

## RESOLUTION NO. 61-14

A RESOLUTION DECLARING THE NECESSITY OF AN ELECTION ON THE QUESTION OF APPROVING THE PASSAGE OF AN ORDINANCE TO AMEND SECTIONS 163.03, 163.04, 163.06(a) AND 163.061(b)(1)B OF THE CODIFIED ORDINANCES OF THE CITY OF FAIRBORN, OHIO, IN ORDER TO CONTINUE THE EXISTING INCOME TAX RATE FOR A PERIOD OF TEN (10) YEARS, BEGINNING JANUARY 1, 2015, OF AN ADDITIONAL ONE-QUARTER OF ONE PERCENT (0.25%), FOR THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, RESURFACING, AND REPAIRING LOCAL STREETS, THOROUGHFARE STREETS, AND ALLEYS AND FINANCING OF THESE PERMANENT IMPROVEMENTS IN THE CITY OF FAIRBORN.

THE COUNCIL OF THE CITY OF FAIRBORN HEREBY RESOLVES:

Section 1. That this Council hereby authorizes and directs the submission to the electors of the City of Fairborn, Ohio, at an election to be held at the usual places of voting in said City on Tuesday, November 4, 2014, between the hours of 6:30 a.m. and 7:30 p.m. of said day, of the question of approving the passage of an ordinance to amend Sections 163.03, 163.04 and 163.06(a) of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 44-04, passed November 2, 2004, and Ordinance No. 45-04, passed November 2, 2004, and Section 163.061(b)(1)B of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 32-05, passed August 1, 2005, in order to continue the income tax rate began January 1, 2005 through December 31, 2024, both inclusive, of an additional one-quarter of one percent (0.25%), which ordinance is set forth in full in Section 2 hereof.

Section 2. That the proposed ordinance to be submitted to the electors of the City for their approval hereunder shall be as follows:

### ORDINANCE NO. 26-14

AN ORDINANCE TO AMEND SECTION 163.03, 163.04, 163.06(a) AND 163.061(b)(1)B OF THE CODIFIED ORDINANCES OF THE CITY OF FAIRBORN, OHIO, IN ORDER TO CONTINUE THE EXISTING INCOME TAX RATE OF AN ADDITIONAL ONE-QUARTER OF ONE PERCENT (0.25%) FOR A PERIOD OF TEN (10) YEARS BEGINNING JANUARY 1, 2015.

THE COUNCIL OF THE CITY OF FAIRBORN HEREBY ORDAINS:

*MICHAEL A. MAYER*  
CITY SOLICITOR  
CITY OF FAIRBORN  
510 W. MAIN STREET  
FAIRBORN, OHIO 45324

Section 1. That Section 163.03 of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 44-04, passed November 2, 2004, and Ordinance No. 45-04, passed November 2, 2004, is hereby amended to read as follows:

“163.03           **IMPOSITION OF TAX**

(a)    Basis of Imposition. Subject to the provision of Section 163.16, an annual tax for the purposes specified in Section 163.01 shall be imposed for the period beginning October 1, 1976, and ending December 31, 2004, both inclusive, at the rate of one percent (1%) per annum and beginning January 1, 2005, and ending ~~December 31, 2014~~ *December 31, 2024*, both inclusive, at the rate of one and one-quarter percent (1.25%) per annum, after which time the imposed rate shall return to the rate of one percent (1.00%) per annum, upon the following:

- (1)    On all qualifying wages, commissions and other compensation received during the effective period of this chapter by residents of the Municipality.
- (2)    On all qualifying wages, commission, other compensation, and other taxable income earned or received by nonresidents for work done or services performed or rendered in the Municipality.
- (3)    A.    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, services performed or rendered and business or other activities conducted in the Municipality.  
      B.    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)    A.    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.  
      B.    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 a 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.

(1) This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5754 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:

(2) Multiply the entire net profits of the business by a business apportionment percentage formula 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 includes 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)(2)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 business apportionment percentage formula provided for herein, the Tax Administrator, upon application for 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 the 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) Nothing in Section 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryback or carryforward.
  - (3) Commencing with taxable years beginning subsequent to December 31, 2007, the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two (2) or more taxable business activities to be included in the same return, the net loss of one (1) unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purpose of arriving at the 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.
  - (2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and regulations for discontinuing the filing of the consolidated returns have been met.
- (h) Rental Income.
- (1) A return shall be filed on the net income from any residential rental property, within the Municipality having gross receipts of one hundred dollars (\$100.00) per month or more, or in the case of commercial property having fixed gross receipts. Residents are taxable regardless of whether the property is located within the Municipality or in a nontaxing area. Although the net income may result in a loss, an information return is to be filed within the time set forth for filing the tax return.
  - (2) The owners of such rental property shall, on or before the last day of the calendar quarter ending March 31, June 30, September 30 and December 31, submit a current listing of renters to the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator.

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

- (1) Proceeds from welfare benefits, unemployment insurance benefits, pensions, 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) Compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.
- (4) Dues contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
- (5) Gains from involuntary conversion, cancellation or 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).
- (6) Alimony.
- (7) Personal earnings of all persons under sixteen years of age.
- (8) Compensation for damage to property by way of insurance or otherwise.
- (9) Interest and dividends from intangible property.
- (10) 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 7718.01).
- (11) 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.
- (12) 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.
- (13) 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 of methods provided

above.

- (14) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
- (15) 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.
- (16) 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 (\$1,000.00) 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.
- (17) 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.
- (18) 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.
- (19) 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 (i)(18) of this section, “combined company”, “electric company”, and “telephone company” have the same meanings as in Section 5727.01 of the Ohio Revised Code.

- (20) An S Corporation shareholder’s distributive share of net profits or losses of the S Corporation.
- (21) Personal earnings of all persons under sixteen (16) years of age.
- (22) 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.”

Section 2. That Section 163.04 of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 44-04, passed November 2, 2004 and Ordinance No. 45-04 passed November 2, 2004, is hereby amended to read as follows:

“163.04 **EFFECTIVE PERIOD.**

Such tax equal to one and one-quarter percent (1.25%) per annum, shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation received and shall be levied with respect to the net profits of businesses, professions or other activities earned and accrued or received from and after January 1, 2005 through ~~December 2014~~December 31, 2024, both inclusive, after which time the imposed rate shall return to the rate of one percent (1.00%) per annum.”

Section 3. That Section 163.06(a) of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 44-04, passed November 2, 2004 and Ordinance No. 45-04 passed November 2, 2004, is hereby amended to read as follows:

“163.06 **COLLECTION AT SOURCE.**

(a) Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, or set aside, the tax at the rate provided in Section 163.03 hereof, one and one-quarter percent (1.25%) beginning January 1, 2005, and ending ~~December 31, 2014~~December 31, 2024, both inclusive, on the qualifying wages due by such employer to each such employee and shall, on or before the last day of each month, make a return and pay to the Tax Administrator, the tax withheld during the preceding month. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages. The Tax Administrator may require withholding payments

to be made by electronic funds transfer or ACH.”

Section 4. That Section 163.061(b)(1)B of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 32-05, passed August 1, 2005, is hereby amended to read as follows:

**"163.061(b)(1)B COLLECTION OF TAX OWED BY TRANSIENT TAXPAYERS**

- B. Collection at Source. Rents real or tangible personal property to a transient taxpayer for a transient activity and who makes any payment to a transient contractor or a transient taxpayer shall withhold, report and pay over as estimated tax an amount equal to fifty percent (50%) of one and one quarter percent (1.25%) of the gross receipts of the transient activity paid to transient taxpayers or transient contractors by such person with respect to such transient activity, this Council finding and determining that such percentage will produce an amount which will be substantially what, under Section 163.03(a), all transient contractors and transient taxpayers involved in the transient activity, would have paid to this Municipality as a tax at the rate and as provided in Section 163.03 after allowing deductions permitted and available by reason of the structure of transient activities. Each payment under this subsection shall be accompanied by a withholding form prescribed by and available on request from the Tax Administrator.”

Section 5. That effective January 1, 2015, Sections 163.03, 163.04, and 163.06(a) of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 44-04, passed November 2, 2004, and Ordinance No. 45-04, passed November 2, 2004, and Section 163.061(b)(1)B of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 32-05, passed August 1, 2005, as they have heretofore existed, are hereby repealed. Provided, however, that no provisions of this ordinance, including the repeal of Sections 163.03, 163.04, 163.06(a) and 163.061(b)(1)B of the Codified Ordinances of the City of Fairborn, Ohio, as they have heretofore existed shall in any way affect any rights or obligations of the City, any taxpayer, or any other person, official or entity, with respect to the one percent (1.00%) municipal income tax authorized by Section 163.03 of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 64-76, passed September 7, 1976.

Section 6. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including section 121.22, Ohio Revised Code.

Section 7. That this ordinance shall be effective at the earliest date permitted by law.

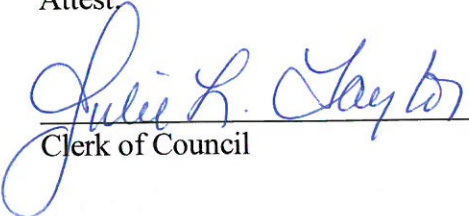
**MICHAEL A. MAYER**  
CITY SOLICITOR  
CITY OF FAIRBORN  
510 W. MAIN STREET  
FAIRBORN, OHIO 45324

Signed:

  
\_\_\_\_\_  
Mayor

Adopted: July 7, 2014  
Effective: July 7, 2014

Attest:

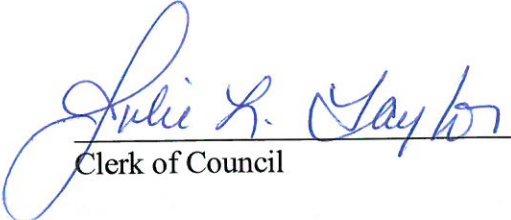
  
\_\_\_\_\_  
Clerk of Council

Approved as to form:

  
\_\_\_\_\_  
City Solicitor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. 26-14 duly adopted by the Council of the City of Fairborn, Ohio on 7-7-14.

  
\_\_\_\_\_  
Clerk of Council

Section 3. That it is the desire of this Council that the ballots presented to the electors of the City of Fairborn shall be in substantially the following form:

A majority affirmative vote is necessary for passage.

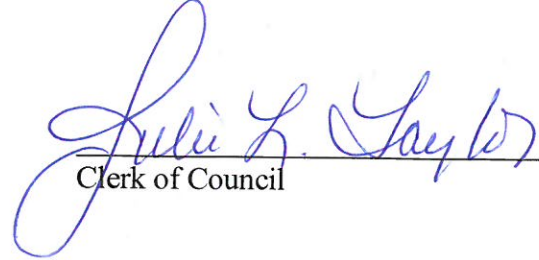
Shall the ordinance (Ordinance No. 26-14) providing for the continuation of an existing one-quarter of one per cent (0.25%) levy on income for an additional ten (10) years beginning January 1, 2015, for the purpose of constructing, reconstructing, resurfacing and repairing local streets, thoroughfare streets, and alleys and financing of these permanent improvements in the City of Fairborn be passed?



CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Resolution No. 61-14 duly adopted by the Council of the City of Fairborn, Ohio on

July 7, 2014

  
Clerk of Council

|  |                        |
|--|------------------------|
|  | FOR THE INCOME TAX     |
|  | AGAINST THE INCOME TAX |

Section 4. That the Clerk of this Council be and she is hereby directed to file a copy of this resolution with the Board of Elections no later than August 6, 2014.

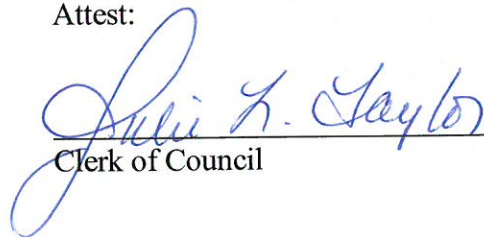
Section 5. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public; in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

Section 6. This resolution shall be effective at the earliest date permitted by law.

Signed:

  
 \_\_\_\_\_  
 Mayor


Attest:

  
 \_\_\_\_\_  
 Clerk of Council

Adopted: July 7, 2014

Effective: July 7, 2014

Approved as to form:

  
 \_\_\_\_\_  
 City Solicitor

## RESOLUTION NO. 62-14

A RESOLUTION DECLARING THE NECESSITY OF AN ELECTION ON THE QUESTION OF APPROVING THE PASSAGE OF AN ORDINANCE TO AMEND SECTIONS 163.03, 163.04, 163.06(a) AND 163.061(b)(1)B OF THE CODIFIED ORDINANCES OF THE CITY OF FAIRBORN, OHIO, IN ORDER TO CONTINUE THE EXISTING INCOME TAX RATE FOR A PERIOD OF TEN (10) YEARS, BEGINNING JANUARY 1, 2015, OF AN ADDITIONAL ONE-QUARTER OF ONE PERCENT (0.25%), FOR THE PURPOSE OF PROVIDING FIRE, POLICE AND EMERGENCY MEDICAL SERVICES IN THE CITY OF FAIRBORN.

THE COUNCIL OF THE CITY OF FAIRBORN HEREBY RESOLVES:

Section 1. That this Council hereby authorizes and directs the submission to the electors of the City of Fairborn, Ohio, at an election to be held at the usual places of voting in said City on Tuesday, November 4, 2014, between the hours of 6:30 a.m. and 7:30 p.m. of said day, of the question of approving the passage of an ordinance to amend Sections 163.03, 163.04 and 163.06(a) of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 44-04, passed November 2, 2004, and Ordinance No. 45-04, passed November 2, 2004, and Section 163.061(b)(1)B of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 32-05, passed August 1, 2005, in order to continue the income tax rate began January 1, 2005 through December 31, 2024, both inclusive, of an additional one-quarter of one percent (0.25%), which ordinance is set forth in full in Section 2 hereof.

Section 2. That the proposed ordinance to be submitted to the electors of the City for their approval hereunder shall be as follows:

### ORDINANCE NO. 27-14

AN ORDINANCE TO AMEND SECTION 163.03, 163.04, 163.06(a) AND 163.061(b)(1)B OF THE CODIFIED ORDINANCES OF THE CITY OF FAIRBORN, OHIO, IN ORDER TO CONTINUE THE EXISTING INCOME TAX RATE OF AN ADDITIONAL ONE-QUARTER OF ONE PERCENT (0.25%) FOR A PERIOD OF TEN (10) YEARS BEGINNING JANUARY 1, 2015.

THE COUNCIL OF THE CITY OF FAIRBORN HEREBY ORDAINS:

Section 1. That Section 163.03 of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 44-04, passed November 2, 2004, and Ordinance No. 45-04, passed November 2, 2004, is hereby amended to read as follows:

*MICHAEL A. MAYER  
CITY SOLICITOR  
CITY OF FAIRBORN  
510 W. MAIN STREET  
FAIRBORN, OHIO 45324*



“163.03           **IMPOSITION OF TAX**

(a)    Basis of Imposition. Subject to the provision of Section 163.16, an annual tax for the purposes specified in Section 163.01 shall be imposed for the period beginning October 1, 1976, ending December 31, 2004, both inclusive, at the rate of one percent (1%) per annum and beginning January 1, 2005, and ending ~~December 31, 2014~~ *December 31, 2024*, both inclusive, at the rate of one and one-quarter percent (1.25%) per annum, after which time the imposed rate shall return to the rate of one percent (1.00%) per annum, upon the following:

- (1)    On all qualifying wages, commissions and other compensation received during the effective period of this chapter by residents of the Municipality.
- (2)    On all qualifying wages, commission, other compensation, and other taxable income earned or received by nonresidents for work done or services performed or rendered in the Municipality.
- (3)    A.    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, services performed or rendered and business or other activities conducted in the Municipality.  
  
      B.    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)    A.    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.  
  
      B.    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 a 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.

- (1) This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5754 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:
- (2) Multiply the entire net profits of the business by a business apportionment percentage formula 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 includes 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)(2)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 business apportionment percentage formula provided for herein, the Tax Administrator, upon application for 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 the 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) Nothing in Section 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryback or carryforward.



- (3) Commencing with taxable years beginning subsequent to December 31, 2007, the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two (2) or more taxable business activities to be included in the same return, the net loss of one (1) unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purpose of arriving at the 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.
- (2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and regulations for discontinuing the filing of the consolidated returns have been met.

(h) Rental Income.

- (1) A return shall be filed on the net income from any residential rental property, within the Municipality having gross receipts of one hundred dollars (\$100.00) per month or more, or in the case of commercial property having fixed gross receipts. Residents are taxable regardless of whether the property is located within the Municipality or in a nontaxing area. Although the net income may result in a loss, an information return is to be filed within the time set forth for filing the tax return.
- (2) The owners of such rental property shall, on or before the last day of the calendar quarter ending March 31, June 30, September 30 and December 31, submit a current listing of renters to the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator.

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

- (1) Proceeds from welfare benefits, unemployment insurance benefits, pensions, social security benefits, and qualified retirement plans as defined

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CITY OF FAIRBORN  
510 W. MAIN STREET  
FAIRBORN, OHIO 45324*

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) Compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.
- (4) Dues contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
- (5) Gains from involuntary conversion, cancellation or 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).
- (6) Alimony.
- (7) Personal earnings of all persons under sixteen years of age.
- (8) Compensation for damage to property by way of insurance or otherwise.
- (9) Interest and dividends from intangible property.
- (10) 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 7718.01).
- (11) 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.
- (12) 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.
- (13) 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 of methods provided above.
- (14) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.

- (15) 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.
- (16) 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 (\$1,000.00) 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.
- (17) 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.
- (18) 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.
- (19) 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 (i)(18) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

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CITY SOLICITOR  
CITY OF FAIRBORN  
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FAIRBORN, OHIO 45324*



- (20) An S Corporation shareholder's distributive share of net profits or losses of the S Corporation.
- (21) Personal earnings of all persons under sixteen (16) years of age.
- (22) 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."

Section 2. That Section 163.04 of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 44-04, passed November 2, 2004 and Ordinance No. 45-04 passed November 2, 2004, is hereby amended to read as follows:

**"163.04 EFFECTIVE PERIOD.**

Such tax, equal to one and one-quarter percent (1.25%) per annum, shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation received and shall be levied with respect to the net profits of businesses, professions or other activities earned and accrued or received from and after January 1, 2005 through ~~December 31, 2014~~December 31, 2024, both inclusive, after which time the imposed rate shall return to the rate of one percent (1.00%) per annum."

Section 3. That Section 163.06(a) of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 44-04, passed November 2, 2004 and Ordinance No. 45-04 passed November 2, 2004, is hereby amended to read as follows:

**"163.06 COLLECTION AT SOURCE.**

(a) Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, or set aside, the tax at the rate provided in Section 163.03 hereof, one and one-quarter percent (1.25%) beginning January 1, 2005, and ending ~~December 31, 2014~~December 31, 2014, both inclusive, on the qualifying wages due by such employer to each such employee and shall, on or before the last day of each month, make a return and pay to the Tax Administrator, the tax withheld during the preceding month. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages. The Tax Administrator may require withholding payments to be made by electronic funds transfer or ACH."

Section 4. That Section 163.061(b)(1)B of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 32-05, passed August 1, 2005, is hereby amended to read as follows:

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CITY SOLICITOR  
CITY OF FAIRBORN  
510 W. MAIN STREET  
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"163.061(b)(1)B **COLLECTION OF TAX OWED BY TRANSIENT TAXPAYERS**

"B. Collection at Source. Rents real or tangible personal property to a transient taxpayer for a transient activity and who makes any payment to a transient contractor or a transient taxpayer shall withhold, report and pay over as estimated tax an amount equal to fifty percent (50%) of one and one quarter percent (1.25%) of the gross receipts of the transient activity paid to transient taxpayers or transient contractors by such person with respect to such transient activity, this Council finding and determining that such percentage will produce an amount which will be substantially what, under Section 163.03(a), all transient contractors and transient taxpayers involved in the transient activity, would have paid to this Municipality as a tax at the rate and as provided in Section 163.03 after allowing deductions permitted and available by reason of the structure of transient activities. Each payment under this subsection shall be accompanied by a withholding form prescribed by and available on request from the Tax Administrator."

Section 5. That effective January 1, 2015, Sections 163.03, 163.04, and 163.06(a) of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 44-04, November 2, 2004, and Ordinance No. 45-04, passed November 2, 2004,, and Section 163.061(b)(1)B of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 32-05, passed August 1, 2005, as they have heretofore existed, are hereby repealed. Provided, however, that no provisions of this ordinance, including the repeal of Sections 163.03, 163.04, 163.06(a) and 163.061(b)(1)B of the Codified Ordinances of the City of Fairborn, Ohio, as they have heretofore existed shall in any way affect any rights or obligations of the City, any taxpayer, or any other person, official or entity, with respect to the one percent (1.00%) municipal income tax authorized by Section 163.03 of the Codified Ordinances of the City of Fairborn, Ohio, as established by Ordinance No. 64-76, passed September 7, 1976.

Section 6. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including section 121.22, Ohio Revised Code.

Section 7. That this ordinance shall be effective at the earliest date permitted by law.

Signed:



Mayor

*MICHAEL A. MAYER*  
CITY SOLICITOR  
CITY OF FAIRBORN  
510 W. MAIN STREET  
FAIRBORN, OHIO 45324

Adopted: July 7, 2014  
Effective: July 7, 2014

Attest:

Julie L. Taylor  
Clerk of Council

Approved as to form:

[Signature]  
City Solicitor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. 27-14 duly adopted by the Council of the City of Fairborn, Ohio on July 7, 2014.

Julie L. Taylor  
Clerk of Council

Section 3. That it is the desire of this Council that the ballots presented to the electors of the City of Fairborn shall be in substantially the following form:

A majority affirmative vote is necessary for passage.

Shall the ordinance (Ordinance No. 27-14) providing for the continuation of an existing one-quarter of one per cent (0.25%) levy on income for ten (10) years beginning January 1, 2015, for the purpose of providing fire, police and emergency medical services in the City of Fairborn, be passed?

|  |                        |
|--|------------------------|
|  | FOR THE INCOME TAX     |
|  | AGAINST THE INCOME TAX |



Section 4. That the Clerk of this Council be and she is hereby directed to file a copy of this resolution with the Board of Elections no later than August 6, 2014.

Section 5. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public; in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

Section 6. That this resolution shall be effective at the earliest date permitted by law.

Signed:

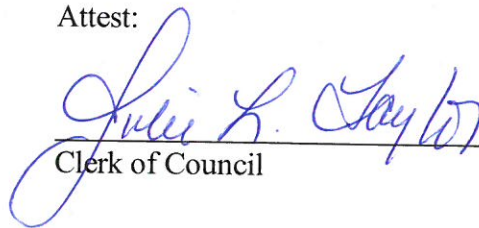


Mayor

Adopted: 7-7-14

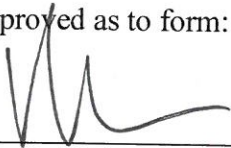
Effective: 7-7-14

Attest:



Clerk of Council

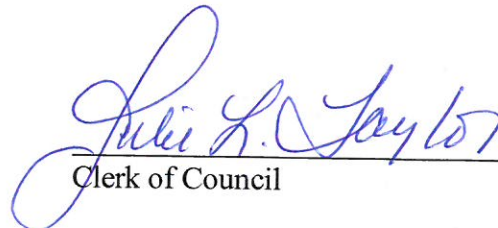
Approved as to form:



City Solicitor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Resolution No. 62-14 duly adopted by the Council of the City of Fairborn, Ohio on 7-7-14.



Clerk of Council



# 11

# CERTIFICATE OF RESULT OF ELECTION ON QUESTION OR ISSUE

Revised Code, Section 3501.11

State of Ohio

County of GREENE

}

The Board of Elections of GREENE County hereby

certifies that at the election held in FAIRBORN CITY  
(Subdivision)

in said county on NOVEMBER 2, 2004 the  
(Date of election)

vote cast on the following issue was as follows:

Issue

Shall the ordinance providing for an increase of .25 percent levy on income for the purpose of FIRE AND EMERGENCY MEDICAL SERVICE IMPROVEMENTS IN THE CITY OF FAIRBORN, beginning January 1, 2005, for ten years, be passed?

Votes EIGHT THOUSAND ONE HUNDRED ONE 8,101  
(For, yes, etc.—as on ballot) (Number)

Votes FIVE THOUSAND SEVEN HUNDRED SEVENTY NINE 5,779  
(No, against, etc.—as on ballot) (Number)

Total vote cast on issue: 13,880  
(Number)

THIRTEEN THOUSAND EIGHT HUNDRED EIGHTY

Witness our official signatures at XENIA, Ohio in

said county, this 19th day of NOVEMBER, 2004.

*Jessie H. ...*

Chairman

*Brenda Lewis*

*Donald Hollister*

*Altagracia Roman*

Attest: *Carole L. ...*  
Director

XXXXXX

BOARD OF ELECTIONS

GREENE County, Ohio



#12

# CERTIFICATE OF RESULT OF ELECTION ON QUESTION OR ISSUE

Revised Code, Section 8501.11

State of Ohio

County of GREENE

The Board of Elections of GREENE County hereby

certifies that at the election held in FAIRBORN CITY (Subdivision)

in said county on NOVEMBER 2, 2004 the (Date of election)

vote cast on the following issue was as follows:

Issue

Shall the ordinance providing for an increase of .25 percent levy on income for the purpose of CONSTRUCTION, RECONSTRUCTING, RESURFACING AND REPAIRING LOCAL STREETS, THOROUGHFARE STREETS AND ALLEYS, beginning January 1, 2005, for ten years, be passed?

Votes SEVEN THOUSAND FIFTY EIGHT  
(For, yes, etc.—as on ballot)

7,058  
(Number)

Votes SIX THOUSAND SIX HUNDRED FIVE  
(No, against, etc.—as on ballot)

6,605  
(Number)

Total vote cast on issue:

THIRTEEN THOUSAND SIX HUNDRED SIXTY THREE

13,663  
(Number)

Witness our official signatures at XENIA, Ohio in

said county, this 19th day of NOVEMBER, 2004

*Frank Hamer Sr.*

Chairman

*Brenda Lewis*

*Donald Hollister*

*Altagracia Roman*

Attest: *Carole L. Herman*  
DIRECTOR

X0000X

BOARD OF ELECTIONS

GREENE County, Ohio

CHAPTER 163  
Income Tax

- 163.01 Purpose.
- 163.02 Definitions.
- 163.03 Imposition of tax.
- 163.04 Effective period.
- 163.05 Return and payment of tax.
- 163.06 Collection at source.
- 163.061 Collection of tax owed by transient taxpayers.
- 163.062 Security for amounts required to be paid by transient taxpayers.
- 163.07 Declarations.
- 163.08 Appointment and duties of the Tax Administrator.
- 163.09 Investigative powers of the Tax Administrator; penalty for divulging confidential information.
- 163.10 Interest and penalties.
- 163.11 Collection of unpaid taxes and refunds of overpayments.
- 163.12 Violations and penalties.
- 163.13 Board of Adjudication and Board of Tax Appeals.
- 163.14 Allocation of funds.
- 163.15 Credit for tax paid to another Municipality.
- 163.16 Savings clause.
- 163.17 Collection of tax after termination of chapter.
- 163.18 Compromise agreements.
- 163.99 Penalty.

CROSS REFERENCES

- Apportionment - see Ohio Const., Art. XII, § 9
- Power to levy income tax - see Ohio Const., Art. XVIII, § 3
- Levy of taxes by ordinance - see CHTR. §2.13(3)
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718

163.01 PURPOSE.

To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the Municipality, there is hereby levied, a tax on qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.

(Ord. 21-04. Passed 5-3-04.)

## 163.02 DEFINITIONS.

(a) As used in this chapter, the following words shall have the meaning ascribed to them in this section, except when 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, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.

(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 Adjudication" means the board created by and constituted as provided in Section 163.13(a).

(4) "Board of Tax Appeals" means the board created by and constituted as provided in Section 163.13(b).

(5) "Business" means an enterprise, profession, undertaking or other activity of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.

(6) "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.

(7) "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.

(8) "Employee" means one who works for wages, salary, commission or other types of compensation in the service of an employer.

(9) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, having a place of business or doing business within the Municipality and who or that employs one or more persons on a salary, wage, commission or other compensation basis.

(10) "Fiscal year" means an accounting period of (12) twelve months or less ending on any day other than December 31.

(11) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(12) "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 corporations's tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality's prescribed returns, reports, or documents.

(13) "Gross receipts" means the total income of taxpayers from whatever source derived.

(14) "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.

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

(16) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.



(17) "Internet" means the international computer network of both Federal and non-federal interoperable packet switched data networks, including the graphical sub network know as the World Wide Web.

(18) "Joint Economic Development District" means districts created under the Ohio Revised Code Sections 715.70 through 715.83, as amended from time to time.

(19) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(20) "Military" means any person actively engaged in any branch of the Armed Forces. This does include individuals employed by any branch of the National Guard.

(21) "Municipality" means the City of Fairborn.

(22) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Section 163.03, required to be reported on schedule C, schedule E, or schedule F.

(23) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.

(24) "Nonresident" means an individual domiciled outside the Municipality.

(25) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.

(26) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.

(27) "Other activity" means any undertaking, not otherwise specifically defined herein, which is normally entered into for profit, including, but not limited to, lottery, rental of real and personal property and a business conducted by a trust or guardianship estate.

(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. Whenever used in any section prescribing and imposing a penalty, the term "person" includes an officer or employee of a corporation, or a member or employee of an association, who as such officer, employee or member is under a duty to perform the act in respect of which the violation occurs.

(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) “Rentor” means an individual, partnership or corporation who receives an agreed sum paid by a tenant or occupant of property for the possession and use thereof.
- (38) “Resident” means an individual domiciled within the Municipality.
- (39) “Resident incorporated business entity” means an incorporated business entity whose office, place or operations or business situs is within the Municipality.
- (40) “Resident unincorporated business entity” means an unincorporated business entity having an office or a place of business within the Municipality.
- (41) “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.
- (42) “Rules and Regulations” means the Rules and Regulations as set forth in this chapter.
- (43) “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.
- (44) “Sales person” or “independent contractor” means any person who as a resident of the Municipality has earnings either in or out of the Municipality, regardless of whether his home or office is located within the Municipality; a nonresident who has earnings in or out of the Municipality whose home office is within the Municipality; a nonresident whose home office is located outside of the Municipality but has earnings within the Municipality is taxable only on the amount attributable to the Municipality.
- (45) “Schedule C” means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (46) “Schedule E” means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (47) “Schedule F” means Internal Revenue Service schedule F filed by taxpayer pursuant to the Internal Revenue Code.



(48) "Student" means any person over age sixteen, attending school, having earnings and being domiciled within the Municipality for a total of 183 days or more within any twelve month period shall be deemed a resident.

(49) "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.

(50) "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.

(51) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(52) "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

(53) "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, and 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. 21-04. Passed 5-3-04.)

### 163.03 IMPOSITION OF TAX.

(a) Basis of Imposition. Subject to the provisions of Section 163.16, an annual tax for the purposes specified in Section 163.01 shall be imposed for the period beginning October 1, 1976, at the rate of one percent (1%) per annum upon the following:

(1) On all qualifying wages, commissions and other compensation received during the effective period of this chapter by residents of the Municipality.

(2) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done or services performed or rendered in the Municipality.

(3) A. 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, services performed or rendered and business or other activities conducted in the Municipality.

B. 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) A. 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.

B. 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 a 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.

(1) 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:

(2) Multiply the entire net profits of the business by a business apportionment percentage formula 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 includes 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)(2)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 business apportionment percentage 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 the 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) Nothing in Section 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryback or carryforward.

(3) Commencing with taxable years beginning subsequent to December 31, 2007, the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two (2) or more taxable business activities to be included in the same return, the net loss of one (1) unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purpose of arriving at the 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.

(2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and regulations for discontinuing the filing of the consolidated returns have been met.

(h) Rental Income.

(1) A return shall be filed on the net income from any residential rental property, within the Municipality having gross receipts of one hundred dollars (\$100.00) per month or more, or in the case of commercial property having fixed gross receipts. Residents are taxable regardless of whether the property is located within the Municipality or in a nontaxing area. Although the net income may result in a loss, an information return is to be filed within the time set forth for filing the tax return.

(2) The owners of such rental property shall, on or before the last day of the calendar quarter ending March 31, June 30, September 30 and December 31, submit a current listing of renters to the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator.

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

(1) Proceeds from welfare benefits, unemployment insurance benefits, pensions, 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) Compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(4) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(5) 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).

(6) Alimony.

(7) Personal earnings of all persons under sixteen years of age.

(8) Compensation for damage to property by way of insurance or otherwise.

(9) Interest and dividends from intangible property.

(10) 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).

(11) 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.

(12) 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.

(13) 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.

(14) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.

(15) 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.

(16) 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.

(17) 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.

(18) 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.

(19) 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 (i)(18) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.



(20) An S Corporation shareholder's distributive share of net profits or losses of the S corporation.

(21) Personal earnings of all persons under sixteen (16) years of age.

(22) 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. 60-07. Passed 12-17-07.)

#### 163.04 EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation received and shall be levied with respect to the net profits of businesses, professions or other activities earned and accrued or received from and after October 1, 1976.

(Ord. 21-04. Passed 5-3-04.)

#### 163.05 RETURN AND PAYMENT OF TAX.

(a) Every individual over eighteen who engages in business or other activity or whose qualifying wages, commissions, other compensation and other taxable income is subject to the tax imposed by this Chapter, and every resident shall make and file, on or before April 15th of each year, with the Tax Administrator, a Municipal tax return on a form prescribed by and acceptable to the Tax Administrator. If a taxpayer's entire income is exempt from taxation by the Municipality, the taxpayer need not file a return, provided that the Tax Administrator has been notified in writing of said exempt status. 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 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 tax imposed by this chapter 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 163.10. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

(f) Payments with Returns.

(1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due thereon; provided, however, that credit shall be allowed for:

A. Any portion of the tax so due which has been deducted at the source pursuant to the provisions of Section 163.06; and

B. Any portion of such tax which has been paid by the taxpayer pursuant to the provisions of Section 163.07; and

C. Credit to the extent allowed by Section 163.15 for tax paid to another municipality.

(2) Subject to the limitations contained in Section 163.11 of this Tax Code, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Tax Code may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded provided such taxpayer has submitted all necessary schedules and statements required to complete the return; has filed a declaration of estimated income tax for the following year and paid at least the first installment as required by Section 163.07; and that amounts of less than five dollars (\$5.00) shall not be refunded.

(g) Amended Returns.

(1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 163.11. Such amended returns shall be on a form obtainable upon request from

the Tax Administrator. 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 deemed to 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 subsection (h).

(Ord. 60-07. Passed 12-17-07.)

#### 163.06 COLLECTION AT SOURCE.

(a) Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, or set aside, the tax at the rate provided in Section 163.03 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the last day of each month, make a return and pay to the Tax Administrator, the tax withheld during the preceding month. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages. The tax Administrator may require withholding payments to be made by electronic funds transfer or ACH.

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

(1) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

(2) The failure of an employer to remit to the municipal corporation the tax withheld and shown as withheld on the employee's W-2 year end statement relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

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

(d) 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.

(e) 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 163.99 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

(f) Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation, on a form prescribed by and obtainable upon request from the Tax Administrator, 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 the same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the



Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year. The Tax Administrator may require the filing of such reconciliations and employee information by alternate media.

(g) 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.

(h) 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. 21-04. Passed 5-3-04.)

#### 163.061 COLLECTION OF TAX OWED BY TRANSIENT TAXPAYERS.

(a) Definitions. As used in this section and Sections 163.062 the following words and terms have the following meanings:

(1) "Transient contractor" means any person who is not a resident of or does not have a place of business in the Municipality, including, but not limited to, a promoter, booking agent, or other agent or representative, who enters into an agreement with or on behalf of a transient taxpayer or arranges for activities or services of a transient taxpayer relating to a transient activity within the Municipality. A transient contractor may also be a transient taxpayer and, for purposes of this chapter, shall be treated as the employer of any transient taxpayer who is employed in or with respect to, or performs activities or services in or with respect to a transient activity as to which the person is a transient contractor notwithstanding that the legal relationship of the transient contractor and the transient taxpayer is that of an independent contractor or an agent.

(2) "Transient activity" means any activity, including, but not limited to, any rental of moveable personal property, protection of persons and property, custodial services, catering services, entertainment act, sports event, promotional booth, special event, band, orchestra, rock group, circus, theatrical performance or food, beverage or souvenir concession, which takes place on a one-time, short-term or irregular basis within the Municipality.

(3) "Transient taxpayer" means any person who engages in or provides or performs activities or services in or with respect to, any transient activity, as defined in subsection (a)(2) hereof.  
(Ord. 21-04. Passed 5-3-04.)

(b) Collection at Source.

(1) Any person, including any transient contractor, who:

A. Employs or contracts for or arranges for the provision of the activities or services of any transient contractor or any transient taxpayer in connection with a transient activity as defined in subsection (a)(2) hereof; or

B. Rents real or tangible personal property to a transient taxpayer for a transient activity and who makes any payment to a transient contractor or a transient taxpayer shall withhold, report and pay over as estimated tax an amount equal to fifty percent (50%) of one and one half percent (1 1/2%) of the gross receipts of the transient activity paid to transient taxpayers or transient contractors by such person with respect to such transient activity, this Council finding and determining that such percentage will produce an amount which will be substantially what, under Section 163.03(a), all transient contractors and transient taxpayers involved in the transient activity, would have paid to this Municipality as a tax at the rate and as provided in Section 163.03 after allowing deductions permitted and available by reason of the structure of transient activities. Each payment under this subsection shall be accompanied by a withholding form prescribed by and available on request from the Tax Administrator.

(2) The tax withheld pursuant to this subsection shall be paid over to the Tax Administrator or a designated custodian of the Municipality within a period not to exceed three hours following the close of ticket sales or other final collection of gross receipts or revenues in connection with the transient activity.

(3) When this Municipality has received payment in full of the withholding required by subsection (b)(1) hereof with respect to a transient activity, no further withholding is required for that transient activity.  
(Ord. 32-05. Passed 8-1-05.)

(c) Payment of Estimated Tax.

(1) Every transient taxpayer, including every transient contractor, who receives amounts in compensation for transient activities performed within the Municipality and for which no withholding of estimated tax, as required by subsection (b) hereof, has been made, shall prior to completion of the transient activity or immediately upon receipt of any amount or other compensation to be paid in connection with such transient activity, whichever is later, file an estimated income tax form as prescribed by the Tax Administrator and pay over the estimated tax on such gross amounts received at the rate provided in Section 163.03. If the transient taxpayer is a transient contractor, the estimated tax shall be calculated and paid over to the Tax Administrator at the rate required by Section 163.03 on the total amount received by the transient contractor net of deductions permitted in the calculation of taxable income, provided that such transient contractor simultaneously complies or has previously complied with the withholding requirement of subsection (b) hereof.

(2) Every transient taxpayer subject to this provision may be required to immediately file an estimated income tax form as prescribed by the Tax Administrator and pay the estimated income tax due thereon prior to the issuance of any permits or licenses or the execution of any rental agreement for the use of municipally owned property of the Municipality for the transient activity giving rise to the tax liability.

(d) Notice of Tax Obligation.

(1) Any person that enters into an agreement with a transient taxpayer for the performance of a transient activity shall provide notice to the transient taxpayer, on a form provided by the Tax Administrator of the liability for municipal income tax, including an explanation of the method of collecting such tax and the rate of tax. Such notice shall be provided no later than the execution by the transient taxpayer of that agreement.

(2) Failure to provide the notice required in subsection (d)(1) hereof, shall be a misdemeanor and shall be punishable by a fine of five hundred dollars (\$500.00).

(e) Refunds. Any transient contractor or transient taxpayer which has made a payment to the Municipality of estimated tax to this Municipality or for which withholding of tax has been made and believes it has made an overpayment of its estimated tax or has had withheld and paid to this Municipality as withholding for tax owed to this Municipality an amount in excess of that which it owes as a tax shall, upon filing of its return for the calendar year of such estimated payment or for which withholding was made, be entitled to and shall receive a refund of the amount of the overpayment or the excess amount of the withholding provided that, in the case of a transient contractor, the return of the

transient contractor shall either be accompanied by the returns for the applicable year of all transient taxpayers involved in the transient activity and for which the transient contractor was an employer for purposes of this chapter or there shall be deducted from the amount of the refund to be paid to the transient contractor fifty percent (50%) of the amount claimed by the transient contractor as payments to the transient taxpayers involved in the transient activity as withholding of the tax due from those transient taxpayers pursuant to this chapter.

(f) Sections 163.01 through 163.99 shall apply to every transient taxpayer, including every transient contractor to the extent that the requirements contained in those sections are not inconsistent with the provisions of Sections 163.061 and 163.062.

(Ord. 21-04. Passed 5-3-04.)

#### 163.062 SECURITY FOR AMOUNTS REQUIRED TO BE PAID BY TRANSIENT TAXPAYERS.

(a) If any person required to withhold taxes pursuant to Section 163.061(b) or pay over any estimated tax payment pursuant to Section 163.061(c) timely fails to so withhold or pay over; and

(b) It is determined by the Tax Administrator that it is likely that such person will leave the jurisdiction of the Municipality without collecting or paying over such tax as is due:

Then the Tax Administrator may seize, at the time of completion of the transient activity, personal property of that person as is located within the Municipality and may retain such property until such time as the tax owed by Section 163.03 is paid to the Tax Administrator. (Ord. 21-04. Passed 5-3-04.)

#### 163.07 DECLARATIONS.

(a) Requirement for Filing. Every person who anticipates the receipt of any taxable income which is not subject to Section 163.06, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 163.03, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with any 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 163.06, such person need not file a declaration.

(b) Dates for Filing.

(1) Such declaration shall be filed on or before April 15th 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 beginning of each fiscal year or period.  
(Ord. 21-04. Passed 5-3-04.)

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

(1) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or an acceptable generic form and credit shall be taken for the Municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 163.15, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

(2) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.  
(Ord. 61-04. Passed 12-20-04.)

(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 1/2%) of the estimated annual tax and 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 1/2%) of the estimated annual tax and shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.  
(Ord. 32-05. Passed 8-1-05.)

(5) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.  
(Ord. 61-04. Passed 12-20-04.)



(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 (15th) day of the fourth month following the end 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 163.05. (Ord. 21-04. Passed 5-3-04.)

163.08 APPOINTMENT AND DUTIES OF THE 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 herein; to keep an accurate record thereof; and to report daily all monies so received.

(2) It shall be the duty of the Tax Administrator to enforce payment of all 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 and/or make any return, including 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, including the interpretation and enforcement of the Rules and Regulations and is hereby empowered, subject to the approval of Council by motion, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and 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 or employer 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, together with interest and penalties thereon, if any, in the following manner:

(1) General Provisions.

A. If the Tax Administrator determines that any taxpayer subject to the provisions of this chapter has a tax liability for which he has filed no return or has filed an incorrect return and has failed to pay the full amount of tax due, the

Tax Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.

1. Such proposed assessment shall be served upon the taxpayer in person or by mailing to his last known address. Proof of mailing furnished by the U.S. Post Office shall be presumptive proof of receipt thereof by the addressee. Failure to secure mailed notice from the U.S. Post Office will constitute delivery and reception of same.

2. A taxpayer may, within fifteen days after the date the proposed assessment was served or mailed, file a written protest with the Tax Administrator. Within fifteen days after receipt of the protest, the Tax Administrator shall give the protestant an opportunity to be heard; provided further that the Tax Administrator may extend the date of hearing for good cause shown. After the hearing, the Tax Administrator shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final fifteen days after being served.

B. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment.

1. A taxpayer shall have fifteen days after the date the final assessment was served or mailed within which to file a written notice of appeal with the Board of Tax Appeals. Such written notice of appeal shall be filed in a sealed envelope plainly marked "Appeal to Board of Tax Appeals" and mailed or delivered to the Tax Administrator who shall, within five days after receipt thereof, deliver such appeal to the Chairman of the Board of Tax Appeals or, if the Chairman is not available, to the Vice Chairman.

2. The Board of Tax Appeals, upon receipt of a notice of appeal, shall within fifteen days notify the Tax Administrator thereof who shall forward within fifteen days to the Board a certified transcript of all actions taken by him with respect to such final assessment. Such transcript shall be open to inspection by the appellant and his counsel.

3. Any taxpayer against whom a final assessment has been issued and who has filed a notice of appeal shall be granted a hearing by the Board of Tax Appeals. At such hearing, the appellant and the Tax Administrator shall be given opportunity to present evidence relating to such final assessment. After the conclusion of such hearing, the Board of Tax Appeals shall affirm, reverse or modify such final assessment and shall furnish a copy of its decision in respect thereof to the appellant and the Tax Administrator. The appellant's copy of such decision shall be served upon him in the same manner as herein provided for the serving of assessments.

C. When any taxpayer subject to the provisions of this chapter has filed a return indicating the amount of tax due and has failed to pay such tax to the Tax Administrator as required by this chapter, the Tax Administrator need not issue an assessment but may proceed under the provisions of Sections 163.11 and 163.12.

(2) Provisions affecting employers.

A. If the Tax Administrator determines that an employer subject to the provisions of this chapter has failed to file a return for tax withheld and has failed to pay to the Tax Administrator the full amount of such taxes, the Tax Administrator shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon, and the provisions of subsections (c)(1)A. and B. hereof shall then apply.

B. If the Tax Administrator determines that an employer subject to the provisions of this chapter has failed to withhold tax, the Tax Administrator shall issue a proposed assessment showing the tax due, together with any penalties and interest that may have accrued thereon, and the provisions of subsections (c)(1)A. and B. hereof shall then apply.

C. When an employer subject to the provisions of this chapter has filed a return indicating the amount of tax withheld and has failed to pay such tax to the Tax Administrator as required by this chapter, the Tax Administrator may proceed under the provisions of Sections 163.11 and 163.12 and need not issue an assessment as provided in subsections (c)(2)A. and B. hereof.

(d) (1) Any taxpayer or employer who has not filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him shall pay the amount thereof within fifteen days after service of such final assessment.

(2) Any taxpayer or employer who has filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him shall pay the amount determined to be due by the Board of Tax Appeals within fifteen days after service of his copy of the decision of the Board.

(e) When an application for deferred payment of tax due is filed by a taxpayer, the Tax Administrator may authorize partial payments of unpaid taxes when, in his judgment, the taxpayer is unable, due to hardship conditions, to pay the full amount of the tax when due, and when, in his judgment, such deferred payments are the best means of accomplishing the intent of this chapter. Provided, however, that the Tax Administrator shall not authorize an extension of time for the payment of such taxes due for more than six (6) months beyond the date of the filing of the application.  
(Ord. 21-04. Passed 5-3-04.)

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

(a) The Tax Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and copies of Federal income tax returns of any employer, or of any taxpayer or 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 within ten days following a written request by the Tax Administrator, or his duly authorized agent or employee; the means, facilities and opportunity 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 before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and copies of 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 and copies of 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 163.12.

(d) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential and no person shall disclose such information, except for official purposes, or except when ordered by a court of competent jurisdiction. Any person divulging such information in violation of this chapter, shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) 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 withholding taxes are paid.

(Ord. 21-04. Passed 5-3-04.)

#### 163.10 INTEREST AND PENALTIES.

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

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

(1) For failure to pay taxes due, other than taxes withheld, one and one-half percent (1½%) per month or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater, not to exceed half the tax due.

(2) For failure to remit taxes withheld or required to be withheld from employees, five percent (5%) per month or fraction thereof, or one hundred dollars (\$100.00), whichever is greater.

(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 has failed to file a declaration on which he has estimated and paid tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a final return and pay the total tax on or before the end of the month following the end of his taxable year, ten percent of the difference between ninety percent (90%) of the actual tax for the year and the amount paid through withholding or 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 final determination of the Federal tax liability.

(d) In no case shall penalty and interest charges be levied when the total of such penalty and interest amounts to less than five dollars (\$5.00).

(e) Any person required to withhold the tax who knowingly fails to withhold such tax, or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of tax evaded, or not withheld, or not paid over.

No other penalty under this section shall be applied to any offense to which this penalty is applied.

(f) Beginning with tax year 2007, including fiscal year filers, in addition to interest and penalties imposed by this chapter there shall be imposed, for failure to file any tax return due under this chapter, a twenty-five dollar (\$25.00) penalty for late filing. This penalty shall be assessed regardless of the amount of tax due, if any, and is not limited by any other provision of this section.  
(Ord. 60-07. Passed 12-17-07.)

#### 163.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amounts 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 percent (25%) of that required to be reported 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 limitation, the period within which an additional assessment may be made by the Tax Administrator shall be extended one (1) year from the time of the final determination of the Federal tax liability.

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

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

(d) Amounts of less than five dollars (\$5.00) shall not be refunded or assessed.  
(Ord. 21-04. Passed 5-3-04.)

### 163.12 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 any incomplete, false or fraudulent return; or

(3) Knowingly fail or refuse to pay the tax, penalties or interest imposed by this chapter; or

(4) Knowingly fail or refuse to withhold the tax from his employees and remit such withholding 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 and copies of Federal income tax returns relating to the income or net profits of a taxpayer; or

(6) Fail to appear before the Tax Administrator and to produce his or his employer's books, records, paper or copies of Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

(7) Fail to submit a listing of rentees as required by this chapter; or

(8) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer; or

(9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or

(10) 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

(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 163.07; or

(12) Fail to cause the tax withheld from the qualifying wages of the employees pursuant to this chapter to be paid to the Municipality in accordance with the provisions of Section 163.06; or

(13) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(b) (1) Any person subject to the provisions of this chapter who has failed to file or has filed an incorrect return or has failed to pay the full amount of tax due, shall not be deemed to have committed an offense punishable under the provisions of this section until the assessment issued against him under the provisions of Section 163.08 has become due and payable.

(2) Any person who has filed a return under the provisions of this chapter indicating the amount of tax due, and has failed to pay such tax, together with any penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax, penalties or interest due as provided in subsection (a)(3) hereof, until the date of the filing of such return.

(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 under this section shall be commenced within three (3) years from the time of the offense provided that in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be five (5) years from the date the return was due or the date the false or fraudulent return was filed, whichever is later.

(d) The term "person" as used in this section shall, in addition to the meaning prescribed in Section 163.02, 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.

(e) The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, or declaration, from filing such forms, or from paying the tax. (Ord. 21-04. Passed 5-3-04.)

### 163.13 BOARD OF ADJUDICATION AND BOARD OF TAX APPEALS.

(a) Board of Adjudication.

(1) A Board of Adjudication, consisting of the City Manager or a person designated by him, the Financial Administrative Services Director, or a person designated by him, and the City Attorney or an Assistant City Attorney designated by him, is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum.

(2) The Board shall adopt its own procedural rules and shall keep a record of its proceedings. All hearings of the Board shall be conducted privately and the provisions of Section 163.09 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be presented to the Board of Adjudication.

(3) The Board shall have the authority, upon request of the Tax Administrator to modify in whole or in part, any assessment of tax, penalty and/or interest, required to be made by this chapter. In addition, the Board may authorize the Tax Administrator to accept partial payments for a period in excess of the time authorized in Section 163.08.

(b) Board of Tax Appeals.

(1) A Board of Tax Appeals consisting of three representative citizens of the Municipality, not otherwise employed by the Municipality, to be appointed by Council hereby is created. One member shall be appointed to serve a term of one year, one member shall be appointed to serve a term of two years, and one member shall be appointed to serve a term of three years commencing on January 1, 1978. Each year thereafter one member shall be appointed to serve a term of three years.

(2) One of the members of the Board of Tax Appeals appointed by Council shall be chosen by the members as Chairman of the Board of Tax Appeals and all may receive per diem compensation to be fixed by Council. A majority of the members of the Board of Tax Appeals shall constitute a quorum. The Board of Tax Appeals shall adopt its own procedural rules and keep a record of its proceedings. All hearings by the Board of Tax Appeals may be conducted privately and the provisions of Section 163.09 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard on appeal before the Board of Tax Appeals.

(3) 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 Tax Appeals 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.

(4) The Board of Tax Appeals 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 of Tax Appeals and may be represented by an attorney at law, certified public accountant or other representative.

(5) The Board of Tax Appeals shall, on hearing, have jurisdiction to affirm, reverse or modify any such assessment, ruling or decision, or any part thereof, made by the Tax Administrator from which an appeal has been filed as provided in Section 163.08. The taxpayer or the Tax Administrator may appeal the Board of Tax Appeals decision as provided in Section 5717.011 of the Ohio Revised Code.

(6) Each Board of Tax Appeals 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 Tax Appeals created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.  
(Ord. 21-04. Passed 5-3-04.)

#### 163.14 ALLOCATION OF FUNDS.

(a) The funds collected under the provisions of this chapter shall be allocated in such manner as prescribed by ordinance.



(b) All administrative costs shall be paid from funds collected under provisions of this chapter.

(c) Effective January 1, 1983, two percent (2%) of Municipal Income Tax revenues shall be credited to the Building and Lands Depreciation Reserve Fund annually and effective January 1, 1984, three percent (3%) of Municipal Income Tax revenues shall be credited to such fund annually and may be expended only by authorization of Council for the purchase, lease, maintenance, repair, renovation or construction of Municipal buildings and lands, excluding park lands.

(d) The balance of income tax funds collected under provisions of this chapter shall be annually allocated to the General Fund.  
(Ord. 21-04. Passed 5-3-04.)

#### 163.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

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

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

(c) The Municipality shall grant a credit against the tax imposed by this chapter to every taxpayer who works in a joint economic development zone created under Section 715.691 or a joint economic development district created under Section 715.70, 715.71, or 715.72 of the Ohio Revised Code. The credit shall not exceed the tax assessed by this chapter on such income earned in such joint economic development zone or joint economic development district where such tax is paid.

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

withholding paid to the first municipal corporation with respect to such income or wages.

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

(f) A claim for refund or credit under this section shall be made in such manner as the Tax Administrator may by regulation provide.  
(Ord. 21-04. Passed 5-3-04.)

#### 163.16 SAVINGS CLAUSE.

Sections 163.01 through 163.99, inclusive, hereafter “this chapter”, shall not apply to any person or income, as to whom, or as to which it is beyond the power of Council to impose the tax herein provided for. If any sentence, clause, paragraph, section or other part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal, invalid or otherwise unenforceable, such unconstitutionality, illegality, invalidity or unenforceability shall affect only such paragraph, clause, sentence, section or other part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, paragraphs, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter, including any amendments hereto, would have been adopted had such unconstitutional, illegal or invalid sentence, clause, paragraph, section or other part thereof not been included herein.  
(Ord. 21-04. Passed 5-3-04.)

#### 163.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 163.11 and 163.12.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 163.05 and 163.06 as though the same were continuing. (Ord. 21-04. Passed 5-3-04.)

#### 163.18 COMPROMISE AGREEMENTS.

In cases where the Tax Administrator determines, in his sole discretion, that calculation of the amount of income tax due or required to be withheld using the methods prescribed in this chapter would be unduly burdensome to the taxpayer, transient contractor or transient taxpayer, or cannot be determined with certainty, the Tax Administrator is hereby authorized to employ any other reasonable means of measuring the amount of tax due or required to be withheld which in his determination protects the interests of the Municipality and is further authorized to enter into a compromise agreement with the taxpayer, transient contractor or transient taxpayer, such that the final determination of tax due or required to be withheld is consistent with the intent of this chapter and the intent of the Municipality to treat all taxpayers, transient contractors and transient taxpayers in an equitable manner.

(Ord. 21-04. Passed 5-3-04.)

#### 163.99 PENALTY.

Whoever violates any provision of Sections 163.01 through 163.18 shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

(Ord. 21-04. Passed 5-3-04.)