of a poll or census of any person, firm or corporation other than a governmental body or agency thereof.

(b) "Peddling" means any person who travels door to door either by foot, automobile, truck or any other type of conveyance and calls upon business places, or private residences, including any house, apartment or other dwelling within the Municipality taking or attempting to take orders for profit for the sale of goods, wares, merchandise or personal property of any nature whatsoever for immediate or future delivery or for services to be furnished or performed immediately or in the future.

(c) "Soliciting" means any person seeking to obtain funds for any cause whatsoever by traveling door to door either by foot, automobile, truck or any type of conveyance in calling upon business places or private residences including any house, apartment or other dwelling within the Municipality. The solicitation by a minor newspaper carrier of customers for newspapers which he regularly delivers or will regularly deliver shall not be included in this definition.

(Ord. 2004-51. Passed 9-8-04.)

868.02 REGISTRATION REQUIRED.

No person shall peddle or solicit within the Municipality without first registering with the Police Chief or designee. A separate registration must be made for every peddler or solicitor, agent or employee peddling or soliciting within the Municipality. Canvassers are not required to register pursuant to this section.

(Ord. 2004-51. Passed 9-8-04.)

868.03 APPLICATION FOR CERTIFICATE.

(a) Each applicant for a certificate of registration shall, not less than five nor more than 90 days prior to the commencement of peddling or soliciting, furnish the Police Chief, or designee, with the following information, in person, on forms provided by the Municipality.

- (1) Name, age and physical description of the applicant;
- (2) Complete permanent and local address of application and telephone number;
- (3) Name, address and 24-hour phone number of the person, firm, corporation or association for whom the peddling or solicitation is presently being made, and the name of at least one officer or other official of such organization, and any other person, firm, corporation or association for whom the applicant has peddled or solicited during the past three years;

- (4) A description of the nature of the business and goods, service or wares to be sold or otherwise sufficient to identify the subject matter of the peddling or soliciting in which the applicant will engage;

(5) The names of all other municipalities in which the applicant has conducted peddling or soliciting activities during the past six months;

(6) Whether the applicant has complied with the requirements of Ohio R.C. Chapter 1716 pertaining to charitable solicitations, if applicable;

(7) Whether the applicant has ever been denied a license or had his or her or its permit revoked, including the time and place of such denial or revocation;

(8) Whether the applicant has ever been convicted of a felony violation or a misdemeanor violation involving moral turpitude, including the time and place of such conviction;

(9) The proposed dates and times of the peddling or soliciting and the routes to be followed in conducting same, and the nature of the goods or services for which orders will be taken;

(10) The make, model, year, color and license plate number of automobiles used by the applicant during the period of peddling or soliciting within the Municipality, and the number of the applicant's driver's license and state of issuance;

(11) Such other information as the Police Chief may require.

(b) Such application shall be accompanied by a fee of twenty dollars (\$20.00). Any person, group of persons or organizations acting on behalf of a tax exempt organization as defined by Section 501 of the Internal Revenue Code shall be exempt from such application fee.

(Ord. 2004-51. Passed 9-8-04.)

868.04 ISSUANCE OF CERTIFICATE; DURATION.

(a) Not more than four days after completion of the application form provided in this chapter, the Police Chief, or designee, shall issue a certificate of registration to the applicant unless he has determined:

(1) That the applicant has made a false, misleading or deceptive statement in providing the information required under this chapter.

(2) That the applicant has been convicted of a felony violation or misdemeanor violation involving moral turpitude during the past five years.

(b) Such registration shall be valid for a period of 90 days. No registration certificate issued hereunder shall be assigned or transferred to any other person.

(Ord. 2004-51. Passed 9-8-04.)

868.05 DISPLAY OF REGISTRATION CERTIFICATE; RETURN.

Each registrant shall carry the registration certificate at all times when in the Municipality and shall exhibit it to any resident or Municipal official upon request. At the conclusion of the period for which the registration certificate was issued, the registration certificate shall be returned to the Police Chief.

(Ord. 2004-51. Passed 9-8-04.)

868.06 RESTRICTIONS.

Every peddler or solicitor to whom a registration certificate is issued under the terms of this chapter and every canvasser shall be governed by the following rules and regulations:

(a) All circulars, samples or other matter shall be handed to an occupant of the property or left in a secure place on the premises.

(b) No person subject to the provisions of this chapter shall peddle, canvass or solicit, except between the reasonable business hours of 9:00 a.m. and 9:00 p.m. In addition, no person shall peddle, canvass or solicit on any legal holiday.

(c) No peddler, canvasser or solicitor shall enter or attempt to enter the house or apartment of any resident in the Municipality without an express invitation from the occupant of the house or apartment.

(d) No person subject to the terms of this chapter shall make any false, fraudulent, misleading or deceptive statement during the course of that person's peddling, soliciting or canvassing activity within the Municipality.

(e) No person subject to this chapter shall peddle, canvass or make any solicitation where peddlers, canvassers or solicitors are notified by sign that peddling, canvassing and/or soliciting is prohibited as provided in this chapter.

(f) No peddler or solicitor shall engage or transact any type of business or solicitation other than that specified on the registration application.

(Ord. 2004-51. Passed 9-8-04.)

868.07 TRESPASSING IN VIOLATION OF POSTED SIGNS.

No peddler, canvasser or solicitor shall knock at the door or ring the bell of any place of business or residence in the Municipality upon which is displayed at the entrance a notice which reads, "No Peddlers or Solicitors Allowed", or which otherwise clearly purports to prohibit peddlers, canvassers or solicitors on the premises, unless such peddler, canvasser or solicitor is, or has been, invited upon the premises by the owner, lessee or occupant thereof. Such notice shall be no less than three inches by four inches nor more than one square foot in total surface area and is exempt from any additional requirements of the Planning and Zoning Code.

(Ord. 2004-51. Passed 9-8-04.)

868.08 REVOCATION OF CERTIFICATE.

(a) A certificate of registration issued under this chapter may be revoked by the Mayor, or designee, after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation, or false statement contained in the application for certificate of registration/permit;

(2) The registrant is convicted of a felony violation or misdemeanor violation involving moral turpitude;

(3) Fraud, misrepresentation, or a false statement made in the course of carrying on the business of peddler, solicitor, canvasser, or agent as provided in this chapter;

(4) Any violation of this chapter;

(5) Conducting the business of peddler, solicitor, canvasser, or agent, as provided in this chapter, in such a manner as to constitute a breach of peace or a menace to the health, safety or general welfare of the public.

(b) Notice of hearing for the revocation of a certificate of registration/permit shall be given in writing setting forth the time and place of the hearing. The notice shall be handed to the registrant or be mailed to the registrant at the address listed on the certificate of registration at least five days prior to the date set for the hearing. Personal service of the notice upon the registrant may be given instead of, or in addition to, the notice by mail. The hearing shall be conducted by the Mayor, or the Mayor's designee. At the hearing, the registrant shall be given specific notice of the grounds for the revocation of the certificate of registration/permit. The registrant will be then given an opportunity to respond. Registrants may appeal any decision made by the Mayor or designee pursuant to Ohio law.

(Ord. 2004-51. Passed 9-8-04.)

868.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree and be subject to a fine of up to two hundred fifty dollars (\$250.00) and/or 30 days in jail.

(Ord. 2004-51. Passed 9-8-04.)

CHAPTER 869
Secondhand Dealers

869.01	Definitions; scope of provisions.	869.06	Limitations on secondhand dealers.
869.02	Secondhand dealer license and license fee.	869.07	License revocation; appeals.
869.03	Secondhand dealer records; inspection.	869.08	Responsibility of the licensee.
869.04	Secondhand dealer weekly reports to police.	869.09	Businesses in operation prior to effective date of chapter.
869.05	Secondhand dealer minimum holding period.	869.99	Penalty.

869.01 DEFINITIONS; SCOPE OF PROVISIONS.

As used in this chapter:

- (a) "Secondhand" means that which has been used or which has been previously traded or sold by a retailer.
- (b) "Selling" includes sale on consignment, delivery, barter, exchange, gift or offer thereof.
- (c) "Secondhand dealer" means any person, firm or corporation dealing in the purchase and sale of any of the following articles:
 - (1) Secondhand furs;
 - (2) Secondhand office machinery and equipment;
 - (3) Secondhand tools of artisans and laborers;
 - (4) Secondhand musical instruments;
 - (5) Secondhand precious stones or manufactured articles composed wholly or in substantial part of gold, silver, platinum or other precious metal;
 - (6) Secondhand computers, electronic, audio, visual and/or entertainment equipment or devices, including, without limitation, laptops, docking stations, televisions, video monitors, dvd or blue ray players, record players, tape players, recording devices, other stereo equipment, dvd's, compact discs or records, cameras, camcorders, webcams, video game consoles or accessories, video game discs, cell phones, satellite phones, iPhones, iPods, MPS players, radio receivers or transmitters, pagers, chargers, GPS systems, radar or laser detectors, electronic organizers, Bluetooth devices and dvd or cd burners; or
 - (7) Sports, entertainment or other memorabilia or collectibles.
- (d) A person, firm or company meeting one or more of the following criteria shall not be considered a "secondhand dealer" under the terms of this chapter.

- (1) A not-for-profit entity recognized as tax exempt by the Internal Revenue Service and/or registered by the Ohio Secretary of State as a not-for-profit corporation; or
 - (2) A person conducting a garage or yard sale meeting the criteria established in Chapter 816; or
 - (3) A retail business which inventory consists primarily (ninety-five percent or more) of items that are at least thirty years old and considered antiques or collectibles.
- (Ord. 2014-15. Passed 6-25-14.)

869.02 SECONDHAND DEALER LICENSE AND LICENSE FEE.

No person shall operate as a secondhand dealer in the Municipality without first obtaining a license from the Building and Zoning Inspector. The annual license application fee for each dealer in secondhand articles shall be one hundred dollars (\$100.00). Application fees are not refundable. All licenses shall expire on December 31st of the year of issuance. The fee for a first license issued after June 1st of any calendar year shall be seventy-five dollars (\$75.00). Every applicant for a license shall make application in writing to the Building and Zoning Inspector on a form prescribed by the Building and Zoning Inspector setting forth the name under which the business will be conducted, the name and address of every person having a financial interest in the business, the name and address of the on-site manager(s), the location at which the business will be conducted, and any other pertinent information requested by the Building and Zoning Inspector. Licenses under this chapter are not transferable. A change in financial interest of the business in the amount or in excess of fifty percent ownership interest shall require that a new application for a license be filed with the Building and Zoning Inspector.

(Ord. 2014-15. Passed 6-25-14.)

869.03 SECONDHAND DEALER RECORDS; INSPECTION.

(a) Every dealer in secondhand articles shall keep a bound book with page numbers in sequence in which shall be legibly written in English at the time of every purchase or sale, a description of every article so purchased or sold that includes the serial or other number or numbers and any monograms, inscriptions or other marks of identification that may appear on the article; a description of the articles or pieces comprising old gold, silver, platinum, or other metals, and any monograms, inscriptions or other marks of identification thereon; a photograph of the item; the name, residence and general description of the person from whom such purchase was made or to whom sold and a photocopy of photo identification from the seller or buyer such as a driver's license or state issued i.d. card; the date and time of the purchase or sale; and the consideration received by the seller for the article or articles. The holder of a Federal license to smelt precious metals shall not be held by reason thereof to be exempt from the provisions of this chapter.

(b) Every license under the provisions of this chapter, at the time of acquiring through purchase or exchange of any secondhand article, shall attach a tag with a

designating number thereon, legibly printed in ink, in the English language, to each article and shall make an entry of such number in the book.

(c) Such book shall at all reasonable times be open to inspection by any law enforcement officer or the Building and Zoning Inspector during regular business hours. Such book shall be substantially bound and of a size not less than six inches in length and breadth. In addition to such book, every person selling to or buying an item from a licensee shall, at the time of such sale or purchase, fill out on a blank form or index card, in the person's own handwriting, information that includes the person's name; age; address; and driver's license, state i.d. number or other photo identification i.d. number. No entry on such form or card shall be erased, obliterated, altered or defaced.

(Ord. 2014-15. Passed 6-25-14.)

869.04 SECONDHAND DEALER WEEKLY REPORTS TO POLICE.

Every secondhand dealer shall make out a weekly report containing all the particulars of secondhand purchases made by the licensed establishment during the preceding business week and deliver such report to the Police Department. The Chief of Police may designate that such reports be made on a form furnished by the Police Department for such purpose. (Ord. 2014-15. Passed 6-25-14.)

869.05 SECONDHAND DEALER MINIMUM HOLDING PERIOD.

(a) No person licensed as a secondhand dealer shall sell or offer to sell or remove, disassemble, repair, paint, take apart, or change the appearance of any secondhand good, article, or thing that has been purchased by the licensee for a period of at least fourteen days from the date of acquisition.

(b) Any of the goods, articles or things that are set forth in this chapter in the possession of any licensee shall, upon request, be made available for inspection to any member of the Village of Northfield Police Department during regular business hours. (Ord. 2014-15. Passed 6-25-14.)

869.06 LIMITATIONS ON SECONDHAND DEALERS.

(a) No secondhand dealer shall carry on such business without a valid current license or at any other place than the location designated in the license. Except as provided in Section 869.07, no dealer in secondhand articles shall continue to carry on business after the expiration, suspension or revocation of the license.

(b) No secondhand dealer shall purchase any secondhand articles at any time from a minor. No secondhand dealer shall purchase any secondhand articles from any person between the hours of 10:00 p.m. and 8:00 a.m. (Ord. 2014-15. Passed 6-25-14.)

869.07 LICENSE REVOCATION; APPEALS.

(a) The Building and Zoning Inspector may at any time revoke or suspend any license granted under the authority of this chapter for failure to comply with the terms of this chapter or any law or ordinance applicable to the business so licensed; fraud, misrepresentation or a false statement contained in the license application; or fraud, misrepresentation or a false statement made in the course of carrying on the business of a secondhand dealer.

(b) The Building and Zoning Inspector shall revoke any license granted under the authority of this chapter if the licensee has been convicted of receiving stolen property or theft.

(c) In case of the refusal to issue or renew a license by the Building and Zoning Inspector, the applicant or licensee may appeal such decision to the Village Council. Notice of such appeal shall be in writing and be filed with the Administrative Clerk/Building Department Secretary within ten days of the Building and Zoning Inspector's decision. Within twenty-one days after the filing of such notice, Council shall proceed to hear the appeal, at which hearing all parties interested shall be afforded an opportunity to be heard. No notice of the hearing is required to be provided to adjoining property owners. Council shall render a decision within ten days of the conclusion of the hearing. Council may sustain, disapprove or modify the action of the Building and Zoning Inspector.

(d) In the absence of conditions posing an imminent threat to health, safety or property, as determined by the Building and Zoning Inspector, or unless a license has been revoked by the Building and Zoning Inspector because the licensee has been convicted of receiving stolen property or theft as provided in subsection (b) of this section, a licensee who is otherwise lawfully operating but whose license has been revoked or suspended, or which the Building and Zoning Inspector has refused to renew, may continue operating during the pendency of an appeal under this section until Council issues a decision affirming a suspension of, revocation of, or refusal to renew the license.

(Ord. 2014-15. Passed 6-25-14.)

869.08 RESPONSIBILITY OF THE LICENSEE.

Every act or omission of an agent or employee that constitutes a violation of any provision of this chapter shall be deemed an act or omission of the licensee if such act or omission occurs with the authorization, knowledge or approval of the licensee, or as a result of the licensee's negligent failure to supervise the agent's or employee's conduct. The licensee shall also be punished for such act or omission in the same manner as if the licensee committed the act or caused the omission.

(Ord. 2014-15. Passed 6-25-14.)

869.09 BUSINESSES IN OPERATION PRIOR TO EFFECTIVE DATE OF CHAPTER.

Businesses to which this chapter is applicable that were in operation prior to the effective date of this chapter shall file an application to be licensed pursuant to this chapter and be in compliance with this chapter prior to August 15, 2014.

(Ord. 2014-15. Passed 6-25-14.)

869.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor of the first degree, and in addition to any other penalty provided by law, shall be fined up to one thousand dollars (\$1,000) per offense. Every day during which noncompliance or a violation continues shall constitute a separate offense.

(Ord. 2014-15. Passed 6-25-14.)

CHAPTER 870

Pool Rooms, Billiard Halls and Bowling Alleys

- 870.01 License required.
 870.02 License issuance; fee; tax.
 870.03 License revocation.
 870.04 Hours; minors.
 870.99 Penalty.

CROSS REFERENCES

- Gambling - see GEN. OFF. Ch. 630
 Peace disturbances - see GEN. OFF. Ch. 648
 Disorderly conduct - see GEN. OFF. 648.04
 Amusement devices - see B.R. & T. Ch. 809

870.01 LICENSE REQUIRED.

No person shall open, maintain, operate or conduct a pool room, billiard hall or bowling alley, for money or other consideration, without first obtaining a license therefor as provided in this chapter. (Ord. 1998-10. Passed 2-25-98.)

870.02 LICENSE ISSUANCE; FEE; TAX.

A license required by Section 868.01 may be issued by the Mayor to a person of good character and repute, only upon written application therefor, setting forth the name and address of the owner and the person to be in charge thereof, the proposed location within the Municipality and the number of tables or alleys to be used. The fee for the license shall be fifty dollars (\$50.00) per year or any part thereof. Should the Mayor refuse issuance of a license to any applicant, an appeal therefrom may be made by the applicant to Council within ten days of the date of the Mayor's decision to deny the license. In the event an appeal is filed, the appeal shall be heard by Council at its next regularly scheduled meeting or at another alternative date which is acceptable to the applicant.

In addition to the annual license fee set forth above, there is hereby levied a tax in the amount of one-half of one percent of the gross fees collected by such establishments listed in Section 870.01 for table or alley rental or use. Such tax shall be payable by the pool room, billiard hall or bowling alley and shall be paid to the Municipality on or before the twentieth day of the month following the month in which such gross fees are received. The Mayor or a designated representative of the Mayor is hereby authorized to require such verification as is needed to determine the actual amount due to the Municipality pursuant to this section.

(Ord. 1998-10. Passed 2-25-98.)

870.03 LICENSE REVOCATION.

A license issued under this chapter may be revoked at any time without return of the license fee, upon satisfactory proof that any violation of law or ordinance is permitted or committed upon the licensed premises.

(Ord. 1998-10. Passed 2-25-98.)

870.04 HOURS; MINORS.

No minor under eighteen years of age shall be permitted within a pool room or billiard hall between the hours of 10:00 p.m. and 5:30 a.m. of the following day unless accompanied by a parent or guardian. In addition, minors shall not be permitted within a pool room or billiard hall on school days between the hours of 8:30 a.m. and 2:30 p.m. unless their presence is specifically related to a school function.

(Ord. 1998-10. Passed 2-25-98.)

870.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense.

(Ord. 1998-10. Passed 2-25-98.)

CHAPTER 878
Snow Removal Contractors

878.01	Permit required; effective period; fee; insurance; display; illumination of equipment.	878.02	Disposal of snow.
		878.99	Penalty.

CROSS REFERENCES

Assessments for snow removal - see Ohio R.C. 727.01
 Snow removal equipment - see Ohio R.C. 4513.18, 5501.41
 Snowmobiles - see TRAF. 432.41, Ch. 446
 Snow emergencies parking ban - see TRAF. 452.17
 Duty to keep sidewalks free of snow and ice - see GEN. OFF. 660.05
 Snow removal for senior citizens and/or physically disabled residents - see S.U. & P.S. Ch. 1070
 Snow removal in subdivisions - see P. & Z. 1250.06(c)

878.01 PERMIT REQUIRED; EFFECTIVE PERIOD; FEE; INSURANCE; DISPLAY; ILLUMINATION OF EQUIPMENT.

(a) Any individual, firm, corporation or other person, who contracts or performs snow removal services in the Village on property which he, she, it, or they has or have no interest, shall make application to the Building and Zoning Inspector for a snow removal permit for each snow removal vehicle used by the applicant in the Village. Each permit shall be granted for a one-year period, starting October 1 of each year and expiring on September 30 of the following year, at the cost of twenty dollars (\$20.00) per vehicle. Permits applied for after October 30 of each year shall not be valid for a full year, but shall, rather, expire on September 30. In addition to other requirements, the applicant must display, prior to securing such permit, an insurance liability policy with coverage as prescribed by the financial security laws of the State. The permit as issued from the office of the Building and Zoning Inspector shall be conspicuously displayed on the windshield of the snow removal vehicle.

(b) Snow removal equipment shall be illuminated with emergency flashers as provided by the laws of the State.

(c) Snow removal vehicles and equipment shall be defined as any type of vehicle which is authorized and licensed by the State or by any other state, giving permission for such vehicle to transgress on public thoroughfares, and where such vehicle is used by the

owner or lessee, on a full or part-time basis, for the removal of snow from driveways, parking lots or sidewalks.

(Ord. 1996-62. Passed 10-23-96; Ord. 2001-16. Passed 2-14-01; Ord. 2003-52. Passed 11-12-03; Ord. 2010-08. Passed 3-10-10; Ord. 2012-79. Passed 11-14-12.)

878.02 DISPOSAL OF SNOW.

Snow removal from any driveway, parking lot or sidewalk, either public or private, industrial, commercial or residential, shall be disposed of by the person removing such snow in such a manner as not to obstruct the sidewalk, public streets or other rights-of-way for pedestrians or motor vehicles. Snow removed from any driveway, parking lot, sidewalk, parcel or lot, as described in this section, shall be disposed of on the lot or parcel from which the same is being removed, or on the tree lawn immediately in front of such lot or parcel on that same side of the street, in such a manner so as to permit a person to see over the piles of snow when such person is either driving into or backing out of the driveway of the premises, or to see around the corners. No person shall create any snow pile or otherwise pile snow within fifteen feet of the intersection of any street or public way, or within fifteen feet of any entrance to or exit from any premises.

For properties abutting State Route 8, no snow shall be piled within eight feet of the street line of State Route 8.

(Ord. 1999-82. Passed 11-10-99.)

878.99 PENALTY.

Whoever violates any of the provisions of this chapter for the first time is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Whoever is convicted of a second or subsequent violation of this chapter is guilty of a misdemeanor of the fourth degree and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than thirty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

In addition to the above, offenders under this chapter shall be liable for a Public Service Department fee in the event the Village is required to remove any snow or snow piles tracked into a street or sidewalk as a result of a violation of this chapter. Such a fee shall be assessed at one hundred dollars (\$100.00) per hour for the work performed with a minimum of one hour's assessment for each time such work is performed.

A fourth or subsequent offense of this chapter may result in revocation of the offender's snow removal permit by the Building and Zoning Inspector. In the event such permit is revoked, the permit holder shall have the right to appeal such action as provided for in Section 1476.12 of these Codified Ordinances.

(Ord. 1996-62. Passed 10-23-96.)

CHAPTER 882
Tattoo Establishments

- 882.01 Definitions.
- 882.02 License required; fees.
- 882.03 General requirements.
- 882.04 Inspections.
- 882.05 Patrons under the influence; minors.
- 882.06 Waste disposal.
- 882.99 Penalty.

CROSS REFERENCES

- Hazardous and solid waste - see Ohio R.C. Ch. 3734
- Physical harm to persons defined - see GEN. OFF.
606.01(l), (t)
- Endangering children - see GEN. OFF. 636.12

882.01 DEFINITIONS.

As used in this chapter:

- (a) "Building and Zoning Inspector" means the Municipality's Building and Zoning Inspector or his or her authorized representative.
- (b) "Certificate of inspection" means written approval from the Building and Zoning Inspector or his or her authorized representative that a tattooing establishment has been inspected and meets all of the terms of this chapter.
- (c) "Operator" means any individual, firm, company, corporation or association that owns or operates an establishment where tattooing is performed, and any individual who performs or practices the art of tattooing on the person of another.
- (d) "Tattoo", "tattooed" or "tattooing" refers to any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin, with ink or any other substance, resulting in the coloration of the skin, by the aid of needles or any other instruments designed to touch or puncture the skin. (Ord. 1998-9. Passed 1-28-98.)

882.02 LICENSE REQUIRED; FEES.

(a) No person shall engage in the business of operating a tattoo establishment in the Municipality without first obtaining a license to engage in such business in accordance with the provisions of this chapter.

(b) An application for a license shall be accompanied by a fee in the amount of twenty-five dollars (\$25.00), provided, however, that no application fee shall be received for renewal of an existing license.

(c) In addition to the application fee set forth in subsection (b) hereof, the license fee for engaging in the business of operating a tattoo establishment within the Municipality shall be fifty dollars (\$50.00) per year.
(Ord. 1998-9. Passed 1-28-98.)

882.03 GENERAL REQUIREMENTS.

(a) Each person who operates a tattooing establishment shall comply with the following requirements:

(1) The room in which tattooing is done shall have an area of not less than 100 square feet. The walls, floors and ceilings shall have an impervious, smooth and washable surface.

(2) A toilet shall be located in the establishment and shall be accessible at all times that the tattooing establishment is open for business. The lavatory shall be supplied with hot and cold running water, soap and sanitary towels.

(3) All tables and other equipment shall be constructed of easily cleanable material, shall be painted or finished in a light color with a smooth washable finish and shall be separated from waiting customers or observers by a panel at least six feet high or by a door.

(4) The entire premises and all equipment shall be maintained in a clean, sanitary condition and in good repair.

(5) The operator shall wash his or her hands thoroughly with soap and water before starting to tattoo each customer or patron; the hands shall be dried with individual, single-use towels.

(6) No tattooing shall be done on any skin surface that has a rash, pimples, boils or infections or manifests any evidence of an unhealthy condition.

(7) No skin area shall be penetrated, abraded or treated with chemicals for the purpose of removing, camouflaging or altering any blemish, birthmark, scar or tattoo.

(8) Safety razors with a new, single-service blade for each customer or patron, or a straight-edge razor, may be used and shall be thoroughly cleaned and sterilized before each use on each customer or patron.

(9) The area to be tattooed shall first be thoroughly washed for a period of two minutes with warm water to which has been added an antiseptic liquid soap. A sterile single-use sponge shall be used to scrub the area. After shaving and before tattooing is begun, a solution of iodine or bentadyne shall be applied to the area with a single-use sponge used and applied with a sterile instrument.

(10) Only petroleum jelly in collapsible metal or plastic tubes, or its equivalent as approved by the Building and Zoning Inspector, shall be used on the area to be tattooed, and it shall be applied with sterile gauze.

(11) The use of styptic pencils, alum block or other solid styptics to check the flow of blood is prohibited.

(12) An inquiry shall be made, and anyone giving a history of recent jaundice or hepatitis shall not be tattooed.

(13) Single-service or individual containers of dye or ink shall be used for each patron, the container therefor shall be discarded immediately after completing work on a patron, and any dye in which the needles were dipped shall not be used on another person. Excess dye or ink shall be removed from the skin with an individual sterile sponge or a disposable paper tissue which shall be used only on one person and then immediately discarded. After work is completed on any person, the tattooed area shall be washed with sterile gauze saturated with an antiseptic soap solution approved by the Building and Zoning Inspector, or a seventy percent alcohol solution. The tattooed area shall be allowed to dry and petroleum jelly from a collapsible or plastic tube shall be applied, using sterile gauze. A sterile gauze dressing shall then be fastened to the tattooed area with adhesive.

(b) All clean and ready-to-use needles and instruments shall be kept in a closed glass or metal case or storage cabinet when not in use. Such cabinet shall be maintained in a sanitary manner at all times.

(1) A steam sterilizer (autoclave) shall be provided for sterilizing all needles and similar instruments before use on any person. (Alternative sterilizing procedures may only be used when specifically approved by the Building and Zoning Inspector.) Sterilization of equipment will be accomplished by exposure to live steam for at least thirty minutes at a minimum pressure of fifteen pounds per square inch at a temperature of 240 degrees Fahrenheit or 116 degrees Celsius.

(2) The needles and instruments required to be sterilized shall be so used, handled and temporarily placed during tattooing that they will not be contaminated.

(c) Permanent records of each patron or customer shall be maintained by the licensee or operator of the establishment. Before the tattooing operation begins, the patron or customer shall be required personally to enter, on a record form provided for such establishments, the date and his or her name, address, age, serial number (if a member of the Armed Forces) and signature. Such records shall be maintained in the tattoo establishment and shall be available for examination by the Building and Zoning Inspector. Records shall be retained by the operator or licensee for a period of not less than two years. In the event of a change of ownership or closing of the business, all such records shall be made available to the Building and Zoning Inspector.

(d) No person, customer or patron having any skin infection or other disease of the skin or any communicable disease shall be tattooed. All infections resulting from the practice of tattooing which become known to the operator shall promptly be reported to the Building and Zoning Inspector by the person owning or operating the tattooing establishment, and the infected client shall be referred to a physician.

(e) All pigments, dyes or colors used in tattooing shall be sterile and free from bacteria, virus particles and noxious agents and substances. The pigments, dyes and colors used from stock solutions for each customer or patron shall be placed in a single-service receptacle, and such receptacle and remaining solution shall be discarded after use on each customer or patron.

(f) All bandages and surgical dressings used in connection with the tattooing of a person shall be sterile.
(Ord. 1998-9. Passed 1-28-98.)

882.04 INSPECTIONS.

(a) An applicant for a license to operate a tattooing establishment shall first obtain a certificate of inspection from the Building and Zoning Inspector, indicating that this establishment has been inspected and is in compliance with the provisions of this chapter.

(b) The Building and Zoning Inspector may conduct periodic inspections of any tattooing establishment for the purpose of determining whether or not said establishment and the persons performing the art of tattooing therein are in compliance with all applicable health provisions contained in this chapter and other pertinent ordinances. No operator of a tattooing establishment or other person shall willfully prevent or restrain the Building and Zoning Inspector from entering any licensed establishment where tattooing is being performed for the purpose of inspecting said premises, after proper identification is presented to the operator. After completion of inspection, the Building and Zoning Inspector may revoke the license for noncompliance with any of the provisions of this chapter. (Ord. 1998-9. Passed 1-28-98.)

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882.05 PATRONS UNDER THE INFLUENCE; MINORS.

No person shall tattoo any individual who is under the influence of alcohol and/or drugs or any minor.

(Ord. 1998-9. Passed 1-28-98.)

882.06 WASTE DISPOSAL.

All waste to be disposed of as a result of tattooing shall be considered medical waste and shall be subject to any and all State and Federal regulations governing the disposal of the same, including Ohio R.C. Chapter 3734 pertaining to infectious wastes.

(Ord. 1998-9. Passed 1-28-98.)

882.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. In addition, the operator's and establishment's license may be permanently revoked for serious or multiple violations of this chapter.

(Ord. 1998-9. Passed 1-28-98.)

CHAPTER 886
Self-Service Mini-Storage Facility Regulations

- 886.01 Purpose.
- 886.02 Use of land.
- 886.03 Inspections.
- 886.04 Lease agreement.
- 886.05 Applications.
- 886.99 Penalty.

886.01 PURPOSE.

The purpose of this chapter is to promote the public health, safety and welfare through the regulation of self-service mini-storage facilities.
(Ord. 2004-26. Passed 5-26-04.)

886.02 USE OF LAND.

The use of land, buildings or other structures as a self-service mini-storage facility must comply with the regulations and standards of this chapter and the Municipality's Zoning and Building Codes.
(Ord. 2004-26. Passed 5-26-04.)

886.03 INSPECTIONS.

The Fire Chief, the Fire Prevention Officer, and all firefighters, as directed by the Chief, shall have access to the individual self-service mini-storage units for the purpose of inspection to determine compliance with this chapter and with the Ohio Fire Code. Owners or operators of self-service mini-storage facilities and the lessees of each individual self-service storage unit shall allow access to the individual units for this inspection up to three times per calendar year. The Fire Chief is authorized to draft regulations establishing procedures for these inspections. The Fire Chief shall enforce this inspection procedure pursuant to Chapter 1610 of the Fire Prevention Code and any and all other applicable laws.
(Ord. 2004-26. Passed 5-26-04.)

886.04 LEASE AGREEMENT.

Owners or operators of self-service mini-storage facilities must include language within the lease for the individual self-storage units advising the lessees of the regulations drafted pursuant to this chapter and shall further contain a provision authorizing inspection of the units by the Fire Department up to three times per calendar year.
(Ord. 2004-26. Passed 5-26-04.)

886.05 APPLICATIONS.

Section 886.04 shall apply to all leases existing on the effective date of this chapter.
(Ord. 2004-26. Passed 5-26-04.)

886.99 PENALTY.

Whoever violates any provision of this chapter and upon conviction thereof, shall be guilty of a misdemeanor of the second degree. Each day that such violation continues shall constitute a separate offense.

(Ord. 2004-26. Passed 5-26-04.)

CHAPTER 888
Donation Boxes

888.01	Purpose.	888.05	Location and number of boxes per property.
888.02	Definitions.	888.06	Correction orders and removal.
888.03	Registration.	888.99	Penalty.
888.04	Standards.		

888.01 PURPOSE.

The purpose of this chapter is to promote the public health, safety, and welfare and aesthetics of the Municipality through the regulation of donation boxes.
(Ord. 2012-87. Passed 12-20-12.)

888.02 DEFINITIONS.

A “donation box” is a receptacle designed with a door, slot, or other opening that is intended to accept and store donated items, such as, but not limited to, clothing or household items. The definition of a donation box shall not include trailers where personnel are present to accept donations at all times that the trailer is present and accepting donated items.
(Ord. 2012-87. Passed 12-20-12.)

888.03 REGISTRATION.

No donation box shall be placed or maintained on any property in the Municipality unless a permit for such donation box is obtained from the Building and Zoning Inspector. Permits shall be granted for each calendar year, and a new permit is required for each subsequent calendar year. The permit fee is two hundred fifty dollars (\$250.00) per year and shall not be prorated based upon the time of the year the permit application is filed. Permits shall only be granted to recognized 501(c)(3) charitable organizations for donation boxes that meet the standards, location, and correction and removal requirements contained in this chapter. The permit applicant and holder is required to provide correct address, phone, and electronic contact information in connection with the application and permit and the name and contact information of a person or persons primarily responsible for placing, emptying, servicing, maintaining, and removing the box. Updated contact information shall be provided to the Building and Zoning Inspector during the year if such contact information changes.
(Ord. 2012-87. Passed 12-20-12.)

888.04 STANDARDS.

Every donation box shall be maintained in a neat and clean condition and in good repair at all times. Specifically, but without limiting the foregoing, each donation box shall be serviced and maintained so that it is free of dirt and grease; free of chipped, faded,

peeling, and cracked paint; free of rust and corrosion, and free of cracks, dents, blemishes, and discoloration. Donation boxes shall be emptied regularly and within forty-eight hours of the primary contact person being notified that the box is full. Each box shall clearly state the name, address, and phone number of the charity to which the donated items will benefit. (Ord. 2012-87. Passed 12-20-12.)

888.05 LOCATION AND MAXIMUM NUMBER OF BOXES PER PROPERTY.

(a) No person shall place or maintain and no property owner or tenant shall permit or maintain any donation box in any location that obstructs the sign lines of vehicular traffic.

(b) No more than two outdoor boxes shall be permitted on any parcel fo property or at any business location.

(Ord. 2012-87. Passed 12-20-12.)

888.06 CORRECTION ORDERS AND REMOVAL.

Upon determination of the Building and Zoning Inspector that a donation box has been placed or is being maintained in violation of this chapter, an order to correct the offending condition shall be issued to the property owner, tenant, or primary contact person designated by the permit holder. The order shall describe the offending condition and actions necessary to correct the condition. Failure to properly correct the offending condition within three days after being provided with notice of the order, exclusive of Saturdays, Sundays, and legal holidays, may result in the filing of charges for violating this chapter. If the offending condition is not corrected within thirty days of the date of the notice or if proper contact information for a primary contact person has not been provided, the Municipality may remove the box from the premises and treat it as unclaimed property pursuant to Section 608.16.

(Ord. 2012-87. Passed 12-20-12.)

880.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the fourth degree, punishable by up to 30 days in jail and a two hundred fifty dollar (\$250.00) fine. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 2012-87. Passed 12-20-12.)

TITLE FOUR - Taxation

- Chap. 890. Earned Income Tax Effective Through December 31, 2015.
- Chap. 891. Earned Income Tax Effective Beginning January 1, 2016.
- Chap. 892. Admissions, Parking and Amusement Device Tax.
- Chap. 894. Hotel Room Tax.
- Chap. 896. Owners of Rental Property Required to Provide Certain Information to Finance Director.

CHAPTER 890
Earned Income Tax

890.01	Levy of tax; purpose.	890.21	Payment to accompany declaration.
890.02	Definitions.		
890.03	Rate and income taxable.	890.22	Annual return.
890.04	Effective period.	890.23	Extension of time for filing, payment, etc.
890.05	Method of determination of tax.		
890.06	Sales made in the Municipality.	890.24	Interest on unpaid tax.
890.07	Total allocation.	890.25	Penalties on unpaid tax.
890.08	Rentals.	890.26	Exceptions to penalty assessment.
890.09	Operating loss carry-forward.		
890.10	Sources of income not taxed.	890.27	Abatement of interest and penalty.
890.11	When returns are required to be made.	890.28	Violations.
890.12	Form and content of return.	890.29	Limitation on prosecution.
890.13	Extension of time for filing returns.	890.30	Failure to procure forms not excuse.
890.14	Consolidated returns.	890.31	Unpaid taxes recoverable as other debts.
890.15	Amended returns.		
890.16	Payment of tax on filing of return.	890.32	Refunds of taxes erroneously paid.
890.17	Collection at source.	890.33	Amounts of less than one dollar.
890.18	Declarations of income not collected at source.	890.34	Credit for tax of another Municipality.
890.19	Filing of declaration.	890.35	Disbursement of funds collected.
890.20	Form of declaration.	890.36	Duties and authority of the Administrator.

890.37	Refusal to produce records.	890.41	Assignment of duties and authority of the Administrator.
890.38	Confidential nature of information obtained; disclosure.	890.42	Board of Review.
890.39	Taxpayer required to retain records.	890.43	Declaration of legislative intent; severability.
890.40	Authority to contract for administration and central collection.	890.44	Collection of tax after termination of chapter.
		890.99	Penalty.

CROSS REFERENCES

Power to tax - see Ohio Const. Art. XVIII, Sec. 3

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

Payroll deductions - see Ohio R.C. 9.42

Bond required for carnivals, circuses and other shows - see B.R. & T. 812.05

890.01 LEVY OF TAX; PURPOSE.

There is hereby levied a tax on all salaries, wages, commissions and other compensation, and on net profits as hereinafter provided, for the purposes of providing funds for special improvements of the Municipality.

(Ord. 1968-82. Passed 8-28-68.)

890.02 DEFINITIONS.

For the purpose of this chapter, certain words, terms, phrases, and their derivatives shall have the meanings given in this section. The singular includes the plural and the masculine includes the feminine and the neuter.

- (a) "Administrator" means the individual designated to administer and enforce the provisions of the Municipality's income tax. The Finance Director, or his or her appointee, shall serve as Administrator.
- (b) "Association" means any partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in Section 890.42.

- (d) “Business” means any enterprise, activity, profession or undertaking of any nature conducted for profit, or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding, however, all nonprofit corporations which are exempt from the payment of Federal income tax.
- (e) “Corporation” means a corporation or joint stock association organized under the laws of the United States, the State or any other state, territory or foreign country or dependency.
- (f) “Employee” means one who works for wages, salary, commission or other type of compensation in the service of any employer.
- (g) “Employer” means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation.
- (h) “Fiscal year” means an accounting period of twelve months or less, ending on any day other than December 31.
- (i) “Gross receipts” means the total income from any source whatever.
(Ord. 1968-82. Passed 8-28-68.)
- (j) “Net profits” means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, but subject to adjustment in accordance with the regulations and rules adopted by the Administrator and without deduction of taxes imposed by this chapter, Federal taxes, State taxes and other taxes based on income, and, in the case of an association, without deduction of salaries paid to partners and other owners.
(Ord. 1983-18. Passed 1-26-83.)
- (k) “Nonresident” means an individual domiciled outside the Municipality.
- (l) “Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the Municipality.
- (m) “Person” means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term “person”, as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.
- (n) “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 or her regular employees in attendance.
- (o) “Resident” means an individual domiciled in the Municipality.

- (p) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the Municipality.
- (q) “Taxable income” means wages, salaries and other compensation paid by an employer or employers before any deduction, and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter and shall also include the following:
- (1) “Business income” means income arising from transactions, activities, and sources in the regular course of a trade or business and includes income from tangible and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of a trade or business operation.
 - (2) “Compensation” means any form or remuneration including, but not limited to, wages, salaries, commissions, or other types of compensation in service of an employer, paid to an employee or individual for personal services.
 - (3) “Games of chance winnings” means those monetary prizes received by an individual or an estate after playing a game of chance. These winnings are considered non-business income and are not considered to be intangible income.
 - (4) “Intangible income” means income of any of the following types: income yield interest, 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 Ohio R.C. Chapter 5701.
 - (5) “Non-business income” means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, or lottery winnings, prizes and awards.
 - (6) “Winnings from games of chance” as defined by the Internal Revenue Service Code.
- (r) “Taxable year” means the calendar year or the fiscal year, upon the basis of which the net profits are to be computed under this chapter, and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (s) “Taxpayer” means a person, whether an individual, partnership, association, corporation or other entity, required hereunder to file a return or pay a tax.
(Ord. 1968-82. Passed 8-28-68; Ord. 2003-41. Passed 8-27-03.)

890.03 RATE AND INCOME TAXABLE.

An annual tax for the purpose specified in Section 890.01, shall be imposed on and after January 1, 1995, through December 31, 2004, at the rate of one and one-half percent per annum and on and after January 1, 2005, at the rate of two percent per annum, upon the following:

- (a) On all taxable income received during the effective period of this chapter, by residents of the Municipality, including, but not limited to, bonuses, incentives and profit sharing payments, vacation pay, payments received under a wage continuation plan from an employer or third party during periods of disability or sickness, and contributions made by or on behalf of an employee to a tax deferred annuity plan (401K, 403B, IRA, KEOUGH, and other similar plans).
- (b) On all taxable income received during the effective period of this chapter by non-residents for work done or services performed or render in this Municipality, including, but not limited to, bonuses, incentive and profit sharing payments, vacation pay, payments received under a wage continuation plan from an employer or third party during periods of disability or sickness, and contributions made by or on behalf of an employee to a tax deferred annuity plan (401K, 403B, IRA, KEOUGH, and other similar plans). In addition, on all taxable income during the effective period of this chapter received or won in the Village by non-residents constituting winnings from wagers or horse races or on games of chance as defined by the Internal Revenue Service Code.
- (c)
 - (1) On the portion attributable to the Municipality of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality.
 - (2) On the portion of the distributive shares of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity of the Municipality.
- (d)
 - (1) On the portion attributable to the Municipality of net profits earned during the effective period of this chapter of all non-resident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality.
 - (2) On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a non-resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality.
- (e) On the portion attributable to the Municipality of net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.

- (f) (1) The rental of real estate is ordinarily a business activity, and the income from such rentals are taxable, provided, however, where the taxpayer's entire rental activity produces gross rentals of three thousand dollars (\$3,000.00) per year or less, it will be prima facie evidence that such rentals are not a business activity. If gross rentals of any and all real properties in the aggregate exceed three thousand dollars (\$3,000.00) per year, the entire net income from rentals is taxable and shall be included in the computation of net profits from business activities.
- (2) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- (3) Real property, as the term is used in this chapter, shall include commercial property, residential property, farm property and any and all other types of real estate with the exception of farm property located outside the corporate limits of the Municipality.
- (4) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal income tax purposes.
- (5) Residents of this Municipality are subject to taxation upon the net income from rentals (to the extent specified above), regardless of the location of the real property owned.
- (6) Non-residents of this Municipality are subject to such taxation only if the real property is situated within the Municipality limits.
(Ord. 1994-36. Passed 8-10-94; Ord. 2003-41. Passed 8-27-03; Ord. 2004-34. Passed 7-14-04. Ord. 2006-51. Passed 10-25-06.)

890.04 EFFECTIVE PERIOD.

The Municipal income tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities, earned on and after October 1, 1968. (Ord. 1968-82. Passed 8-28-68.)

890.05 METHOD OF DETERMINATION OF TAX.

(a) In the taxation of income which is subject to the Municipal income tax, if the books and records of a taxpayer conducting a business or profession both within and outside the boundaries of the Municipality shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Municipality, then only such portion shall be considered as having a taxable situs in the Municipality for the purpose of Municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Municipality, in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

- (1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality, during the taxable period to the average net book value of all 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 includes property rented or leased by the taxpayer, the value of which 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 the Municipality to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Municipality to gross receipts of the business or profession during the same period from sales and services performed anywhere.

(b) In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result. (Ord. 1968-82. Passed 8-28-68.)

890.06 SALES MADE IN THE MUNICIPALITY.

As used in Section 890.05(a)(3) "sales made in the Municipality" means:

- (a) All sales of tangible personal property which is delivered within the Municipality, regardless of where title passes, if shipped or delivered from a stock of goods within the Municipality.
- (b) All sales of tangible personal property which is delivered within the Municipality, regardless of where title passes, even though transported from a point outside the Municipality, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Municipality, and the sales result from such solicitation or promotion.
- (c) All sales of tangible personal property which is shipped from a place within the Municipality to purchasers outside the Municipality, 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.

(Ord. 1968-82. Passed 8-28-68.)

890.07 TOTAL ALLOCATION.

Add together the percentages determined in accordance with Section 890.05(a), or such of the aforesaid percentages as are applicable to the particular taxpayer, and divide the total so obtained by the number of percentages used in deriving this total in order to obtain the business allocation percentage referred to in Section 890.05.

A factor is applicable even though it may be allocable entirely in or outside the Municipality.

(Ord. 1968-82. Passed 8-28-68.)

890.08 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 890.03(c) to (g), only if and to the extent that the rental ownership, management or operation of the real estate from which such rentals are derived, whether rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer, in whole or in part.

Where gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred twenty-five dollars (\$125.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax. However, in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee,

whether or not such rental exceeds one hundred twenty-five dollars (\$125.00) per month. Further, in the case of farm property, the owner shall be considered engaged in a business activity when he or she shares in crops or when the rental is based on a percentage of the gross of net profits derived from the farm, whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month. Further, the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month.

(Ord. 1968-82. Passed 8-28-68.)

890.09 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1995, allocable to the Municipality, may be applied against the portion of the profit of succeeding tax years allocable to the Municipality until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated to the Municipality in the same manner as provided herein for allocating net profits to the Municipality.

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(Ord. 1968-82. Passed 8-28-68.)

890.10 SOURCES OF INCOME NOT TAXED.

The tax provided for in this chapter shall not be levied on the following:

- (a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
- (b) Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local or state governments or the Federal Government or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered, from whatever source derived.
- (d) Receipts from seasonal or casual entertainment, amusements, sporting events and health and welfare activities when such are conducted by bona fide charitable, religious or educational organizations and associations.

- (e) Alimony received.
- (f) Personal earnings of any natural person under eighteen years of age.
- (g) Compensation for personal injuries or for damage to property, by way of insurance or otherwise.
- (h) Interest, dividends and other revenue from intangible property.
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State and which the Municipality is specifically prohibited from taxing, and the income of a decedent's estate during the period of administration, except such income from the operation of a business.
- (j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the Municipality to impose net income taxes.
(Ord. 1968-82. Passed 8-28-68.)

890.11 WHEN RETURNS ARE REQUIRED TO BE MADE.

Each taxpayer, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter (October 1, 1968) and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer, showing the amount of tax deducted by such employer from the salary, wages, commissions or other compensation of an employee, and paid by him or her or them to the Administrator, shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation. (Ord. 1968-82. Passed 8-28-68.)

890.12 FORM AND CONTENT OF RETURN.

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

- (a) The aggregate amounts of salary, wages, commissions and other compensation earned, and gross income from a business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;
- (b) The amount of tax imposed by this chapter on such earnings and profits; and
- (c) Such other pertinent statements, information returns or other information as the Administrator may require. (Ord. 1968-82. Passed 8-28-68.)

890.13 EXTENSION OF TIME FOR FILING RETURNS.

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

(Ord. 1968-82. Passed 8-28-68.)

890.14 CONSOLIDATED RETURNS.

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

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Municipality constituting a portion only of its total business, the Administrator shall require such additional information as he or she deems necessary to ascertain whether net profits are properly allocated to the Municipality. If the Administrator finds that net profits are not properly allocated to the Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity, or by some other method, he or she shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of net profits to the Municipality.

(Ord. 1968-82. Passed 8-28-68.)

890.15 AMENDED RETURNS.

(a) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Sections 890.31 through 890.34. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for the filing of the original return.

(b) Within three 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 to be due thereon or make a claim for a refund of any overpayment.

(Ord. 1968-82. Passed 8-28-68.)

890.16 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown to be due thereon, provided, however, that where any portion of the tax so due has been deducted at the source pursuant to Section 890.17, or where any portion of such tax has been paid by the taxpayer pursuant to Section 890.18, or where an income tax has been paid to another municipality, credit for the amount so paid, in accordance with Section 890.34, shall be deducted from the amount shown to be due, and only the balance, if any, shall be due and payable at the time of filing such return.

(b) A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his or her election, indicated on the return, such overpayment, or a part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded. (Ord. 1968-82. Passed 8-28-68.)

890.17 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Municipality shall deduct, at the time of the payment of any salary, wage, commission or other compensation, the amount of tax imposed by Section 890.03 on the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the twentieth day of the month following the close of each calendar quarter, make a return and pay to the Administrator the amount of taxes so deducted, subject to the provisions of subsections (d) to (f) hereof. Returns shall be on a form prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. (Ord. 1996-5. Passed 2-14-96.)

(b) In addition to the requirements set forth in subsection (a) hereof, and in accordance with rules and regulations prescribed by the Administrator, any person or other entity who or which acts as an agent, promoter or employer, or engages services, charges a fee for entering a premises or permits wagering, in connection with a contest involving the racing of horses, dogs or other animals, or cars or other mechanical devices, and makes any payment or disburses any money arising from such event shall be deemed to be an employer and shall, for the purposes of the collection of the income tax, be required to withhold or otherwise calculate, report and pay over to the Administrator a tax on the gross amount of all such payments or disbursements at the rate provided by the Board of Review. The person or other entity making the payment

shall, on or before the twentieth day of the month following the month in which the payment or disbursement was made, pay to the Administrator the amount of taxes so deducted or calculated pursuant to this section. Returns shall be on a form prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. The person or other entity making the payment shall be liable for the payment of the tax required to be withheld and/or paid by this section, whether or not such taxes have in fact been withheld.

The person or other entity required to make the above payment shall also submit an annual statement showing the Social Security numbers or Federal identification numbers, the names and addresses, the gross amount paid and the amount of tax withheld or otherwise paid, for all applicable individuals or other entities, to the Administrator on or before February 28 following the year in which the tax was withheld.

Persons from whom such tax is withheld or otherwise paid may submit an annual return on a form provided upon request by the Administrator or on a form acceptable to the Administrator and claim any itemized expenses permitted by that form and Ohio R.C. 718.02 and may claim a refund of all or a portion of the tax withheld or otherwise paid. The Administrator is hereby authorized to require such verification as is needed to determine the actual liability and the validity of the expenses claimed. Persons from whom such tax is withheld or for whom such tax is otherwise paid pursuant to this subsection are not required to file an annual tax return with respect to the income from which taxes were withheld or otherwise paid as a result of this subsection.

(Ord. 1997-56. Passed 10-22-97.)

(c) Such employer, in collecting the 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 or her employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer.

(d) Any employer who deducts the tax of one hundred dollars (\$100.00) or more per month shall pay to the Administrator, before the twentieth day of the following month, the amount of taxes so deducted on a monthly basis beginning with the first month the employer exceeds one hundred dollars (\$100.00) in taxes withheld.

(e) Payments shall be on a form furnished by or obtainable upon request from the Administrator.

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

(Ord. 1996-5. Passed 2-14-96.)

890.18 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

Every person who anticipates any taxable income which is not subject to Section 890.17, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 890.03, 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, that if a person's income is wholly from wages from which the tax will be withheld and remitted to the Municipality in accordance with Section 890.17, such person need not file a declaration.

(Ord. 1968-82. Passed 8-28-68.)

890.19 FILING OF DECLARATION.

(a) The declaration required by Section 890.18 above shall be filed on or before April 30 of each year during the effective period set forth in Section 890.04, or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(Ord. 1968-82. Passed 8-28-68.)

890.20 FORM OF DECLARATION.

(a) The declaration required by Section 890.18 shall be filed upon a form furnished by or obtainable from the Administrator, provided, however, that credit shall be taken for Municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 890.34, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

(b) 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.

(Ord. 1968-82. Passed 8-28-68.)

890.21 PAYMENT TO ACCOMPANY DECLARATION.

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

(Ord. 1968-82. Passed 8-28-68.)

890.22 ANNUAL RETURN.

On or before the last day of the fourth month of the year following that for which a declaration or amended declaration was filed, 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 890.16.

All residents of the Municipality shall file an annual return or exemption certificate on or before the last day of the fourth month following the end of the year for which the return is due. Joint returns may be filed by husband and wife.

(Ord. 1981-124. Passed 12-9-81.)

890.23 EXTENSION OF TIME FOR FILING, PAYMENT, ETC.

(a) The Administrator may extend the time for filing of any return required, making of any payment, or performing any other act required by this chapter, for a period not to exceed six months beyond the original required date.

(Ord. 1968-82. Passed 8-28-68.)

(b) Individuals serving in the Armed Forces of the United States in a combat zone or in support of the Armed Forces in a combat zone shall be granted an extension of time in which to file their Municipal income tax returns, pay any Municipal income tax due and/or file a claim for credit or refund of Municipal income tax. Said extension shall be for the period of service plus 180 days thereafter.

(Ord. 1991-18. Passed 2-13-91.)

890.24 INTEREST ON UNPAID TAX.

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

(Ord. 1981-125. Passed 12-9-81.)

890.25 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 890.24, penalties based on the unpaid tax are hereby imposed as follows:

- (a) For failure to pay taxes due other than taxes withheld: one and one-half percent per month or fraction thereof.
- (b) The minimum penalty for failure to file an annual return shall be twenty-five dollars (\$25.00).
- (c) For failure to pay taxes withheld from employees: ten percent per month or fraction thereof. (Ord. 1981-125. Passed 12-9-81.)

890.26 EXCEPTIONS TO PENALTY ASSESSMENT.

A penalty shall not be assessed on an additional tax assessment made by the Administrator against a taxpayer when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator. Further, in absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided that an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability. (Ord. 1968-82. Passed 8-28-68.)

890.27 ABATEMENT OF INTEREST AND PENALTY.

Upon the recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown. (Ord. 1968-82. Passed 8-28-68.)

890.28 VIOLATIONS.

No person shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (b) Make an incomplete, false or fraudulent return;
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (d) Fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Administrator;
- (e) Refuse to permit the Administrator, or any duly authorized agent or employee, to examine his or her books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (f) Fail to appear before the Administrator and to produce his or her books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;

- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (i) Give to any employer false information as to his or her true name, correct social security number and residence address or fail to promptly notify an employer of any change in his or her residence address or the date thereof;
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or knowingly give the Administrator false information; or
- (k) 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.
(Ord. 1968-32. Passed 8-28-68.)

890.29 LIMITATION ON PROSECUTION.

All prosecutions under this chapter must be commenced within the time limits specified by Ohio R.C. 718.06.

890.30 FAILURE TO PROCURE FORMS NOT EXCUSE.

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form or from paying the tax.
(Ord. 1968-82. Passed 8-28-68.)

890.31 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

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. Except in the case of fraud, of omission of a substantial portion of income subject to this tax or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later, provided, however, that 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 Administrator shall be one year from the time of the final determination of the Federal tax liability.
(Ord. 1968-82. Passed 8-28-68.)

890.32 REFUNDS OF TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the date on which the return was due, or within three months after the final determination of the Federal tax liability, whichever is later. (Ord. 1968-82. Passed 8-28-68.)

890.33 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 1968-82. Passed 8-28-68.)

890.34 CREDIT FOR TAX OF ANOTHER MUNICIPALITY.

(a) After December 31, 1994, and for the 1995 tax year and all years thereafter, when a resident of the Municipality is subject to a municipal income tax in another municipality on the same income taxable under this chapter, a credit shall be allowed against the Northfield income tax based on the amount of the net tax for which he or she is liable under the ordinance of such other municipality, but such credit shall not exceed the amount of the tax due hereunder. However, a resident of Northfield shall not be entitled to such credit if he or she fails, neglects or refuses to timely file a tax return or form as is prescribed by the Administrator and required by this chapter.

(b) Additional revenues from the tax increase provided for herein shall be used for the servicing and repairing of the Municipality's roads.
(Ord. 1994-36. Passed 8-10-94.)

890.35 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

- (a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
- (b) The balance remaining after payment of the expenses provided for in subsection (a) hereof shall be deposited in the Special Improvement Fund. (Ord. 1968-82. Passed 8-28-68.)

890.36 DUTIES AND AUTHORITY OF THE ADMINISTRATOR.

(a) Duty to Receive Tax Imposed. The Administrator shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, keep an accurate record thereof and report all moneys so received.

(b) Duty to Enforce Collection. The Administrator shall enforce payment of all taxes owed to the Municipality, keep accurate records for a minimum of five years, showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and show the dates and amounts of payments thereof.

(c) Authority to Make and Enforce Regulations. The Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby authorized, subject to the approval of the Board of Review, to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes under this chapter and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

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

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become due and payable upon demand, and the provisions of Sections 890.28 and 890.31 shall apply.

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

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

(g) Authority to Compel Production of Records. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, 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 or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information pertinent to such inquiry.

(Ord. 1968-82. Passed 8-28-68.)

890.37 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal Income Tax Returns, or the refusal to submit to such examination, by any employer or person subject or presumed to be subject to the tax, or by any officer, agent or employee of a person subject to the tax or required to withhold the tax, or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 890.99. (Ord. 1968-82. Passed 8-28-68.)

**890.38 CONFIDENTIAL NATURE OF INFORMATION OBTAINED;
DISCLOSURE.**

Any information gained as the result of any returns, investigations, hearings or verifications required or otherwise authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. No person shall divulge such information in violation of this section. (Ord. 1968-82. Passed 8-28-68.)

890.39 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of five years from the date his or her return is filed or the withholding taxes are paid. (Ord. 1968-82. Passed 8-28-68.)

**890.40 AUTHORITY TO CONTRACT FOR ADMINISTRATION AND
CENTRAL COLLECTION.**

The Mayor is hereby authorized to enter into an agreement on behalf of the Municipality with any other municipal corporation, firm or private corporation to permit such other municipal corporation, firm or private corporation to act as agent for the Municipality for the purpose of administering the income tax laws of the Municipality and for the purpose of providing a central collection facility for the collection of the income tax on behalf of the Municipality. Such agreement shall be approved by Council. (Ord. 1968-82. Passed 8-28-68.)

**890.41 ASSIGNMENT OF DUTIES AND AUTHORITY OF THE
ADMINISTRATOR.**

In the event the Mayor, on behalf of the Municipality, enters into an agreement with any other municipal corporation, firm or private corporation, to act as agent for the purpose of administering the income tax laws of the Municipality and for the purpose of providing a central facility for the collection of the income tax, as provided in Section 890.40, then all or part of the duties and authority of the Administrator may be assigned by such agreement to such other entity. Such agreement shall be approved by Council. (Ord. 1968-82. Passed 8-28-68.)

890.42 BOARD OF REVIEW.

(a) Establishment. A Board of Review, consisting of the Chairperson of the Finance Committee of Council or a person designated by him or her, the Law Director and a resident elector appointed by Council, is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairperson and one to serve as Secretary. 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 890.38 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on Appeal.

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

(c) Right of Appeal. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. (Ord. 1968-82. Passed 8-28-68.)

890.43 DECLARATION OF LEGISLATIVE INTENT; SEVERABILITY.

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

(Ord. 1968-82. Passed 8-28-68.)

890.44 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 the actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective and until all of such taxes levied in the aforesaid period are fully paid and until any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 890.28 through 890.33.

(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 890.11 and 890.17 as though the same were continuing. (Ord. 1968-82. Passed 8-28-68.)

890.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In the case of a violation of Section 890.38, each disclosure shall constitute a separate offense.

(b) In addition to the penalty provided in subsection (a) hereof, each employee of the Municipality who violates Section 890.38, relative to the disclosure of confidential information, shall be immediately dismissed from the service of the City.

CHAPTER 891
Earned Income Tax Effective Beginning January 1, 2016

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891.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE.

891.011 AUTHORITY TO LEVY TAX.

(a) The tax on income and the withholding tax established by this Chapter 891 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 891 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (R.C. Chapter 718). This chapter is deemed to incorporate the provisions of R.C. Chapter 718.

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Authority to tax income and withhold tax, see R.C. § 718.04

891.012 PURPOSES OF TAX; RATE.

(a) The within income tax chapter is enacted for the purposes of providing funds for general municipal operations; maintenance of municipal property and services; new municipal property, services, facilities, and equipment; and capital and special improvements.

(b) An annual tax for the purposes specified in Section 891.012(A), shall be imposed at the rate of two percent per annum, as set forth in this chapter.

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Authority to tax income and withhold tax, see R.C. § 718.04

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

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

(b) As mandated by H.B. 5, municipal income tax Ordinance 2015-73, effective January 1, 2016, comprehensively amends Chapter 890 in accordance with the provisions of R.C. Chapter 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality. (Ord. 2015-73. Passed 12-9-15.)

891.02 EFFECTIVE DATE.

(a) Ordinance 2015-73, effective January 1, 2016, and corresponding changes to R.C. Chapter 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 891 apply to taxable years beginning 2016 and succeeding taxable years.

(b) Ordinance 2015-73 does not repeal the existing sections of Chapter 890 for any taxable year prior to 2016, but rather amends Chapter 890 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under R.C. Chapter 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016. (Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Related provisions, see R.C. § 718.04

891.03 DEFINITIONS.

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

(b) For purposes of this section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(c) As used in this chapter:

(1) “Adjusted federal taxable income,” for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division (c)(23)D. of this section, means a C corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- A. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
- B. Add an amount equal to five percent of intangible income deducted under division (c)(1)A. of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
- C. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
- D.
 - 1. Except as provided in division (c)(1)D.2. of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - 2. Division (c)(1)D.1. of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- E. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- F. In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- G. Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under R.C. § 4313.02;
- H.
 - 1. Except as limited by divisions (c)(1)H.2., 3. and 4. of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion

of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

2. No person shall use the deduction allowed by division (c)(1)H. of this section to offset qualifying wages.
 3.
 - a. For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent of the amount of the deduction otherwise allowed by division (c)(1)H.1. of this section.
 - b. For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (c)(1)H.1. of this section.
 4. Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (c)(1)H. of this section.
 5. Nothing in division (c)(1)H.3.a. of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (c)(1)H.3.a. of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (c)(1)H.3.a. of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (c)(1)H.3.a. of this section shall apply to the amount carried forward.
- I. Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with Section 891.063(e)(3)B. of this chapter.
 - J. Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with Section 891.063(e)(3)B. of this chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (c)(47)B. of this section, is not a publicly traded

partnership that has made the election described in division (c)(23)D. of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction. Nothing in division (c)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(2) A. “Assessment” means any of the following:

1. A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;
2. A full or partial denial of a refund request issued under Section 891.096(b)(2) of this chapter;
3. A Tax Administrator’s denial of a taxpayer’s request for use of an alternative apportionment method, issued under Section 891.062(b)(2) of this chapter; or
4. A Tax Administrator’s requirement for a taxpayer to use an alternative apportionment method, issued under Section 891.062(b)(3) of this chapter.
5. For purposes of division (c)(2)A.1., 2., 3. and 4. of this section, an assessment shall commence the person’s time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 891.18 of this chapter, and shall have “ASSESSMENT” written in all capital letters at the top of such finding.

B. “Assessment” does not include notice(s) denying a request for refund issued under Section 891.096 (b)(3) of this chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator’s request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator’s other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (c)(2)A. of this section.

- (3) “Audit” means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.
- (4) “Board of Review” has same meaning as “Local Board of Tax Review.”
- (5) “Calendar quarter” means the three-month period ending on the last day of March, June, September, or December.
- (6) “Casino operator” and “casino facility” have the same meanings as in R.C. § 3772.01.
- (7) “Certified mail,” “express mail,” “United States mail,” “postal service,” and similar terms include any delivery service authorized pursuant to R.C. § 5703.056.
- (8) “Compensation” means any form of remuneration paid to an employee for personal services.
- (9) “Disregarded entity” means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (10) “Domicile” means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.
- (11) “Exempt income” means all of the following:
 - A. The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;
 - B.
 1. Except as provided in division (c)(11)B.2. of this section, intangible income;
 2. A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.
 - C. Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (c)(11)C. of this section, “unemployment compensation” does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

- D. The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- E. Compensation paid under R.C. §§ 3501.28 or 3501.36 to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) for the taxable year. Such compensation in excess of one thousand dollars (\$1,000.00) for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
- F. Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
- G. Alimony and child support received;
- H. Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;
- I. Income of a public utility when that public utility is subject to the tax levied under R.C. §§ 5727.24 or 5727.30. Division (c)(11)I. of this section does not apply for purposes of R.C. Chapter 5745.
- J. Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;
- K. Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;
- L. Employee compensation that is not qualifying wages as defined in division (c)(34) of this section;
- M. Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
- N. An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

- O. This section has intentionally been left blank.
- P.
1. Except as provided in divisions (c)(11)P.2., 3. and 4. of this section, qualifying wages described in Section 891.052(b)(1) or (e) of this chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.
 2. The exemption provided in division (c)(11)P.1. of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 3. The exemption provided in division (c)(11)P.1. of this section does not apply to qualifying wages that an employer elects to withhold under Section 891.052(d)(2) of this chapter.
 4. The exemption provided in division (c)(11)P.1. of this section does not apply to qualifying wages if both of the following conditions apply:
 - a. For qualifying wages described in Section 891.052(b)(1) of this chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in Section 891.052(e) of this chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
 - b. The employee receives a refund of the tax described in division (c)(11)P.4.a. of this section on the basis of the employee not performing services in that municipal corporation.
- Q.
1. Except as provided in division (c)(11)Q.2. or 3. of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.
 2. The exemption provided in division (c)(11)Q.1. of this section does not apply under either of the following circumstances:
 - a. The individual's base of operation is located in the Municipality.
 - b. The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (c)(11)Q.2.b. of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 891.052 of this chapter.

3. Compensation to which division (c)(11)Q. of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
 4. For purposes of division (c)(11)Q. of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.
- R. Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to R.C. § 709.023 on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
- S. Income the taxation of which is prohibited by the constitution or laws of the United States.

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

- (12) "Form 2106" means Internal Revenue Service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (13) "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.
- (14) "Income" means the following:
 - A. 1. For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (c)(23)D. of this section.
 2. For the purposes of division (c)(14)A.1. of this section:

- a. Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (c)(14)A.4. of this section;
 - b. The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
3. Division (c)(14)A.2. of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (c)(11)N. or division (c)(14)E. of this section.
4. Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
- B. In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- C. For taxpayers that are not individuals, net profit of the taxpayer;
- D. Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.

Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 891.081 of this chapter.

E. This section has intentionally been left blank.

- (15) “Intangible income” means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in R.C. Chapter 5701, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. “Intangible income” does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (16) “Internal Revenue Code” means the “Internal Revenue Code of 1986,” 100 Sfa. 2085, 26 U.S.C.A. 1, as amended.
- (17) “Limited liability company” means a limited liability company formed under R.C. Chapter 1705 or under the laws of another state.
- (18) “Local Board of Tax Review” and “Board of Tax Review” means the entity created under Section 891.18 of this chapter.
- (19) “Municipal corporation” means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under R.C. §§ 718.691, 715.70, 715.71, or 715.74.
- (20) A. “Municipal taxable income” means the following:
 1. For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Municipality under Section 891.062 of this chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.
 2. a. For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (c)(20)B. of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
 - b. For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income

exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of R.C. § 718.03.

3. For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 891.062 of this chapter, then reduced as provided in division (c)(20)B. of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
- B. In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (c)(20)A.2.a. or 3. of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.
- (21) "Municipality" means the Village of Northfield.
 - (22) "Net operating loss" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.
 - (23) A. "Net profit" for a person other than an individual means adjusted federal taxable income.
B. "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (c)(23)A. of this section, the net operating loss

carried forward shall be calculated and deducted in the same manner as provided in division (c)(1)H. of this section.

- C. For the purposes of this chapter, and notwithstanding division (c)(23)A. of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- D.
1. For purposes of this chapter, “publicly traded partnership” means any partnership, an interest in which is regularly traded on an established securities market. A “publicly traded partnership” may have any number of partners.
 2. For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (c)(23)D. of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.
 3. A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (c)(23)D.4 of this section.
 4. An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (c)(23)D.3. of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.
 5. The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership

is not subject to taxation on its net profits, but division (c)(23)D. of this section applies to all municipal corporations in which an individual owner of the partnership resides.

6. The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.
- (24) “Nonresident” means an individual that is not a resident of the Municipality.
- (25) “Ohio Business Gateway” means the online computer network system, created under R.C. § 125.30, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (26) “Other payer” means any person, other than an individual’s employer or the employer’s agent, that pays an individual any amount included in the federal gross income of the individual. “Other payer” includes casino operators and video lottery terminal sales agents.
- (27) “Pass-through entity” means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. “Pass-through entity” does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (28) “Pension” means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. “Pension” does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (29) “Person” includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (30) “Postal service” means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.
- (31) “Postmark date,” “date of postmark,” and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.
- (32) A. “Pre-2017 net operating loss carryforward” means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the

Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.

- B. For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.
- (33) “Qualified municipal corporation” means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by R.C. § 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.
- (34) “Qualifying wages” means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- A. Deduct the following amounts:
1. Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
 2. Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
 3. This section has intentionally been left blank.
 4. This section has intentionally been left blank.
 5. Any amount included in wages that is exempt income.
- B. Add the following amounts:
1. Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 2. Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (c)(34)B.2. of this section applies only to those amounts constituting ordinary income.
 3. Any amount not included in wages if the amount is an amount described in section 401 (k), 403(b), or 457 of the Internal Revenue Code. Division (c)(34)B.3. of this section applies only to employee contributions and employee deferrals.
 4. Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

5. Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
 6. Any amount not included in wages if all of the following apply:
 - a. For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - b. For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - c. For no succeeding taxable year will the amount constitute wages; and
 - d. For any taxable year the amount has not otherwise been added to wages pursuant to either division (c)(34)B. of this section or R.C. § 718.03, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (35) "Related entity" means any of the following:
- A. An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent of the value of the taxpayer's outstanding stock;
 - B. A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent of the value of the taxpayer's outstanding stock;
 - C. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (c)(35)D. of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;
 - D. The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (c)(35)A. to C. of this section have been met.

- (36) “Related member” means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, “twenty percent” shall be substituted for “5 percent” wherever “5 percent” appears in section 1563(e) of the Internal Revenue Code.
- (37) “Resident” means an individual who is domiciled in the Municipality as determined under Section 891.042 of this chapter.
- (38) “S Corporation” means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (39) “Schedule C” Means Internal Revenue Service Schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) “Schedule E” means Internal Revenue Service Schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (41) “Schedule F” means Internal Revenue Service Schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) “Single member limited liability company” means a limited liability company that has one direct member.
- (43) “Small employer” means any employer that had total revenue of less than five hundred thousand dollars (\$500,000.00) during the preceding taxable year. For purposes of this division, “total revenue” means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. “Small employer” does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.
- (44) “Tax Administrator” means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:
- A. A municipal corporation acting as the agent of another municipal corporation;

- B. A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
 - C. The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.
- (45) “Tax return preparer” means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .
- (46) “Taxable year” means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (47) A. “Taxpayer” means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. “Taxpayer” does not include a grantor trust or, except as provided in division (c)(47)B.1. of this section, a disregarded entity.
- B. 1. A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
 - a. The limited liability company’s single member is also a limited liability company.
 - b. The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - c. Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under R.C. § 718.01(L) as this section existed on December 31, 2004.
 - d. The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - e. The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
 - 2. For purposes of division (c)(47)B.1.e. of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company’s taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its

taxable year ending in 2003 was at least four hundred thousand dollars (\$400,000.00).

- (48) “Taxpayers’ rights and responsibilities” means the rights provided to taxpayers in R.C. §§ 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with R.C. Chapter 718 and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.
- (49) “Video lottery terminal” has the same meaning as in R.C. § 3770.21.
- (50) “Video lottery terminal sales agent” means a lottery sales agent licensed under R.C. Chapter 3770 to conduct video lottery terminals on behalf of the state pursuant to R.C. § 3770.21.
(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Related definitions, see R.C. § 718.01

891.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.

891.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS.

(a) “Municipal taxable income” for a resident of the Municipality is calculated as follows:

- (1) “Income” reduced by “exempt income” to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in Section 891.03(c)(20)B. of this chapter, further reduced by any “pre-2017 net operating loss carryforward” equals “municipal taxable income.”
- A. “Income” is defined in Section 891.03(c)(14) of this chapter.
1. “Qualifying wages” is defined in Section 891.03(c)(34).
 2. “Net profit” is included in “income”, and is defined in Section 891.03(c)(23) of this chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in Section 891.03(c)(1)H. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 891.062(e).
 3. Section 891.03(c)(14) provides the following: offsetting and net operating loss carryforward treatment in Section 891.03(c)(14)A.2.a.; resident’s distributive share of net profit from pass through entity treatment in Section 891.03(c)(14)A.2.b.; treatment of S Corporation distributive share of net profit in the hands of the shareholder in Section 891.03(c)(14)A.3.; restriction

of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in Section 891.03(c)(14)A.4.

4. "Pass through entity" is defined in Section 891.03(c)(27).

- B. "Exempt income" is defined in Section 891.03(c)(11) of this chapter.
- C. Allowable employee business expense deduction is described in Section 891.03(c)(20)B. of this chapter, and is subject to the limitations provided in that section.
- D. "Pre-2017 net operating loss carryforward" is defined in Section 891.03(c)(32) of this chapter.

(b) "Municipal taxable income" for a nonresident of the Municipality is calculated as follows:

- (1) "Income" reduced by "exempt income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the Municipality as provided in Section 891.062 of this chapter, reduced by allowable employee business expense deduction as found in Section 891.03(c)(20)B. of this chapter, further reduced by any "pre-2017 net operating loss carryforward" equals "Municipal taxable income."
 - A. "Income" is defined in Section 891.03(c)(14) of this chapter.
 - 1. "Qualifying wages" is defined in Section 891.03(c)(34).
 - 2. "Net profit" is included in "income," and is defined in Section 891.03(c)(23) of this chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in Section 891.03(c)(1)H. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.
 - 3. "Pass through entity" is defined in Section 891.03(c)(27).
 - B. "Exempt income" is defined in Section 891.03(c)(11) of this chapter.
 - C. "Apportioned or sitused to the Municipality as provided in Section 891.062 of this chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 891.062(e).
 - D. "Allowable employee business expense deduction" as described in Section 891.03(c)(20)B. of this chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.

- E. “Pre-2017 net operating loss carryforward” is defined in Section 891.03(c)(32) of this chapter.
(Ord. 2015-73. Passed 12-9-15.)

891.042 DOMICILE.

(a) As used in this section:

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

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

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

(c) All applicable factors are provided in R.C. § 718.012.
(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Domicile, see R.C. § 718.012

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

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

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Exclusion of General Assembly employee or member and certain judges from tax, see R.C. § 718.50

891.05 COLLECTION AT SOURCE.

891.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

- (a) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under Section 891.052 of this chapter or division (d) or (f) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.
- (2) In addition to withholding the amounts required under division (a)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

- (b) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
- A. Any employer, agent of an employer, or other payer not required to make payments under division (b)(1)B. of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.
 - B. Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the Municipal Corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars (\$2,399.00), or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars (\$200.00). Payment under division (b)(1)B. of this section shall be made to the Tax Administrator not later than fifteen days after the last day of each month.

(c) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under Section 891.091 of this chapter.

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

- (e) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

- (2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

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

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

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

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

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

(k) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this chapter to be tax required to be withheld and remitted for the purposes of this section. (Ord. 2015-73. Passed 12-9-15; Ord. 2016-100. Passed 11-30-16.)

Statutory reference:

Withholding from qualifying wages, see R.C. § 718.03

891.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

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

- (1) “Employer” includes a person that is a related member to or of an employer.
- (2) “Professional athlete” means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (3) “Professional entertainer” means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (4) “Public figure” means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- (5) “Fixed location” means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (6) “Worksite location” means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. “Worksite location” does not include the home of an employee.
- (7) “Principal place of work” means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, “principal place of work” means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, “principal place of work” means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee’s employer.
 - A. If there is not a single municipal corporation in which the employee spent the “greatest number of days in a calendar year” performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee’s

- qualifying wages subject to division (b)(1)A. of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.
- B. For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (b)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.
- (b) (1) Subject to divisions (c), (e), (f), and (g) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:
- A. The employee's principal place of work is located in the Municipality.
- B. The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:
1. The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 2. The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.
- C. The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 891.051 of this chapter.
- D. The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.

- (2) For the purposes of division (b)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
- A. Traveling to the location at which the employee will first perform services for the employer for the day;
 - B. Traveling from a location at which the employee was performing services for the employer to any other location;
 - C. Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
 - D. Transporting or delivering property described in division (b)(2)C. of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
 - E. Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

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

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

- (3) If an employer makes the election described in division (d)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(e) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 891.03 of this chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(f) Divisions (b)(1) and (d) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 891.051 of this chapter.

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

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Definitions, see R.C. § 718.01

Occasional entrant, withholding, see R.C. § 718.011

891.053 COLLECTION AT SOURCE; CASINO AND VLT.

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

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

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

- (1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the Municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the Municipality all amounts deducted and withheld during the preceding month.
- (2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
- (3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.
- (4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.
- (5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and

interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:

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

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

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

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

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

- (1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.
- (2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.
- (3) A video lottery sales agent shall maintain a record of all receipts issued under division (e) of this section and shall make those records available to

the Tax Administrator upon request. Such records shall be maintained in accordance with R.C. § 5747.17 and any rules adopted pursuant thereto.

- (4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
- (5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.
- (6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

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

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

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

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

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

- (1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty percent of the tax deducted and withheld;
- (2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars (\$500.00) for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in R.C. § 5703.47.

(i) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of Section 891.07 of this chapter. This division applies only to the person for whom the amount is deducted and withheld.

(j) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Withholding by casinos and lottery sales agents, see R.C. § 718.031

891.06 INCOME SUBJECT TO NET PROFIT TAX.

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

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

- (a) "Income" reduced by "exempt income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "pre-2017 net operating loss carryforward" equals "municipal taxable income."
 - (1) "Income" for a taxpayer that is not an individual means the "net profit" of the taxpayer.
 - A. "Net profit" for a person other than an individual is defined in Section 891.03(c)(23).
 - B. "Adjusted federal taxable income" is defined in Section 891.03(c)(1) of this chapter.
 - (2) "Exempt income" is defined in Section 891.03(c)(11) of this chapter.

- (3) “Apportionment” means the apportionment as determined by Section 891.062 of this chapter.
- (4) “Pre-2017 net operating loss carryforward” is defined in Section 891.03(c)(32) of this chapter.
(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Definitions, see R.C. § 718.01

**891.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX;
ALTERNATIVE APPORTIONMENT.**

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

- (a) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:
 - (1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
 - (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual’s services are performed, excluding compensation from which taxes are not-required to be withheld under Section 891.052 of this chapter;
 - (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (b) (1) If the apportionment factors described in division (a) of this section do not fairly represent the extent of a taxpayer’s business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

- A. Separate accounting;
 - B. The exclusion of one or more of the factors;
 - C. The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;
 - D. A modification of one or more of the factors.
- (2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 891.19(a) of this chapter.
- (3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (b)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by Section 891.19(a) of this chapter.
- (4) Nothing in division (b) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (c) As used in division (a)(2) of this section, “wages, salaries, and other compensation” includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
- (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - A. The employer;
 - B. A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - C. A vendor, customer, client, or patient of a person described in division (c)(1)B. of this section, or a related member of such a vendor, customer, client, or patient.
 - (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee’s presence at the location directly or indirectly benefits the employer;
 - (3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (c)(1) or (2) of this section solely in order to avoid or reduce the employer’s municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator’s determination was unreasonable.

- (d) For the purposes of division (a)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:
 - A. The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
 - B. The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
 - C. The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
 - (2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.
 - (3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.
 - (4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.
 - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.
- (e) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.
- A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.
- (f) (1) Except as provided in division (f)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate

is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

- (2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 891.081 of this chapter.
- (g) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under Section 891.03(c)(11)L. and (c)(34)A.4. of this chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

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

- (h) When calculating the ratios described in division (a) of this section for the purposes of that division or division (b) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.
(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Income subject to tax, see R.C. § 718.02

891.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.

- (a) As used in this section:
 - (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
 - (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

- (3) “Consolidated federal taxable income” means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. “Consolidated federal taxable income” does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (a)(1) of this section.
 - (4) “Incumbent local exchange carrier” has the same meaning as in R.C. § 4927.01.
 - (5) “Local exchange telephone service” has the same meaning as in R.C. § 5727.01.
- (b) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.
- A. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.
 - B. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (b)(2) of this section; or
 - C. A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
- (2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (b)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
- (3) An election made under division (b)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(c) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm’s length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated

municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

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

- (e) (1) Except as otherwise provided in divisions (e)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 891.03(c)(1) of this chapter, by substituting “consolidated federal taxable income” for “federal taxable income” wherever “federal taxable income” appears in that division and by substituting “an affiliated group of corporation’s” for “a C corporation’s” wherever “a C corporation’s” appears in that division.
- (2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under Section 891.03(c)(1) of this chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
- (3) If the net profit or loss of a pass-through entity having at least eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group’s consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity’s net profit or loss for that taxable year:
- A. Exclude the pass-through entity’s net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 891.062 of this chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group’s net profit situated to a municipal corporation. If the entity’s net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity’s net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
- B. Include the pass-through entity’s net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 891.062 of this chapter, include the property, payroll, and gross receipts of the pass-through

entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

- (4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
- A. The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 891.062 of this chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;
 - B. The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(f) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 891.062 of this chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Consolidated municipal tax return, see R.C. § 718.06

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

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Fostering new jobs; tax credits, see R.C. § 718.15

891.065 TAX CREDITS TO FOSTER JOB RETENTION.

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Fostering job retention; tax credits, see R.C. § 718.151

891.07 DECLARATION OF ESTIMATED TAX.

(a) As used in this section:

- (1) “Estimated taxes” means the amount that the taxpayer reasonably estimates to be the taxpayer’s tax liability for a municipal corporation’s income tax for the current taxable year.
- (2) “Tax liability” means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.
- (3) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars (\$200.00). For the purposes of this section:
 - A. Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.

- B. An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
 - C. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
 - D. Taxes withheld by a casino operator or by a lottery sales agent under R.C. § 718.031 are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.
 - (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under Section 891.091(g) of this chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.
 - (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.
 - (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.
- (c) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:
 - A. On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half percent of the tax liability for the taxable year;
 - B. On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five percent of the tax liability for the taxable year;
 - C. On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half percent of the tax liability for the taxable year;
 - D. On or before the fifteenth day of the twelfth month of the taxable year, ninety percent of the tax liability for the taxable year.

- (2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (c)(1)A. through D. of this section.
 - (3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 891.091 of this chapter.
 - A. For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to R.C. § 5747.08(G).
 - B. For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.
 - (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
- (d) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 891.10 of this chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (e) of this section. The amount of the underpayment shall be determined as follows:
- A. For the first payment of estimated taxes each year, twenty-two and one-half percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - B. For the second payment of estimated taxes each year, forty-five percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - C. For the third payment of estimated taxes each year, sixty-seven and one-half percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - D. For the fourth payment of estimated taxes each year, ninety percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any

payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

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

- (1) The amount of estimated taxes that were paid equals at least ninety percent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
- (2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 891.091 of this chapter for that year.
- (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Estimated taxes, see R.C. § 718.08

891.08 CREDIT FOR TAX PAID.

891.081 CREDIT FOR TAX OF ANOTHER MUNICIPALITY.

When a resident of the Municipality is subject to a municipal income tax in another municipality on the same income taxable under this chapter, a credit shall be allowed against the Village of Northfield income tax based on the amount of the net tax for which he or she is liable under the ordinance of such other municipality, but such credit shall not exceed the amount of the tax due hereunder. However, a resident of the Village of Northfield shall not be entitled to such credit if he or she fails, neglects, or refuses to timely file a tax return or form as is prescribed by the Administrator and required by this chapter.

(Ord. 2015-73. Passed 12-9-15.)

891.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

- (a) As used in this section:

- (1) “Nonqualified deferred compensation plan” means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
 - (2) A. Except as provided in division (a)(2)B. of this section, “qualifying loss” means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer’s receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.
B. If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the “qualifying loss” is the product of the amount resulting from the calculation described in division (a)(2)A. of this section computed without regard to division (a)(2)B. of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
C. With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
 - (3) “Qualifying tax rate” means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the “qualifying tax rate” is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.
- (b) (1) Except as provided in division (d) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
- (2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

- (3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
 - (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (c)
- (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
 - (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.
- (d) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
- (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.
- (Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Qualifying loss; refundable credit, see R.C. § 718.021

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

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under R.C. § 715.691 or a joint economic development district created under R.C. §§ 715.70, 715.71, or 715.72 to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 891.081 of this chapter. (Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Worker in joint economic development zone or district, see R.C. § 718.16

891.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

(a) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 891.096 of this chapter.

(b) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in Section 891.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(c) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 891.096 of this chapter,

(d) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 891.081 of this chapter regarding any limitation on credit shall prevail.

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

*Second municipality imposing tax after time period allowed for refund,
see R.C. § 718.121*

891.09 ANNUAL RETURN.**891.091 RETURN AND PAYMENT OF TAX.**

- (a) (1) An annual return with respect to the income tax levied on municipal taxable income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.
- (2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under Section 891.051(c) of this chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.
- (3) All resident individual taxpayers shall file an annual municipal income tax return with the Municipality, regardless of income or liability.

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

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

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

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

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

- (3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.
 - (4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio Business Gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.
 - (5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (f) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
 - (6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.
- (g) (1) A. Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under R.C. § 5747.08(G). The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.
- B. Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer

shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

- C. In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars (\$10.00) or less.
- (2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.
- (3) With respect to taxpayers to whom Section 891.092 of this chapter applies, to the extent that any provision in this division conflicts with any provision in Section 891.092 of this chapter, the provision in Section 891.092 of this chapter prevails.
- (h) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars (\$10.00) or less.
- (2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (h)(1) of this section shall file with the Municipality an annual net profit return under division (f)(3) and (4) of this section.
- (i) (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (2) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the time stamp assigned by the first electronic system receiving the payment.

(j) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Section 891.051 of this chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

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

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

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

- (n) (1) As used in this division, "worksite location" has the same meaning as in Section 891.052 of this chapter.
- (2) A person may notify a Tax Administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

- A. The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The Tax Administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.
- B. The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

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

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

(Ord. 2015-73. Passed 12-9-15; Ord. 2016-100. Passed 11-30-16.)

Statutory reference:

Annual return; filing; extensions, see R.C. § 718.05

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

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

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

active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

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

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Filing extension for certain armed forces service, see R.C. § 718.052

**891.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS
AUTHORIZED.**

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

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

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

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

(e) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Use of Ohio Business Gateway, see R.C. § 718.051

891.094 EXTENSION OF TIME TO FILE.

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

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

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

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

(e) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under R.C. § 5747.08(G), a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Annual return; filing; extensions, see R.C. § 718.05

891.095 AMENDED RETURNS.

(a) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to

determine the tax due levied by the Municipality in accordance with this chapter must be altered.

- (2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars (\$10.00) or less.
 - (3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.
- (b)
- (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars (\$10.00) or less, such amount need not accompany the amended return. Except as provided under division (b)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under Section 891.19 of this chapter has not expired for a previously filed return.
 - (2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.
- (c)
- (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (a)(2) of this section for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars (\$10.00) or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (c)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in Section 891.096 of this chapter. Except as set forth in division (c)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

- (2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. (Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Amended returns, see R.C. § 718.41

Limitations, see R.C. § 718.12

891.096 REFUNDS.

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

- (1) Overpayments of more than ten dollars (\$10.00);
- (2) Amounts paid erroneously if the refund requested exceeds ten dollars (\$10.00).

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

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (b)(3) of this section, the Administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 891.18 of this chapter.

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

- (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the fast day for filing the request.

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

(d) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in Section 891.10(a)(4) of this chapter.

(e) As used in this section, “withholding tax” has the same meaning as in Section 891.10 of this chapter.
(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Requests for refunds, see R.C. § 718.19

891.10 PENALTY, INTEREST, FEES, AND CHARGES.

- (a) As used in this section:
- (1) “Applicable law” means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.
 - (2) “Federal short-term rate” means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.
 - (3) “Income tax,” “estimated income tax,” and “withholding tax” mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.
 - (4) “Interest rate as described in division (a) of this section” means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July

of the year in which the federal short-term rate is determined in accordance with division (a)(2) of this section.

- (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
- (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
- (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
- (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
- (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

- (b) (1) This section shall apply to the following:
 - A. Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
 - B. Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016.
- (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this Municipality.

(c) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.

- (1) Interest shall be imposed at the rate defined as "interest rate as described in division (a) of this section," per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

- (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.
- (3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.
- (4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars (\$25.00) for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars (\$150.00) in assessed penalty for each failure to timely file a return.

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

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

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

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Interest and penalties, see R.C. § 718.27

891.11 AUDIT.

(a) At or before the commencement of an audit, as defined in Section 891.03(c)(3) of this chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

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

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

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

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

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

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Audits, see R.C. § 718.36

891.12 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents (\$0.50) shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents (\$0.50) shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Rounding of amounts, see R.C. § 718.25

891.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.**891.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR.**

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

- (a) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;
- (b) Appoint agents and prescribe their powers and duties;
- (c) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (d) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;
- (e) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (f) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 891.062 of this chapter;
- (g) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to lime limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review

or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

- (h) Destroy any or all returns or other tax documents in the manner authorized by law;
- (i) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 891.051 of this chapter.
(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Authority of Tax Administrator, see R.C. § 718.24

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

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

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

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

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

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

- (e) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.
- (2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(f) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time

agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Administration of claims, see R.C. § 718.28

891.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

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

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

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

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Accuracy of returns; verification, see R.C. § 718.23

891.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION.

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

- (b) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 891.10 of this chapter, in addition to any applicable penalty described in Section 891.99 of this chapter.
- (2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 891.10 of this chapter.
- (3) The penalties provided for under divisions (b)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 891.99 of this chapter for a violation of Section 891.15 of this chapter and any other penalties that may be imposed by the Tax Administrator by law.
- (Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Identification information, see R.C. § 718.26

891.14 CONFIDENTIALITY.

(a) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by R.C. Chapter 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information

except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by R.C. Chapter 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(b) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers. (Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Tax information confidential, see R.C. § 718.13

891.15 FRAUD.

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Fraud, see R.C. § 718.35

891.16 OPINION OF THE TAX ADMINISTRATOR.

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

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

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

- (3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

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

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

- (d)
 - (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.
 - (2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of Section 891.15 of this chapter.

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

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

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

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

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

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

(j) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under division (f) may not be appealed.

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Opinion of Tax Commissioner; request, see R.C. § 718.38

891.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

- (a) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under R.C. § 5703.056.
- (2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.
- (3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in R.C. § 718.18 is prima facie evidence that delivery is complete and that the assessment is served.
- (b) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an

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

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

(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Service of assessment; presumption, see R.C. § 718.18

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

- (a)
 - (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in R.C. Chapter 718.
 - (2) The Local Board of Tax Review shall consist of three members. The three members of the Local Board of Tax Review may be domiciled in the Municipality, but the appointing authority may consider membership from individuals who are not domiciled within the Municipality. Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.
 - (3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit

on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.

- (4) Members of the Board of Tax Review appointed by the legislative authority may be removed by the legislative authority as set forth in R.C. § 718.11(A)(4).
- (5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.
- (7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

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

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

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

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

(f) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under R.C. § 149.43. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to R.C. § 121.22. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing. (Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Local Board of Tax Review, see R.C. § 718.11

891.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

- (a) (1) A. Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:
1. Three years after the tax was due or the return was filed, whichever is later; or
 2. One year after the conclusion of the qualifying deferral period, if any.
- B. The time limit described in division (a)(1)A. of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (c) of this section.
- (2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:
- A. Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 891.18 of this chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved

person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

- B. Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

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

(c) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 891.096 of this chapter.

- (d) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.
- (2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 891.18 of this chapter, of the Ohio Board of Tax Appeals, or any court to which the decision of the Ohio Board of Tax Appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 891.096 of this chapter, with interest on that amount as provided by division (d) of this section.

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

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

- (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.
(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Statute of limitations, see R.C. § 718.12

891.20 ADOPTION OF RULES.

(a) Pursuant to R.C. § 718.30, the Municipality, pursuant to this chapter, grants authority to the Tax Administrator to adopt rules to administer the income tax imposed by the Municipality.

(b) All rules adopted under this section shall be published and posted on the internet.
(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Adoption of rules, see R.C. § 718.30

891.97 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 891.19.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 891.091 as though the same were continuing.
(Ord. 2015-73. Passed 12-9-15.)

891.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.
(Ord. 2015-73. Passed 12-9-15.)

891.99 VIOLATIONS; PENALTY.

(a) Except as provided in division (b) of this section, whoever violates Section 891.15 of this chapter, Section 891.14(a) of this chapter, or Section 891.051 of this chapter by failing

to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(b) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code sections 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars (\$5,000.00) plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(c) Each instance of access or disclosure in violation of Section 891.14(a) of this chapter constitutes a separate offense.

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

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 891.051; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this chapter; or
- (13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.
- (14) For purposes of this section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.
- (15) For purposes of this section, the term "person" shall, in addition to the meaning prescribed in Section 891.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this chapter.
(Ord. 2015-73. Passed 12-9-15.)

Statutory reference:

Violations; penalties, see R.C. § 718.99

CHAPTER 892
Admissions, Parking and Amusement Device Tax

EDITOR'S NOTE: This chapter, formerly titled "Admissions Tax" was re-titled "Admissions, Parking and Amusement Device Tax" by Ordinance 2004-24, passed May 12, 2004.

892.01	Levy of tax; rate; application; machine rides.	892.055	Interest and penalties on unpaid tax.
892.02	Person defined.	892.06	Appeals.
892.03	Exemptions.	892.07	Violations.
892.04	Collection.	892.08	Severability.
892.05	Remittance of tax; confidentiality of information.	892.99	Penalty.

CROSS REFERENCES

Power to tax - see Ohio Const. Art. XVIII, Sec. 3

Bingo - see GEN. OFF. 630.06 et seq.

Carnivals, circuses and other shows - see B.R. & T. Ch. 812

892.01 LEVY OF TAX; RATE; APPLICATION; MACHINE RIDES.

(a) There is hereby levied a tax upon every person who operates or pays an admission and/or parking charge for the right or privilege to use or enter a theater, auditorium, dance hall, roller or skating rink, athletic field, swimming pool, outdoor amusement park, mechanical amusement device for playing or riding, automobile and/or motorcycle race or contest, horse race meet, horse race meet conducted for any stake, purse or award, horse show, dog show, circus, sideshow attraction, parking lot, amusement device as defined in Section 804.01 of these Codified Ordinances, and/or any other public exhibition or performance for profit. This extends to persons who are admitted free of charge or at reduced prices to any place for which other persons pay a charge or a regular higher charge for the same privileges or accommodations, within the Municipality. The tax imposed shall be three percent of the amount of money paid for the admission, or three percent of the value of the right of admission, and five percent of the amount charged to park, and five percent of the amount charged for the use of the mechanical or electronic amusement devices. This includes admissions by meet or season tickets, passes or subscriptions, whether paid for or not. (Ord. 1982-39. Passed 4-14-82; Ord. 2004-24. Passed 5-12-04; Ord. 2004-35. Passed 7-14-04; Ord. 2013-122. Passed 10-23-13.)

(b) Such tax shall apply to every admission charge for any such place or event sponsored within the Municipality, notwithstanding the fact that the sale of the ticket or right of admission was made outside the corporate limits of the Municipality.

(c) Any designation of such admission charge as a rental, service charge or similar designation shall not be construed to avoid the application of an admissions tax if such charge is, in effect, a charge for the right or privilege to enter the place or event sponsored.

(d) In the matter of machines that give rides to young patrons, the operator of such machine rides is required to make a tax return as provided in Section 892.05(c) and shall be required to pay no tax hereunder unless the total income from all such machine rides on his or her premises exceeds one hundred dollars (\$100.00) annually. The tax return is required whether this amount is exceeded or not.

(Ord. 1967-82. Passed 9-25-67; Ord. 2004-24. Passed 5-12-04; Ord. 2004-35. Passed 7-14-04; Ord. 2010-35. Passed 11-22-10; Ord. 2015-74. Passed 12-30-15.)

892.02 PERSON DEFINED.

As used in this chapter “person”, unless the context otherwise requires, includes all personal, natural and artificial, partners, principals, agents, employees, corporations, companies, associations, societies or any group of individuals acting as a unit, whether mutual, cooperative, fraternal or otherwise.

(Ord. 1958-14. Passed 8-11-58; Ord. 2004-24. Passed 5-12-04; Ord. 2004-35. Passed 7-14-04; Ord. 2010-35. Passed 11-22-10.)

892.03 EXEMPTIONS.

(a) No admissions, parking or amusement device tax shall be levied with regard to any charge for a right or privilege of admission, to park or use an amusement device, if the entire proceeds of the place or event sponsored insure exclusively to the benefit of any religious, civic, charitable, educational, municipal, military or war veteran institutions, societies, groups, organizations or auxiliary units.

(b) Such an exemption from this tax shall not be granted to any institution, society, group, organization or auxiliary unit that does not, exclusively or directly, control the sale of admissions to the place or event sponsored; the management of the parking lot, collection of the parking fees and employees working the lot; and the management and employees of the place housing the amusement devices.

(Ord. 1958-14. Passed 8-11-58; Ord. 2004-24. Passed 5-12-04; Ord. 2004-35. Passed 7-14-04; Ord. 2010-35. Passed 11-22-10.)

892.04 COLLECTION.

(a) The tax hereby levied shall be paid by and collected from the person seeking admission to the place, event and/or parking lot, and/or utilizing the amusement device at the time the charge thereto is paid.

(b) Every person receiving any payment of an admission, parking and/or amusement device charge, not exempt as hereinbefore provided, on which a tax is hereby levied, shall be deemed to be a trustee and to hold in trust, for the Municipality, the amount of such tax until the gross amount thereof shall be paid by such person to the Finance Director as hereinafter provided.

(c) Every person required to collect such tax hereby levied, who fails to collect the amount thereof or, having collected such tax, fails to remit the full amount thereof collected to the Finance Director, shall be personally and strictly liable to the Municipality for the entire amount of such tax and, in addition thereto, shall be deemed guilty of a violation of this chapter and subject to the penalties hereinafter provided.

(Ord. 1958-14. Passed 8-11-58; Ord. 2004-24. Passed 5-12-04; Ord. 2004-35. Passed 7-14-04; Ord. 2010-35. Passed 11-22-10.)

892.05 REMITTANCE OF TAX; CONFIDENTIALITY OF INFORMATION.

(a) Every person required to collect the tax levied by this chapter, if the place or the event sponsored is of a temporary or transitory nature only, shall make a complete report and full remittance of such tax forthwith to the Finance Director upon the conclusion of the performance, exhibition or event sponsored, or at such later time as the Finance Director determines such admissions tax shall be paid.

(b) The Finance Director is hereby authorized to determine whether such tax shall be remitted forthwith upon the conclusion of the performance, exhibition or event sponsored, or at a later time thereafter.

(c) Every person required to collect the tax levied by this chapter, if the place, event, activity, mechanical device or parking lot is of a duration or in operation longer than one week, shall make a complete report and full remittance of such tax monthly, or on or before the last day of the month immediately after the month during which the tax was or should have been collected.

(d) The operator shall keep a complete set of all records of the operations at the premises at all times, including all Federal, State and local tax records, all records of any payments and receipts, all records of expenses and revenues relating to the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation and all personnel and other records pertaining to the business. Records shall be maintained for at least six years. The books, records or accounts of any person required by this chapter to collect the tax levied shall, at all reasonable times, be made available and subject to examination and audit by the Finance Director or Building and Zoning Inspector should he or she choose to verify the correctness of the information contained in any license application or the amount of tax due and payable to the Municipality.

(e) All information relating to the business or transactions of any person required to collect the tax levied by this chapter, which comes to the knowledge or possession of the Finance Director or any other official or employee of the Municipality, except pertaining directly to the tax, shall be privileged and confidential and no disclosure thereof shall be made unless ordered by a law enforcement agency, magistrate or court having jurisdiction of the subject matter involved. The Finance Director may furnish, upon proper request therefor, to the Commissioner or Bureau of Internal Revenue of the United States, copies of tax payments made pursuant to this chapter.

(Ord. 1958-14. Passed 8-11-58; Ord. 2004-24. Passed 5-12-04; Ord. 2004-35. Passed 7-14-04; Ord. 2010-35. Passed 11-22-10.)

892.055 INTEREST AND PENALTIES ON UNPAID TAX.

All taxes owed pursuant to this chapter not paid by the due date specified in this chapter shall incur a penalty of ten percent of the amount owed at the time such taxes were due. In addition, all taxes owed pursuant to this chapter not paid by the due date specified in this chapter shall incur interest at the rate of one and one half percent per month or fraction thereof.

(Ord. 2012-61. Passed 8-22-12.)

892.06 APPEALS.

Whoever desires to appeal from any decision of the Finance Director, in the performance of his or her duties herein provided, shall make such appeal in writing, within 30 days, to the President of Council, setting forth briefly the reasons therefor. Council shall have authority to annul, modify or affirm any such decision.

(Ord. 1958-14. Passed 8-11-58; Ord. 2004-24. Passed 5-12-04; Ord. 2004-35. Passed 7-14-04; Ord. 2010-35. Passed 11-22-10.)

892.07 VIOLATIONS.

(a) No person shall willfully refuse or fail to pay the tax levied by this chapter.

(b) No person shall willfully refuse or fail to charge and collect the amount of tax levied by this chapter.

(c) No person shall willfully refuse or fail to pay to the Finance Director the full amount of tax collected and received as and when due, pursuant to this chapter.

(d) No person shall willfully refuse to make available to the Finance Director, upon request to do so at a reasonable time, the books, records or accounts of such person for examination and audit to verify the amount of tax due and payable as provided in this chapter.

(e) No person shall willfully refuse or fail to comply with the direction or determination of the Finance Director, as provided in Section 892.07, to make a complete report and full remittance of such tax.

(Ord. 2004-24. Passed 5-12-04; Ord. 2004-35. Passed 7-14-04; Ord. 2010-35. Passed 11-22-10.)

892.08 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is, for any reason, held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase, or portion thereof. Council hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, phrase or other portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or other portions thereof may be declared invalid or unconstitutional.

(Ord. 1958-14. Passed 8-11-58; Ord. 2004-24. Passed 5-12-04; Ord. 2004-35. Passed 7-14-04; Ord. 2010-35. Passed 11-22-10.)

892.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) for each offense and be subject to a jail term of up to 180 days. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition to the penalties set forth herein, the Municipal business license issued pursuant to Chapter 804 of the person or entity convicted of a violation of this chapter may be permanently revoked.

(Ord. 2004-24. Passed 5-12-04; Ord. 2004-35. Passed 7-14-04; Ord. 2010-35. Passed 11-22-10.)

CHAPTER 894
Hotel Room Tax

894.01	Levy of tax; purpose.	894.09	Failure to procure forms.
894.02	Definitions.	894.10	Disbursement of receipts of tax collected.
894.03	Rate.	894.11	Duties and authority of the Director of Finance.
894.04	Collection at source.	894.12	Taxpayer required to retain records.
894.05	Quarterly return.	894.99	Penalty.
894.06	Extensions.		
894.07	Interest on unpaid tax.		
894.08	Penalties on unpaid tax.		

CROSS REFERENCES

Hotels - see Ohio R.C. Ch. 3731

Innkeepers - see Ohio R.C. 4721

Power to levy - see Ohio R.C. 5739.02

Theft from livery or hostelry - see GEN. OFF. 672.14

894.01 LEVY OF TAX; PURPOSE.

To provide funds for the purposes of general municipal functions in the Municipality, there is hereby levied a tax on all hotel and motel room rental charges.
(Ord. 2000-113. Passed 10-25-00.)

894.02 DEFINITIONS.

As used in this chapter:

- (a) "Hotel or motel" means a building or part thereof operated as a public inn and containing rooms for lodgings, meetings, or other rooms rented out by the day, night, or for longer periods of time.
- (b) "Rental charge" means the charge made by a hotel or motel for the right or privilege to occupy a hotel or motel room for any purpose whatsoever.
(Ord. 2000-113. Passed 10-25-00.)

894.03 RATE.

There is hereby levied and imposed upon every person or entity who pays a hotel room rental charge to any hotel or motel in the Municipality a tax at the rate of three percent (3%)

on the amounts received for the rental of a hotel room. The tax shall apply to every rental of every hotel room or motel room within the Municipality for which a charge is made, notwithstanding that the agreement under which the hotel room is rented is made outside of the Municipality.

(Ord. 2000-113. Passed 10-25-00.)

894.04 COLLECTION AT SOURCE.

(a) In accordance with the terms and provisions of this chapter or the rules and regulations prescribed by the Mayor, each hotel or motel room in operation within the Municipality shall charge each hotel guest or other person renting a room the tax provided and fixed by this chapter at the time that charges are made by the hotel for the rental of any hotel or motel room.

(b) The manager of each hotel or motel in the Municipality shall, on or before the last of the month following the close of each calendar quarter, make a return and pay to the Director of Finance the amount of taxes so charged and collected. Such return shall be on a form or forms prescribed by or acceptable to the Director of Finance and shall be subject to the terms and conditions of this chapter or the rules and regulations prescribed by the Mayor. Such hotel or motel or the manager thereof shall be liable for the payment of the tax required to be charged and withheld, whether or not such taxes have in fact been charged and withheld.

(c) Such hotel or motel and the manager thereof, in charging and collecting the tax, shall be deemed to hold the same, until payment is made by such hotel or motel or the manager thereof to the Municipality, as a trustee for the benefit of the Municipality, and any such tax collect by such hotel or motel or the manager thereof, or its employees, shall until the same is paid to the Municipality, be deemed a trust fund in the hands of such hotel, motel, or the manager thereof.

(Ord. 2000-113. Passed 10-25-00.)

894.05 QUARTERLY RETURN.

On or before 30 days after the end of any calendar quarter, a quarterly return shall be filed by each hotel or motel in the Municipality showing the gross receipts of the hotel or motel for hotel room rental charges during the foregoing calendar quarter. The return shall be accompanied by a remittance in cash or check of the tax to be levied pursuant to the terms and conditions of this chapter. In the event of dishonor of the check for any reason, the taxes herein levied shall be deemed to not have been paid.

(Ord. 2000-113. Passed 10-25-00.)

894.06 EXTENSIONS.

The Director of Finance may extend the time of filing any return required or making any payment or performing any other act required by this chapter for a period not to exceed 60 days beyond the original required date.

(Ord. 2000-113. Passed 10-25-00.)

894.07 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by hotels, motels, or the managers thereof under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month or fraction thereof.

(Ord. 2000-113. Passed 10-25-00.)

894.08 PENALTIES ON UNPAID TAX.

In addition to the interest as provided in Section 894.07, penalties based on unpaid tax are hereby imposed as follows:

- (a) For failure to pay taxes due, one percent (1%) per month or fraction thereof;
- (b) For failure to remit taxes collected from hotel guests or room renters, two percent (2%) per month or fraction thereof.

(Ord. 2000-113. Passed 10-25-00.)

894.09 FAILURE TO PROCURE FORMS.

The failure of any hotel or motel or the manager thereof, or the person imposed with the duty of collecting and remitting the tax herein levied, to receive or procure appropriate forms shall not excuse him or her from making any payment, return, declaration or filing such forms or from paying the tax herein levied.

(Ord. 2000-113. Passed 10-25-00.)

894.10 DISBURSEMENT OF RECEIPTS OF TAX COLLECTED.

The funds collected by the Director of Finance pursuant to the terms and conditions of this chapter shall be deposited in the General Fund of the Municipality for municipal purposes.

(Ord. 2000-113. Passed 10-25-00.)

894.11 DUTIES AND AUTHORITY OF THE DIRECTOR OF FINANCE.

The Director of Finance shall receive and collect the taxes herein imposed; enforce the collection of such taxes; make and enforce necessary regulations; determine the amount of the tax owed and make investigations; compel production of records; prosecute those who violate the terms and conditions of this chapter; keep all information gained in the administration of this chapter confidential and disclose or

divulge the same only in a court of law upon order of the judge. In performing the above duties, the Director of Finance may engage the assistance and services of the Tax Administrator.

(Ord. 2000-113. Passed 10-25-00.)

894.12 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute its tax liability for a period of five years from the date the return is filed, or the date the tax collected hereunder is paid, whichever date is later.

(Ord. 2000-113. Passed 10-25-00.)

894.99 PENALTY.

Any hotel, motel or the manager thereof, or any person charged by the management of said hotel or motel with the duty of collecting and remitting the tax herein levied and who shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (b) Make any incomplete, false or fraudulent return;
- (c) Fail, neglect, or refuse to pay the tax, penalties; or interest imposed by this chapter;
- (d) Fail, neglect, or refuse to withhold the tax from hotel guests or room renters or remit such withholding to the Director of Finance;
- (e) Refuse to permit the Director of Finance or any duly authorized agent or employee of the Municipality to examine his or her books, records, papers, and income statements relating to hotel or motel room rental receipts;
- (f) Fail to appear before the Director of Finance or Tax Administrator and to produce his or her books, records, papers, income statements or other appropriate records relating to the gross receipts from hotel guests or room renters upon order of the Director of Finance;
- (g) Refuse to disclose to the Director of Finance or Tax Administrator any information with respect to the gross receipts from hotel or motel room guests or renters of rooms;
- (h) Fail to comply with the provisions of this chapter or any order of the Director of Finance or Tax Administrator authorized hereby;
- (i) Fail to use ordinary diligence in collecting the tax herein levied and maintaining proper records of income received for the rental of hotel rooms or concerning the taxes collected or to knowingly give the Director of Finance or Tax Administrator false information; or
- (j) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax herein levied, penalties or interest imposed by this chapter;

shall be guilty of a misdemeanor of the first degree and be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six months or both, for each offense.
(Ord. 2000-113. Passed 10-25-00.)

CHAPTER 896
Owners of Rental Property Required to Provide
Certain Information to Finance Director

896.01	Purpose.	896.03	Definitions.
896.02	Landlord's duty to provide information.	896.04	Confidentiality of reports.
		896.99	Penalty.

896.01 PURPOSE.

The purpose of this chapter is to promote the equitable administration and enforcement of the Municipality's tax ordinance and to assist and ensure that all residents and commercial tenants of the Municipality file the required income tax returns.

(Ord. 2004-30. Passed 6-23-04.)

896.02 LANDLORD'S DUTY TO PROVIDE INFORMATION.

(a) The owner or authorized representative thereof of any rental property in the Municipality, shall, by or before September 1, 2004, file with the Finance Director of the Municipality a report indicating the name, address, and federal tax ID or social security number of each of his, her or its tenants that are leasing residential or commercial property in the Municipality as of the date of the report.

(b) From the date the first report pursuant to this section is filed by each landlord or beginning September 1, 2004, whichever date is earlier, the owner or authorized representative of any rental property in the Municipality, shall within 30 days after a new tenant occupies the landlord's property within the Municipality, file with the Finance Director, a report indicating the names, addresses and federal tax ID or social security numbers of any such new tenants and the names of any tenants that have vacated the premises since the last report required by this section was filed. Such report shall also contain the date the tenancy commenced and/or the date the tenant vacated the premises.

(Ord. 2004-30. Passed 6-23-04.)

896.03 DEFINITIONS.

For the purposes of this chapter, "tenant" shall mean:

- (a) If there is a written lease or rental agreement, the persons or entities that executed and/or are listed in any lease agreement for residential or commercial property in the Municipality.
- (b) If there is an oral lease or rental agreement, the persons or entities with whom the owner has entered into an oral lease or rental agreement.
(Ord. 2004-30. Passed 6-23-04.)

896.04 CONFIDENTIALITY OF REPORTS.

Due to the fact that the reports contain personal and sensitive information and are intended for tax information and enforcement purposes, the landlord reports required by this chapter shall be maintained by the Municipality's Finance Department, Tax Department and Tax Agents on a confidential basis and be exempt for disclosure pursuant to the provisions of the Ohio Public Records Act.
(Ord. 2004-30. Passed 6-23-04.)

896.99 PENALTY.

Whoever violates the provisions of this chapter shall be guilty of a misdemeanor of the second degree and be subject to a fine of up to seven hundred fifty dollars (\$750.00) and up to 90 days in jail.
(Ord. 2004-30. Passed 6-23-04.)