

CODIFIED ORDINANCES OF MARYSVILLE

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CHAPTER 101 Codified Ordinances

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CROSS REFERENCES

- See sectional histories for similar State law
- Statute of limitations on prosecutions - see Ohio R.C. 718.06; GEN. OFF. 501.06
- Codification in book form - see Ohio R.C. 731.23
- Imprisonment until fine and costs are paid - see Ohio R.C. 1905.30, 2947.14
- Citation issuance for minor misdemeanors - see Ohio R.C. 2935.26 et seq.
- Ordinances and resolutions - see ADM. Ch. 123
- Rules of construction for offenses and penalties - see GEN. OFF. 501.04

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Marysville, Ohio, 1994 for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances.

(ORC 1.01)

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

101.02 GENERAL DEFINITIONS.

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

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

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

101.03 RULES OF CONSTRUCTION.

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

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

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

(c) Calendar; Computation of Time.

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

(ORC 1.45)

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

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

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

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

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

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

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

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

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

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

101.05 CONSTRUCTION OF SECTION REFERENCES.

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

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

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

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

101.06 CONFLICTING PROVISIONS.

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

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

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

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

101.07 DETERMINATION OF LEGISLATIVE INTENT.

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

101.08 SEVERABILITY.

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

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no

specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

CHAPTER 103
Official Standards

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

CROSS REFERENCES

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

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

CHAPTER 105
Public Meetings

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| 105.01 Purpose and scope. | 105.05 Notice to news media of special meetings. |
| 105.02 Definitions. | 105.06 Notification upon request of individuals. |
| 105.03 Notice of regular and organizational meetings. | 105.07 General. |
| 105.04 Notice of special meetings. | |

CROSS REFERENCES

Council meetings - see CHTR. Sec. 3.04
Meetings of public bodies - see Ohio R.C. 121.22
Disturbing a lawful meeting - see GEN. OFF. 509.02

105.01 PURPOSE AND SCOPE.

This chapter is adopted for the purpose of:

- (a) Establishing a reasonable method for any person to determine the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings;
- (b) Making provisions for giving advance notice of special meetings to the news media that have requested notification; and
- (c) Making provisions for persons to request and obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed.

This chapter shall apply to each municipal body, as defined in Section 105.02 and is in addition to any applicable legal requirements regarding notices to members of a municipal body or to others in connection with specific meetings or specific subject matters.
(Res. 507-75. Passed 12-11-75.)

105.02 DEFINITIONS.

As used in this chapter:

- (a) "Clerk" means the Clerk of Council.
- (b) "Day" means calendar day.
- (c) "Meeting" means any prearranged discussion of the public business of the municipal body by a majority of the members of the municipal body.

- (d) "Municipal body" means each of the following:
- (1) Council.
 - (2) Planning Commission.
 - (3) Parks and Recreation Commission.
 - (4) Civil Service Commission.
 - (5) Board of Sanitation Claims.
 - (6) Board of Zoning Appeals.
 - (7) Board of Sewer Charge Claims. (Ord. 59-06. Passed 8-10-06.)
- Committees of the above municipal bodies comprised of members of such bodies are a "municipal body" if such committees are comprised of a majority of the members of the main municipal body or are decision-making committees.
- (e) "Oral notification" means notification given orally either in person or by telephone, directly to the person for whom such notification is intended, or by leaving an oral message for such person at the address, or if by telephone at the telephone number, of such person as shown on the records kept by the Clerk under this chapter.
- (f) "Post" means to post in an area accessible to the public during the usual business hours at the office of the Clerk and in the City Hall lobby.
- (g) "Published" means published once in a newspaper having a general circulation in the Municipality, as defined in Ohio R.C. 7.12.
- (h) "Special meeting" means a meeting which is neither a regular meeting nor an adjournment of a regular, or special, meeting to another time or day to consider items specifically stated on the original agenda of such regular, or special, meeting.
- (i) "Written notification" means notification in writing mailed or delivered to the address of the person for whom such notification is intended as shown on the records kept by the Clerk under this chapter, or in any way delivered to such person. If mailed, such notification shall be mailed by first-class mail, deposited in a U.S. Postal Service mailbox no later than the second day preceding the day of the meeting to which such notification refers, provided that at least one regular mail delivery day falls between the day of mailing and the day of such meeting.

105.03 NOTICE OF REGULAR AND ORGANIZATIONAL MEETINGS.

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

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

(c) Upon the adjournment of any regular or special meeting to another day, the Clerk shall promptly post notice of the time and place of such adjourned meeting. (Res. 507-75. Passed 12-11-75.)

105.04 NOTICE OF SPECIAL MEETINGS.

(a) Except in the case of a special meeting referred to in Section 105.05(d), the Clerk shall, no later than twenty-four hours before the time of a special meeting of a municipal body, post a statement of the time, place and purposes of such special meeting.

(b) The statement under this section and the notifications under Section 105.05 shall state such specific or general purpose or purposes then known to the Clerk to be intended to be considered at such special meeting and may state, as an additional general purpose, that any other business as may properly come before such municipal body at such meeting may be considered and acted upon. (Res. 507-75. Passed 12-11-75.)

105.05 NOTICE TO NEWS MEDIA OF SPECIAL MEETINGS.

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

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

(b) News media requests for such advance notification of special meetings shall specify: the municipal body that is the subject of such request; the name of the medium; the name and address of the person to whom written notifications to the medium may be mailed, or delivered; the names, addresses and telephone numbers of at least two persons to either one of whom oral notifications to the medium may be given. Any such request shall be effective until the Clerk receives written notice from such medium canceling or modifying such request. Such requests may be modified only by filing a complete new request with the Clerk.

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

(d) In the event of an emergency requiring immediate official action, a special meeting may be held without giving twenty-four hours advance notification thereof to the requesting news media. The persons calling such meeting, or any one or more of such persons or the Clerk on their behalf, shall immediately give oral notification or written notification, or both, as the person or persons giving such

notification determine, of the time, place and purposes of such special meeting to such news media that have requested such advance notification in accordance with subsection (b) hereof. The minutes or the call, or both, of any such special meeting shall state the general nature of the emergency requiring immediate official action.

(Res. 507-75. Passed 12-11-75.)

105.06 NOTIFICATION UPON REQUEST OF INDIVIDUALS.

(a) Any person, upon written request and as provided herein, may obtain reasonable advance notification of all meetings of any municipal body.

Such person may file a written request with the Clerk specifying the person's name, and the address and telephone number at or through which the person can be reached during and outside of business hours; the municipal body that is the subject of such request; and the number of calendar months, not to exceed twelve, which the request covers. Such request may be canceled by request from such person to the Clerk.

Each such written request shall be accompanied by stamped self-addressed envelopes sufficient in number to cover the number of regular meetings during the time period covered by the request and an estimated number of three special meetings. The Clerk shall notify in writing the requesting person when the supply of envelopes is running out, and if the person desires notification after such supply has run out such person shall deliver to the Clerk an additional reasonable number of stamped self-addressed envelopes as a condition to receiving further notifications.

(b) The Clerk shall if possible give such advance notification under Section 105.06 by written notification. If such written notification cannot be given or has not been given, the Clerk shall give oral notification.

The contents of written notification under this subsection (b) may be a copy of the agenda of the meeting. Written notification under this subsection may be accomplished by giving advance written notification, by copies of the agendas, of all meetings of the municipal body that is the subject of such request.

(Res. 507-75. Passed 12-11-75.)

105.07 GENERAL.

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

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

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

(Res. 507-75. Passed 12-11-75.)

CHAPTER 107
Wards and Boundaries

107.01 Wards established.

CROSS REFERENCES

Boundaries - see CHTR. Sec. 2.01

Division into wards - see Ohio R.C. 731.06

Voting precincts - see Ohio R.C. 3501.18

107.01 WARDS ESTABLISHED.

The City of Marysville shall be divided into four wards, each containing territory as described below:

- (a) Ward 1. Consisting of an area beginning at Mill Creek and Main Street, west along Mill Creek to where it crosses City corporation line, following corporation line to where it crosses centerline of Main Street to place of beginning.
- (b) Ward 2. Consisting of an area beginning at Mill Creek and Main Street, north on centerline of Main Street to corporation limits, following corporation limits to where it crosses St. Rt. 38, north on centerline of St. Rt. 38 to Stocksdale Drive, west on centerline of Stocksdale Drive to Milford Avenue, north on centerline of Milford Avenue to Eighth Street, east on centerline of Eighth Street to St. Rt. 38, south on centerline of St. Rt. 38 to Ninth Street, east on centerline of Ninth Street to Chestnut Street, north on centerline of Chestnut Street to East Sixth Street, east on centerline of East Sixth Street to Cherry Street, north on centerline of Cherry Street to Mill Creek to place of beginning.
- (c) Ward 3. Consisting of an area beginning at Collins Avenue and Milford Avenue, south on centerline of Milford Avenue to Stocksdale Drive, south on centerline of Stocksdale Drive to St. Rt. 38, south to corporation limits, following corporation limits, east on centerline of Collins Avenue to place of beginning.
- (d) Ward 4. Consisting of an area beginning at Mill Creek and Cherry Street, south on centerline of Cherry Street to East Sixth Street, west on centerline of East Sixth Street to Chestnut Street, south on centerline of Chestnut Street to Ninth Street, west on centerline of Ninth Street to St. Rt. 38, north on centerline of St. Rt. 38 to Eighth Street, west on centerline of Eighth Street to Milford Avenue, south on centerline of Milford Avenue to Collins Avenue, west on centerline of Collins Avenue to corporation limits, following corporation limits to where it crosses Mill Creek, east on centerline of Mill Creek to place of beginning.
(Ord. 17-03. Passed 5-22-03.)

CHAPTER 108
Use of Design-Build Contracts for
Public Improvement Projects

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| 108.01 General provisions. | 108.05 Evaluation of proposals and award of design-build contract. |
| 108.02 Design/build qualifications. | |
| 108.03 Procurement process. | |
| 108.04 Qualifications and short-listing of respondents. | |

108.01 GENERAL PROVISIONS.

Notwithstanding Ohio R.C. 735.05 through 735.09, a Design-Build Contract awarded as provided in Sections 108.01 through 108.05 is valid and enforceable.
(Ord. 14-08. Passed 4-24-08.)

108.02 DESIGN/BUILD QUALIFICATIONS.

(a) At a time Design-Build services are to be provided under a Design-Build Contract, a Design/Builder must be an Entity, employ an Entity, or have as a partner, member, joint venturer, or subcontractor, an Entity that is licensed, registered or otherwise qualified under Ohio law to provide the design professional services and construction services to complete the public improvement project and do business in Ohio.

(b) In accordance with this chapter, a Design/Builder may contract with the City to provide design professional services and construction services that the Design/Builder is not itself licensed, registered or otherwise qualified under Ohio law to perform if the Design/Builder provides the services through subcontracts with licensed, registered or otherwise qualified Entities under Ohio law. (Ord. 14-08. Passed 4-24-08.)

108.03 PROCUREMENT PROCESS.

(a) When a Design-Build Contract, estimated under five hundred thousand dollars (\$500,000) is considered by the City for implementation of a public improvement project, the City shall combine the Qualifications and Proposal in a one-step, competitive procurement process to award the Design-Build Contract. A description of the procurement process shall be included in RFQ-RFP.

(b) A Request for Qualification (RFQ)-Request for Proposal (RFP) will be issued which will include qualification criteria. Of qualified respondents, the City will evaluate and rank the remaining RFQ-RFP, negotiate the Design-Build Contract, and award the Design-Build Contract. Prior to ranking of proposers, the City may require and evaluate submittals of preliminary proposals or resubmittals of proposals from each proposer. (Ord. 14-08. Passed 4-24-08.)

108.04 QUALIFICATIONS AND SHORT-LISTING OF RESPONDENTS.

(a) The City shall advertise the availability of the RFQ-RFP in one or more newspapers of general circulation in the City, once a week for two successive weeks. The advertisement shall provide a general description of the public improvement project and the method for obtaining a copy of the RFQ-RFP.

- (b) The RFQ-RFP shall include the following information:
- (1) The location of the public improvement project.
 - (2) A general description of the public improvement project.
 - (3) A description of the procurement process.
 - (4) The submittal requirements for the RFQ-RFP.
 - (5) A description of evaluation criteria to be used in short-listing Respondents, including an indication of the relative importance of each criterion. The evaluation criteria may include any of the following:
 - A. Experience.
 - B. Past performance.
 - C. Key staff.
 - D. Financial capability and condition.
 - E. Technical approach.
 - F. Price.
 - G. Any other criteria defined in the RFQ-RFP.

(c) The City may interview or seek clarifications from some or all of the Respondents during the evaluation.

(d) After evaluation of the qualifications, in accordance with the criteria set forth in the RFQ-RFP, the City shall short-list the most qualified, responsive Respondents. Provided that the City has received at least two responses, the City may short-list no less than two Respondents.

(e) If at any time prior to receipt of Proposals, a short-listed Respondent withdraws from the procurement process, the City may add a Respondent that was not previously short-listed to the short list.

(f) The City may establish a maximum budget for the public improvement project and require all price proposals to be less than the maximum budget in order for a Design-Build Contract to be awarded. (Ord. 14-08. Passed 4-24-08.)

108.05 EVALUATION OF PROPOSALS AND AWARD OF

DESIGN-BUILD

CONTRACT.

(a) The City shall evaluate Proposals in accordance with the procurement process and evaluation criteria defined in the RFQ-RFP.

108.05

(b) As defined in the RFQ-RFP, the City may meet with proposers, seek clarifications on proposals, consider proposed alternatives, revise the RFQ-RFP, or require best and final proposals.

(c) The City shall evaluate and rank the proposals, and, if applicable, best and final proposals based on the factors, weighting (if applicable), and process identified in the RFQ-RFP.

(d) The City is not required to rank first the proposer that submits the lowest price proposal.

(e) The City may reject any and all proposals, except for the purpose of evading the provisions and policies of this chapter.

(f) The City may negotiate a Design-Build Contract term with the highest-ranked proposer, except for those terms identified in the RFQ-RFP as nonnegotiable.

(g) If the City is unable to negotiate a Design-Build Contract term with the highest-ranked proposer, the City may suspend or end negotiations with the proposer and initiate negotiations with the next highest ranked proposer.

(h) The City shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.

(i) The Board of Control shall approve the Design-Build Contract.
(Ord. 14-08. Passed 4-24-08.)

CHAPTER 109
Sale or Lease of Municipally-Owned Property

109.01 Authority.

109.02 Procedure.

109.01 AUTHORITY.

The City of Marysville shall have the authority to lease or sell municipal property belonging to the City, when such real estate or personal property is not needed for any municipal purpose. (Ord. 23-04. Passed 5-14-04.)

109.02 PROCEDURE.

Such power shall be exercised in accordance with Chapter 721 of the Ohio Revised Code, with the following exception: The City of Marysville shall have the power by ordinance to authorize the transfer, lease or conveyance of any real property to the Union County Board of County Commissioners upon such lawful terms as are agreed upon between the City and the Board of County Commissioners, without competitive bidding as required in Section 721.03 and 721.15 of the Ohio Revised Code, provided that such property is sold for no less than its appraised value.
(Ord. 23-04. Passed 5-14-04.)

**CHAPTER 110
Facility Costs and City Fees**

Facility Costs and City Fees

Recreational Swimming Pool (Marysville Municipal Pool Passes)

Section 1. Season pass holder categories shall be designated as:

Resident of the City of Marysville (residency pertains to where you live and not where you work)

Non-resident of the City of Marysville

Section 2. Fees for these categories shall be as follows:

| | | | <u>Miscellaneous Notes</u> |
|----------------------|-----------------|---------------------|----------------------------|
| <u>Season Passes</u> | | | |
| | <u>Resident</u> | <u>Non-resident</u> | |
| Individual | \$60.00 | \$90.00 | |
| Family of 2 | 75.00 | 112.50 | |
| Family of 3 or more | 115.00 | 172.50 | |

| | | | |
|----------------------------------|---------|---------|--|
| Senior (60 and over) | 45.00 | 60.00 | |
| Senior Family of 2 (60 and over) | 60.00 | 75.00 | |
| <u>Weekly Passes</u> | | | |
| Single Child | \$10.00 | \$15.00 | |
| Single Adult | 15.00 | 22.50 | |
| Family | 35.00 | 52.50 | |

ADMINISTRATIVE CODE

16B

Facility Costs and City Fees

| | <u>Resident</u> | <u>Non-resident</u> | <u>Miscellaneous Notes</u> |
|--|-----------------|---------------------|----------------------------|
| <u>Daily Admission</u> | | | |
| Ages 4 and Under with Adult | Free | Free | |
| Ages 5-18 | \$3.00 | \$3.00 | |
| Ages 19-59 | 5.00 | 5.00 | |
| Senior Citizens (60 and over) | 3.00 | 3.00 | |
| Family Maximum | 10.00 | 10.00 | |
| After 5:00 p.m., Ages 5 and Over | 2.00 | 2.00 | |
| <u>Pool Rental</u> (8:00 p.m. to 10:00 p.m.) | | | |

| | | | |
|-------------------------------|-----------------------------|----------------------|---|
| Up to 50 people | \$135.00 | \$190.00 | |
| For each additional 50 people | 35.00 | 35.00 | |
| <u>Group Rate</u> | | | |
| Adult - Resident | \$4.00 | | |
| Child-Resident | \$2.00 | | |
| Division of Police : | | | |
| | Parking Violations | | Fees as adopted in Ordinance 34-01 until superseded |
| | Police False Alarm Response | \$50.00-fourth alarm | |
| | (no change to 68-00) | \$100.00-fifth alarm | |

| | | | |
|--|----------------------|---|--|
| | | \$250.00-sixth alarm \$500.00-seventh alarm, such charges shall continue for each successive false alarm | |
| | Impounded /Abandoned | \$0.00 - Crime Victim | |
| | Vehicle Release | \$70.00- Other | |

Facility Costs and City Fees

| Division of Police (Cont.): | | | <u>Miscellaneous Notes</u> |
|------------------------------------|---|--|---|
| | <u>Resident</u> | <u>Non-resident</u> | |
| | Records Check/Clearance Letter | \$10.00 | Not chargeable to any and all governments or government agencies, Marysville residents or Marysville businesses |
| | Fingerprinting: | | |
| | Public Service Programs/Residents | \$10.00 | |
| | Others | \$10.00/card | |
| | Police Report Reproduction | \$.05/copy | |
| | Police Photo Reproduction | Actual cost plus postage | |
| | Video/Audio Tape Reproduction | Actual cost (tapes supplied) | |
| | Non-emergency Lock-out Assistance | \$0.00 | |
| | Other Agency Dispatch | | The percentage of recovery is dependent on the agreement negotiated between the parties |
| | Firearm Permit | \$50.00 | |
| | Vacation House Watch | \$0.00 | |
| | Off-Duty Police Cruiser Fee | \$8.00/hour | |
| Division of Fire: | | | |
| | Fire Protection Services to Neighboring Townships | | Per existing contracts (negotiated for three-year term) |
| | EMS Billing to non-residents | \$450.00+\$10.00 per patient load mile | |

| Division of Fire (Cont.): | | | <u>Miscellaneous Notes</u> |
|---|--|--|--|
| | <u>Resident</u> | <u>Non-resident</u> | |
| | Fire False Alarm Response | \$50.00-fourth alarm | |
| | (no change to 68-00) | \$100.00-fifth alarm | |
| | | \$250.00-sixth alarm \$500.00 seventh alarm, such charges shall continue for each successive false alarm | |
| | Fire Suppression System Inspection | \$30.00 | |
| | Amusement Operation Fire Safety Inspection-Permit | \$60.00 | Temporary carnivals not including the Union County Fair |
| Division of Recreation Services: | | | |
| | Programs | | In general, the recreation program will attempt to recover, on an aggregate basis, 50%, while recognizing that some programs may be somewhat less than that for certain reasons and some more than that. This is to be based on the nature of the programs. This will ensure that individual fees are reviewed annually, and any set unusually high/low are flagged. |

Facility Costs and City Fees

| Division of Recreation Services: (Cont.) | <u>Resident</u> | <u>Non-resident</u> | <u>Miscellaneous Notes</u> |
|---|-------------------------|---|--|
| | Ball Field Usage/Rental | \$40.00/day/field (tournament play) | |
| | Classes | | In general, the recreation program will attempt to recover, on an aggregate basis, 50%, while recognizing that some programs may be somewhat less than that for certain reasons and some more than that. This is to be based on the nature of the programs. This will ensure that individual fees are reviewed annually, and any set unusually high/low are flagged. |
| | Swimming Lessons | With pool pass: \$20.00 Without pool pass: \$35.00 | |
| | Pool Recreation Classes | | In general, the recreation program will attempt to recover, on an aggregate basis, 50%, while recognizing that some programs may be somewhat less than that for certain reasons and some more than that. This is to be based on the nature of the programs. This will ensure that individual fees are reviewed annually, and any set unusually high/low are flagged. |
| | Swim Team | With pool pass: \$50.00 Without pool pass: \$65.00 | |

Facility Costs and City Fees

| | <u>Resident</u> | <u>Non-resident</u> | <u>Miscellaneous Notes</u> |
|--|---------------------------------------|--|---|
| Park Reservation Service: | | Park Shelter: | |
| | Resident | \$25.00/up to 4 hours, \$40.00 for over 4 hours | |
| | Non-resident | \$40.00/up to 4 hours, \$55.00 for over 4 hours | |
| | Paris Township Pavilion | \$50.00 per hour-resident \$70.00 per hour non-resident (plus \$100.00 refundable deposit for either) | |
| | | Concession Services | Concession items will be charged at fees which attempt to recover direct cost of operations |
| Division of Grounds and Facilities: | Cemetery | | Fees as adopted in Ordinance 11-01 until superseded |
| | Tree Information Service | \$0.00 | |
| Division of Streets and Utilities: | | | |
| | Water Service | | Fees as adopted in Ordinance 9-01, 14-01 and 21-01 until superseded |
| | Sanitary Sewer Service | | Fees as adopted in Ordinance 9-01, 13-01 and 20-01 until superseded |
| | Refuse Collection Service-Residential | | Fees as adopted in Ordinance 34-93 until superseded |

Facility Costs and City Fees

| | <u>Resident</u> | <u>Non-resident</u> | <u>Miscellaneous Notes</u> |
|---|------------------------------|---------------------------|---|
| Division of Streets and Utilities: (Cont.) | | | |
| | Recycling Collection Service | | The charge for curb side recycling is included with the overall charge for refuse collection |
| | General Utility Street Usage | | Fee to be negotiated as part of franchise agreements |
| | Spilled Load Clean-up | | Fees will be based on fully burdened hourly rate plus any out-of-pocket costs and other direct costs |
| | Damage Property Repair | | Fees will be based on fully burdened hourly rate plus any out-of-pocket costs and other direct costs |
| | Street/Traffic Sign Service | | Fees will be based on fully burdened hourly rate plus any out-of-pocket costs and other direct costs |
| Division of Building Standards: | | | |
| (Amends 901.80(a)) | Contractor License | \$40.00/yr-contractor/sub | |
| Department of Finance: | | | |
| | Returned Check (NSF) | \$20.00 | Fee applies when check has been deposited twice, is still NSF, and the party must redeem the check in person for cash |

Facility Costs and City Fees

| | <u>Resident</u> | <u>Non-resident</u> | <u>Miscellaneous Notes</u> |
|--|-------------------------------|--|--|
| Office of City Administrator: | | | |
| | Civil Service Testing | Actual cost of testing | |
| | Taxi Cab License | \$25.00/yr. per taxicab plus cost of any legal review performed by the City | |
| Various Divisions: | | | |
| | Special Events & Performances | | Fees will be based on fully burdened hourly rate plus any out-of-pocket costs and other direct costs |
| | Document Printing & Copying | \$.05/page/copy \$1.50-City Map/blue print \$35.00-Planning and Zoning Code Book | |
| | | | |
| | | | |
| | | | |
| | | | |
| Building Inspection-Residential (Contract with Union County) | | | |
| Building Inspection-Commercial (Contract with Union County) | | | |

(Ord. 22-04. Passed 4-22-04; Ord. 38-06. Passed 6-22-06; Ord. 86-06. Passed 10-12-06.)

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

CHAPTER 111
Council

**111.01 Duties and responsibilities of
the Clerk of Council.**

CROSS REFERENCES

Number of Council members; selection, term, qualifications - see
CHTR. Secs. 3.01, 3.02
Wards established by Council - see CHTR. Sec. 3.03
Meetings of Council - see CHTR. Sec. 3.04; ADM. Ch. 105
Council to determine rules - see CHTR. Sec. 3.04
Mayor's right in Council - see CHTR. Sec. 5.03
Oath of office - see CHTR. Sec. 12.01
Bonds - see CHTR. Sec. 12.02
Conflict of interest - see CHTR. Sec. 12.04

111.01 DUTIES AND RESPONSIBILITIES OF THE CLERK OF COUNCIL.

- (a) The Clerk of Council is appointed by City Council and shall report to City Council.
- (b) The Clerk of Council shall support the Boards and Commissions appointed by City Council, as follows: Council, Council Committees, Board of Zoning Appeals, Parks and Recreation Commission, and Utility Claims Board of Appeals. Duties include, but are not limited to preparing agendas and packets, general research, attending public meetings, taking of minutes, reading legislation, conducting roll calls; preparing and publishing public notices of hearings; maintaining official records (e.g., ordinances, resolutions, minutes, notices, etc.).
- (c) The Clerk of Council shall provide back-up support for Boards and Commissions appointed by the Mayor to include recording meeting minutes and preparing board member information packets. (Ord. 13-03. Passed 4-10-03; Ord. 59-06. Passed 8-10-06.)

CHAPTER 113
Ordinances and Resolutions

EDITOR'S NOTE: There are no sections in Chapter 113. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Mayor's veto power - see CHTR. Sec. 5.04

Manner of adopting legislation - see CHTR. Sec. 4.01

Initiative and referendum - see CHTR. Sec. 4.02

TITLE FIVE - Administrative

- Chap. 120. Executive Appointments.
- Chap. 121. Director of Administration.
- Chap. 122. Director of Law.
- Chap. 123. Director of Finance.
- Chap. 125. Police Division.
- Chap. 127. Fire Division.
- Chap. 128. Division of Water.
- Chap. 129. Division of Engineering.
- Chap. 130. Division of Public Service.
- Chap. 131. Parks and Recreation Commission.
- Chap. 132. Planning Commission.
- Chap. 135. Civil Service Commission.
- Chap. 137. Public Utilities Committee. (Repealed)
- Chap. 139. Department of Building Regulations.

**CHAPTER 120
Executive Appointments**

**120.01 Positions requiring appointment
after mayoral change as
result of an election.**

**120.01 POSITIONS REQUIRING APPOINTMENT AFTER MAYORAL
CHANGE AS RESULT OF AN ELECTION.**

(a) Due to the importance, level of authority and scope of duties of the Director of Administration and Director of Finance positions, the newly elected Mayor must officially appoint the sitting incumbents per the City Charter (Section 6.01 - Director of Administration; Section 7.01 - Director of Finance). These appointments must take place within a reasonable length of time after the election of the new Mayor, but not to exceed 180 days after the date the Mayor takes office.

(b) These appointments do not constitute a contract or promise of employment to either incumbent beyond what is available to each incumbent under law. Both positions are still “at-will” and work at the pleasure of the Mayor.

(c) All other executive/exempted positions including, but not limited to, department and division heads do not require appointment by the newly elected Mayor.

(d) All executive/exempted positions including, but not limited to, department and divisions heads are still considered “at-will” and work at the pleasure of the Mayor. (Ord. 18-08. Passed 7-10-08.)

CHAPTER 121
Director of Administration

| | | | |
|---------------|------------------------------|---------------|---------------------------------------|
| 121.01 | Salary and vehicle. | 121.03 | Parks and Recreation Director. |
| 121.02 | Snow and ice removal. | 121.04 | City planner. |

CROSS REFERENCES

Department of Administration - see CHTR. Sec. 6.01
 Director on Board of Control - see CHTR. Sec. 10.09
 Purchasing - see CHTR. Sec. 10.11
 Director to act in absence of Finance Director - see ADM.
 123.02

121.01 SALARY AND VEHICLE.

- (a) The salary of the Director of Administration shall be as established by Council.
- (b) The Director shall be furnished a vehicle for use on City business.

121.02 SNOW AND ICE REMOVAL.

The Director of Administration may, in cases of emergency, contract for snow and ice removal and for such other purposes as set forth in Ohio R.C. 5735.27. Payments on such contracts shall be made from the State Highway Improvement Fund.

121.03 PARKS AND RECREATION DIRECTOR.

The position of Parks and Recreation Director shall be added to the organizational chart of the City of Marysville. This position will be an unclassified position under the supervision of the Director of Administration. (Ord. 14-00. Passed 2-10-00.)

121.04 CITY PLANNER.

The position of city planner shall be added to the organizational chart of the City of Marysville. This position will be an unclassified position under the supervision of the Mayor and Director of Administration. (Ord. 24-00. Passed 3-10-00.)

CHAPTER 122
Director of Law

122.01 Assistant Law Director.

CROSS REFERENCES

Department of Law - see CHTR. Sec. 8.01

Director on Treasury Investment Board - see CHTR. Sec. 10.10

122.01 ASSISTANT LAW DIRECTOR.

(a) The Law Director is authorized to employ an attorney at law in good standing with the Supreme Court of Ohio to serve as an Assistant Law Director.

(b) This position will be a part time position excluded from accrual of sick leave, longevity, vacation pay, sick leave bonus and personal leave hours.
(Ord. 34-00. Passed 4-27-00.)

CHAPTER 123
Director of Finance

| | | | |
|---------------|--|---------------|---------------------------------------|
| 123.01 | Salary. | 123.03 | Assistant Director of Finance. |
| 123.02 | Director of Administration to act in absence of Finance Director. | 123.04 | EMS transportation fees. |
| | | 123.05 | Tax Administrator. |

CROSS REFERENCES

Department of Finance - see CHTR. Sec. 7.01
Powers and duties - see CHTR. Sec. 7.02
Director on Board of Control - see CHTR. Sec. 10.09
Director on Treasury Investment Board - see CHTR. Sec. 10.10
Income Tax - see ADM. Ch. 141

123.01 SALARY.

The salary of the Director of Finance shall be as established by Council.
(Ord. 752. Passed 12-16-65.)

123.02 DIRECTOR OF ADMINISTRATION TO ACT IN ABSENCE OF FINANCE DIRECTOR.

The Director of Administration is hereby designated and authorized to sign all vouchers and checks in the place and stead of the Finance Director at any and all times when the Finance Director is absent from the City and when the Finance Director is disabled and unable to perform his duties.

123.03 ASSISTANT DIRECTOR OF FINANCE.

The position of Assistant Director of Finance shall be added to the Administration as an unclassified position. (Ord. 40-00. Passed 5-11-00.)

123.04 EMS TRANSPORTATION FEES.

- (a) The following fees are established for the following transportation services:
- (1) Advanced Life Support (ALS) shall be established at the usual, customary and reasonable rates per patient transported from the location of the patient pick-up to the local hospital. Such rates will be based on ALS billing category criteria as well as customary and reasonable charges for transportation mileage.

- (2) Basic Life Support (BLS) shall be established at the usual, customary and reasonable rates per patient transported from the location of patient pick-up to the local hospital. Such rates will be based on BLS billing category criteria, as well as customary and reasonable charges for transportation mileage.

(b) The Mayor shall establish and conduct a billing system for the collection of such fees in accordance with State and federal laws, regulations and guidelines. Such system shall include an insurance only billing plan for residents, accepting tax receipts in lieu of individual payments for service. In no event shall any uncollected fee for service be referred to a collection agency, nor will any report be made to any credit reporting service in relation to any unpaid balance.

(c) The Mayor, Finance Director or their designees are hereby authorized to execute any and all documents and/or implement any and all procedures necessary to effectuate the collection of such fees and to establish a separate fund for receipt and disbursement of funds generated from EMS billing in order to enhance services provided by the Fire Division of the City of Marysville, Ohio.
(Ord. 34-02. Passed 7-25-02.)

123.05 TAX ADMINISTRATOR.

(a) The position of Tax Administrator shall be added to the organizational chart of the City of Marysville. This position shall be an unclassified position under the supervision of the Finance Director.

(b) The Tax Administrator shall be appointed by the Mayor and shall serve at the pleasure of the Mayor.

(c) In addition to the duties and responsibilities set forth in Sections 141.09 and 141.10, the Tax Administrator will ensure income tax compliance and perform his/her duties in accordance with the job description.
(Ord. 7-04. Passed 2-26-04.)

CHAPTER 125
Police Division

125.01 Administrative fees.
125.02 Waiver of fees.

125.03 Parking Regulations
Officer: duties.
125.04 Auxiliary police force.

CROSS REFERENCES

Police officer training certificate required for permanent employment - see Ohio R.C. 109.77
 Police and Firemen's Disability and Pension Fund - see Ohio R.C. Ch. 742
 Impersonation of a peace officer - see GEN. OFF. 525.03
 Unauthorized display of law enforcement emblems - see GEN. OFF. 525.14

125.01 ADMINISTRATIVE FEES.

(a) Fees shall be established and payment made for certain services provided by the Marysville Police Department. Such fees shall be for services such as copies of accident reports, statements, photographs, vehicle towing and storage, record checks and fingerprinting.

(b) The fees shall be established by the Director of Administration upon the recommendation of the Chief of Police. Said fees shall take effect thirty days after a list of such fees is provided to the Clerk of Council and to the extent practical shall be based upon the administrative time and actual cost incurred in providing such services.

(c) Such reports, statements and photographs, may, in the discretion of the Chief of Police, be withheld until all criminal prosecution has been concluded.
 (Ord. 40-94. Passed 10-27-94.)

125.02 WAIVER OF FEES.

The fees in Section 125.01 may be waived for other law enforcement agencies.
 (Ord. 40-94. Passed 10-27-94.)

125.03 PARKING REGULATIONS OFFICER: DUTIES.

- (a) The Mayor may appoint a Parking Regulations Officer whose duties shall be:
- (1) To keep records of violations of Chapter 353 of these Codified Ordinances and to give notices of such violations.
 - (2) To collect money from parking meters as provided by Section 353.12.
 - (3) To maintain and repair all parking meters belonging to the City.

(b) The Parking Regulations Officer shall be a civilian employee of the Police Division, and shall be under the supervision of the Chief of Police.

(c) The provisions of this section shall not affect the duty and power of the policemen to cite and arrest for parking meter violations.

125.04 AUXILIARY POLICE FORCE.

(a) Auxiliary Police Force Established. In order to maintain an adequate police force to preserve law and order in the time of any emergency or major disaster, there is hereby established within the Police Division, an auxiliary police force. The auxiliary shall be composed of trained and qualified volunteers, and shall supplement the regular Police Division, at any time that the Mayor or the Chief of Police may deem necessary. The unit, when organized, shall be known as the Marysville Police Auxiliary.

(b) Supervision; Training. The auxiliary shall be under the direct supervision and orders of the Chief of Police, who at all times shall be responsible for the unit's education and training program. The Chief shall designate an officer of the regular Police Division to be the training officer for the auxiliary.

(c) Appointment of Members. Members of the auxiliary shall be appointed by the Mayor and subject to the approval of the Chief of Police, and confirmed by Council. The members shall be citizens of the United States and a resident of Union County and may not be under eighteen years of age at the time of appointment.

(d) Officers; Police Duties. The Chief of Police or other officers of the Police Division designated by him, shall be the commanding officers of the auxiliary, and shall have full control of the assignment, training, qualification, stationing and direction of work of the auxiliary. Auxiliary policemen shall have all police powers, but shall perform only such police duties and shall act only when authorized to do so by the Chief, or the ranking police officer on duty at the time. The auxiliary members shall obey the chain of command of the Police Division and shall obey orders from all regular appointed officers thereof.

(e) Duties of the Chief of Police.

- (1) The Chief of Police is authorized to prescribe the type of uniform, or portion thereof, which shall be worn by members of the auxiliary.

- (2) The Chief of Police, subject to approval of the Mayor, shall prescribe the rules and regulations for the conduct, control, training, promotion and operation of the auxiliary.
- (3) The Chief of Police, subject to approval of the Mayor, is hereby authorized and directed to issue the necessary executive orders, rules and regulations for the administration of the auxiliary.

(f) Liability. Neither the City nor agent, nor representative of the Municipality, nor any individual, firm, partnership, corporation, nor the receiver, nor trustee, nor any other agent thereof, who in good faith, executes any executive order, rule or regulation promulgated pursuant to the provision of the sections hereof, shall be liable for injury or damage sustained to persons or property as to the direct or proximate result of such action.

CHAPTER 127
Fire Division

- | | | | |
|---------------|---|---------------|---------------------------|
| 127.01 | Personal nonliability of emergency squadmen. | 127.03 | Emergency Squad. |
| 127.02 | Fire fighting equipment; contracts. | 127.04 | Fire Investigator. |

CROSS REFERENCES

Fire protection contracts - see Ohio R.C. 307.05, 505.44, 717.02
 Schooling, buildings and equipment - see Ohio R.C. 715.05, 737.23
 et seq.
 General duties - see Ohio R.C. 737.11
 Arson - see GEN. OFF. 541.02

127.01 PERSONAL NONLIABILITY OF EMERGENCY SQUADMEN.

Any claim or suit brought against any member of the Fire Division, arising from or because of any action or inaction by such member in the scope of his employment as a member of an emergency squad, or other emergency unit on a medical assignment, operated by the Fire Division, shall be defended by the City until the final termination of the proceedings therein. The City shall save such member of the Fire Division harmless from personal liability or any judgment resulting from such claim or suit, unless the action or inaction of such member constitutes willful or wanton misconduct.
 (Ord. 959-75. Passed 1-23-75.)

127.02 FIRE FIGHTING EQUIPMENT; CONTRACTS.

(a) The Mayor and Fire Chief are authorized to enter into agreements on behalf of the City with any other political subdivision providing for the mutual aid of fire fighting equipment in the event of an emergency, subject to the approval of Council.

(b) The Fire Chief or any person in active charge of the Fire Division may authorize and send fire fighting equipment and personnel to the fire districts of other political subdivisions when called upon by the proper official of such other subdivision in times of fire and emergency in such other subdivision, as provided by Ohio R.C. 9.60.

(c) The Mayor and the Fire Chief are authorized to enter into agreements on behalf of the City to provide fire protection within the County, subject to the approval of Council.

(d) No written contract shall be for longer than three years.
(Ord. 51-85. Passed 8-29-85.)

127.03 EMERGENCY SQUAD.

The Mayor and Fire Chief are authorized to enter into agreements on behalf of the City to provide emergency medical services within Union County, subject to the approval of City Council.

(Ord. 37-06. Passed 6-22-06.)

127.04 FIRE INVESTIGATOR.

(a) There is established the positions of Fire Investigators within the City Fire Division.

(b) Fire Investigators shall be qualified members of the Fire Division and shall be appointed by the Fire Chief.

(c) A Fire Investigator shall be present at all fires, investigate the cause thereof, examine witnesses, compel the attendance of witnesses and the production of books and papers, and do and perform all other acts necessary to the effective discharge of such duties.

(d) Fire investigators may administer oaths, make arrests and enter, for the purpose of examination, any building which, in his opinion, is in danger from fire.
(Ord. 37-06. Passed 6-22-06.)

CHAPTER 128
Division of Water

128.01 Established.

CROSS REFERENCES

Authority to establish divisions - see CHTR. Sec. 9.01
Water rules and regulations - see S.U. & P.S. Ch. 930

128.01 ESTABLISHED.

(a) The Division of Water is hereby created.

(b) The Division of Water shall consist of a Superintendent of Water and a Manager of Water Distribution reporting to the Superintendent, and such other employees as may be provided by ordinance or resolution. The Superintendent and Manager shall be appointed by the Mayor and shall exercise direct supervision of the employees of the Division.
(Ord. 20-91. Passed 4-11-91.)

CHAPTER 129
Division of Engineering

- | | |
|--|---|
| <p>129.01 Composition; appointment of City Engineer.</p> <p>129.02 Powers and duties of City Engineer.</p> | <p>129.03 Enforcement Section.</p> |
|--|---|

CROSS REFERENCES

Building standards - see BLDG. Ch. 1301

129.01 COMPOSITION; APPOINTMENT OF CITY ENGINEER.

The Division of Engineering shall consist of a City Engineer and such other employees as may be provided by Council. The City Engineer shall be appointed by the Mayor and shall be a registered engineer, licensed to practice within the State. He shall supervise the Division and any persons in its employ.
 (Ord. 2-85. Passed 1-10-85.)

129.02 POWERS AND DUTIES OF CITY ENGINEER.

(a) The City Engineer has primary responsibility for the planning, construction and maintenance of streets, sidewalks, storm sewers, the wastewater treatment plant and the sanitary sewers. The City Engineer, under the general direction of the Director of Administration, is also responsible for the planning and construction of capital improvements relating to the cemetery, parks, buildings and pools. Capital improvement projects beyond the capability of the Division of Engineering's staff shall be designed by consulting engineers in consultation with the City Engineer. The City Engineer is also responsible for engineering, zoning and subdivision regulations and for construction inspections.

(b) The City Engineer has general co-ordinating responsibility for the Divisions of Waste Water Treatment, Streets and Storm Sewers, Public Service and Planning and Zoning.
 (Ord. 2-85. Passed 1-10-85.)

129.03 ENFORCEMENT SECTION.

The Enforcement Section of the Division of Engineering shall work under the City Engineer and shall include the Zoning Inspector and such other persons as are necessary to carry out the inspections required within the authority of the Division.
 (Ord. 2-85. Passed 1-10-85.)

CHAPTER 130
Division of Public Service

130.01 Established; composition.
130.02 Powers and duties.

**130.03 Appointment of Public
Service Director; duties.**

CROSS REFERENCES

Authority to establish divisions - see CHTR. Sec. 9.01
Parks and recreation - see CHTR. Sec. 9.08
Cemeteries - see S.U. & P.S. Ch. 941
Public swimming pools - see P. & Z. 1139.04

130.01 ESTABLISHED; COMPOSITION.

There is hereby established a Division of Public Service for the City. Such Division shall include a Public Service Director and such other employees as are authorized by ordinance or resolution.
(Ord. 34-86. Passed 10-9-86.)

130.02 POWERS AND DUTIES.

The Division of Public Service shall have responsibility for Municipal cemeteries, swimming pools, parks and recreation areas and activities, and buildings and grounds.
(Ord. 34-86. Passed 10-9-86.)

130.03 APPOINTMENT OF PUBLIC SERVICE DIRECTOR; DUTIES.

The Public Service Director shall be appointed by the Mayor. The Director's duties shall involve direct supervision of the employees of the Division of Public Service and its operations.
(Ord. 34-86. Passed 10-9-86.)

CHAPTER 131
Parks and Recreation Commission

**131.01 Established: compensation;
powers and duties.**

CROSS REFERENCES

Criminal mischief - see GEN. OFF. 541.04

Destruction of shrubs, trees or crops - see GEN. OFF. 541.06

Parks - see S.U. & P.S. Ch. 951

131.01 ESTABLISHED: COMPENSATION; POWERS AND DUTIES.

(a) Established. There is hereby created and established a Parks and Recreation Commission for the City, which Commission shall consist of the following seven members: a Council member appointed by the President of Council, a student member appointed by the Mayor from recommendations submitted by Marysville Exempted Village School District, and five residents who shall be appointed by the President of Council with the approval of Council. Public members shall represent all geographical sections of the City insofar as reasonable and practical.

(Ord. 52-96. Passed 9-26-96.)

(b) Term of Office. The term of the original Council member shall expire December 31, 1976, and thereafter appointments shall be for a term of three years. Any vacancy shall be filled by the President of Council for the unexpired portion of such term.

The term of the five persons to be appointed by the President of Council, with the approval of Council, shall be two terms expiring November 30, 1983, and two terms expiring November 30, 1984, and one term expiring November 30, 1985. Thereafter each appointment shall be for three-year terms. In the event that a vacancy occurs during the term of any member, his successor shall be appointed by the President of Council and approved by the Council, for the unexpired portion of such term.

The term of the student member shall be one year beginning on June 1 and ending on May 31. Any vacancy shall be filled by the Mayor from the recommendations of the Marysville Exempted Village School District.

(c) Compensation. Members of the Commission shall receive such compensation as is set by Council.

(d) Powers and Duties. The Commission shall have the power to study, investigate, plan, advise and report to Council, the Director of Public Service or the Director of Administration any action, program, plan or legislation which the Commission finds or determines to be necessary to advisable for the effective operation and maintenance of public parks and recreation facilities for use of the residents of the City. The Commission shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. The Clerk of Council shall be ex-officio secretary of the Commission.
(Ord. 21-88. Passed 9-22-88.)

CHAPTER 132
Planning Commission

132.01 Terms and vacancies.

CROSS REFERENCES

Established; composition - see CHTR. Sec. 9.03.01

132.01 TERMS AND VACANCIES.

(a) The terms of office of the seven citizen members of the Planning Commission shall be overlapping terms of four years.

(b) In conformance with the 2001 Charter Amendments, the seven members at large shall be appointed by the Mayor to initial terms as follows: two members to a term ending March 31, 2002, one member to a term ending March 31, 2003, two members to a term ending March 31, 2004, two members to a term ending March 31, 2005. (Ord. 43-01. Passed 11-20-01.)

CHAPTER 135
Civil Service Commission

EDITOR'S NOTE: Ordinance 2-03, passed January 23, 2003, approved Rules and Regulations of the Civil Service Commission. Copies of such Rules and Regulations may be obtained, at cost, from the Clerk of Council.

135.01 Civil Service Commission.
135.02 Administration.

135.03 Suspension and removal.
135.04 Rules and regulations.

CROSS REFERENCES

Composition; duties - see CHTR. Sec. 9.03.02
Civil Service laws - see Ohio R.C. Ch. 124

135.01 CIVIL SERVICE COMMISSION.

(a) The Civil Service Commission shall consist of three members appointed by the Mayor with approval of a majority of members of Council, to serve a term of six years, an appointment to fill interim vacancies shall be for the unexpired term of the office. Members of the Commission shall not hold any other office in City government. The Commission shall elect one of its members as chairman, one as vice-chairman and one as secretary.

(b) The initial appointments by the Mayor shall be for a two year term, a four year term and a six year term, beginning January 1, 1983.
(Ord. 7-83. Passed 2-10-83.)

135.02 ADMINISTRATION.

The Civil Service Commission shall enforce the civil service laws and regulations applicable to the City. The Commission may appoint an Administrative Secretary who may act on behalf of the Commission in administering civil service laws and regulations, except where the authority is specifically reserved to the Commission. The Commission shall have the power to hear appeals regarding implementation of any civil service laws and regulations by the Administrative Secretary or the City.
(Ord. 7-83. Passed 2-10-83.)

135.03 SUSPENSION AND REMOVAL.

The Mayor may at any time suspend or remove any Commission member for inefficiency, neglect of duty or malfeasance in office, having first given to such member a copy of the charges setting forth the specific complaint. An opportunity shall be given each member to be publicly heard in person or by counsel in his own defense. Any Commission member so removed, may appeal to the Court of Common Pleas, providing such appeal is taken within ten days from the decision of the Mayor.

(Ord. 7-83. Passed 2-10-83.)

135.04 RULES AND REGULATIONS.

(a) The Civil Service Commission shall prescribe, amend and enforce rules not inconsistent with the City Charter for the classification of positions in the Civil Service of this City; for the conduct of testing and disposition of appeals.

(b) The rules or amendments thereto prescribed in accordance with subsection (a) hereof shall not become effective until approved by a majority vote of Council, or if no decision is taken by Council, then the proposed rules or amendments thereto shall become effective after sixty days after receipt by the Clerk. In the event Council does not approve the proposed rules or amendments thereto it shall return them to the Commission with the reasons for disapproval.

(Ord. 7-83. Passed 2-10-83.)

CHAPTER 137
Public Utilities Committee (Repealed)

(EDITOR'S NOTE: Former Chapter 137 was repealed by Ordinance 59-03, passed December 4, 2003.)

CHAPTER 139
Department of Building Regulations

139.01 Established.

139.02 Powers.

139.01 ESTABLISHED.

The City of Marysville Department of Building Regulations is hereby established under the Office of the Manager of Public Service. (Ord. 90-06. Passed 11-16-06.)

139.02 POWERS.

The Department shall operate through a contract with Union County and shall enforce all laws, statutes and regulations as provided and authorized in the Ohio Revised Code and the Ohio Administrative Code pursuant to the certification approved by the Ohio Board of Building Standards. (Ord. 90-06. Passed 11-16-06.)

TITLE SEVEN - Taxation

Chap. 141. Income Tax.

Chap. 143. Hotel Tax.

**CHAPTER 141
Income Tax**

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| 141.01 Purpose. | 141.11 Interest and penalties. |
| 141.02 Definitions. | 141.12 Collection of unpaid taxes and refunds of overpayments. |
| 141.03 Imposition of tax. | 141.13 Violations and penalties. |
| 141.04 Effective period. | 141.14 Board of Income Tax Appeal. |
| 141.05 Allocation of funds. | 141.15 Rental property. |
| 141.06 Return and payment of tax. | 141.16 Contract provisions. |
| 141.07 Collection at source. | 141.17 Saving clause. |
| 141.08 Declarations of estimated tax. | |
| 141.09 Appointment and duties of Tax Administrator. | |
| 141.10 Investigative powers of Tax Administrator; penalty for divulging confidential information. | |

CROSS REFERENCES

Power to levy - see Ohio Const., Art. XII, Sec. 8

Payroll deductions - see Ohio R.C. 9.42

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

Collection by Director of Finance - see CHTR. Sec. 7.02

Limitation on levying - see CHTR. Sec. 10.01

141.01 PURPOSE.

To provide funds for the purposes of general municipal operations, street maintenance and construction, new equipment and capital improvements, there shall be and is hereby levied a tax on qualifying wages, commissions and other compensation, and on net profits and other taxable income as hereinafter provided. (Ord. 55-04. Passed 11-18-04.)

141.02 DEFINITIONS.

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

(1) “Adjusted federal taxable income” means a C corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- A. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income;
- B. Add an amount equal to five percent (5%) of intangible income deducted under division (a)(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 (a)(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 (a)(1)D.2. 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 and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- G. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
 - 1. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
 - 2. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (a)(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.

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

- (2) "Association" means a partnership, limited partnership, S corporation or any other form of unincorporated enterprise, owned by one or more persons.
- (3) "Board of Income Tax Appeal" (Board of Appeals, Board of Adjudication, etc.) means the Board created by and constituted as provided for in Section 141.14.
- (4) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- (5) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (6) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (7) "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.
- (8) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profits, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (9) "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.
- (10) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (11) "Form 1099-MISC, Miscellaneous Income" means Internal Revenue Service Form 1099- MISC filed by a taxpayer pursuant to the Internal Revenue Code.
- (12) "Form W-2G, Certain Gambling Winnings" means Internal Revenue Service Form W-2G filed by a taxpayer pursuant to the Internal Revenue Code.
- (13) "Form 5754, Statement by Person(s) Receiving Gambling Winnings" means Internal Revenue Service Form 5754 filed by a taxpayer pursuant to the Internal Revenue Code.
- (14) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.
- (15) "Gross receipts" means total income of taxpayers from whatever source derived.

- (16) "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (17) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (18) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (19) "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical sub network known as the World Wide Web.
- (20) "Joint Economic Development District" means districts created under the Ohio Revised Code sections 715.70 through 715.83, as amended from time to time.
- (21) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (22) "Municipality" means the City of Marysville.
- (23) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in division (f) of Section 141.03, required to be reported on schedule C, schedule E, or schedule F.
- (24) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
- (25) "Nonresident" means an individual domiciled outside the Municipality.
- (26) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
- (27) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
- (28) "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.
- (29) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.

- (30) “Owner’s proportionate share”, with respect to each owner of a pass-through entity, means the ratio of:
- A. The owner’s income from the pass-through entity that is subject to taxation by the municipal corporation, to
 - B. The total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
- (31) “Pass-through entity” means a partnership, Limited Liability Company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (32) “Person” includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.
- (33) “Place of business” means any bona fide office, other than a mere statutory office, factory, warehouse, or other space, which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his regular employees regularly in attendance.
- (34) “Principal place of business” means in the case of an employer having headquarters’ activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters’ activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
- (35) “Qualified plan” means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.
- (36) “Qualifying wages” means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.
- (37) “Resident” means an individual domiciled in the Municipality.
- (38) “Resident incorporated business entity” means an incorporated business entity whose office; place or operations or business situs is within the Municipality.
- (39) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the Municipality.
- (40) “Return preparer” means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
- (41) “Schedule C” means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) “Schedule E” means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (43) “Schedule F” means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (44) “S corporation” means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

- (45) "Tax Administrator" means the person appointed to administer the Municipality's Income Tax Ordinance and to direct the operation of the Municipal Income Tax Department or the person executing the duties of the Tax Administrator. This term may include the Finance Director or his appointed designee.
- (46) "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Chapter.
- (47) "Taxable year" means the corresponding tax-reporting period as prescribed for the taxpayer under the Internal Revenue Code. In the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (48) "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
- (49) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(b) The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates. (Ord. 55-04. Passed 11-18-04.)

141.03 IMPOSITION OF TAX.

(a) Basis of Imposition. Subject to provisions of Section 141.01, an annual tax shall be, and is hereby, levied on and after January 1, 1968, at the rate of one per cent (1%) per annum upon the following:

- (1) On all qualifying wages, salaries, including sick, vacation, severance and any pay as part of an employee buyout or wage continuation plan, commissions, prize moneys, tips and gratuities, other compensation, and other taxable income earned or received by residents of the Municipality;
- (2) On all qualifying wages, salaries, including sick, vacation, severance and any pay as part of an employee buyout or wage continuation plan commissions, tips and gratuities, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered, in the Municipality;
- (3) On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.

- (4) On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.
- (5) On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.
- (6) On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

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

- (1) Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
 - A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
 - B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code;
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

- D. Adding together the percentages determined in accordance with subsections (b)(1)A, B, and C. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.
1. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.
 2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.
- (c) As used in division (b) of this section, “sales made in a municipal corporation” mean:
- (1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
 - (2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
 - (3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (d) Except as otherwise provided in division (e) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.
- (e) This section does not apply to individuals who are residents of the Municipality and, except as otherwise provided in Section 718.01 of the Ohio Revised Code, the Municipality may impose a tax on all income earned by residents of the Municipality to the extent allowed by the United States Constitution.
- (f) Net Operating Loss (NOL).
- (1) The Municipality does not allow a net operating loss carryback or carryforward.
 - (2) The net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions (to the extent that they are reported on form W-2) or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

(g) Consolidated Returns.

- (1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.

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

- (1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
- (2) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
- (3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
- (4) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (5) Alimony.
- (6) Compensation for damage to property by way of insurance or otherwise.
- (7) Interest and dividends from intangible property.
- (8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
- (9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
- (11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
- (12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
- (13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.

- (14) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
- (15) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
- (16) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:
- A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - B. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.
- (17) The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745. of the Ohio Revised Code:
- A. The income of an electric company or combined company;
 - B. The income of a telephone company.
- As used in division (f)(17) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.
- (18) An S corporation shareholder's distributive share of net profits 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, to the extent such distributive share would not be allocated or apportioned to this state under division (B)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733. of the Ohio Revised Code.
- (19) Personal earnings of any natural person under eighteen years of age.

- (20) On the first one thousand dollars (\$1,000) of income received by any mentally retarded or developmentally disabled employee from a sheltered workshop for adults with mental retardation and developmental disabilities operating in compliance with rules, regulations and standards set by the Ohio Department of Mental Retardation and Developmental Disabilities.
- (21) Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.
(Ord. 55-04. Passed 11-18-04.)

141.04 EFFECTIVE PERIOD.

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned and shall be levied with respect to the net profits of the businesses, professional or other activities earned from and after the effective date of this Tax Code. Said tax shall continue in effect for an indefinite period.
(Ord. 55-04. Passed 11-18-04.)

141.05 ALLOCATION OF FUNDS.

The funds collected under this chapter shall be applied for the following purposes and in the following order:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this chapter, and enforcing the provisions thereof.
- (b) Such part thereof as Council may appropriate for the purpose of street maintenance, construction and repair.
- (c) Such part thereof as Council may appropriate for the purpose of paying the cost of general Municipal operations.
- (d) Such part thereof as Council may appropriate for the purpose of paying the cost of new equipment and capital improvements. (Ord. 55-04. Passed 11-18-04.)

141.06 RETURN AND PAYMENT OF TAX.

(a) On or before April 15th of each year, every resident subject to the provisions of Section 141.03, paragraph (a) through (h) inclusive, shall, except hereinafter provided, make and file with the Tax Administrator a Municipal tax return on a form prescribed by and acceptable to the Tax Administrator, whether or not a tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation, and other taxable income of a nonresident employee, and paid by him or them to the Tax Administrator may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such qualifying wages, commissions, other compensation, and other taxable income.

(b) A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the Municipal return regardless of whether their federal and state returns were filed separately or jointly. If a joint city return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

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

(d) The return shall set forth:

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

(e) (1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Municipal Income Tax Return by filing a copy of the taxpayer's federal extension request with the Municipal Tax Division. Any taxpayer not required to file a federal income tax return may request an extension for filing a Municipal Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

- (2) The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:
- A. Fails to timely file the request; or
 - B. Fails to file a copy of the federal extension request, (if applicable);
or
 - C. Owes the Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax;
or
 - D. Has failed to file any required income tax return, report, or other related document for a prior tax period.

- (3) The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 141.11. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.
- (f) Payments with Returns.
- (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:
- A. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of section 141.07; and
(Ord. 55-04. Passed 11-18-04.)
- B. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 141.08.
(Ord. 65-04. Passed 12-16-04.)
- (2) Subject to the limitations contained in Section 141.12 of this Tax Code, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Tax Code may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar and one cent (\$1.01) shall be collected or refunded.
- (g) Amended Returns.
- (1) Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 141.12. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(h) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph. (Ord. 55-04. Passed 11-18-04.)

141.07 COLLECTION AT SOURCE.

(a) Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in Section 141.03 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the fifteenth (15th) day of the month following such withholding, make a return and pay to the Tax Administrator the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed by the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

(b) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

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

(d) Compensation deferred before the effective date of this amendment 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.

(e) So long as the taxes withheld by an employer for the Municipality during the measurement period are less than one hundred dollars (\$100.00) per month, payments may be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Tax Administrator. The Tax Administrator may revoke the approval of quarterly filing and payments whenever the Tax Administrator has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case; the employer must begin to file in accordance with this section.

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

(g) Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and are also liable under the provisions of Section 141.13 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

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

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

(j) Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.
(Ord. 55-04. Passed 11-18-04.)

141.08 DECLARATIONS OF ESTIMATED TAX.

(a) Requirement for Filing. Every person who anticipates any taxable income which is not subject to Section 141.07 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 141.03, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to this Municipality in accordance with Section 141.07, such person need not file a declaration.

(b) Dates for Filing.

- (1) Such declaration shall be filed on or before April 15 of each year during the life of this Chapter, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period. (Ord. 55-04. Passed 11-18-04.)

(c) Forms.

- (1) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or an acceptable generic form, and credit shall be taken for the Municipal tax to be withheld from any portion of such income. (Ord. 65-04. Passed 12-16-04.)
- (2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
- (3) For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.
- (4) For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.
- (5) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

(d) Amended Declaration.

- (1) A declaration may be amended at any time.
- (2) In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(e) Annual Return Required. On or before the fifteenth day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 141.06.

(f) Estimated Tax Less Than \$100.00. An entity (individual, corporate or association) may pay 100% of the prior year's tax in four equal installments in the current year and avoid any underpayment of estimated tax penalty. Prior year tax of zero or a prior year loss will not avoid penalty. No penalty for failure to pay estimated tax will apply to an entity whose tax for the year, after credit for tax withheld, is less than \$100.00. A declaration of estimated tax which is less than 90% of the tax shown to be due on the final return shall not be considered in good faith. The difference shall be subject to penalties and interest as provided for in Section 141.11(a) and (b).

(Ord. 55-04. Passed 11-18-04.)

141.09 APPOINTMENT AND DUTIES OF TAX ADMINISTRATOR.

- (a) (1) It shall be the duty of the Tax Administrator to collect and receive the tax imposed by this Chapter in the manner prescribed therein, to keep an accurate record thereof, and to report all monies so received.
- (2) It shall be the duty of the Tax Administrator to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of five (5) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.

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

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

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

(e) Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter.

(Ord. 55-04. Passed 11-18-04.)

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

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

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

(c) The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby, shall be deemed a violation of this Chapter punishable as provided in Section 141.13.

(d) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed or the taxes, required to be withheld are paid.

(e) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this Chapter. The Tax Administrator of the municipal corporation may furnish copies of returns filed under this Chapter to the Internal Revenue Service and to the State Tax Commissioner.

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

(g) In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable in accordance with Policy 300 of the City Policy Manual up to and including termination of employment.

(Ord. 55-04. Passed 11-18-04.)

141.11 INTEREST AND PENALTIES.

(a) All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Tax Code and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of two percent (2%) per month or fraction thereof.

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

- (1) For failure to pay taxes due, other than taxes withheld, ten percent (10%) of the taxes due.
- (2) For failure to remit taxes withheld or required to be withheld from employees; ten percent (10%) of the taxes due.
- (3) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a return and paid the total tax on or before the end of the month following the end of the taxable year; ten percent (10%) of the difference between ninety percent (90%) of the actual tax for the year and the amount paid through withholding and declaration.
- (4) No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.
- (5) Except in the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax.

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

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

(e) Upon recommendation of the Tax Administrator, the Board of Income Tax Appeal may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest concerning an item of income or expense, the Board may nevertheless abate penalty or interest, or both.

(Ord. 55-04. Passed 11-18-04.)

141.12 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

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

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

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

(d) Amounts of less than one dollar and one cent (\$1.01) shall not be collected or refunded.
(Ord. 55-04. Passed 11-18-04.)

141.13 VIOLATIONS AND PENALTIES.

- (a) Any person who shall:
- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
 - (2) Knowingly make an incomplete, false or fraudulent return; or
 - (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter; or
 - (4) Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Administrator; or
 - (5) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers, or federal income tax returns; or
 - (6) Fail to appear before the Tax Administrator and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Administrator; or
 - (7) Refuse to disclose to the Tax Administrator any information with respect to such person's or such person's employer's income or net profits; or

- (8) Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
- (9) Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (10) Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Administrator; or
- (11) Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 141.08; or
- (12) Fail to cause the tax withheld from the qualifying wages of the employees pursuant to this Chapter to be paid to the Municipality in accordance with the provisions of Section 141.07; or
- (13) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter;

for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense and shall be fined not more than one hundred dollars (\$100.00); on a second offense within two years after the first offense, such person 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 (60) days, or both, for each offense; on each subsequent tax code violation within two years after the first offense such person is guilty of a misdemeanor of the third degree, and punished as provided for herein.

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

(c) Statute of Limitations.

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

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

(e) The term "person" as used in this section shall, in addition to the meaning prescribed in Section 141.02, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.
(Ord. 55-04. Passed 11-18-04.)

141.14 BOARD OF INCOME TAX APPEAL.

(a) A Board of Income Tax Appeal, hereinafter the Board, consisting of the City Administrator, the Finance Director, and three members of the public, to be appointed by the Mayor, is hereby created and shall be maintained to hear appeals. The members of the Board of Income Tax Appeal shall be appointed for a term of three; however, the members of the first Board of Income Tax Appeal shall be appointed for (one, two and three years respectively). A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board shall be conducted privately and the provisions of Section 141.10 with reference to the confidential character of information required to be disclosed by the Chapter shall apply to such matters as may be heard before the Board on appeal.

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

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

(d) The imposition of penalty and interest as prescribed in the Codified Ordinance of the Municipality is not a sole basis for an appeal.

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

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

(g) Each Board of Income Tax Appeal created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Income Tax Appeal created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code. (Ord. 55-04. Passed 11-18-04.)

141.15 RENTAL PROPERTY.

(a) Each person owning real property within the City which is rented to others shall within twenty days after January 1 and twenty days after July 1 of each year submit to the Finance Director a list of the names and addresses of the renters as of the January 1 and July 1 dates.

(b) Each person owning real property which is rented to others shall include in the list submitted of January 1 and July 1 the names of any persons renting such property between the January 1 and July 1 dates.

(c) Each person owning real property which is rented to others, within the City, containing four or more units, shall provide such lists of names and addresses twenty days after January 1, April 1, July 1, and October 1. (Ord. 55-04. Passed 11-18-04.)

141.16 CONTRACT PROVISIONS.

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless such contract contains the following provisions: "...hereby agrees to withhold all City income taxes due or payable for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City income taxes due under this chapter for services performed under this contract." (Ord. 55-04. Passed 11-18-04.)

141.17 SAVING CLAUSE.

This Chapter shall not apply to any person, firm or corporation, or to any property as to whom or which, it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Chapter, or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein is found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. It is hereby declared to be the intention of Council of the Municipality that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence or part thereof, not been included therein. (Ord. 55-04. Passed 11-18-04.)

CHAPTER 143
Hotel Tax

143.01 Levy; collection.

143.01 LEVY; COLLECTION.

(a) Pursuant to Ohio R.C. 5739.02(C) 1, there is hereby levied a municipal excise tax of three percent (3%) on all transactions within the City of Marysville where lodging by a hotel is or is to be furnished to transient guests.

(b) Said tax shall be in full force and effect from and after thirty (30) days from the date of its passage.

(c) The tax collected, less the real and actual cost of administering said tax, shall be deposited in the Municipal General Fund. (Ord. 35-02. Passed 7-25-02.)

TITLE NINE - Judicial
Chap. 161. Municipal Court.

CHAPTER 161
Municipal Court

EDITOR'S NOTE: The provisions of Ohio R.C. 1901.01 established the Marysville Municipal Court which, pursuant to Ohio R.C. 1901.02 has territorial jurisdiction within Union County. The powers, duties and proceedings of the Court are established by Ohio R.C. Chapter 1901. Ohio R.C. 1901.25 provides that the Municipal Court may provide by rule how jurors shall be chosen. Jurors' fees in any criminal case involving the violation of a City ordinance shall be paid out of the City Treasury. The Municipal Court, pursuant to Ohio R.C. 1901.26(A), may establish a schedule of fees and costs to be taxed in any action or proceeding, whether civil or criminal. Ohio R.C. 1901.31(F) provides that fines received for violation of Marysville ordinances shall be paid into the City Treasury. Rule 13 of the Ohio Traffic Rules as promulgated by the Ohio Supreme Court provides that a court must establish a Traffic Violations Bureau and specified certain restrictions as to the designated offenses and schedule of fines to be accepted as waiver payment in lieu of court appearance. Rule 11 of the Rules of Superintendence for Municipal and County Courts also prescribes a violations bureau for minor misdemeanors.

161.01 Clerk salary.
161.02 Acting bailiff.

**161.03 Reimbursement of expenses
of confinement.**

CROSS REFERENCES

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

161.01 CLERK SALARY.

The salary of the Clerk of the Municipal Court shall be as established by Council.

161.02 ACTING BAILIFF.

The person appointed as Acting Bailiff from time to time by the Judge of the Municipal Court shall be paid such money as is provided by Ordinance for each day or part thereof during which such person is called upon to act as Bailiff.

161.03 REIMBURSEMENT OF EXPENSES OF CONFINEMENT.

(a) A person who has been convicted of an offense other than a minor misdemeanor, and who is confined in the County Jail as provided in Ohio R.C. 1905.35, shall reimburse the City for its expenses incurred by reason of such person's confinement, including, but not limited to, the expenses relating to the provision of food, clothing and shelter. The amount of reimbursement shall be determined by the Court at a hearing held pursuant to subsection (b) hereof.

(b) When the Judge of the Municipal Court sentences a person, under these Codified Ordinances, to a term of imprisonment for an offense, other than a minor misdemeanor, the Judge shall also hold a hearing to determine whether or not such person has the ability to pay the reimbursement. Such person shall have an opportunity to be heard and may be represented by counsel at such hearing, at his or her option. A record shall be made of the hearing.

(c) Reimbursable expenses include, but are not limited to, the expenses relating to the provision of food, clothing and shelter to the person while he or she is imprisoned and during any time that such person is incarcerated before sentencing, if such time is credited against his or her term of imprisonment. The reimbursement shall be made to the City for expenses incurred by such person during any time that the person serves in a local jail.

(d) Before holding a hearing on reimbursement pursuant to this section, the Judge shall investigate or cause to be investigated the person's ability to pay the reimbursement and possible reimbursement schedules and methods. The amount of reimbursement shall be determined at the hearing in light of the sentence of imprisonment given and according to the person's ability to pay. However, the actual amount to be paid shall not exceed the actual cost of the confinement or forty dollars (\$40.00) for each day of confinement, whichever is less. In determining the convicted person's ability to pay, all of the following shall be considered:

- (1) His or her financial resources, excluding the funds saved from wages derived from his or her labor or employment during the period of incarceration;
- (2) Any obligation to support his or her dependents;
- (3) Any obligation to make restitution to the victim of the offense of which he or she is convicted; and
- (4) His or her income, assets, liabilities, ability to borrow, household expenses and any other factor that may affect his or her financial ability to make reimbursement.

(e) The Director of Law may institute an appropriate civil action in the name of the City in the County Court of Common Pleas to recover, from the person incarcerated, reimbursement for the expenses of his or her confinement in the County Jail, as determined by a Court pursuant to subsection (b) hereof. The action shall be brought within one year after the person is released from incarceration. The amount recovered shall be paid into the City Treasury.

(Ord. 55-84. Passed 12-13-84.)

