

CODIFIED ORDINANCES OF GAHANNA

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**CHAPTER 101
 Codified Ordinances**

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

CROSS REFERENCES

See sectional histories for similar State law
 Codification in book form - see Ohio R.C. 731.23
 Imprisonment until fine and costs are paid - see Ohio R.C. 1905.30, 2947.20
 Statute of limitations on prosecutions - see Ohio R.C. 1905.33
 Ordinances and resolutions - see ADM. Ch. 123
 Attempts, aider or abettor - see GEN. OFF. 501.09

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Gahanna, Ohio, 1970, for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances. (ORC 1.01)

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

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless otherwise expressly provided or the context otherwise requires:

- (a) And may be read or, and or may be read and, if the sense requires it. (ORC 1.02(H))
- (b) Another or person, when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property. (ORC 1.02(B), (C))
- (c) Council means the legislative authority of the Municipality.
- (d) County means Franklin County, Ohio.
- (e) Keeper or proprietor includes all persons, whether acting by themselves or as a servant, agent or employee.
- (f) Land or real estate includes rights and easements of incorporeal nature. (ORC 701.01(F))
- (g) Municipality means the Municipality of Gahanna, Ohio.
- (h) Oath includes an affirmation. (ORC 701.01(C))
- (i) Owner, when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
- (j) Person or whoever includes all persons, natural and artificial, and includes but is not limited to private corporations, partners, principals, agents and employees, and all officials, public or private. (ORC 1.02(A))
- (k) Premises, as applied to property, includes land and buildings.
- (l) Property includes real, personal, mixed estates and interests. (ORC 701.01(E))
Personal property includes all property except real. Real property includes lands, tenements and hereditaments.
- (m) Public authority includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.
- (n) Public place includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.
- (o) Registered mail includes certified mail. (ORC 1.02(I))
- (p) Sidewalk means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.
- (q) State means the State of Ohio, or any department, division, commission, board, educational or other institution of the State of Ohio.
- (r) Street includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
- (s) Tenant or occupant, as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.
- (t) Writing includes printing. (ORC 1.02(D))

101.03 RULES OF CONSTRUCTION.

(a) General Rule. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

- (b) As used in the Codified Ordinances, unless the context otherwise requires:
- (1) Tense. Words in the present tense include the future tense.
 - (2) Gender. Words in the masculine gender include the feminine and neuter genders.
 - (3) Plural. Words in the plural number include the singular number, and words in the singular number include the plural number. (ORC 1.10)

(c) Calendar - Computation of Time. The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday.

When a public office, in which an act required by law is to be performed, is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday. (ORC 1.14)

When an act is to take effect or become operative from and after a day named, no part of that day shall be included. (ORC 1.15)

In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

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

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

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(a) When a law which repealed a former law is repealed, the former law is not thereby revived. (ORC 1.19)

(b) When a provision of the Codified Ordinances is repealed or amended, such repeal or amendment does not affect pending actions, prosecutions or proceedings, civil or criminal. When the repeal or amendment relates to the remedy, it does not affect pending actions, prosecutions or proceedings, unless so expressed, nor does any repeal or amendment affect causes of such action, prosecution or proceeding, existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing law. (ORC 1.20)

- (c) When a provision of the Codified Ordinances is repealed, such repeal does not:
- (1) Affect any rights or liabilities which exist, have accrued or have been incurred by virtue of such repealed provision;
 - (2) Affect an action or proceeding for the enforcement of any rights or liabilities existing or arising thereunder;
 - (3) Relieve any person from punishment for an act committed in violation of such repealed provision;
 - (4) Affect an indictment or prosecution for a violation of such repealed provision.

For the purposes of this section, such repealed provision shall continue in full force and effect notwithstanding such repeal, provided this does not affect the limitation of actions, prosecutions or proceedings imposed by any State statute. (ORC 1.21)

101.05 CONSTRUCTION OF SECTION REFERENCES.

When reference is made to any section or group of sections of the Codified Ordinances, such reference shall extend to and include any amendment of or supplement to the section or group of sections so referred to or any section or sections hereafter enacted in lieu thereof; and unless otherwise provided, whenever a reference to a section or group of sections is made in any amendment or supplement to any section of the Codified Ordinances hereafter enacted, such reference shall be deemed to refer to the section or sections as the same shall then stand or as thereafter amended.

Whenever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in such reference.

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

101.06 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters or sections of the Codified Ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

101.07 SEPARABILITY.

Each section of the Codified Ordinances and every part of each section is an independent section and part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof. (ORC 1.13)

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding fifty dollars (\$50.00). A separate offense shall be deemed committed on each day during or on which a continuing violation occurs.

CHAPTER 103
Official Standards

103.01 Official corporate seal.

103.02 Official City flag.

CROSS REFERENCES

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

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

103.01 OFFICIAL CORPORATE SEAL.

(a) There is hereby adopted an official corporate seal of the City which shall be used by all of the officials thereof and shall be affixed to all documents where a seal is required to be affixed by the statutes of the State, or the Charter, ordinances and resolutions of this City, or is otherwise contemplated to be affixed by any official.

(b) The seal of the City is designed around the Indian meaning of the word "Three in one". The shape featured in the center of the seal states "Three in one" or Gahanna. The shape is made of three badges upon one triangle, the left badge being the Ohio Indian, from whom the name originated. The center badge is Gahanna's central location within the State of Ohio and the badge on the right, the flag of the United States of America. Below the badges is Gahanna's official founding date, 1849. Inscribed in the base of the triangle are the words, "Three in one". The triangle represents the people of Gahanna, past and present and never ending. The shape underlining Gahanna's seal depicts three creeks flowing into one with a star at each side and below representing each one of the three creeks.
(Ord. 65-72. Passed 11-8-72.)

103.02 OFFICIAL CITY FLAG.

(a) There is hereby adopted an official City flag of the City of Gahanna.

(b) The flag of the City is blue with three white stars. The three stars are from the official corporate seal and have been integrated into one representing "Three in One".
(Ord. 26-84. Passed 3-20-84.)

**CHAPTER 105
Wards and Boundaries**

- 105.01 Division into wards.**
- 105.02 Ward boundaries defined.**
- 105.03 Filing certified copy.**

CROSS REFERENCES

Division into wards - see Ohio R.C. 731.06
Voting precincts - see Ohio R.C. 3501.18

105.01 DIVISION INTO WARDS.

The City of Gahanna redistricts its wards in a manner equitably balanced as to present population and voter registration statistics provided by the Franklin County Board of Elections and City of Gahanna records to prepare for the election of Council members to be elected from wards in the regular municipal election in 2013 and every four (4) years thereafter. (Ord. 0151-2013. Passed 11-25-13.)

105.02 WARD BOUNDARIES DEFINED.

The Council of the City of Gahanna hereby reestablishes the division of the City into four Wards, to be known as Ward 1, Ward 2, Ward 3, and Ward 4, and described and bounded as follows:

WARD 1

Beginning at the intersection of the southerly limited access right-of-way line of Interstate Route 270 (I-270), with the centerline of Big Walnut Creek, being in the southerly City of Gahanna Corporation Line;

thence westerly and northwesterly along the southerly and southwesterly Corporation Line, being the limited access right-of-way line of I-270, approximately 7200 feet to an angle point in said Corporation Line;

thence northerly, southwesterly, northwesterly and northerly, with the westerly Corporation Line to an angle point in said line in the southerly right-of-way line of Agler Road;

thence westerly with said Corporation Line, being said southerly right-of-way line of Agler Road, approximately 700 feet to the intersection of said line with the easterly limited access right-of-way line of said I-270, being an angle point in said Corporation Line;

thence northerly, westerly and northerly with said Corporation Line, being said easterly limited access right-of-way line of I-270, approximately 5500 feet to an angle point in said Corporation Line in the northerly right-of-way line of McCutcheon Road;

thence westerly with said Corporation Line, being said northerly right-of-way line of McCutcheon Road approximately 390 feet to the intersection of said line with the westerly line of Parcel No. 025-006747, being an angle point in said Corporation Line;

thence northerly with said Corporation Line, being said westerly line of said Parcel No. 025-006747, approximately 1135 feet to an angle point in said Corporation Line;

thence easterly along said Corporation Line, approximately 60 feet to an angle point in said line, being in the westerly limited access right-of-way line of said I-270;

thence northerly along said Corporation Line, being said westerly limited access right-of-way line of I-270, approximately 610 feet to an angle point in said Corporation Line;

thence easterly along said Corporation Line, approximately 810 feet to the westerly right-of-way line of Hines Road;

thence northerly along said Corporation Line, being said westerly right-of-way line of Hines Road, approximately 3065 feet to an angle point in said Corporation Line in the southerly line of "Virginia Terrace" Subdivision;

thence easterly, southerly, easterly, northerly and easterly along the northerly Corporation Line, being said southerly line of "Virginia Terrace" Subdivision, to an angle point in said Corporation Line in the centerline of Stygler Road;

thence southerly with said centerline of Stygler Road, to the intersection with the centerline of West Johnstown Road;

thence southwesterly with said centerline of West Johnstown Road, to the intersection with the centerline of Sandra Court;

thence easterly along said centerline of Sandra Court, being a line common to Block Numbers 2007 & 2010 of the 2010 Census, to the terminus of said Court;

thence easterly, northeasterly, easterly and southeasterly continuing along the lines common to said Block Numbers 2007 & 2010 of the 2010 Census, to the centerline of James Road;

thence northerly with said centerline of James Road, and the northerly extension thereof, to the intersection with the centerline of U.S. Route 62;

thence easterly with said centerline of U.S. Route 62, to the intersection with the centerlines of Granville and Mill Streets;

thence easterly along said centerline of Granville Street to the intersection with the centerline of Rocky Fork Creek;

thence southerly, southwesterly and southerly with the meanders of said centerline of Rocky Fork Creek to the intersection of the centerline of Big Walnut Creek;

thence southerly with the meanders of said Big Walnut Creek, returning to the 'Point of Beginning.'

WARD 2

Beginning at the intersection of the centerline of Johnstown Road with the northerly City of Gahanna Corporation Line (Corporation Line) in Morse Road;

thence westerly along said northerly Corporation Line in said Morse Road, approximately 13,100 feet to the intersection of said line with the centerline of Big Walnut Creek, being the westerly Corporation Line;

thence southerly with the meanders of said centerline of Big Walnut Creek, being said westerly Corporation Line, approximately 4200 feet to an angle point in said Corporation Line at the southeasterly corner of Parcel No. 520-117502 thence westerly along the southerly line of said Parcel No. 520-117502 to the centerline of Stygler Road;

thence southerly with said centerline of Stygler Road, to the intersection with the centerline of West Johnstown Road;

thence southwesterly with said centerline of West Johnstown Road, to the intersection with the centerline of Sandra Court;

thence easterly along said centerline of Sandra Court, being a line common to Block Numbers 2007 & 2010 of the 2010 Census, to the terminus of said Court;

thence easterly, northeasterly, easterly and southeasterly continuing along the lines common to said Block Numbers 2007 & 2010 of the 2010 Census, to the centerline of James Road;

thence northerly with said centerline of James Road, and the northerly extension thereof, to the intersection with the centerline of U.S. Route 62;

thence easterly with said centerline of U.S. Route 62, to the intersection with the centerlines of Granville and Mill Streets;

thence easterly along said centerline of Granville Street to the intersection with the centerline of Shull Avenue;

thence northerly with said centerline of Shull Avenue to the intersection with the centerline of Carpenter Road;

thence westerly with said centerline of Carpenter Road to the intersection with Johnstown Road;

thence northerly with said centerline of Johnstown Road, to the intersection of the southerly line of Parcel No. 025-001072;

thence westerly along said southerly line of Parcel No. 025-001072 to the southwesterly corner of said Parcel;

thence northerly along the easterly lines of Parcel Nos. 025-001072, 025-001912, 025-002217 025-001966, 025-001945 & 025-001929, being the easterly lines of Parcel Nos. 025-001805 025-000822, to the westerly corner common to Parcel Nos. 025-001929 & 025-001944;

thence easterly along the line common to said Parcel Nos. 025-001929 & 025-001944 to the centerline of Cherry Bottom Road;

thence northerly with said centerline of Cherry Bottom Road to the intersection of the centerline of Academy Woods Drive;

thence easterly along said centerline of Academy Woods Drive to the intersection with the centerline of Eastchester Drive;

thence southerly with the centerline of said Eastchester Drive, the southerly extension thereof, and the centerline of Trapp Drive to the intersection with the centerline of Commission Drive;

thence easterly with said centerline of Commission Drive to the centerline of Johnstown Road;

thence northeasterly with said centerline of Johnstown Road to the intersection with Hamilton Road;

thence continuing northeasterly with the centerline of said Johnstown Road returning to the 'Point of Beginning.'

Excepting therefrom, those parcels which have not been annexed to the City of Gahanna, Ohio.

WARD 3

Beginning at the intersection of the southerly limited access right-of-way line of Interstate Route 270 (I-270), with the centerline of Big Walnut Creek, being in the southerly City of Gahanna Corporation Line;

thence easterly along said southerly Corporation Line, being said southerly line of I-270, to an angle point in said line in the westerly right-of-way line of Hamilton Road;

thence southerly along said Corporation Line, being said westerly right-of-way line of Hamilton Road to the intersection of said line with the centerline of Big Walnut Creek;

thence easterly and southerly along said Corporation Line, being along the meanders of said centerline of Big Walnut Creek, to the intersection of said line with the westerly limited access right-of-way line of aforesaid I-270;

thence southerly along said westerly limited access right-of-way line of I-270 to an angle point in said line in the southerly right-of-way line of the B & O Railroad;

thence easterly and northeasterly along said Corporation Line, being said southerly right-of-way line of B & O Railroad, approximately 11,900 feet to an angle point in said Corporation Line;

thence northerly along said Corporation Line, approximately 100 feet, to an angle point in said Corporation Line, being in the northerly right-of-way line of said B & O Railroad;

thence northeasterly along said northerly right-of-way line of B & O Railroad, to an angle point in said Corporation Line at the southwesterly corner of the "Darsts" Subdivision, being the southeasterly corner of Parcel No. 025-013006;

thence northerly and westerly along the easterly and northerly lines of said Corporation Line, being the easterly and northerly lines of said Parcel No. 025-013006, to an angle point in said Corporation Line at the southwesterly corner of Parcel No. 170-000785, being a southeasterly corner of Parcel No. 025-012946;

thence northerly and westerly, continuing along said Corporation Line, being a westerly line of said Parcel No. 170-000785, and being the easterly and northerly lines of said Parcel No. 025-012946 and the northerly line of Parcel No. 025-012945, to an angle point in said Corporation Line at the northwesterly corner of said Parcel No.025-012945, being in the easterly line of Eastgate Parkway;

thence northerly along said easterly line of Eastgate Parkway to an angle point in said Corporation Line, being in the original southerly right-of-way line of Taylor Road;

thence westerly along said Corporation Line, being said line of Taylor Road, to the intersection with the original westerly right-of-way line of Taylor Station Road;

thence northerly along said westerly right-of-way line of Taylor Station Road, being along said Corporation Line, to an angle point in said line at the intersection with the southerly right-of-way line of Havens Corners Road;

thence westerly along said Corporation Line, being along said Havens Corners Road, approximately 6,285 feet to an angle point in said Corporation Line in a westerly line of Parcel No. 170-000019;

thence northerly along said Corporation Line, being said westerly line of Parcel No. 170-000019, and being the easterly line of Parcel No. 025-004000, to an angle point in said Corporation Line in the centerline of Rocky Fork Creek;

thence westerly along said Corporation Line, being with the meanders of said centerline of Rocky Fork Creek, to an angle point in said Corporation Line in the easterly line of the "Southwind" Subdivision;

thence northerly and westerly along said Corporation Line, being along the easterly and northerly line of said "Southwind" Subdivision, and along the southerly line of Parcel No. 170-001890, to the southwesterly corner of said Parcel No. 170-00 1890;

thence northerly along said Corporation Line, being the westerly line of said Parcel No. 170-001890, to an angle point in said Corporation Line at the northeasterly corner of Parcel No. 025-004261;

thence westerly and northwesterly along said Corporation Line, being the northerly and northeasterly line of said Parcel No. 025-004261, to an angle point in said Corporation Line in the northwesterly right-of-way line of Clark State Road;

thence southwesterly along said line of Clark State Road, to the intersection with the centerline of Hamilton Road;

thence northerly with the centerline of said Hamilton Road to the intersection with the centerline of Worman Drive;

thence westerly, northwesterly and northerly with said centerline of Worman Drive to the intersection with the centerline of Finstock Way;

thence westerly with said centerline of Finstock Way to the intersection with the centerline of Lyncroft Drive;

thence northerly with said centerline of Lyncroft Drive to the centerline of Larry Lane;

thence westerly and northwesterly with said centerline of Larry Lane to the intersection with the centerline of Johnstown Road;

thence westerly with said Johnstown Road to the intersection with the centerline of Cherry Bottom Road, being at the easterly corner common to Parcel Nos. 025-001944 & 025-001929;

thence westerly along the line common to said Parcel Nos. 025-001944 & 025-001929, to the westerly corner common to said parcels in the centerline of aforesaid Big Walnut Creek;

thence southerly along the westerly lines of Parcel Nos. 025-001929, 025-001945, 025-001966, 025-002217, 025-001912 & 025-001072, being the easterly lines of 025-000822 & 025-00 1805, to the southwesterly corner of said Parcel 025-001072;

thence easterly along the southerly line of said Parcel No. 025-001072 to the centerline of Johnstown Road;

thence southerly with said centerline of Johnstown Road to the intersection with the centerline of Carpenter Road;

thence easterly with said centerline of Carpenter Road to the intersection with the centerline of Shull Avenue;

thence southerly with said centerline of Shull Avenue to the intersection with the centerline of Granville Street;

thence easterly with said centerline of Granville Street, to the intersection with the centerline of Rocky Fork Creek;

thence southerly, southwesterly and southerly with the meanders of said centerline of Rocky Fork Creek to the intersection of the centerline of Big Walnut Creek;

thence southerly with the meanders of said Big Walnut Creek, returning to the 'Point of Beginning.'

WARD 4

Beginning at the intersection of the centerline of Johnstown Road with the northerly City of Gahanna Corporation Line (Corporation Line) in Morse Road;

thence easterly along said northerly Corporation Line in said Morse Road, approximately 6,920 feet to the easterly Corporation Line;

thence southerly, easterly and southerly along said easterly Corporation Line, approximately 3,810 feet to the northerly right-of-way line of Clark State Road;

thence westerly along said line of Clark State Road, to the northerly extension of the westerly line of Parcel No. 170-001500;

thence southerly and easterly along said extension, the westerly and southerly lines of said Parcel No. 170-001500, to the northeasterly corner of Parcel No. 025-012233;

thence southerly along the easterly line of said Parcel 025-012233 to the northwesterly corner of Parcel No. 027-000077;

thence easterly along the northerly line of said Parcel No. 027-000077, to the southwest corner of Parcel No. 027-000016;

thence northerly along the westerly line of said Parcel No. 027-000016 to the southerly right-of-way line of said Clark State Road;

thence easterly along said line of Clark State Road, to the easterly line of said Parcel No. 027-000016;

thence southerly along said easterly line of Parcel No. 027-000016, to the southeasterly corner of said Parcel, being in the northerly line of the "Village at Hannah Farms Phase 1" Subdivision;

thence easterly, southerly and easterly along the northerly lines of said Subdivision, to the westerly right-of-way line of Reynoldsburg-New Albany Road;

thence southerly with said line of Reynoldsburg-New Albany Road to the intersection with the southerly line of said "Village at Hannah Farms Phase 1" Subdivision;

thence westerly along said southerly line to the southwest corner of said Subdivision; thence northerly along the westerly line of said "Vill

thence westerly and northerly along the southerly and westerly lines of said Parcel No. 025-012233 to the northwesterly corner of said Parcel, being in the southerly line of Parcel No. 025-012232;

thence westerly and northerly along the southerly and westerly lines of said Parcel No. 025-012232 to said centerline of Clark State Road;

thence westerly and southwesterly with said centerline of Clark State Road to the intersection with the centerline of Headley Road;

thence westerly with said centerline of Headley Road to the intersection with the centerline of Shull Road;

thence northerly along said centerline of Shull Road to the southeasterly corner of "The Villages at Rocky Fork Section 2" Subdivision;

thence westerly along the Corporation Line, being the southerly line of said "The Villages at Rocky Fork Section 2" Subdivision to the southwest corner of said Subdivision, being in the easterly line of the "Bryn Mawr Section 2" Subdivision;

thence southerly along said easterly line of the "Bryn Mawr Section 2" Subdivision, to the southeasterly corner of said Subdivision;

thence westerly along the southerly line of said "Bryn Mawr Section 2" Subdivision to the northeasterly corner of the "Bryn Mawr Woods" Subdivision;

thence southerly along the easterly line of said "Bryn Mawr Woods" Subdivision, and along the easterly line of Parcel No. 025-001141 to the southeasterly corner of said Parcel No. 025-001141;

thence westerly along the southerly line of said Parcel No. 025-001141 and the southerly line of Parcel No. 025-003195 to the southwesterly corner of said Parcel No. 025-003195, being in the easterly line of the "Deer Run Section 2" Subdivision;

thence southerly along said easterly line of the "Deer Run Section 2" Subdivision to the southeasterly corner of said Subdivision;

thence westerly along the southerly line of said "Deer Run Section 2" Subdivision, to the northeasterly corner of the "Gahanna Greens" Subdivision;

thence southerly along the easterly line of said "Gahanna Greens" Subdivision, being a Gahanna Corporation Line, to the original northerly right-of-way line of aforesaid Clark State Road;

thence southwestly along said line of Clark State Road to the northerly extension of the easterly line of Parcel No. 025-003896;

thence southerly along the easterly line of said Parcel No. 025-003896, and the easterly line of Parcel No. 025-003897, to the southeasterly corner of said Parcel No. 025-003897;

thence westerly, northerly and westerly, along the southerly and westerly lines of said Parcel No. 025-003897, being along said Corporation Line, to the northwesterly right-of-way line of said Clark State Road;

thence southwestly along said line of Clark State Road, to the intersection with the centerline of Hamilton Road;

thence northerly with the centerline of said Hamilton Road to the intersection with the centerline of Worman Drive;

thence westerly, northwestly and northerly with said centerline of Worman Drive to the intersection with the centerline of Finstock Way;

thence westerly with said centerline of Finstock Way to the intersection with the centerline of Lyncroft Drive;

thence northerly with said centerline of Lyncroft Drive to the centerline of Larry Lane;

thence westerly and northwestly with said centerline of Larry Lane to the intersection with the centerline of Johnstown Road;

thence westerly with said Johnstown Road to the intersection with the centerline of Cherry Bottom Road, being at the easterly corner common to Parcel Nos. 025-001944 & 025-001929;

thence northerly with said centerline of Cherry Bottom Road to the intersection with the centerline of Academy Woods Drive;

thence easterly along said centerline of Academy Woods Drive to the intersection with the centerline of Eastchester Drive;

thence southerly with the centerline of said Eastchester Drive, the southerly extension thereof, and the centerline of Trapp Drive to the intersection with the centerline of Commission Drive;

thence easterly with said centerline of Commission Drive to the centerline of Johnstown Road;

thence northeasterly with said centerline of Johnstown Road to the intersection with Hamilton Road;

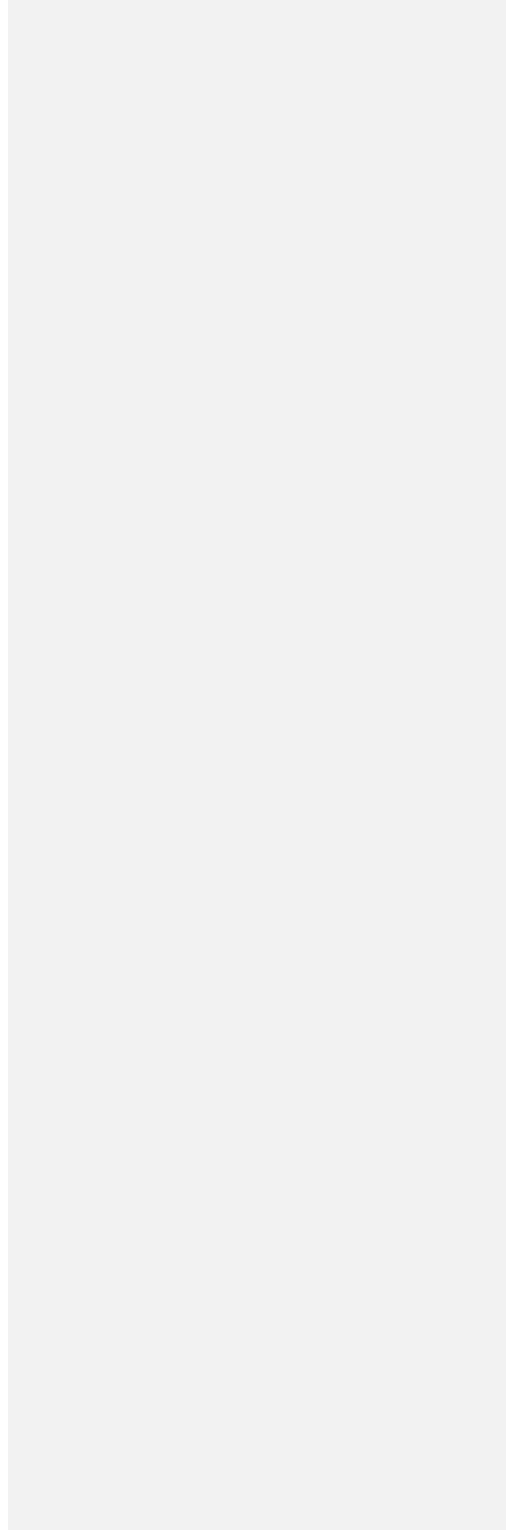
thence continuing northeasterly with the centerline of said Johnstown Road returning to the 'Point of Beginning.'

Excepting therefrom, those parcels which have not been annexed to the City of Gahanna, Ohio. (Ord. 0151-2013. Passed 11-25-13.)

105.03 FILING CERTIFIED COPY.

The Clerk of Council is hereby authorized and directed to file a certified copy of this chapter with the Franklin County Board of Elections.
(Ord. 0151-2013. Passed 11-25-13.)

2012 Replacement



CHAPTER 107
Open Meetings

107.01	Definitions.	107.06	Notification of discussion of specific types of public business.
107.02	Notice of regular and organizational meetings.	107.07	Obtaining information from Clerk; conflict.
107.03	Notice of special meetings.	107.08	Certification of compliance.
107.04	Notice to news media of special meetings.		
107.05	Notice to news media of emergency meetings.		

CROSS REFERENCES
State law provisions - see Ohio R.C. 121.22

107.01 DEFINITIONS.

As used in this chapter, the following terms are defined:

- (a) "Clerk" means the Clerk of Council or one designated by the Clerk to act on behalf of the Clerk.
- (b) "Day" means calendar day.
- (c) "Head" means the president, chairman, director or whoever has the power to call the meeting.
- (d) "Meeting" means any prearranged discussion of the public business of the Municipal body by a majority of the members of the Municipal body.
- (e) "Municipal body" means each of the following: Council, Planning Commission, Board of Zoning and Building Appeals, Civil Service Commission, Parks and Recreation Commission, and committees of the above Municipal bodies comprised of members of such bodies if such committees are comprised of a majority of the members of Council or are a decision-making committee.
- (f) "Oral notification" means a reasonable attempt of notification given orally either in person or by telephone, directly to the person for whom such notification is intended, or by leaving an oral message for such person at the address, or, if by telephone, at the telephone number of such person as shown on the records kept by the Clerk under these rules.

- (g) "Post" means to post, as provided in Section 4.12 of the City Charter, in a conspicuous place within the Municipal Building.
- (h) "Special meeting" means a meeting which is neither a regular meeting nor an adjournment of a regular or special meeting to another time or day to consider items specifically stated on the original agenda of such regular or special meeting. A special meeting of Council shall be as defined in Section 4.10 of the City Charter.
- (i) "Written notification" means a reasonable attempt of notification in writing mailed, telegraphed or delivered to the address of the person for whom such notification is intended as shown on the records kept by the Clerk under these rules, or in any way delivered to such person. If mailed, such notification shall be mailed by first class mail, deposited in a U. S. Postal Service mailbox no later than the second day preceding the day of the meeting to which such notification refers, provided that at least one regular mail delivery day falls between the day of mailing and the day of such meeting.
(Ord. 50-76. Passed 5-18-76.)

107.02 NOTICE OF REGULAR AND ORGANIZATIONAL MEETINGS.

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

(b) The Clerk shall post a statement to be provided the Clerk by the head of each Municipal body in a timely manner of the time and place of any organizational meeting of a Municipal body at least twenty-four hours before the time of such organizational meeting.

(c) Upon the adjournment of any regular or special meeting to another day, the Clerk shall promptly post notice to be provided the Clerk by the head of each Municipal body in a timely manner of the time and place of such adjourned meeting.
(Ord. 50-76. Passed 5-18-76.)

107.03 NOTICE OF SPECIAL MEETINGS.

(a) Except in the case of a special meeting referred to in Section 107.05, the Clerk shall, no later than twenty-four hours before the time of a special meeting of a Municipal body, post a statement of the time, place and purposes of such special meeting, which shall be provided to the Clerk by the head of each Municipal body.

(b) The statement required by this section and the notifications required by Section 107.04 shall state such specific or general purpose or purposes then known to the Clerk to be intended to be considered as such special meeting.

(c) Except in the event of an emergency requiring immediate official action, as referred to in Section 107.05, a special meeting shall not be held unless at least twenty-four hours advance notice of the time, place and purposes of such special meeting is given to the news media that have requested such advance notification pursuant to Section 107.04. (Ord. 67-78. Passed 7-11-78.)

107.04 NOTICE TO NEWS MEDIA OF SPECIAL MEETINGS.

(a) Any news medium organization that desires to be given advance notification of special meetings of a Municipal body shall file with the Clerk a written request therefor in the manner as provided by the Clerk.

(b) News media requests for such advance notification of special meetings shall specify:

- (1) The Municipal body that is the subject of such request;
- (2) The name of the medium;
- (3) The name and address of the person to whom written notifications to the medium may be mailed, telegraphed or delivered;
- (4) The names, addresses and telephone numbers including addresses and telephone numbers at which notifications of at least two persons to either one of whom oral notifications to the medium may be given and at least one telephone number which the request identified as being manned, and which can be called at any hour for the purpose of giving oral notification to such medium.

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

(d) The Clerk shall give such oral notification or written notification, or both, as the Clerk determines to the news media that have requested such advance notification in accordance with Section 107.02 of the time, place and purposes of each special meeting, at least twenty-four hours prior to the time of such special meeting. (Ord. 50-76. Passed 5-18-76.)

107.05 NOTICE TO NEWS MEDIA OF EMERGENCY MEETINGS.

In the event of an emergency requiring immediate official action, a special meeting may be held without giving twenty-four hours advance notification thereof to the requesting news media. The persons calling such meeting, or any one or more of such persons or the Clerk on their behalf, shall immediately give oral notification or written notification, or both, as the person or persons giving such notification determine, of the time, place and purposes of such special meeting to such news media that have requested such advance notification in accordance with Section 107.04. The notice or the call, or both, of any such special meeting shall state the general nature of the emergency requiring immediate official action.
(Ord. 50-76. Passed 5-18-76.)

107.06 NOTIFICATION OF DISCUSSION OF SPECIFIC TYPES OF PUBLIC BUSINESS.

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

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

(b) Each such written request shall be accompanied by at least twelve stamped self-addressed envelopes. The Clerk shall notify in writing the requesting person when the supply of envelopes is running out, and if the person desires notification after such supply has run out such person must deliver to the Clerk an additional number of at least twelve stamped self-addressed envelopes as a condition to receiving further notifications.

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

(d) The Clerk shall give such advance notification by written notification or by oral notification, or both, as the Clerk determines. The contents of written notification under this subsection may be a copy of the agenda of the meeting. Written notification under this subsection may be accomplished by giving advance written notification, by copies of the agenda, of all meetings of the Municipal body that is the subject of such request.
(Ord. 50-76. Passed 5-18-76.)

107.07 OBTAINING INFORMATION FROM CLERK; CONFLICT.

(a) Any person may visit or telephone the office of the Clerk during that office's regular office hours to determine, based on information available at that office:

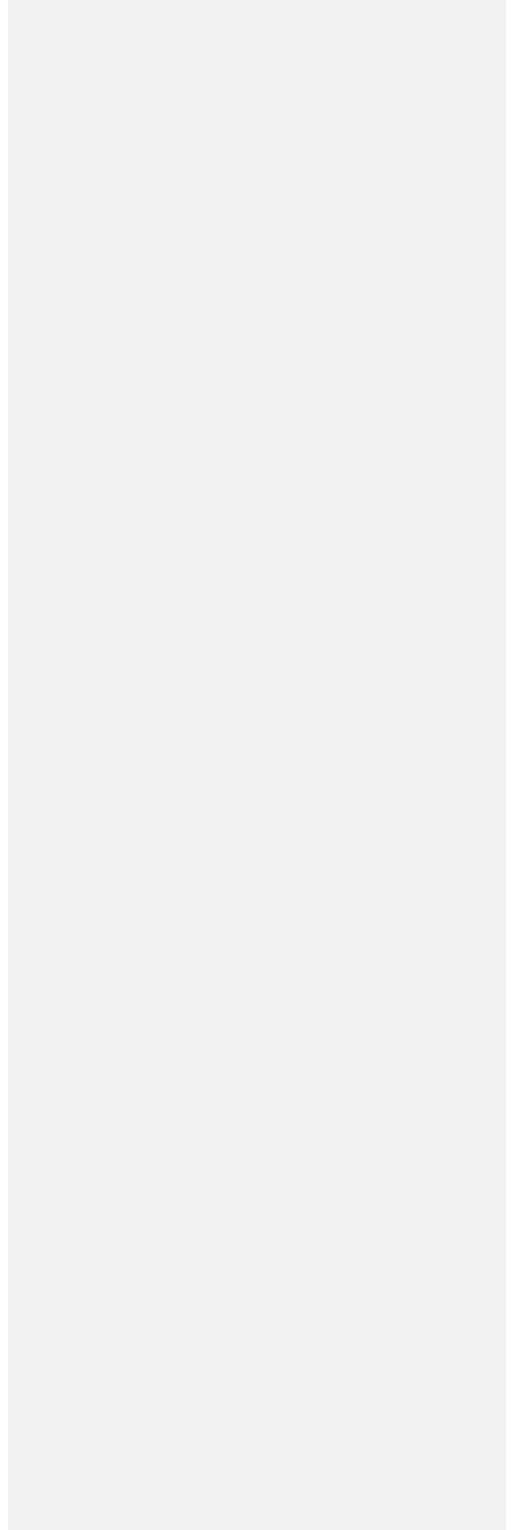
- (1) The time and place of regular meetings;
- (2) The time, place and purposes of any then known special meetings;
- (3) Whether the available agenda of any such future meeting states that any specific type of public business, identified by that person, is to be discussed at such meeting.

(b) In the event that rules and regulations are passed in conflict with this chapter, they shall be valid only insofar as they provide at least the same notice to meeting time, place and subject matter provided by this chapter.
(Ord. 50-76. Passed 5-18-76.)

107.08 CERTIFICATION OF COMPLIANCE.

A certificate by the Clerk or the head of the Municipal body as to compliance with these rules shall be conclusive upon this City and the Municipal body involved.
(Ord. 50-76. Passed 5-18-76.)

2012 Replacement



TITLE THREE - Legislative

Chap. 121. Council.
Chap. 123. Ordinances and Resolutions.

**CHAPTER 121
Council**

- 121.01 Place of meetings.**
- 121.02 Day and time of meetings.**
- 121.03 Compensation.**
- 121.04 Residency qualifications of ward Councilpersons.**
- 121.05 Conditions of annexation to City.**
- 121.06 Deputy Council Clerk.**

CROSS REFERENCES

Composition and term - see CHTR. Art. IV, Sec. 4.02
 Qualifications - see CHTR. Art. IV, Sec. 4.03
 President, Vice President - see CHTR. Art. IV, Sec. 4.04
 Power to fix salaries, bonds - see CHTR. Art. IV, Sec. 4.05, 4.17
 Removal from office - see CHTR. Art. IV, Sec. 4.07
 Vacancies- see CHTR. Art. IV, Sec. 4.08
 Meetings- see CHTR. Art. IV, Sec. 4.10, 4.11
 Legislative procedure; quorum - see CHTR. Art. IV, Sec. 4.12
 Ordinances and resolutions - see CHTR. Art. IV, Sec. 4.12 et seq.
 Compensation - see CHTR. Art. IV, Sec. 4.17
 Power to establish additional departments, boards, commissions - see CHTR. Art. IV, Sec. 4.18
 Initiative, referendum and recall - see CHTR. Art. XIX
 Amendments to Charter- see CHTR. Art. XXI
 Power to establish auxiliary police unit - see Ohio R.C. 737.051

121.01 PLACE OF MEETINGS.

Beginning immediately, all special and regular meetings of Council will be held in the Council Chambers of the Municipality unless the President of Council, with notice to the public in writing, elects to change the location of said meeting. The date and time of the regular meetings of Council are not changed hereby. (Ord. 0061-2011. Passed 4-4-11.)

121.02 DAY AND TIME OF MEETINGS.

Regular meetings shall be held at the time and days as specified by the Rules of Procedure for Council. Special meetings shall be held when called, according to the provisions of the Charter. (Ord. 2-72. Passed 2-7-72.)

121.03 COMPENSATION.

Council members shall each receive compensation in the amount of eight hundred dollars (\$800.00) per month, payable the second pay period of each month.

Effective with the term beginning January 2, 2008, the Council Member serving as President of Council shall receive an additional one hundred dollars (\$100.00) per month in compensation.

Members of Council shall receive no additional compensation other than herein provided for any duties imposed upon them by reason of their membership on Council.
(Ord. 0242-2006. Passed 12-18-06.)

121.04 RESIDENCY QUALIFICATIONS OF WARD COUNCILPERSONS.

A candidate for a Council seat shall be a qualified elector of the Ward from which such candidate is seeking office for at least ninety days prior to the date of such election and thereafter during his/her term, and shall also be qualified for the office as required in the City Charter and the laws of Ohio. (Ord. 26-79. Passed 2-20-79.)

121.05 CONDITIONS OF ANNEXATION TO CITY.

(a) Notification. Following official notification to the Clerk of Council by Franklin County Board of ~~County~~ Commissioners of a proposed annexation, the Clerk shall report the same at the next regular meeting of Council.

(b) Highway Right of Way Reviewed. The Clerk shall obtain from the City Engineer the right of way required by the approved Master Thoroughfare Plan for the City. The Clerk shall then notify the ~~Franklin County Board of County Commissioners~~ Board that the City shall require of the petitioners a general warranty deed for such right of way as a condition of accepting the proposed annexation; provided, however, that upon the written determination by the City Attorney that circumstances exist which make it impracticable to obtain the required right of way set forth herein, Council may, by floor motion, waive said right of way requirement as a condition of accepting a proposed annexation. Council in its floor motion may impose conditions and time frames for acceptance of the right of way as it deems appropriate under the circumstances.

~~(c) For any proposed annexation approved by the County Board of County Commissioners Board, during the calendar year 1993 the following shall apply:~~

~~(1) Zoning application filed. If a zoning change application is filed for newly annexed property, the applicant shall be required to dedicate right of way as required by the approved master thoroughfare plan for the City. Such right of way shall be deeded to the City by general warranty deed prior to acceptance of the annexation by Council.~~

~~(2) No zoning application filed. If a zoning change application is not filed for newly annexed property, the property shall be initially zoned ER 1 or ER 2 under authority of Section 1133.08 of the Codified Ordinances.~~

~~(3) Rezoning application. If a property is initially placed under the ER 1 or ER 2 zoning authorized by Section 1133.08, a right of way dedication shall be required upon application for rezoning.~~

~~(Ord. 990070. Passed 2-16-99.)~~

121.06 DEPUTY COUNCIL CLERK.

Council may, from time to time, appoint a Deputy Clerk of Council to perform the duties of the Clerk of Council and/or related duties as directed by the Clerk of Council.
(Ord. 60-82. Passed 6-15-82.)

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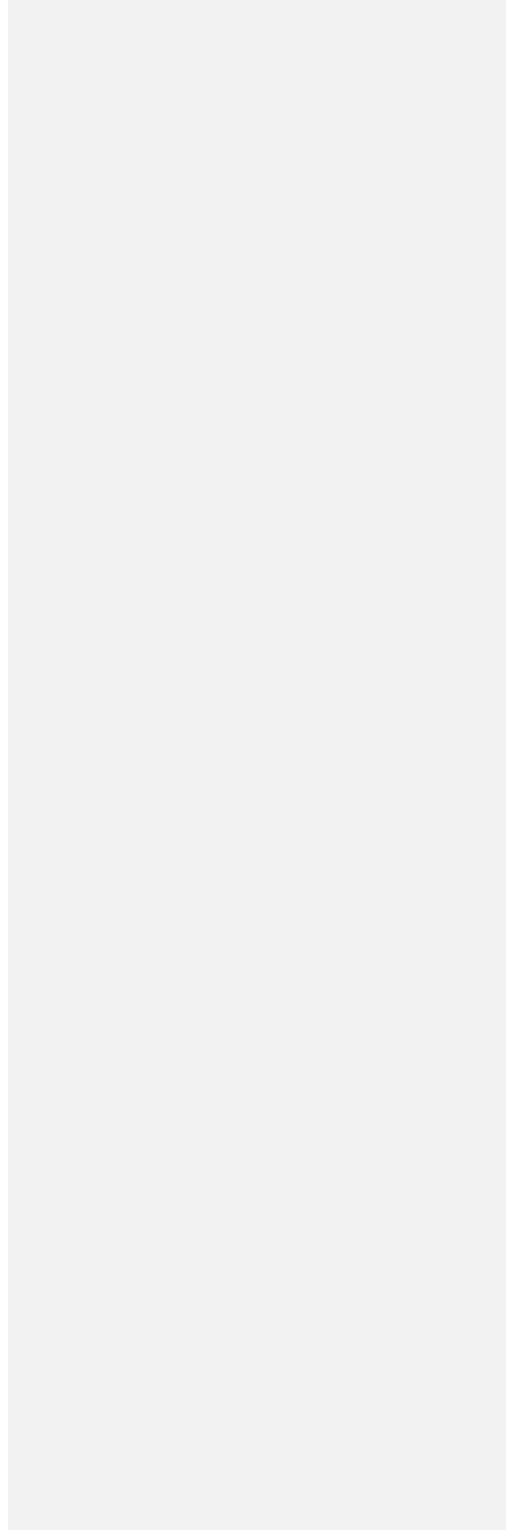
CHAPTER 123
Ordinances and Resolutions

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

CROSS REFERENCES

Power of Council to originate, introduce and pass - see CHTR.
Art. IV, Sec. 4.05
Legislative procedure - see CHTR. Art. IV, Sec. 4.12
Public notice - see CHTR. Art. IV, Sec. 4.13
Effective date - see CHTR. Art. IV, Sec. 4.14
Emergency resolutions, ordinances - see CHTR. Art. IV,
Sec. 4.15
Adoption of technical codes - see CHTR. Art. IV, Sec. 4.16
Codification - see CHTR. Art. IV, Sec. 4.19
Initiative and referendum- see CHTR. Art. XIX

2012 Replacement



TITLE FIVE - Administrative

- Chap. 131. Mayor.
- Chap. 133. Department of Finance.
- Chap. 134. Affirmative Action Program.
- Chap. 135. Department of Public Service and Engineering.
- Chap. 136. City Engineer.
- Chap. 137. Department of Public Safety.
- Chap. 138. Department of Human Resources.
- Chap. 139. Police Department.
- Chap. 141. Fire Department.
- Chap. 143. Department of Law.
- Chap. 145. Planning Commission.
- Chap. 147. Board of Zoning and Building Appeals.
- Chap. 148. Department of Planning and Development.
- Chap. 149. Civil Service Commission.
- Chap. 150. Cable Advisory Board. (Repealed)
- Chap. 151. Department of Parks and Recreation.
- Chap. 153. Parks and Recreation Board.
- Chap. 154. Landscape Board.
- Chap. 155. Employees Generally.
- Chap. 157. Records Management Program.
- Chap. 159. Board of Health.

**CHAPTER 131
Mayor**

- | | | | |
|---------------|---|---------------|------------------------------------|
| 131.01 | Emergency powers. | 131.05 | Obedience to lawful order. |
| 131.02 | State of emergency proclamation. | 131.06 | Emergency Operations Plan. |
| 131.03 | State of emergency termination, extension. | 131.07 | Full-time Mayor. |
| 131.04 | Authority not limited by chapter. | 131.08 | Public Information Manager. |
| | | 131.99 | Penalty. |

CROSS REFERENCES

- Election and term - see CHTR. Art. III, §3.01
- Qualifications - see CHTR. Art. III, §3.02
- Judicial powers - see CHTR. Art. III, §3.03
- Executive, administrative powers - see CHTR. Art. III, §3.04
- Veto power - see CHTR. Art. III, §3.05
- Acting Mayor - see CHTR. Art. III, §3.06
- Vacancy in office - see CHTR. Art. III, §3.07
- Compensation fixed by Council - see CHTR. Art. IV, §4.17

131.01 EMERGENCY POWERS.

Whenever the Mayor determines that an emergency exists as a result of any natural disaster or man-made calamity, or clear and present danger thereof, or riot, insurrection, mob action or other civil disturbance causing danger of injury or damages to persons or property, the Mayor shall have power to impose by proclamation any or all of the following regulations necessary to restore the peace and order of the Municipality:

- (a) Prohibit or limit the number of persons who may gather or congregate upon the public highways, public sidewalks or any outdoor place, or in any theater, restaurant, place of public assembly or commercial establishment to which the public has access;
- (b) Restrict or prohibit movement within, above or beneath the area or areas which, in his judgment, are imperiled by the public danger or emergency;
- (c) Establish a curfew during such hours of the day or night as he deems advisable and prohibit persons from being out of doors during such curfew;
- (d) Prohibit or restrict the retail sale, distribution or giving away of gasoline or other liquid, flammable or combustible products in any container other than the gasoline tank properly affixed to a motor vehicle.
- (e) Order the closing of gasoline stations and other establishments engaged in the retail sale, distribution or dispensing or giving away of liquid, flammable or combustible products;
- (f) Prohibit or restrict the sale, distribution, dispensing or giving away of any firearms or ammunition of any character whatsoever;
- (g) Order the closing of any and all establishments or portions thereof engaged in the sale, distribution, dispensing or giving away of firearms and/or ammunition;
- (h) Prohibit or restrict the carrying or possession of a weapon or any object intended to be used as a weapon, including, but not limited to, firearms, bows and arrows, air rifles, sling shots, knives, razors, broken bottles, fire bombs, missiles of any kind, clubs, blackjacks, billies, chains or similar items on the public streets or public sidewalks or in any public park or square or any other public place;
- (i) Prohibit or restrict the retail sale, distribution, dispensing or giving away of acids, caustics or any chemicals or other substances capable of being used singly or in combination to cause injury or damage to persons or property;
- (j) Prohibit or restrict the retail sale, distribution, dispensing or giving away of any beer or alcoholic beverage;
- (k) Call upon regular and auxiliary law enforcement agencies and organizations within or without the Municipality to assist in preserving and keeping the peace within the Municipality.
- (l) Restrict, control, and/or discontinue water service to residential and commercial consumers if a water distribution problem has been identified by the City of Columbus or a state of water emergency proclaimed by the Mayor of Gahanna.
- (m) Prohibit on-street parking of vehicles on City streets to facilitate snow or debris removal following a storm or other weather related event.
(Ord. 0075-2010. Passed 4-19-10.)

131.02 STATE OF EMERGENCY PROCLAMATION.

When the Mayor determines that an emergency exists, as set forth in Section 131.01, he shall forthwith proclaim in writing the existence of the same and the time of its inception, and shall issue a proclamation thereof to the public through the news media and such other means of dissemination as he deems advisable.
(Ord. 255-2001. Passed 12-17-01.)

131.03 STATE OF EMERGENCY TERMINATION, EXTENSION.

Any emergency proclaimed in accordance with the provisions of this chapter shall terminate after seventy-two hours of the issuance thereof or upon the issuance of a proclamation determining an emergency no longer exists, whichever occurs first. However, such emergency may be extended for such additional periods of time as determined necessary by the Mayor. (Ord. 255-2001. Passed 12-17-01.)

131.04 AUTHORITY NOT LIMITED BY CHAPTER.

The powers conferred by this chapter are in addition to any other powers which may be conferred by Federal law or state statute or Municipal ordinance and nothing in this chapter shall be construed to modify or limit such authority, powers, duties and responsibilities of any officer or public official as may be provided by law. Nothing in this chapter shall be construed to permit suspension of the privilege to a writ of habeas corpus. (Ord. 255-2001. Passed 12-17-01.)

131.05 OBEDIENCE TO LAWFUL ORDER.

No person shall fail to obey the lawful order of any police officer, militiaman, fireman, member of the National Guard or other authorized person acting under orders or authority issued under the provisions of this chapter. (Ord. 255-2001. Passed 12-17-01.)

131.06 EMERGENCY OPERATIONS PLAN.

The Emergency Operations Plan was adopted by Ordinance 0254-2001 on December 17, 2001. In accordance with the recommendation of the Director of Emergency Management, this Plan shall be updated each year and kept current at all times. (Ord. 255-2001. Passed 12-17-01.)

131.07 FULL-TIME MAYOR.

Commensurate compensation for the position of Mayor is hereby authorized and directed in the amounts and on the effective dates declared below:

- (a)
 - (1) Effective January 2, 2008: Ninety-five thousand dollars (\$95,000) per year, payable at regular pay periods.
 - (2) Effective January 2, 2009: Ninety-seven thousand eight hundred fifty dollars (\$97,850) per year, payable at regular pay periods.
 - (3) Effective January 2, 2010: One hundred thousand seven hundred eighty-five dollars (\$100,785) per year, payable at regular pay periods.
 - (4) Effective January 2, 2011: One hundred three thousand eight hundred nine dollars (\$103,809) per year, payable at regular pay periods.
- (b) Compensation for the position of Mayor is hereby authorized and directed in the amount of one hundred three thousand eight hundred nine dollars (\$103,809) per annum, effective January 2, 2012, payable at the regular pay periods.

- (c) Hospitalization, surgical, major medical, life, dental and vision insurance as set forth in the Unclassified Personnel Salary Ordinance shall apply to this full-time elected position.

The Mayor shall also be eligible for the employee wellness incentive payment as set forth in the Unclassified Personnel Salary Ordinance. (Ord. 0135-2011. Passed 7-5-11.)

131.08 PUBLIC INFORMATION MANAGER.

Council hereby establishes the full-time unclassified position of Public Information Manager, said duties for this position are as outlined in the job description attached to Ordinance 0009-2009 as Exhibit A. (Ord. 0009-2009. Passed 1-2-09.)

131.99 PENALTY.

Whoever violates any prohibition contained in, or knowingly fails to perform any duty required by a proclamation, order or regulation issued and in effect pursuant to this chapter, shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. (Ord. 255-2001. Passed 12-17-01.)

CHAPTER 133
Department of Finance

<p>133.01 Deputy Director of Finance: duties.</p> <p>133.02 Vending Machine Income Fund; creation and use.</p> <p>133.03 Cosignatures on City checks.</p> <p>133.04 Miscellaneous Permanent Improvement Fund.</p> <p>133.05 Return check or ACH (Automated Clearing House) charge.</p> <p>133.051 Fund reconciliation statements.</p> <p>133.052 Outstanding checks.</p> <p>133.06 Urban Redevelopment Tax Increment Equivalent Fund.</p> <p>133.07 Stormwater Management Fund.</p> <p>133.08 Copy charges.</p> <p>133.09 Capital Improvements Fund.</p> <p>133.091 Law Enforcement Trust Fund.</p> <p>133.092 Enforcement and Education Fund.</p>	<p>133.093 Municipal Mayor's Court Computer Fund.</p> <p>133.094 Gahanna Police Duty Weapons Fund.</p> <p>133.095 Parks and Recreation Special Fund.</p> <p>133.096 Gahanna Cops Fast Fund.</p> <p>133.097 Accumulated Vacation and Sick Pay Trust Fund.</p> <p>133.098 Public Landscape Trust Fund.</p> <p>133.099 Municipal Mayor's Court Special Projects Fund.</p> <p>133.099.1 Gahanna Landfill Escrow Fund.</p> <p>133.10 Cooperative purchasing with State.</p> <p>133.11 Red Flag Identity Theft Prevention.</p>
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CROSS REFERENCES

Council to provide financial audit - see CHTR. Art. IV, Sec. 4.05
 Appointment and vacancy of Director of Finance - see CHTR. Art. V, Sec. 5.01
 Powers and duties of Director of Finance - see CHTR. Art. V, Sec. 5.02
 Uniform Depository Act - see Ohio R.C. Ch. 135
 Treasury Investment account - see Ohio R.C. 731.56 et seq.
 Books and accounts - see Ohio R.C. 733.11 et seq.

133.01 DEPUTY DIRECTOR OF FINANCE; DUTIES.

The Deputy Director of Finance shall be responsible for the administration of the Gahanna Municipal Income Tax under the supervision of the Director of Finance. The Deputy Director of Finance shall assist the Director of Finance in any immediate requirements of the office of Director of Finance and shall serve as Acting Director of Finance during the absence of the Director of Finance. (Ord. 44-74. Passed 7-16-74.)

133.02 VENDING MACHINE INCOME FUND; CREATION AND USE.

(a) All income accruing to the City from the various vending machines located on property owned or leased by the City, except those located at the Gahanna Municipal Golf Course, shall be placed in the Vending Machine Income Fund, which is hereby created.

(b) The Director of Finance is hereby authorized and directed, to appropriate funds as needed from the Vending Machine Income Fund for the purpose of purchase of coffee, cups, cream, coffee makers, etc., for use within the Municipal Complex of the City. (Ord. 39-76. Passed 4-14-76.)

133.03 COSIGNATURES ON CITY CHECKS.

(a) The Director of Finance and Deputy Director of Finance are hereby authorized and directed as cosignatories to execute all checks prepared by the City.

(b) The Mayor is hereby authorized and directed to execute all checks prepared by the City in the event that one of the persons set forth in subsection (a) hereof is not available to execute checks prepared by the City. (Ord. 9-76. Passed 1-20-76.)

133.04 MISCELLANEOUS PERMANENT IMPROVEMENT FUND,

(a) There is hereby created a "Miscellaneous Permanent Improvement Fund", as a special fund authorized by Ohio R.C. 5705.12, into which shall be deposited rental payments to the City under leases of parcels of land owned by the City and located within the urban renewal area known as "Urban Renewal and Redevelopment Plan for City of Gahanna, Ohio". Reimbursement for taxes paid, service payments in lieu of taxes received by the City pursuant to Ohio R.C. 5709.42, and other similar service charges or reimbursement of costs received by the City shall not be deposited in the Miscellaneous Permanent Improvement Fund, even though designated as or included with rental payments, but shall be deposited to such other funds as are appropriate.

(b) Moneys deposited in the Miscellaneous Permanent Improvement Fund shall be disbursed and used for any of the following purposes, and for no other purposes:

- (1) Acquiring, purchasing and/or constructing permanent improvements, including land acquisition costs, for any public purpose, except permanent improvements which are located on or directly serve only parcels of land that contain improvements, as defined in Ohio R.C. 5709.41, that are or are to be exempt from real property taxation under Ohio R.C. 5709.41 and for which annual service payments in lieu of taxes are or are to be paid under Ohio R.C. 5709.42.
- (2) Paying the principal and/or interest on notes, certificates of indebtedness and bonds issued to finance permanent improvements for any public purpose, except permanent improvements which are located within an urban renewal area or located on or directly serve only parcels of land that contain improvements, as defined in Ohio R.C. 5709.41, that are or are to be exempt from real property taxation under Ohio R.C. 5709.41 and for which annual service payments in lieu of taxes are or are to be paid under Ohio R.C. 5709.42.
- (3) Paying the cost of maintaining and operating, including the payment of taxes, property purchased for any public purpose pending the use of such property for the purpose for which it was acquired, except property included within parcels of land that contain improvements, as defined in Ohio R.C. 5709.41, that are or are to be exempt from real property taxation under Ohio R.C. 5709.41, and for which annual service payments in lieu of taxes are or are to be paid under Ohio R.C. 5709.42. (Ord. 102-78. Passed 11-7-78.)

133.05 RETURN CHECK OR ACH (AUTOMATED CLEARING HOUSE) CHARGE.

(a) When a check is written to the City, as payee, and it is returned from the bank because of insufficient funds, closed account, or other reason, the direct cause thereof being the fault of the signee of the check, there shall be a thirty-five dollar (\$35.00) charge to the signee of the check in addition to the liability of making the check good and any other penalties assessed by law. In addition, where an ACH (Automated Clearing House) payment has been authorized as payment to the City and returned unpaid the same as above, there shall be a twenty-five dollar (\$25.00) charge to the person who authorized the ACH to be instituted; and (Ord. 0244-2002. Passed 12-16-02.)

(b) This charge shall be reviewed at least annually in order to align with prevailing charges exercised by the banking industry.

(c) Funds collected pursuant to this section shall be deposited to the General Fund. (Ord. 301-93. Passed 12-21-93.)

133.051 FUND RECONCILIATION STATEMENTS.

The Director of Finance is hereby directed to include with the "To Date Fund Statement for Month Ending" a reconciliation of all funds of the City of Gahanna as suggested by the Auditor of State. (Ord. 125-86. Passed 12-16-86.)

133.052 OUTSTANDING CHECKS.

The Director of Finance shall issue stop payment on any check not redeemed within six months from date of issuance and shall credit the appropriate funds accordingly. Disbursement checks hereafter shall read "Void After 180 Days." (Ord. 125-86. Passed 12-16-86.)

133.06 URBAN REDEVELOPMENT TAX INCREMENT EQUIVALENT FUND.

(a) There is hereby created an "Urban Redevelopment Tax Increment Equivalent Fund", as authorized by Ohio R.C. 5705.13 and 5709.43, into which shall be deposited annual service payments in lieu of taxes distributed to the City of Gahanna by the County Treasurer as provided in Ohio R.C. 5709.42.

(b) Moneys deposited in the "Urban Redevelopment Tax Increment Equivalent Fund" shall be disbursed and used for any of the following purposes, and for no other purposes; provided that the following purposes are subject to the limitations on the use of such moneys as set forth in subsection (c) hereof and none of the following listed purposes shall be deemed to permit a use of such moneys in a manner that violates subsection (c) hereof:

- (1) Planning, administering, acquiring, purchasing and/or constructing permanent improvements, including land acquisition costs, for any municipal purpose.
- (2) Providing facilities, supplies, equipment, personnel or services for programs for youth and the elderly.
- (3) Planning, administering and providing programs, activities, personnel and services for the development, redevelopment or renewal of the City, including but not limited to housing code administration and enforcement, zoning administration and enforcement, planning, subdivision regulation, urban renewal or redevelopment purposes, and other activities to eliminate and prevent the recurrence of blight or to redevelop deteriorating areas within the City.

- (4) Planning, administering and providing facilities, equipment, supplies, programs, activities, personnel and services to enhance and protect the public health within the City.
- (5) Planning, administering and providing facilities, equipment, supplies, programs, activities, personnel and services for traffic and criminal law enforcement and crime prevention and abatement within the City.
- (6) Planning, administering and providing facilities, equipment, supplies, programs, activities, personnel and services for fire protection and prevention within the City.
- (7) Providing legal services for the City, whether by officers or employees of the City or by special counsel.
- (8) Repairs, maintenance or operation of municipal property, real or personal, facilities and/or equipment.
- (9) To pay the costs of providing facilities, supplies, equipment, activities, programs, personnel or services during emergencies created by acts of nature, war, civil insurrection, and/or economic recessions or depressions adversely affecting the City or its inhabitants, when authorized by the Mayor.
- (10) To pay other current operating expenses of the City for any other purposes as may be determined by the Council of the City, such determination to be made by ordinance.

(c) Moneys deposited in or credited to the Urban Redevelopment Tax Increment Equivalent Fund shall not be:

- (1) Pledged or used to pay principal and interest on notes, certificates of indebtedness or bonds issued by the City, nor to pay other costs related to incurring or retiring debt of the City.
- (2) Used to pay for or provide current operating expenses or permanent improvements which benefit only parcels of land that contain improvements, as defined in Ohio R.C. 5709.41, that are or are to be exempt from real property taxation under Ohio R.C. 5709.41 and for which annual service payments in lieu of taxes are or are to be received under Ohio R.C. 5709.42.

(d) Any incidental surplus or balance remaining in the Urban Redevelopment Tax Increment Equivalent Fund upon the dissolution of that fund shall be transferred to the General Fund of the City.
(Ord. 121-78. Passed 12-19-78.)

133.07 STORMWATER MANAGEMENT FUND.

(a) A special fund designated as the Stormwater Management Fund is hereby established.

(b) The sums budgeted and appropriated, pursuant to Section 161.18, for the purpose of stormwater system improvement and such other sums as Council deems appropriate, shall be paid directly into this special fund.
(Ord. 15-83. Passed 3-15-83.)

133.08 COPY CHARGES.

(a) Charges for copies of public records shall be based on the actual costs of reproducing the records, excluding regular employee time.

(b) In 2004, and every third year thereafter, the Records Commission shall collect data on costs and establish charges for the next three (3) calendar years. A certified copy of the approved fee schedule shall be on file in the office of the Clerk of Council.

(c) When the cost is expected to exceed twenty-five dollars (\$25.00), the requester may be asked to pay a ten dollar (\$10.00) deposit in advance.

(d) The approved charges shall be waived only at the discretion of the City Attorney. (Ord. 0046-2004. Passed 4-5-04.)

133.09 CAPITAL IMPROVEMENTS FUND.

(a) There is hereby created a Capital Improvements Fund, into which shall be deposited moneys from the General Fund as they may accumulate from time to time and any other sources of revenue that may be designated for payment into such Capital Improvements Fund.

(b) Moneys deposited in the Capital Improvements Fund shall be used for any of the following purposes, and for no other purpose:

- (1) Acquiring, purchasing and/or constructing permanent improvements, including land acquisition costs, for any public purpose;
- (2) Paying the cost of property improvements purchased for any public purpose.

(c) Any moneys remaining in the Capital Improvements Fund at its dissolution shall be transferred to the General Fund. (Ord. 77-84. Passed 9-18-84.)

133.091 LAW ENFORCEMENT TRUST FUND.

(a) There is hereby created a Law Enforcement Fund into which shall be deposited cash or proceeds from sale of vehicles and other property seized under the Contraband Seizure Forfeiture Act.

(b) Proceeds distributed to the Law Enforcement Fund shall be allocated by Council only to the office of the Gahanna Police Department and shall be expended only to pay the costs of protracted or complex investigations or prosecutions; to provide reasonable technical training or expertise; to provide matching funds to obtain federal grants to aid law enforcement; or for such other law enforcement purposes as recommended by the Chief of Police that Council determines to be appropriate.

(c) Under authority of Ohio R.C. 2901.01(J) and (M), the Mayor is hereby authorized and designated to accept cash, vehicles and other contraband property from the Common Pleas Courts of the State of Ohio in accordance with the Contraband Forfeiture Act, Ohio R.C. 2933.43 and to place proceeds therefrom in the Law Enforcement Trust Fund as provided herein.

(d) That the Mayor shall further cause all vehicles and property to be assetted or brass tagged to the Division of Police to be used solely for law enforcement purposes, or sold and the proceeds from the sale deposited in the Law Enforcement Trust Fund.

(e) The Fund shall not be used to meet the operating costs of the City that are unrelated to law enforcement. (Ord. 29-89. Passed 3-22-89.)

133.092 ENFORCEMENT AND EDUCATION FUND.

There is hereby created an Enforcement and Education Fund into which shall be deposited cash or proceeds from OMVI related fine money.

Proceeds received hereunder are designated by Council to be used to:

- (a) Pay only those costs incurred in enforcing Ohio R.C. 4511.19 or a substantially similar municipal ordinance;
- (b) Educate the public of laws governing operation of a motor vehicle while under the influence of alcohol;
- (c) Educate the public in the dangers of operation of a motor vehicle while under the influence of alcohol;
- (d) Educate the public with other information relating to the operation of a motor vehicle and the consumption of alcoholic beverages; and
- (e) Pay or reimburse incarceration costs hereunder. (Ord. 215-90. Passed 12-18-90.)

133.093 MUNICIPAL MAYOR'S COURT COMPUTER FUND.

(a) There is hereby created a Municipal Mayor's Court Computer Fund into which shall be deposited cash or proceeds from cases heard in the Municipal Mayor's Court.

(b) Proceeds received hereunder are designated to be used for payment for the court computer, any updates or maintenance required, computer space, computer furniture and any and all appropriate expenditures as outlined in the auditor of State Bulletin 97-019, dated December 24, 1997. (Ord. 0143-2008. Passed 8-4-08.)

133.094 GAHANNA POLICE DUTY WEAPONS FUND.

There is hereby created a Gahanna Police Duty Weapons Fund into which shall be deposited cash or proceeds from payroll deductions from City police officers.

Proceeds received hereunder are designated to be used only for purchase of new duty weapons or as otherwise determined by ordinance of Council. (Ord. 86-93. Passed 4-6-93.)

133.095 PARKS AND RECREATION SPECIAL FUND.

There is hereby created a Parks and Recreation Special Fund into which shall be deposited cash and donations for use in programs for special needs of children in the community. Such fund shall be designated as 135,000,000.

(b) Proceeds received hereunder are designated by Council to be used only for programs, or for supplies or training for programs nurturing the special needs of children in the community. (Ord. 148-93. Passed 7-6-93.)

133.096 GAHANNA COPS FAST FUND.

(a) There is hereby created a Gahanna Cops Fast Fund into which shall be deposited proceeds from the Federal Cops Fast Program.

(b) Proceeds received hereunder are designated to be used only for hiring of a new police officer. (Ord. 137-95. Passed 9-19-95.)

133.097 ACCUMULATED VACATION AND SICK PAY TRUST FUND.

There is hereby created an Accumulated Vacation and Sick Pay Trust Fund as a reserve to partially fund amounts to be owed retiring City employees for accumulated vacation and sick pay.

All proceeds received hereunder are designated to be used only for the future retirement of City employees.

Deposits to this Trust Fund shall be made each City fiscal year in an amount of at least but not less than eight percent (8%) of the accrued liability of retiring employees. (Ord. 213-96. Passed 12-3-96.)

133.098 PUBLIC LANDSCAPE TRUST FUND.

(a) There is hereby created a Public Landscape Trust Fund for the sole purpose of receiving and depositing donations, bequests and other funds given, provided or made available to the City for the specific purpose of constructing or materially improving public landscape areas.

(b) The members of the Landscape Board shall act collectively as trustees of the Public Landscape Trust Fund and may not delegate or relinquish responsibility for the Fund except as defined herein.

(c) The Director of Finance shall have fiduciary responsibility for the proper administration and accounting of all funds received or designated by the City for deposit into the Public Landscape Trust Fund and shall submit written reports on Fund activity to the Landscape Board as of the end of each quarter of the fiscal year for the City.

(d) No expenditures of any kind may be made from the Public Landscape Trust Fund without specific approval by the Landscape Board nor shall any moneys from such Fund be expended for any purpose other than that for which the Trust is created as defined herein. (Ord. 9-97. Passed 1-2-97.)

133.099 MUNICIPAL MAYOR'S COURT SPECIAL PROJECTS FUND.

There is hereby created a Municipal Mayor's Court Special Projects Fund into which shall be deposited cash or proceeds from cases heard in the Gahanna Mayor's Court.

Proceeds received hereunder are designated by Council to be used solely for the acquisition of land and/or construction or renovation of a facility to house the Gahanna Mayor's Court.

Any fee set pursuant to this section and established by the Gahanna Mayor's Court shall not exceed five dollars (\$5.00). (Ord. 0066-2005. Passed 5-16-05.)

133.099.1 GAHANNA LANDFILL ESCROW FUND.

(a) There is hereby created a Gahanna Landfill Escrow Fund into which shall be deposited funds collected from owners or operators of sanitary landfills or waste disposal facilities within the City, an annual amount of an estimate of the annual operating costs of every sanitary landfill or waste disposal facility in the City.

(b) Expenditures from the Landfill Escrow Fund will be solely for the expenses associated with said sanitary landfills or waste disposal facilities. In the event that moneys remain within an escrow account, the entire sum remaining shall be returned to the original depositor. In the event insufficient funds remain to cover all expenses incurred by the City in the inspection and supervision of the sanitary landfill or waste disposal facility operation concerned, additional moneys shall be collected from the original depositor in an amount sufficient to cover all costs.

(Ord. 0200-2007. Passed 10-1-07.)

133.10 COOPERATIVE PURCHASING WITH STATE.

(a) The Mayor is hereby authorized to enter into participation in State contracts which the Department of Administrative Services, Office of State Purchasing, for the purchase of supplies, services, equipment and certain other materials, pursuant to Ohio R.C. 125.04.

(b) Care shall be taken in such contracting that such purchasing is the lowest and best pricing, including such fees as may be charged by Department of Administrative Services as administrative costs, and that there will be no contracting with such State agency to deprive the City from local and individual purchasing powers as needed and desired.

(c) The Director of Finance is hereby authorized to agree in the name of the City of Gahanna to directly pay the vendor, under each such State contract in which the City participates, for items the City received pursuant to such contracts and to pay minimal fees charged for administrative costs pursuant to such contracts as may be billed by the Department of Administrative Services, Office of State Purchasing.
(Ord. 79-86. Passed 9-2-86.)

133.11 RED FLAG IDENTITY THEFT PREVENTION.

Council hereby adopts the City of Gahanna Red Flag Identity Theft Prevention Program and authorizes its implementation; program attached to Ordinance 0105-2009 as Exhibit A and made a part thereof. (Ord. 0105-2009. Passed 5-18-09.)

CHAPTER 134
Affirmative Action Program

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|---------------|---|---------------|---|
| 134.01 | Nondiscrimination. | 134.05 | Procedure for discrimination complaints. |
| 134.02 | Employment, personnel and program practices. | 134.06 | Specific affirmative action procedure. |
| 134.03 | Equal Opportunity Officer. | | |
| 134.04 | Program implementation. | | |

CROSS REFERENCES

Unlawful discriminatory practices - see Ohio R.C. 4112.02

134.01 NONDISCRIMINATION.

- (a) In compliance with Title VI of the Civil Rights Act of 1964, it is the policy of the City of Gahanna, hereinafter referred to as "City":
- (1) To provide equality of opportunity in employment with the City for all persons; and
 - (2) To carry out all programs and activities in compliance with Title VI of the Civil Rights Act of 1964, and in such manner that no person shall, on the grounds of race, color, national origin, religion or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination with respect to any such programs or activities.
- (b) To effectuate its nondiscrimination policy, the City adopts this affirmative action program. (Ord. 0197-2007. Passed 10-1-07.)

134.02 EMPLOYMENT, PERSONNEL AND PROGRAM PRACTICES.

It is the policy of the City to prohibit discrimination because of age, gender, race, color, marital status, disability, religion, sexual orientation or national origin or status as a covered veteran in accordance with applicable federal, state, and local laws in all aspects of its personnel policies, working conditions and relationship with employees and applicants for employment; as well as to provide equal access to all programs in order to promote a continuing affirmative action program by the City. Contractors, subcontractors and grantees related to the City programs shall comply with Title VI of the Civil Rights Act of 1964. When applicable, the standard provisions on equal employment opportunity shall be a part of each contract and agreement with the City.
(Ord. 0197-2007. Passed 10-1-07.)

134.03 EQUAL OPPORTUNITY OFFICER.

The Mayor or the Mayor's designate shall be the Equal Opportunity Officer, hereinafter referred to as "Officer," for the City to coordinate the City's equal employment opportunity efforts. It shall be the duty of the Equal Opportunity Officer to provide advice to employees or other persons, concerning their rights under the equal opportunity policy established in Section 134.01, to conduct initial investigations as provided in this section, and to seek conciliation of such complaints. It shall be the further duty of the Officer to develop and maintain records as such records relate to this affirmative action program.
(Ord. 0197-2007. Passed 10-1-07.)

134.04 PROGRAM IMPLEMENTATION.

The Officer for the City shall direct the implementation of this affirmative action to promote equal opportunity in every aspect of employment policy and practice, including, but not limited to: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including workshops, seminars and schooling. This implementation shall include, but not be limited to the following actions:

- (a) A notice of the City's policy on nondiscrimination in employment shall be posted on a bulletin board to notify all City employees.
- (b) Notification of employment opportunities, new positions, vacancies, promotion possibilities and training opportunities shall be posted on the bulletin board to inform all City employees.
- (c) Newspaper advertisements and other public announcements of employment opportunities placed by or on behalf of the City shall state that the City is an equal opportunity employer.
- (d) The name of the Officer shall be posted on the bulletin board.
(Ord. 0197-2007. Passed 10-1-07.)

134.05 PROCEDURE FOR DISCRIMINATION COMPLAINTS.

(a) Any person who believes that they have been discriminated against by reason of race, color, religion, sex, creed or national origin, in connection with any personnel action or the administration of any program, grant, or contract, by or under the authority of the City shall, at the request of such person, be advised of their rights under this section by the Officer.

(b) The aggrieved party may within five working days of the action giving rise to the complaint, submit such complaint in writing to the Officer.

(c) The Officer shall conduct such investigation as the Officer deems appropriate in the circumstances. If the Officer is unable to effect a satisfactory conclusion of the matter through conciliation, Officer shall complete the initial investigation and forward personal recommendations to the Mayor.

(d) The Mayor shall review the initial report and recommendations of the Officer, and take one of the following actions:

- (1) Render a decision in favor of the complainant and direct that corrective action be taken;
- (2) Determine that additional inquiry of the matter is required and refer the matter back to the Officer for further investigation; or
- (3) Render a decision against the complainant and advise complainant of complainant's right to a hearing before the Grievance Hearing Committee.

(e) Grievance Hearing Committee. The following procedure is established for the complainant:

- (1) The complainant shall, within five working days within the action, submit such complaint in writing to the Officer.
- (2) The complainant shall request a hearing through the Officer, and shall select the first member of the hearing committee.
- (3) The Mayor shall select the second member.
- (4) These two members shall select the third member who becomes the Chairperson. Should the two members fail to select the third member within five working days of the receipt of such request for hearing, the President of Council shall appoint the third member who shall become the Chairperson.
- (5) If the complainant requests a hearing, the Grievance Hearing Committee shall schedule a hearing no less than ten working days from receipt of such request nor more than thirty working days from receipt of such request.
- (6) The Hearing Committee will weigh the evidence presented before it; prepare finding of facts, conclusions of law, and a decision, including appropriate corrective action, if any, to effectuate the City's policy established by this program.
- (7) The decision of this Grievance Hearing Committee shall be final.
- (8) A copy of the decision shall be furnished to the complainant.
- (9) Complainant shall have the right to be represented at the hearing by counsel, such counsel to be at the expense of the complainant.
(Ord. 0197-2007. Passed 10-1-07.)

134.06 SPECIFIC AFFIRMATIVE ACTION PROCEDURE.

The City agrees to put into practice the following toward increasing minority manpower utilization:

- (a) The statement of the City's policy will be communicated to all employees, supervisors and management, and to potential sources of employees. Individuals who make the hiring, placement and promotion decisions will be instructed that minority applicants for all jobs, regardless of type, or applicants for promotion are to be considered without discrimination as to race, color, creed or national origin and sex.

- (b) The City shall take such steps as the following in its recruitment to assure nondiscrimination:
 - (1) Place employment advertisements in general circulation newspapers.
 - (2) Present employees are to be encouraged to refer minority applicants.
 - (3) Recruitment sources will be informed that qualified minority members are being sought for consideration for work whenever the City hires.
- (c) The City will make maximum use of sub-professional internship and other appropriate training techniques to help equalize opportunity for minority persons by such means as follows:
 - (1) Sponsoring and assisting minority youths, as well as others, to enter sub professional and professional training and make such experiences available within the City to the maximum extent possible.
 - (2) Encouraging minority employees and others to increase their skills and job potential through participation in available training and education programs.
- (d) The City will not practice discrimination with regard to placement and promotion of any employee.
 - (1) All employees of the City who are involved in placement and promotion decisions will be instructed to act without discrimination toward minority employees.
 - (2) Minority employees who have increased their skills and job potential will be considered for promotion with all other employees.
- (e) The City will encourage minority contractors, and contractors with minority representation to submit proposals for contract work in order to promote equal opportunity.
- (f) The City will follow through by questioning, verifying, making whatever changes or additions to this equal employment opportunity program as may be necessary to assist its effectiveness.
(Ord. 0197-2007. Passed 10-1-07.)

CHAPTER 135
Department of Public Service and Engineering

<p>135.01 Director of Public Service. 135.011 Deputy Director of Public Service. 135.02 Sale of obsolete items. 135.03 Purchasing Agent and procedures. 135.04 Purchasing requirements. 135.05 Bid opening and acceptance. 135.06 Council action.</p>	<p>135.07 Contract execution and delegation by Mayor. 135.08 Prohibited bidder. 135.09 Usage charges for City vehicles or off-road unlicensed equipment. <u>135.10 Fees.</u> <u>135.11 Fees; exemptions.</u> <u>135.12 Fees; refunds.</u></p>
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CROSS REFERENCES
Department of Public Service and Engineering - see CHTR. 5.05

135.01 DIRECTOR OF PUBLIC SERVICE.

(a) The Director of Public Service shall have the responsibility for construction, improvement, and maintenance of all public works, buildings, cemeteries, roads, streets, and all other public places of the ~~Municipality~~City, except as provided elsewhere by Code, and the collection and disposal of wastes and the enforcement of sanitary regulations. The Director shall have charge of, and shall supervise the maintenance of, all municipal property, and the collection and disposal of wastes and the enforcement of sanitary regulations. The Director shall have charge of and shall supervise the maintenance of all municipal property, and equipment and the storage of all materials and supplies. The Director shall also have charge of and supervise the Division of Water and the division of sewers which shall operate, maintain and control all of the water mains, water distribution system, pumps, meters, etc. in the ~~Municipality~~City, and the entire sanitary and storm sewer systems of said ~~Municipality~~City respectively. The Director shall be responsible for the purchasing function for the ~~Municipality~~City and all purchases shall be made only in the manner provided for within the Codified Ordinances. The Director of Public Service shall be responsible for the issuance of all zoning and building permits and shall supervise the administration and enforcement of the Zoning and Building ordinances.

(b) The hours worked, vacation and other employment benefits set out in the unclassified salary ordinance shall apply to the Director of Public Service.
(Ord. 0115-2013. Passed 8-19-13.)

135.011 DEPUTY DIRECTOR OF PUBLIC SERVICE.

The Mayor is authorized and directed when such position is deemed necessary to employ a Deputy Director of Public Service for the City.

The Deputy Director of Public Service shall:

- (a) Work under the general direction of the Director of Public Service and shall serve as the Director in the Director's absence.

- (b) Act as the Utilities/Right of Way Manager.
- (c) Perform such other duties as may be assigned by the Director of Public Service.

(Ord. 0115-2013. Passed 8-19-13.)

135.02 SALE OF OBSOLETE ITEMS.

At such time as equipment with marketable value, including motor vehicles and supplies of the City, serve no municipal purpose as determined in writing by the Director of Public Service, said Director is authorized and directed to provide for the sale, trade-in or disposal of such equipment and supplies, in the following manner:

- (a) Surplus property shall be sold, traded-in or disposed of by one of the following methods:
 - (1) By acceptance of sealed bids, after appropriate advertising;
 - (2) By public auction, after appropriate advertising;
 - (3) By internet auction;
 - (4) By trade-in, when advantageous to the City, if the City is purchasing equipment in which the trade-in value can be used to reduce the cost of the new piece of equipment.
 - (5) By disposal to a recycling company.
- (b) Equipment that is determined by the Director of Public Service to have no marketable value or deemed unsafe or in dangerous condition, may be disposed of as -determined by the Director of Public Service.

Proceeds from the sale of surplus property shall be deposited in the ~~city~~-City treasury to the credit of the fund having paid for the equipment. Proceeds from the sale of surplus property that was not purchased by the City shall be credited to the general fund. The Director of Finance shall keep full and accurate records of the sale or trade-in of such property.
(Ord. 0115-2013. Passed 8-19-13.)

135.03 PURCHASING AGENT AND PROCEDURES.

- (a) Except as otherwise provided in this chapter, the Director of Public Service shall have the exclusive authority to purchase and lease all goods and services not requiring bidding except under the following circumstances:
 - (1) Peace officer services pursuant to Chapter 139, Police Department, which shall be authorized by the Director of Public Service and the Mayor;
 - (2) In an emergency, as declared by the Mayor pursuant to Section 131.01, the Mayor or the Mayor's designee can purchase directly without regard to bidding procedures those items necessary to overcome the emergency. In such cases, the Mayor shall personally authorize such purchases.
 - (3) The purchase of any goods or services on behalf of the City without the written approval of the Director of Public Service or the Director's designee, shall be without authority of the City.

(b) For audit purposes and as a matter of public record, the following information will be documented and included with the purchase order when sent to the Director of Finance concerning purchases made in excess of three thousand dollars (\$3,000.00), but not purchased through competitive bidding procedures:

- (1) Procedures that were used to select the seller of the goods and services, including the names of the competitors contacted;
- (2) The reasons for selecting the seller;
- (3) Other information as required depending on the nature of the purchase.

(c) The Director of Public Service shall adopt rules and regulations for the internal management and operation of the purchasing function. The Director shall prescribe and maintain such forms as reasonably necessary to the operation of the purchase function and the Director may require any department or board seeking the purchase of any goods or services to justify their request and may require that prior to making any purchases, the department or agency requesting the purchase shall first seek Director of Finance approval that there are sufficient funds in that department or agency budget to enable the ~~enumerance~~ encumbrance of the appropriate amount of money.

(d) The Director of Public Service may develop a prohibited bidder list pursuant to Section 135.08.

(e) The Director of Public Service may negotiate with other units of government, including the Board of Education, in the joint purchasing of goods and services when the best interest of the City would thereby be served.

(f) The Director of Public Service may monitor contracts to assure that the terms of the agreement are fulfilled and in the event of any violation thereof shall report to the City Attorney the results of the Director of Public Service's investigation for further action.

(g) When City of Gahanna funds are expended, the Director of Public Service requires that:

- Competitive bids be obtained where appropriate.
 - Avoid sole-source purchases unless fully justified.
 - Purchase only authorized goods and services.
 - Ensure that all expenditures are made in accordance with City of Gahanna guidelines.
- (Ord. 0115-2013. Passed 8-19-13.)

135.04 PURCHASING REQUIREMENTS.

(a) All purchases and leases, of equipment, supplies, parts, and services approved by the Director of Public Service, including options for longer than six months, shall be accomplished through competitive bidding except as listed in paragraph 135.05(e), Exceptions to the Competitive Bidding Requirement.

(b) There are four basic means of making purchases for the City of Gahanna as follows:

- (1) Invitation for bids (IFB).
- (2) Request for proposals (RFP).
- (3) Petty cash.
- (4) Reverse auction.

(c) Invitation for Bid Procedures.

- (1) Upon receipt of any request by a department or agency of the City for goods or services which are required to be bid, the Director of Public Service shall seek Council approval by motion and vote for the Director to advertise for such bids. Upon receipt of approval, the Director shall thereafter prepare appropriate notice for bid request which shall be advertised in full in a newspaper of general circulation within the city for one week. Thereafter, the Director shall advertise a second time either in the full version or in an abbreviated version that directs the public to the full notice on the State of Ohio's public notice website.
- (2) The notice for bid request shall contain the following information:
 - A. The quantity of items specified and, in general, the use for which they are intended;
 - B. The time and place where the bids will be opened;
 - C. Conditions under which the bid will be received;
 - D. Terms of the proposed purchase or lease including a notice that the bid selected by the Director of Public Service may be conditioned upon subsequent Council approval;
 - E. Bond requirements for both bidding and the performance of the contract;
 - F. Such other information as the Director of Public Service deems necessary.
- (3) The Director of Public Service may, to secure the lowest responsive and responsible bid, divide the goods and services requested or needed within the ninety days of the bid request in such manner as the Director deems appropriate, but may not divide the purchase or lease in such a way to avoid the competitive bidding.

(d) Request for Proposals. As listed under Section 135.05(e), purchases under \$50,000 generally fall into the category of the informal method of purchasing. Specifications or descriptions are necessary and request for proposals will normally be submitted in writing. However, under unusual circumstances, proposals may be obtained verbally or over the phone. Also, quotes may be accepted, which are submitted on the quoter's letterhead. Under this informal method of purchasing, the City employee conducting the negotiation will be required to be fully familiar with item(s) or services being procured, the need for the materials or services, and will be further qualified to inspect and accept the finished product. The department or agency involved in purchases under \$50,000 must also ascertain from the Director of Finance that sufficient funds are available in the proper category to cover the purchase.

(e) Petty Cash. Expenditures up to \$20.00 may be reimbursed through the petty cash system as outlined in the City of Gahanna Policy and Procedure Manual.

(f) Reverse Auction. Purchasing process in which offerors submit proposals in competing to sell services or supplies in an open environment via the Internet:

- (1) Whenever the City determines that the use of the reverse auction is advantageous to the City, the Director of Public Service or designee may purchase goods or services by reverse auction.
 - A. The City, in establishing a reverse auction process will:
 1. Determine the specifications and requirements of the goods or services to be acquired.

2. Provide notice to potential sellers concerning the proposed acquisition as noted in Section 135.04.
- B. Prior to conducting a reverse auction, the City may establish a threshold amount which shall be the maximum amount that the City is willing to pay for the goods or service to be acquired.
 - C. The City may enter into a contract with a seller which meets the specifications or description of the goods or services to be procured and whose proposal the City determines to be the lowest, responsive, and responsible as described in Section 135.05(d). (Ord. 0115-2013. Passed 8-19-13.)

135.05 BID OPENING AND ACCEPTANCE.

(a) All bids shall be received only at a location and time specified in the notice and shall be kept sealed until the bids are opened. Bids shall be opened publicly and read aloud.

(b) The Director of Public Service may reject any bid which fails to comply materially with the terms of the bid notice. Bids which are not accompanied with bonds, as required in the notice, shall be deemed to have failed to comply with the terms of the bid notice.

(c) A bidder for a contract shall be considered responsive when the bidder's proposal responds to bid specifications in all material aspects and contains no irregularities or deviations from the specifications which would affect the amount of the bid or otherwise give the bidder a competitive advantage. Irregularities which do not materially affect the bid may be deemed technical defects and may be corrected after the bid opening.

In determining whether a bidder is responsible, the following factors shall be considered:

- (1) The bidder's experience;
- (2) The bidder's financial condition;
- (3) The bidder's conduct and performance on previous contracts;
- (4) The bidder's facilities;
- (5) The bidder's management skills;
- (6) The bidder's ability to execute the contract properly;
- (7) The character, integrity, reputation, judgment, experience and efficiency of the bidder;
- (8) The quality, availability, and adaptability of the supplies or contractual services to the particular use required;
- (9) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
- (10) The number and scope of conditions attached to the bid.

(d) Upon consideration, the Director of Public Service shall select the three lowest, responsive, and responsible bidders, if there are more than three bids, and shall recommend to Council in writing a choice from the bidders as the lowest, responsive and responsible. In the event that a recommendation is in favor of one other than the lowest, the Director shall also state the reasons in writing therefor. Further, the Director shall include with the recommendation, if available, a proposed contract approved in the form by the City Attorney and other accompanying documents needed for the final execution of the award of the contract.

(e) Exceptions to the competitive bidding requirement:

- (1) Formal competitive bidding is not required for purchases less than fifty thousand dollars (\$50,000).

- (2) Products and services of the severely disabled. Competitive bidding is exempt for those purchases from a qualified nonprofit agency pursuant to Ohio R.C. 4115.31 to 4115.35.
- (3) Emergency purchases. Council may, by majority vote of Council, authorize the Director of Public Service to enter into a contract for work to be done or for the purchase of goods and services without formal bidding and advertising. If this section is enacted, the Director of Public Service must provide adequate documentation to Council to justify the exception to the bidding requirement.
- (4) Purchases from governmental entities. The Director of Public Service may purchase equipment, services, materials or supplies from the State of Ohio, any department, division, agency, political subdivision of the State, or other cooperative purchasing organization of public entities without advertising and bidding, provided Council authorizes the purchase by ordinance. Section 9.48 Joint Purchasing Programs of the Ohio Revised Code is hereby incorporated by reference.
- (5) Purchases of used equipment. Council may authorize by ordinance the Director of Public Service to purchase, without competitive bidding, used equipment or supplies at an auction open to the public or at a public sale requesting the submission of written bids.
- (6) Professional and/or personal services. The statutory provisions regarding competitive bidding for City contracts, generally, do not apply to contracts for professional and/or personal services.
- (7) Reverse auction.
(Ord. 0115-2013. Passed 8-19-13.)

135.06 COUNCIL ACTION.

(a) Council shall consider within thirty days of the receipt of the recommendation of the Director of Public Service, pursuant to Section 135.05, and shall place the matter on the Council agenda. The Director of Finance shall certify to Council prior to the meeting at which the recommendation is scheduled to be considered that there are funds available or in the process of being collected for the payment of the agreement, pursuant to its terms.

(b) If Council approves the recommendation as the lowest responsive and responsible bidder, it shall pass an ordinance authorizing the Mayor to enter into such an agreement with the selected bidder. Council may authorize either the Mayor or the Director of Public Service to further negotiate certain items of the agreement.

(c) Upon enactment of the ordinance, the Director of Finance shall approve the encumbrance of sufficient funds to fulfill the obligation of the City. The Director of Finance shall remove any encumbrances when, in the Finance Director's judgment, the City no longer has any obligations with respect to the contract.
(Ord. 0115-2013. Passed 8-19-13.)

135.07 CONTRACT EXECUTION AND DELEGATION BY MAYOR.

When an ordinance is enacted, the Mayor shall proceed to execute the contract as authorized and shall report to Council any unforeseen delays in negotiation and execution of the contract.

(Ord. 0115-2013. Passed 8-19-13.)

135.08 PROHIBITED BIDDER.

(a) The Director of Public Service shall have the authority to declare a vendor or lessor a prohibited bidder who shall thereafter not be permitted to participate in the bidding procedure nor receive any business from the ~~Municipality~~ City for a stated period of time, as deemed appropriate by the Director of Public Service, not to exceed one year, if the vendor:

- (1) Has previously defaulted in its quotations to the City;
- (2) Has failed to fulfill its obligations under a previous contract with or purchase by the City;
- (3) Is presently disqualified from bidding or receiving any business from any other unit of local government within Franklin County ~~or with the State of Ohio.~~

(Ord. 0115-2013. Passed 8-19-13.)

135.09 USAGE CHARGES FOR CITY VEHICLES OR OFF-ROAD, UNLICENSED EQUIPMENT.

(a) The Department of Public Service ~~and Engineering~~ shall be solely responsible for the use of all such vehicles or off-road unlicensed equipment, as well as for the billing, collection and depositing of fees as established.

(b) The hourly rates shall be based upon the Federal Emergency Management Agency's Schedule of Equipment rates prevailing at the time of the use.

(Ord. 0115-2013. Passed 8-19-13.)

135.10 FEES.

(a) ~~Council shall by ordinance establish and annually adjust fees for all types of applications, permits and other specialized services provided by the Department of Public Service and Engineering, which includes the Division of Building and Zoning, and such document shall be referred to as the "Building and Zoning Fee Schedule". All fees are for the purpose of defraying the costs of preparing necessary maps, plats, reports, analyses, administration, legislation, notices, acquiring data, conducting surveys and other related work. The fee in effect on the date of receipt of any application shall be the fee charged.~~

(b) ~~Any person desiring to do or cause to be done anything for which a fee is required by the Building and Zoning Fee Schedule, shall upon application or prior to issuance pay to the Department through the cashier the fee prescribed by the then current Building and Zoning Fee Schedule. The Building and Zoning Fee Schedule shall be posted in the offices of the Department and shall be made available upon request.~~

(c) Park Fee.

(1) ~~In addition to the fees and deposits required by other sections of the Codified Ordinances of Gahanna a park fee shall be paid by the developer in accordance with the following:~~

A. Residential

1. ~~A single-family dwelling shall be equal to a one dwelling unit.~~

2. ~~Each unit in a two-family dwelling shall be equal to one dwelling unit.~~

3. ~~Each unit in a multi-family dwelling shall be equal to one dwelling unit.~~

B. Non-Residential

1. Each unit or room in an Extended Stay or Residential Hotel shall be equal to one dwelling unit.
2. Each unit or room in a family care facility or independent senior living facility shall be equal to one dwelling unit.
- (2) Such park fee shall be as established in the Building and Zoning Fee Schedule set forth in Section 135.10 of these Codified Ordinances.
- (3) Such fee shall be collected prior to issuance of a certificate of occupancy.
- (4) The fees so collected shall be deposited in a Park Fund for the improvement of recreational facilities within existing publicly owned and operated park facilities and the purchase of recreational equipment. Such funds shall not be used for the maintenance and operation expenses incurred by the Parks Department in the daily operation of park facilities.
(Ord. 0175-2014. Passed 12-15-14.)

135.11 FEES; EXEMPTIONS.

(a) The City of Gahanna, shall be exempt from fees in the Building and Zoning Fee Schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance. This exemption shall also not apply to the fees required for portions of private structures utilized by the City of Gahanna. Fees shall be charged for the areas of buildings owned by the City of Gahanna that are not used exclusively by the City in accordance with the fees established in the Building and Zoning Fee Schedule.

(b) Bona fide corporations not-for-profit, upon written request to Council, and upon approval by Council, shall be exempt from fees in the Building and Zoning Fee Schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance.

(c) Individuals or corporations claiming a hardship, upon written request to Council for a waiver or reduction of fees, and upon approval by Council, shall be exempt from or shall receive the approved reduction in the applicable fees in the Building and Zoning Fee Schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance.
(Ord. 0014-2011. Passed 2-7-11.)

135.12 FEES; REFUNDS.

(a) All fees as enumerated in the Building and Zoning Fee Schedule are non-refundable except as otherwise denoted in this section.

(b) A refund shall require a refund fee to cover the cost of making the refund and/or costs incurred. This refund fee shall be deducted from any amount to be refunded.

(c) An overpayment equal to or less than the refund fee shall be considered the refund fee and shall be added to the permit fee.

(d) Any refund of a permit application fee submitted for land, which is later determined to be located outside the city is subject to a refund fee.

(e) The Director of Public Service may waive the refund fee upon determination that the refund is necessary due to an error on the part of a city employee.

(f) The Director of Public Service shall not refund a fee upon determination that the refund is necessary due to an error on the part of an applicant.

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**CHAPTER 136
City Engineer**

- 136.01 City Engineer.**
- 136.02 Cost of inspection, supervision.**

CROSS REFERENCES

Department of Public Service and Engineering - see CHTR. 5.05
Approval of plats; inspection of streets and acceptance - see Ohio R.C. 711.08, 711.091
Devising and forming plan of sewerage - see Ohio R.C. 729.31 et seq.
Civil engineer - see Ohio R.C. 733.80
General duties - see Ohio R.C. 735.32
Assistants - see Ohio R.C. 735.33
Registration as a professional engineer - see Ohio R.C. Ch. 4733

136.01 CITY ENGINEER.

(a) The City Engineer shall perform all of those engineering functions in the matters of construction and maintenance undertaken by the Sewer and Water Division, the Street Division and other public work projects undertaken by the City and such other duties as may be imposed from time to time by the Mayor.

(b) Whenever the position of City Engineer is vacant, the ~~Assistant City Engineer~~ Director of Public Service shall act as or appoint ~~serve as an~~ acting City Engineer. (Ord. 0031-2011. Passed 2-22-11.)

136.02 COST OF INSPECTION, SUPERVISION.

(a) For infrastructure improvements as provided by development standards within the City, the developer shall pay the cost to the City of the approval of the plans and specifications, inspection, materials, laboratory testing and engineering supervision of construction by the City Engineer and the cost of the legal services to the City and administrative expense incident to such improvements.

The developer shall submit an estimated cost of construction and deposit such sums of money as are estimated to be necessary for the foregoing purposes, and in the event that such estimated amounts are found to be insufficient, shall deposit such additional sum as may be necessary, all unexpended moneys so deposited to be refunded.

(b) The charge to be collected for legal service and administrative expense shall be one and one-half percent (1-1/2%) of the estimated cost of construction of dedicated infrastructure improvements and one percent (1%) of the estimated cost of private storm sewer systems; provided, however, that the Director of Public Service may determine upon a different charge where, in his opinion, such percentum charge is not fair to both parties.

(c) For dedicated infrastructure improvements the charge to be collected for City Engineer review and approval of plans, specifications and general engineering supervision of construction shall be one and one-half percent (1-1/2%) of the estimated cost of construction. For privately-owned storm sewer systems, the charge to be collected for City Engineer review and approval of plans, specifications, and general engineering supervision of construction shall be one percent (1%) of the estimated cost of construction.

(d) The charge to be collected for escrow accounting for inspection of dedicated infrastructure construction shall be four percent (4%) of the estimated field cost of construction from which all charges shall be paid as required. The charge to be collected for escrow accounting for inspection of private storm sewer system construction shall be two percent (2%) of the estimate field cost of construction from which all charges shall be paid as required. When all work is complete, the remaining moneys shall be returned or, if necessary, additional moneys shall be deposited.

(e) The developer shall be required to provide a cash maintenance bond equal to five percent (5%) of the total cost of the street light installations. Such amount shall be deposited at the time energization is requested, and shall be used by the City to perform necessary repairs during the one-year developer maintenance period following energization and burn test. Should the amount be insufficient to cover all repairs required during this period, additional moneys shall be deposited. In the event that all funds are not expended, the unused balance shall be returned to the developer without interest.

(f) The developer shall be responsible for keeping access streets, used during the construction period, reasonably clean and free from mud and other debris. This responsibility shall extend to the newly constructed streets during the developer maintenance period. Should the developer fail to perform this or any other required maintenance, the City may, at its option, contract for this work and charge the costs directly against the escrow deposits. Should the escrow deposit be insufficient to cover all compliances required during this period, additional money shall be deposited.
(Ord. 45-95. Passed 4-18-95.)

CHAPTER 137
Department of Public Safety

- 137.01 Director of Public Safety.** **137.03 Animal Officer.**
137.02 Duties of Safety Director.

CROSS REFERENCES

Mayor's power to appoint and remove Director - see CHTR. 3.04
Department of Public Safety - see CHTR. 5.12
Traffic control powers - see TRAF. Ch. 305

137.01 DIRECTOR OF PUBLIC SAFETY.

The Director of Public Safety shall be appointed by the Mayor.
(Ord. 0032-2011. Passed 2-22-11.)

137.02 DUTIES OF SAFETY DIRECTOR.

The Director of Public Safety is authorized and directed to perform such duties as are provided by Charter or this chapter, and such other duties as may be prescribed by the Mayor. The Director of Public Safety shall be responsible for the enforcement of all police and safety regulations that may be prescribed by resolutions and ordinances of the municipality or laws of Ohio. (Ord. 0032-2011. Passed 2-22-11.)

137.03 ANIMAL OFFICER.

Persons employed by the City as Animal Officers shall be authorized to issue citations for misdemeanors committed in violation of applicable sections of Chapter 505, Animal and Fowl, of the Codified Ordinances of the City.
(Ord. 0032-2011. Passed 2-22-11.)

CHAPTER 138
Department of Human Resources

- | | |
|---|--|
| 138.01 Establishment of Department;
Director appointed. | 138.03 Additional employment and
public office provisions for
Director. |
| 138.02 Duties and responsibilities
of Director. | 138.04 Vacancy in office; Acting
Director. |

CROSS REFERENCES

Department of Human Resources - see CHTR. Art. XIV

138.01 ESTABLISHMENT OF DEPARTMENT; DIRECTOR APPOINTED.

(a) There is hereby established a Department of Human Resources to be headed by the Director of Human Resources.

(b) The Department of Human Resources shall be an administrative department of the City as created by Charter change passed November 6, 2001. The Mayor shall appoint the Director of Human Resources. The Director shall serve at the pleasure of the Mayor and may be removed by the Mayor.
(Ord. 0033-2011. Passed 2-22-11.)

138.02 DUTIES AND RESPONSIBILITIES OF DIRECTOR.

- (a) The duties and responsibilities of the Director of Human Resources are:
- (1) Responsible for coordinating recruitment;
 - (2) Administering the classification and pay plan;
 - (3) Assisting with collective bargaining;
 - (4) Maintaining personnel files;
 - (5) Identifying training needs, and locating training resources;
 - (6) Administering benefit programs and human resource policy;
 - (7) Ensure compliance with legislative actions and administrative rulings.

- (b) Other powers, duties and functions shall be as follows:
- (1) Creation and maintenance of a centralized employee records system under the control of the Director of Human Resources with exception of payroll records as maintained by the office of the Director of Finance.
 - (2) Creation and implementation of a comprehensive set of personnel policies and procedures in compliance with all state and federal regulations.
 - (3) Make recommendations for changes to said personnel policies and procedures for employees of the City of Gahanna subject to the approval of the Mayor.
 - (4) Creation and implementation of an employee evaluation system with the approval of the Mayor.
 - (5) Administration, coordination and monitoring of employee benefit programs.
 - (6) Oversight of Workers' Compensation claims.
 - (7) Assist in all labor relations matters including labor negotiations, grievance arbitrations, hearings before the Civil Service Commission and the State Employment Relations Board.
 - (8) Any other duties as prescribed by the Mayor.
(Ord. 0033-2011. Passed 2-22-11.)

138.03 ADDITIONAL EMPLOYMENT AND PUBLIC OFFICE PROVISIONS FOR DIRECTOR.

The Director of Human Resources shall not hold any other public office or employment that shall be incompatible with the office of Director of Human Resources as determined by the Mayor. (Ord. 0033-2011. Passed 2-22-11.)

138.04 VACANCY IN OFFICE; ACTING DIRECTOR.

The Mayor may designate an Acting Director to serve in the event of a vacancy in the office or the temporary absence or disability of the Director of Human Resources, and such Acting Director shall exercise all the powers, duties and functions of the Director of Human Resources.
(Ord. 0033-2011. Passed 2-22-11.)

**CHAPTER 139
Police Department**

- 139.01 Accident report; fee for copy.**
- 139.02 Reserve Police.**
- 139.03 Mutual assistance.**
- 139.04 Contraband seizure.**

CROSS REFERENCES

Police Department - see CHTR. 5.13
 Original appointment; probationary period and age - see Ohio R.C. 143.20, 143.23, 143.31
 Reductions, suspensions and removals - see Ohio R.C. 143.27 et seq., 737.12
 Sick leave - see Ohio R.C. 143.29
 Civil service application - see Ohio R.C. 143.33, 737.051, 737.10, 737.11
 Auxiliary police unit - see Ohio R.C. 737.051, 737.06

139.01 ACCIDENT REPORT; FEE FOR COPY.

Fees for accident reports shall be charged pursuant to Section 133.08.
 (Ord. 0047-2004. Passed 4-5-04.)

139.02 RESERVE POLICE.

- (a) Definitions. The following words and phrases, when used in this section shall have the meaning herein described:
- (1) "G.P.R." means Gahanna Police Reserve.
 - (2) "Member" means a duly appointed, qualified and acting reserve police officer.
 - (3) "OPOTA" means Ohio Peace Officer Training Academy.
- (b) Rights.
- (1) The member is a volunteer and is accordingly not entitled to any contractual rights or City benefits.
 - (2) Each GPR member may be relieved of duty for any reason whatsoever solely at the discretion of the Chief of Police and/or the Director of Public Safety.
- (c) Requirements.
- (1) All applicants for appointment to the Gahanna Police Reserve must be certified through OPOTA and pass a full background check and polygraph, with documentation certified prior to appointment.

- (2) All members are required to put in 16 hours per month on duty.
- (3) All members shall read and sign all general orders and are to be held to the same professional standards as the full-time officers.

(d) Duties. The Gahanna Police Reserve is hereby created, and shall hereinafter be designated as the Gahanna Police Reserve (G.P.R.). Members of the G.P.R. shall be commissioned and shall have the general powers and duties conferred upon Gahanna police officers, as provided by law, subject to the following exceptions:

- (1) Members, regardless of rank, shall be subordinate to regular members of the Gahanna Police Department, as directed by the Chief of Police.
- (2) Members must attend all mandatory training in accordance with the Ohio Peace Officers Training Council annual directives. Such training will be directed by the Chief of Police at no cost to the reserve officer.
- (3) Members will attend all meetings, and no member shall miss more than two consecutive meetings, unless just cause is shown.
- (4) Firearms.
 - A. All members shall be properly instructed in the use of firearms and shall be qualified by the Firearms Instructor.
 - B. Any member reported for misuse or mishandling of firearms shall be called before, and disciplined by, the Chief of Police and the Director of Public Safety.
 - C. Reserve members, while on duty, shall carry only weapons prescribed by the Chief of Police. Such weapons shall belong to the members and shall be registered with the Chief of Police; provided, however, that the City may provide weapons in lieu of, or in addition to, the heretofore prescribed weapons.

(e) Organization.

- (1) The G.P.R., during both training and actual service, shall be directed and supervised by the Chief of Police.
- (2) The G.P.R. shall consist of persons who are twenty-one years of age or older.
- (3) Applications. All applicants shall be checked and approved by the Chief of Police and, upon further approval of the Director of Public Safety be appointed.
- (4) A member shall be considered on duty when he/she is actually in uniform on assignment; when he/she is carrying out an order from his superior, whether in uniform or not; or when he/she is operating motor vehicle equipment owned by the Municipality.
- (5) Each member shall be paid one dollar (\$1.00) per year via City check.
(Ord. 0092-2009. Passed 5-4-09.)

139.03 MUTUAL ASSISTANCE.

The Director of Public Safety is hereby authorized and directed to enter into a mutual police aid agreement with the various political subdivisions located in Franklin County, for the purpose of providing mutual assistance in the interchange and use of police equipment and personnel in cases of emergencies; the agreements are subject to the provisions as set forth in Section II of the original copy of Ordinance 46-72.
(Ord. 142-90. Passed 8-21-90.)

139.04 CONTRABAND SEIZURE.

(a) The Mayor is authorized and directed to accept cash, vehicles, and other property from the Common Pleas Courts of the State of Ohio in accordance with the Contraband Seizure Forfeiture Act Ohio R.C. 2933.43; however, any acceptance of real estate by the Mayor shall be subject to approval by ordinance of Council.

(b) The Mayor is hereby authorized and directed to place all cash received into a special Law Enforcement Trust Fund with the City Director of Finance, to be used solely for law enforcement purposes as directed by Council.

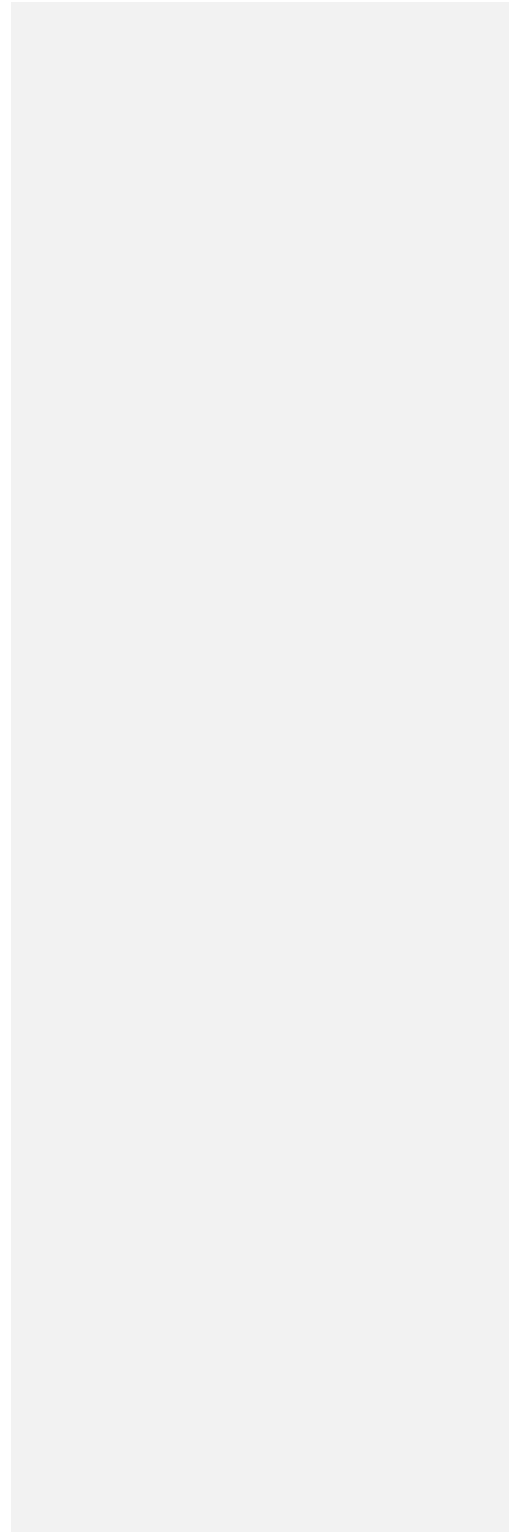
(c) All vehicles and property asserted or brass tagged to the Gahanna Police Department shall be used solely for law enforcement purposes, or sold and, if sold, the proceeds from the sale shall be disposed of in the order as directed in Ohio R.C. 2933.43(D)(1), (2), (3), (4), inclusive with the balance deposited in the special Law Enforcement Trust Fund, as provided in Ohio R.C. 2933.43(D)(4).
(Ord. 142-90. Passed 8-21-90.) (See Administrative Code Section 133.091.)

CHAPTER 141
Fire Department

EDITOR'S NOTE: There are no sections in Chapter 141. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Fire Department - see CHTR. 5.14
Fire protection contracts - see Ohio R.C. 9.60



**CHAPTER 143
Department of Law**

- 143.01 Duties.**
- 143.02 Responsibilities not limited by chapter.**
- 143.03 Part-time position.**
- 143.04 Assistants.**
- 143.05 Special counsel.**

CROSS REFERENCES

Appointment of City Attorney - see CHTR. Art. X, Sec. 10.01
 Qualifications of City Attorney - see CHTR. Art. X, Sec. 10.02
 Duties of City Attorney - see CHTR. Art. X, Sec. 10.03

143.01 DUTIES.

(a) General. The City Attorney shall do any and all acts necessary to accommodate the City in the performance of its functions as a Charter city and shall perform such other duties consistent with powers of the Office of City Attorney, which are prescribed by Charter, Council or laws of the City.

(b) Representation of Officials/Litigation. The City Attorney shall provide advice and legal representation to the City and all elected and appointed officials and employees of the City, in their official capacities, in any litigation in which the City and/or elected and appointed officials and employees, in their official capacities, are parties.

(c) Availability. The City Attorney shall be available at all times to advise elected and appointed officials of the City on City matters. In addition, the City Attorney or his or her qualified assistant shall attend all regular and special Council meetings and all sessions of Mayor's Court. The City Attorney or his or her qualified assistant shall upon request attend meetings of the Planning Commission, Board of Zoning and Building Appeals, Civil Service Commission and meetings of regular or special Council Committees or Planning Commission workshop sessions.

- (d) Instruments. The City Attorney shall:
- (1) Prepare all contracts, bonds and other instruments in which the City is concerned;
 - (2) Render opinions to City officials pertaining to City business, provided such requests are reduced to and submitted in writing;
 - (3) Prepare, assist in preparation of, or review all, ordinances, resolutions and other legal documents pertaining to the business of the City.

(e) The City Attorney shall not perform any professional work unrelated to the business of the City in any facilities of the City or with any equipment or staff of the City, provided that the City Attorney may use the City's phone facilities for matters reasonably necessary to his or her private practice which does not conflict with the public obligation of the City Attorney and may similarly use the City's legal research facilities consistent with the use allowed to the general public. (Ord. 57-83. Passed 8-2-83.)

143.02 RESPONSIBILITIES NOT LIMITED BY CHAPTER.

The responsibilities conferred by this chapter are in addition to any other duties and responsibilities conferred by Federal law, State statute or Municipal ordinance, and nothing in this chapter shall be construed to modify or limit such authority, powers, duties and responsibilities of any officer or public official as may be provided by law.
(Ord. 57-83. Passed 8-2-83.)

143.03 PART-TIME POSITION.

(a) Council hereby determines that effective January 2, 2008, the position of the City Attorney shall be a part-time position and compensation is hereby authorized and directed in the amounts and on the effective dates declared below:

Effective January 2, 2008: Sixty thousand dollars (\$60,000) per annum, payable at regular pay periods.

Effective January 2, 2009: Sixty-one thousand eight hundred dollars (\$61,800) per annum, payable at regular pay periods.

Effective January 2, 2010: Sixty-three thousand six hundred fifty-four dollars (\$63,654) per annum, payable at regular pay periods.

Effective January 2, 2011: Sixty-five thousand five hundred sixty-three dollars (\$65,563) per annum, payable at regular pay periods.

Payment by the City to the Public Employee Retirement System for the benefit of the office holder as prescribed by law shall also be made. It is further stated herein that compensation means salary; any other items, such as staffing, office space, and/or hospitalization, if any shall be determined at a later time.

(b) Effective January 2, 2012, the position of the City Attorney shall be a part-time position to be paid compensation in the amount of sixty five thousand five hundred sixty three dollars (\$65,563) per annum, payable at the regular pay periods, together with payment by the City to the public Employees Retirement System for the benefit of the office holder as prescribed by law. It is further stated herein that compensation means salary; and other items, such as staffing, office space, and/or hospitalization, if any, shall be determined at a later time.
(Ord. 0136-2011. Passed 7-5-11.)

143.04 ASSISTANTS.

(a) The City Attorney may appoint assistants.

(b) Council may authorize the employment by contract of persons to prosecute cases in Franklin County Municipal Court and in Gahanna Mayor's Court.
(Ord. 64-96. Passed 3-19-96.)

143.05 SPECIAL COUNSEL.

(a) From time to time, as Council determines as necessary or approves the recommendation of the City Attorney, Council may authorize the employment of special counsel to assist the City Attorney in the representation of the City or City officials or employees, in their official capacities.

(b) Compensation for such special counsel shall be paid from money specially appropriated for such services.
(Ord. 57-83. Passed 8-2-83.)

**CHAPTER 145
Planning Commission**

145.01 Powers and duties.

**145.02 Thoroughfare Plan.
145.03 Appointments.**

CROSS REFERENCES

- Mayor’s power to appoint and remove members - see CHTR. Art. III, Sec. 3.04; Art. XI, Sec.11.01
- Composition and term; vacancy in office - see CHTR. Art. XI, Sec. 11.01
- Organization; meetings - see CHTR. Art. XI, Sec. 11.02
- Powers and duties - see CHTR. Art. XI, Sec. 11.03
- Mandatory referral to Commission - see CHTR. Art. XI, Sec. 11.04
- Public hearings by Council - see CHTR. Art. XI, Sec. 11.05
- Action by Council - see CHTR. Art. XI, Sec. 11.06

145.01 POWERS AND DUTIES.

The Planning Commission shall have the powers and duties as prescribed by Section 11.03 of the Charter.
(Ord. 0199-2007. Passed 10-1-07.)

145.02 THOROUGHFARE PLAN.

(a) The Thoroughfare Plan, November 21, 2006 by DMJM Harris, Inc. was adopted by Ord. 0004-2007 to be a part of the 1977-78 Master Plan Update. A copy of said Thoroughfare Plan shall be kept on file with the Clerk of Council for inspection by the public.

(b) The Thoroughfare Plan shall be formally evaluated every ten years and a general review shall be performed every five years.
(Ord. 0199-2007. Passed 10-1-07.)

145.03 APPOINTMENTS.

Appointments shall be made in the manner outlined in Charter. It is advisable, but not mandatory, that three appointments be design professionals and selected from the following disciplines: landscape professional, arborist, architect, building design and/or construction professional, engineer, graphic designer or planner.
(Ord. 0199-2007. Passed 10-1-07.)

CHAPTER 147
Board of Zoning and Building Appeals

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|---------------|---------------------------------|---------------|--------------------------------|
| 147.01 | Jurisdiction. | 147.04 | Fees. |
| 147.02 | Organization and powers. | 147.05 | Disposition of appeals. |
| 147.03 | Appeals to the Board. | | |

CROSS REFERENCES

- Mayor's power to appoint and remove members - see CHTR. Art. III, Sec. 3.04; Art. XII, Sec. 12.01
- Composition and term; vacancy - see CHTR. Art. XII, Sec. 12.01
- Organization - see CHTR. Art. XII, Sec. 12.02
- Jurisdiction - see CHTR. Art. XII, Sec. 12.03
- Meetings and procedures - see CHTR. Art. XII, Sec. 12.04
- Appeal; public hearing - see CHTR. Art. XII, Sec. 12.05

147.01 JURISDICTION.

The Board of Zoning and Building Appeals (hereinafter "Board") shall have the powers and duties as prescribed by Article XII of the City Charter, and any other duties prescribed by state law or City ordinance, which are not in conflict with the City Charter. (Ord. 0179-2002. Passed 10-7-02.)

147.02 ORGANIZATION AND POWERS.

(a) Organization. The Board of Building and Zoning Appeals shall, at its organizational meeting, elect from its members a chairman and a vice chairman. These officers shall serve a term of one (1) year. The Clerk of Council shall serve as the Secretary of the Board, shall serve as the official custodian of its records, and shall perform such duties for the Board as are required. All filings pertaining to official Board actions and appeals shall be submitted to the Clerk. A duly appointed Deputy Clerk of Council may perform the duties prescribed for the Clerk under this section.

(b) Powers. The Board may adopt any rules necessary to implement and enforce Article XII of the City Charter and the City Codified Ordinances. The Board may issue subpoenas for the taking of testimony or production of documents pertaining to matters before it. The Board may require any City official or employee it considers to have information pertinent to an appeal to appear before it. (Ord. 0179-2002. Passed 10-7-02.)

147.03 APPEALS TO THE BOARD.

(a) Appellant's Requirements. Appeals shall be in writing, in the form prescribed by law, and shall be filed with the Clerk of Council within 30 days from the date of the action being appealed. The following items shall be filed with each appeal:

- (1) A concise statement of the reason or legal basis for the appeal, along with a citation of the applicable Code section(s) signed by the appellant or agent, with the appellant or agent's printed name, address and telephone number.
- (2) A listing of proposed exhibits, not already contained in the record, which shall be signed by the appellant or agent, along with 10 copies of each of the exhibits;
- (3) An affidavit of the applicant listing the names and addresses of all property owners contiguous to, and directly across the street from the property, as appearing on the Franklin County Auditor's current tax list;
- (4) The filing fee required by Section 147.04;

(b) Appellee's Requirements. The City official, employee or body whose decision is under appeal is deemed the appellee and is a party to the appeal.

Within seven (7) days of notification of an appeal, the appellee shall transmit to the Clerk of Council the records pertaining to the matter under appeal. Further, the Board may require the appellees to provide a written statement describing the basis for the decision under appeal.

(c) Interested Party Requirements. Any other person or organization wishing to intervene in the appeal as an interested party, shall place the Board on notice of the proposed intervention. The notice shall be in writing, or shall be in person and on the record, and shall identify the interested party, the specific interest of the party in the action, and provide a name, mailing address, and telephone number where the party or the party's agent may be contacted.

(d) Filing and Transmittal of Appeals. The Clerk of Council shall review the appellant's filings to ensure this section is complied with, and shall advise the appellant. Upon compliance with this section, the Clerk shall forward to the Board members all documents filed by the appellant. The Clerk shall also forward to the Board members the official record of the proceedings below.

(e) Notification Procedures. At least five days prior to the hearing, the Clerk of Council shall notify in writing the following persons:

- (1) The appellant;
- (2) The appellee(s);
- (3) Any interested parties of record, including all those persons who testified in any public hearings in opposition to the appellant's position;
- (4) All property owners identified in accordance with Section 147.03(a)(3).

(f) Hearing Procedures. If a party wishes to have a stenographer present at hearing, the party shall provide at least two days' prior written notice to the Clerk. The party requesting the stenographer is responsible for the cost of such stenographer. The Board may have a stenographer present at a hearing. If a stenographer is present in accordance with this section, the stenographer's transcript shall be the official record. If no stenographer is present, the Clerk's minutes serve as the official record of the hearing. Any matter concerning hearing procedures not governed herein shall be governed by the Board's rules.

(g) Standards. The appellant or proponent of a position which shall be before the Board has the burden of proof by a preponderance of the evidence. The Board shall consider all relevant evidence brought before it, provided however, evidence not disclosed as required may only be admitted in accordance with the Board's rules. Evidence not admitted into the record by the Board may be proffered into the record by a party.
(Ord. 0179-2002. Passed 10-7-02.)

147.04 FEES.

- (a) The filing fee for appeals is as follows:
 - (1) Single Family Residential District: \$50.00.
 - (2) All other districts: \$500.00.

(b) Fees are not refundable, unless the Board orders the fee waived due to special circumstances. (Ord. 0179-2002. Passed 10-7-02.)

147.05 DISPOSITION OF APPEALS.

In any appeal of an order, adjudication, or decision, the Board may:

- (a) Affirm;
- (b) Reverse;
- (c) Modify; or
- (d) Remand with instructions to the City official, employee or body for further consideration and/or action.
(Ord. 0179-2002. Passed 10-7-02.)

CHAPTER 148
Department of Planning and Development

EDITOR'S NOTE: The Gahanna Urban Renewal and Development Plan was adopted by Ordinance 30-78, passed March 20, 1978 and amended by Ordinance 89-78, passed September 19, 1978.

<p>148.01 Finding of blight and definitions.</p> <p>148.02 Director of Planning and Development.</p> <p>148.03 Contents of urban renewal or urban redevelopment plans and the relocation plan.</p> <p>148.04 Public hearing and Council action.</p> <p>148.05 Implementation of urban renewal or redevelopment projects.</p> <p>148.06 Building permits restricted in project areas.</p> <p>148.07 Previous proceedings.</p>	<p>148.08 Transfer of City interests in realty without competitive bidding.</p> <p>148.09 Leases authorized without bidding; conditions.</p> <p>148.10 Planning Guide adopted.</p> <p>148.11 Eminent domain.</p> <p>148.12 Fees.</p> <p>148.13 Fees; exemptions.</p> <p>148.14 Fees; refunds.</p>
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CROSS REFERENCES

Appropriation of property - see Ohio R.C. Ch. 163
 Transfer of realty interests - see Ohio R.C. 721.28
 Urban Renewal Debt Retirement Fund - see Ohio R.C. Ch. 725
 Urban Redevelopment Tax Increment Equivalent Fund - see ADM. 133.06

148.01 FINDING OF BLIGHT AND DEFINITIONS.

- (a) It is found and determined that:
- (1) There exists within the City, blighted areas of the nature defined in subsection (b)(1) hereof which constitute a serious and growing menace presently or potentially injurious and inimical to the public health, safety, morals and general welfare of the residents of the City.
 - (2) That the existence of such areas:
 - A. Contributed substantially and increasingly to the spread of disease, crime or to losses by fire and accident, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire and accident protection, or for other public services and facilities;

- B. Constitutes an economic and social liability; and
 - C. Substantially impairs and arrests the sound growth of the community; retards the provision of housing accommodations, aggravates traffic problems, and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities;
- (3) That this menace is beyond remedy and control solely by regulatory processes and exercise of the police power, and cannot be dealt with effectively by the ordinary operation of private enterprise without the aids herein provided;
 - (4) That the elimination in whole or in part of blighted areas, and the prevention of occurrence or recurrence of such areas by redevelopment and by the conservation, rehabilitation and reconditioning, to the extent feasible, of the salvageable portions of such areas, and by other activities pursuant to Urban Redevelopment or Urban Renewal as defined herein, are public uses and purposes for which public money may be expended and private property acquired by purchase, by donation and by appropriation, and are governmental functions of concern to the City, and require the exercise of the powers of government granted to the City by the provisions of Article XVIII of the Ohio Constitution;
 - (5) That the necessity in the public interest and general welfare, for the provisions of this chapter, is hereby declared as a matter of legislative determination.
- (b) As used in this chapter:
- (1) "Blighted area" means an area requiring urban renewal or redevelopment within the City declared by ordinance as containing any of the following which either individually or in combination substantially impairs or arrests the sound growth, retards the provision of housing accommodations, or constitutes an economic or social liability, and is a menace to the public health, safety, morals or welfare of the area or the City in its present condition and use:
 - A. Deteriorated or deteriorating structures, whether occupied, vacant or abandoned;
 - B. Buildings or other structures that have been destroyed or partially destroyed or damaged and have not been repaired or restored to comply with the City's building and other applicable codes;
 - C. Land that is extensively littered with demolition or other debris, scrap, refuse or solid waste;
 - D. Defective, inadequate or inefficient street layout, or inadequate, nonexistent or defective access to improved streets;
 - E. Inadequate or nonexistent public utility facilities for water or sewage within the area, or failure of residential units to connect to water or sewer facilities reasonably available within the area;
 - F. Unsanitary or unsafe conditions;
 - G. Faulty lot or parcel layout in relation to size, adequacy, accessibility or usefulness;

- H. Diversity of existing land uses or uses of land in a manner that is detrimental to the orderly development and use of land in the area and surrounding areas;
 - I. The existence of public or private uses of land within or near the area for sanitary landfills (whether actively used or inactive), dumps, railroad tracks, lines, bridges, tunnels or facilities, limited access highways, airports or landing fields, junk or salvage yards, or sewage treatment facilities, or land, the contours of which have been both unnaturally and detrimentally affected;
 - J. Inadequate storm water drainage, conditions conducive to flooding or unhealthful retention of storm water, sewage or water of undeterminable origin;
 - K. Tax or special assessment delinquency exceeding the fair market value of the land;
 - L. Defective or unusual conditions in respect of real property titles;
 - M. The existence of conditions which endanger life or property by fire or other causes;
 - N. The existence of conditions which are conducive to ill-health, or the transmission of disease, including but not limited to conditions which foster and promote the habitation of rodents, vermin, mosquitos and other harmful insects;
 - O. Inadequate provision for ventilation, light, air, sanitation or open spaces;
 - P. The location of land near sources of noise of sufficient intensity to render as undesirable its use for residential purposes, including but not limited to such sources as airports, limited access highways and industrial or manufacturing plants.
- (2) "City" means the City of Gahanna, Ohio.
 - (3) "Director" means the Director of Planning and Development of the City of Gahanna, Ohio.
 - (4) "Redeveloper" means any person or entity, purchasing or leasing property from the City within a blighted area, or one owning property located within such area and entering into a conforming agreement with the City in consideration of being permitted by the City to retain title to such property.
 - (5) "Rehabilitation" or "conservation" or "reconditioning" includes those undertakings and activities identified in subsection (9), items B, C, D, E, G and H of this section.
 - (6) "Solid waste" means such unwanted residual solid or semisolid material as results from industrial, commercial, agricultural and community operations, including earth or material from construction, mining, or demolition operations and slag and other substances, including but not limited to garbage, combustible and noncombustible material, street dirt and debris.
 - (7) "Urban renewal" or "urban redevelopment" means the City activities for developing, undertaking and carrying out of urban renewal or redevelopment programs and projects, including all planning and other related activities of the City in connection therewith, or any part of such activities.
 - (8) "Urban renewal plan" or "urban redevelopment plan" means a plan as it exists from time to time for the urban renewal or redevelopment of a blighted area or part thereof.

- improvements.
- (9) "Urban renewal project" or "urban redevelopment project" or "project" means undertakings and activities of the City, in accordance with urban renewal or urban redevelopment plans in a blighted area for the elimination and for the prevention of the development or spread of blight, and may involve clearance and redevelopment in a blighted area, or rehabilitation and conservation in a blighted area, or any combination or part thereof. Such undertakings and activities in a blighted area may include but not limited to:
- A. Acquisition of real property, or interests and rights therein, including the acquisition of air rights by purchase or condemnation.
 - B. Demolition and removal of buildings, structures and
 - C. Installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out the urban renewal or urban redevelopment plan.
 - D. Disposition of property by sale, lease or otherwise, for uses in accordance with the urban renewal or urban redevelopment plan.
 - E. Encouraging and assisting interested citizens in a private or government program of voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan.
 - F. Construction of foundations and platforms necessary for the appropriate provision of air rights sites, and the preparation of land for development or redevelopment, including but not limited to clearance, grading, pilings, foundations and platforms.
 - G. Acquisition and repair or rehabilitation, and resale, of structures by the City or the purchaser under controls established by the City for dwelling use or related facilities.
 - H. Relocating within a blighted area a structure which the City determines to be of historic value and which will be disposed of to a public body or a private nonprofit organization which will renovate and maintain such structure for historic purposes.
(Ord. 0120-2007. Passed 6-18-07.)

148.02 DIRECTOR OF PLANNING AND DEVELOPMENT.

(a) There is hereby reestablished the position of Director of Planning and Development as a full-time position, to be appointed by the Mayor.

(b) The Department and the Director shall have the following powers, duties and functions:

- (1) Maintain a continuing evaluation of the sources available for retention, development, redevelopment or expansion of residential dwelling units and industrial and commercial facilities in the City through both public and private agencies.
- (2) Consult with the public or private agencies or authorities in the preparation of studies of human and economic needs or advantages relating to economic and community development and redevelopment.

- (3) Assist the Planning Commission in the preparation and maintenance of comprehensive plans and recommendations for the promotion of more desirable economic patterns of growth within the City.
- (4) Disseminate information concerning residential, industrial, commercial, governmental, educational, cultural, recreational and other advantages and attractions of this City.
- (5) Provide technical assistance to public and private agencies in the preparation of promotional programs designed to attract business.
- (6) Implement urban renewal and urban redevelopment plans and projects authorized and approved by ordinance by the Council.
- (7) Prepare plans and studies concerning all matters affecting development of the City, including but not limited to urban renewal and urban redevelopment plans.
- (8) Stimulating, promoting, and coordinating economic development and redevelopment within the City.
- (9) Acting as an ex officio representative of the City with any corporation or association organized for the promotion and development of economic growth within the City, including but not limited to: the Chamber of Commerce, Community Improvement Corporation, and trade associations.
- (10) ~~Shall be responsible for the issuance of all zoning and building permits and shall supervise the administration and enforcement of the Zoning and Building Ordinances.~~
- (11) Recruitment of new job-producing businesses to Gahanna for industrial and existing commercial areas;
- (12) To recommend Gahanna's economic reality and development promotional efforts to accomplish;
- (13) To provide information to investors/bankers for investment in the right businesses to operate and succeed in Gahanna;
- (14) To visit and assist existing businesses on an ongoing basis;
- (15) To assist in simplification of the process for interested businesses to get through boards and commissions and the permit and zoning procedure;
- (16) To utilize key people in community as resources for special projects, e.g., Gahanna Chamber, Community Improvement Corporation, groups and individuals.
- (17) Such other powers, duties, and functions as provided by ordinance or resolution adopted by the Council .
(Ord. 0120-2007. Passed 6-18-07.)

148.03 CONTENTS OF URBAN RENEWAL OR URBAN REDEVELOPMENT PLANS AND THE RELOCATION PLAN.

In any urban renewal or redevelopment plan initiated and prepared after the effective date of this section, the Director of Planning and Development shall include, but not be limited to, the following:

- (a) A description of the boundaries of the project area;
- (b) A land-use plan showing the location, character and extent of public and private land ownership, utilities, use and occupancy existing and proposed within the area;

- (c) A delineation of areas of land acquisition, demolition and removal of structures, or of rehabilitation, conservation or reconditioning of existing structures, if any, as may be proposed to be carried out in the project area;
- (d) A statement indicating the controls and the use, development and building restrictions to be placed on the property in the project area, to prevent a recurrence of slum or blighted conditions;
- (e) A report showing the proposed changes, if any, in the building, housing or zoning ordinances or maps, and in the layout of streets or utilities;
- (f) A statement from the appropriate City official or officials setting forth the capability of the City to finance the portion of the project costs to be contributed by the City;
- (g) A statement of the relationship of such plan to the definite objectives of the City respecting appropriate land uses, improved traffic conditions and transportation, public utilities, recreation and community facilities and other public improvements;
- (h) A proposed chronology of events and a narrative of any anticipated scheduling difficulties;
- (i) A summary of any previous studies and plans concerning matters directly affecting the territory.
- (j) A relocation plan which shall:
 - (1) Set forth a feasible method for the relocation of households to be displaced by the urban renewal or urban redevelopment project; and
 - (2) Indicate whether there are or are being provided in the blighted areas, or in other areas not generally less desirable in regard to public utilities and public and commercial facilities, and at rents or prices within the financial means of the individuals and families to be displaced from the urban renewal or redevelopment project area decent, safe and sanitary dwellings equal in number to the number of such displaced individuals or families, and available to them and reasonably accessible to their place of employment. The Mayor may submit such plans, prepared by the Director of Planning and Development to Council in the appropriate format.
(Ord. 0120-2007. Passed 6-18-07.)

148.04 PUBLIC HEARING AND COUNCIL ACTION.

(a) After the effective date of this section, the Council, before approving an urban renewal plan or urban redevelopment plan, or amendments to existing plans, shall refer all such plans to the Planning Commission pursuant to Section 11.05 of the Charter of Gahanna which may, but need not hold public hearings on the matter. Council shall then hold a public hearing on the plan, which hearing may be adjourned from time to time. Notice of the date, time and place of such hearing shall be published in a newspaper of general circulation in the City once a week for two consecutive weeks on the same day of the week, and at least five full days shall elapse between the second publication and the date set for the public hearing. The notice shall also contain a description of the project area by its location in relation to highways, streets, watercourses or other natural or artificial boundaries, and shall also designate the place at which the plan, maps, plats and other materials describing the project area are and will be available for public inspection. The failure to give such notice or a defect in the notice given under this section shall not invalidate any urban renewal or redevelopment plan adopted by Council.

The public hearing may be held at a regular or special meeting of Council.
(Ord. 181-2001. Passed 9-4-01.)

(b) Following completion of a public hearing held pursuant to subsection (a) hereof, Council may either approve or reject the urban renewal or redevelopment plan or make modifications and approve the plan as modified. Approval of an urban renewal or redevelopment plan shall be given by ordinance adopted pursuant to the provisions of the Charter of the City.

(c) The ordinance adopted by Council approving an urban renewal or redevelopment plan shall include the following findings:

- (1) Specific findings of the fact as to the conditions in the blighted area.
- (2) That the size and character of the area and the location of elements of blight in the area make it appropriate for urban renewal activities.
- (3) That the proposals for the proper relocation of individuals and families displaced in carrying out the project in decent, safe and sanitary dwellings in conformity with acceptable standards are feasible and can be reasonably and timely effected to permit the proper prosecution and completion of the project; and that such dwellings or dwelling units available or to be made available to such displaced individuals and families, are not generally less desirable in regard to public utilities and public and commercial facilities than the dwellings of the displaced individuals and families in the project area, are available at rents or prices within the financial means of the displaced individuals and families, and are reasonably accessible to their places of employment.
- (4) That the plan for the blighted area will afford maximum opportunity consistent with the sound needs of the community as a whole for the rehabilitation or redevelopment of the blighted area.
- (5) That the plan conforms to the existing comprehensive plan for the overall development of the City.
(Ord. 85-78. Passed 9-19-78.)

148.05 IMPLEMENTATION OF URBAN RENEWAL OR REDEVELOPMENT

(a) When authorized by Council, and moneys appropriated, the Director of Planning and Development shall cause the City to acquire by negotiation the parcels of land in the blighted area in accordance with the urban renewal or redevelopment plan. In the event that appropriation of property is necessary, Council shall initiate and carry out the proceedings in accordance with the City Charter and applicable provisions of Ohio R.C. Chapter 163, and the City Attorney shall be responsible for implementing the appropriation of the property. Further, he shall then initiate such City activities as may be necessary to carry out the urban renewal or redevelopment project, including but not limited to the: demolition, rehabilitation or repair of structures (whether voluntarily by the private owners thereof or by the City); the removal of pavement, sidewalks, lighting, debris, scrap, solid wastes, capping, removal and relocation of City-owned utility lines; grading, construction of site improvements and supporting facilities, temporary lease, rental or permission to let others use structures or parcels of land while owned by the City; relocation activities and the enforcement of any applicable provisions of law or nonconforming agreements relative to building, zoning, platting; and the repair or rehabilitation of land and structures remaining in private ownership. This section shall not be construed to modify the authority of the Mayor, Director of Finance and Director of Public Service concerning purchases, contracts, expenditures, credits and the like.

PROJECTS.

(b) After determination that real property is not needed for any municipal purpose, other than the continuing municipal purpose of preventing the recurrence of blight, Council may authorize, by ordinance, the transfer, lease or conveyance of any real property in accordance with and for the purposes of the plan, subject to such lawful terms, conditions, restrictions and covenants (including covenants running with the land) to assist in carrying out the purposes of the plan. The manner of disposition shall be prescribed by ordinance, and may be by negotiation, with or without any competitive bidding. If disposition is by way of competitive bidding for the sale, lease or other disposition of property, the competition and award may be on factors other than price alone. The Mayor shall execute, on behalf of the City, such instruments as may be necessary to transfer, lease or convey such real property in the form approved by the City Attorney and authorized by Council, which form shall include all covenants, if any, running with the land, including any portions of the plan incorporated by reference.

(c) If the owner of property in the project area is willing to make the use of his/her property conform to the urban renewal or redevelopment plan and Council finds and determines that the acquisition of the property by the City will not be necessary if so conformed, the Mayor, upon Council authorization, may enter into a conforming agreement upon such terms and security as may be authorized by Council. Such agreement may provide for the acquisition of property upon failure of the property owner to keep his/her agreement after notice from the City specifying such failure.

(d) In the execution of urban renewal or redevelopment projects, Council may authorize, as to any appropriate projects or parts of projects, the employment of community improvement corporations, community redevelopment corporations, limited dividend housing corporations, and metropolitan housing authorities, as defined by the statutes of Ohio, and may authorize leases, conveyances and agreements with such corporations related to appropriate aspects of such projects to the full extent of the powers possessed by such corporations. (Ord. 0120-2007. Passed 6-18-07.)

148.06 BUILDING PERMITS RESTRICTED IN PROJECT AREAS.

After approval of an urban renewal or redevelopment plan by Council, no building permit shall be issued for the improvement or enlargement of any existing structure, or for the construction of a new structure, in the clearance and redevelopment portion of the project area, except that such permit may be issued for the repair of an existing structure when such repair is deemed necessary for the immediate preservation of the public health or safety or is required by the redeveloper in accordance with the redevelopment plan. (Ord. 85-78. Passed 9-19-78.)

148.07 PREVIOUS PROCEEDINGS.

All previous proceedings with respect to urban renewal or urban redevelopment projects and plans within the City, including all official actions by Council of the City, are hereby ratified and confirmed. The provisions of this chapter, except Sections 148.01 and 148.06, shall not apply to urban renewal and urban redevelopment projects and plans, and proceedings pending under such plans and projects, initiated and approved by Council prior to the enactment of this section. The Council, Mayor or the Director may elect to follow all or any part of the provisions of Section 148.05 in the implementation of such previously approved urban renewal and urban redevelopment projects and plans. (Ord. 85-78. Passed 9-19-78.)

148.08 TRANSFER OF CITY INTERESTS IN REALTY WITHOUT COMPETITIVE BIDDING.

(a) Notwithstanding the bidding requirements of Chapter 135 of the Codified Ordinances, the Mayor or his designee, with the approval of Council, is hereby authorized to negotiate the sale, lease, transfer or conveyance of all or part of the interests in any real or personal property for uses in accordance with an urban renewal plan without competitive bidding. No land shall be sold, leased, transferred or conveyed by the Mayor except pursuant to an ordinance passed by Council authorizing such sale, lease, transfer or conveyance; and such ordinance shall prescribe the detailed terms and conditions upon which the sale, lease, transfer or conveyance shall be made, and the covenants or restrictions, if any, to be contained in any deed for real property from the City as grantor to the grantee thereof.

(b) Pending the use or sale, lease, transfer or conveyance of property in a project area, the Mayor may temporarily rent such property, without competitive bidding, for such uses and purposes as he may determine to be desirable, even though not in conformity with an applicable urban renewal or redevelopment plan.

(c) The Mayor or his designee, with the approval of Council, is hereby authorized to enter into any appraisal, market analysis, management or agency contracts without competitive bidding if he determines that such a contract is required or desirable in connection with the sale, lease, transfer or conveyance of real or personal property located within a project area. (Ord. 47-78. Passed 4-18-78.)

148.09 LEASES AUTHORIZED WITHOUT BIDDING; CONDITIONS.

The Mayor is authorized to enter into a lease contract upon the acquisition of the land by the City according to terms and conditions as he deems just, providing:

- (a) That the amount of the lease shall not be less than eighty-five dollars (\$85.00) per acre, per month, for a lease term of thirty (30) years nor less than sixty-five dollars (\$65.00) per acre, per month, for a lease term of thirty-five (35) years;
- (b) That the term of the lease shall not exceed thirty-five (35) years, however the lessee may acquire the property leased after thirty (30) years;
- (c) That prior to its execution, the lease be approved in form by the City Attorney;
- (d) That prior to its execution, the lease be approved by bond counsel;
- (e) That the Director of Planning and Development certify that the lease is consistent with the Urban Renewal and Redevelopment Plan of the City. (Ord. 0120-2007. Passed 6-18-07.)

148.10 PLANNING GUIDE ADOPTED.

Council hereby adopts the Planning Guide, 1990, Revised, November, 1990, as an official document of the City, and as a general planning guide for future development, and to serve as a technical reference supplement to the Master Development Plan of the City. The Planning Guide is attached to original Ordinance 203-90, as Exhibit A, and made a part herein. (Ord. 203-90. Passed 12-4-90.)

148.11 EMINENT DOMAIN.

(a) The City shall not use its power of eminent domain to appropriate, without the owner's consent, private property when the primary purpose for the appropriation is to promote private economic development and the appropriation is intended to result in long-term use of the property by another private person or entity.

(b) The provisions of this section shall not apply to the use of eminent domain where the property is located in a blighted area.

(c) The provisions of this section shall not apply to excess land appropriated in furtherance of a public use as permitted by Article XVIII, Section 10 of the Ohio Constitution.

(d) The provisions of this section shall not otherwise restrict the Council's authority to appropriate private land as necessary for public uses as permitted by Article XVIII, Sections 3, 4 and 5 of the Ohio Constitution and Chapter 719 of the Ohio Revised Code, except as outlined in subsection (a) hereof. (Ord. 0172-2005. Passed 9-19-05.)

148.12 FEES.

~~(a) Council shall by ordinance establish and annually adjust fees for all types of applications, permits and other specialized services provided by the Department of Planning and Development, which includes the Division of Building and Zoning, and such document shall be referred to as the "Development Fee Schedule". All fees are for the purpose of defraying the costs of preparing necessary maps, plats, reports, analyses, administration, legislation, notices, acquiring data, conducting surveys and other related work. The fee in effect on the date of receipt of any application shall be the fee charged; provided, however, the owners of all tax abated properties, irrespective of the date the initial application for abatement was filed, are subject to the annual fee outlined in the development fee schedule commencing in calendar year 2009.~~

~~(b) Any person desiring to do or cause to be done anything for which a fee is required by the Development Fee Schedule, shall upon application or prior to issuance pay to the Department through the cashier the fee prescribed by the then current Development Fee Schedule. The Development Fee Schedule shall be posted in the offices of the Department and shall be made available upon request.~~

~~(c) Park Fee.~~

~~(1) In addition to the fees and deposits required by other sections of the Codified Ordinances of Gahanna a park fee shall be paid by the developer in accordance with the following:~~

~~A. Residential~~

~~1. A single family dwelling shall be equal to a one dwelling unit.~~

~~2. Each unit in a two family dwelling shall be equal to one dwelling unit.~~

~~3. Each unit in a multi family dwelling shall be equal to one dwelling unit.~~

~~B. Non Residential~~

~~1. Each unit or room in an Extended Stay or Residential Hotel shall be equal to one dwelling unit.~~

~~2. Each unit or room in a family care facility or independent senior living facility shall be equal to one dwelling unit.~~

~~(2) Such park fee shall be as established in the Development Fee Schedule set forth in Section 148.12 of these Codified Ordinances.~~

~~(3) Such fee shall be collected prior to issuance of a certificate of occupancy.~~

~~(4) The fees so collected shall be deposited in a Park Fund for the improvement of recreational facilities within existing publicly owned and operated park facilities and the purchase of recreational equipment. Such funds shall not be used for the maintenance and operation expenses incurred by the Parks Department in the daily operation of park facilities.~~

~~(Ord. 0175-2014. Passed 12-15-14.)~~

~~76A Department of Planning and Development 148.14~~

148.13 FEES; EXEMPTIONS.

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~~— (a) — The Municipality of Gahanna, shall be exempt from fees in the development fee schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance. This exemption shall also not apply to the fees required for portions of private structures utilized by the Municipality of Gahanna. Fees shall be charged for the areas of buildings owned by the Municipality of Gahanna that are not used exclusively by the Municipality in accordance with the fees established in the development fee schedule.~~

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~~— (b) — Bona fide corporations not for profit, upon written request to Council, and upon approval by Council, shall be exempt from fees in the development fee schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance.~~

~~— (c) — Individuals or corporations claiming a hardship, upon written request to Council for a waiver or reduction of fees, and upon approval by Council, shall be exempt from or shall receive the approved reduction in the applicable fees in the development fee schedule, but must nevertheless secure the appropriate permits, file appropriate applications, and submit to inspections. This exemption shall not apply to fees that are paid to or shared with non-City employees under contract, by Code, or by Ordinance. (Ord. 0014 2011. Passed 2 7 11.)~~

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~~**148.14 FEES; REFUNDS.**~~

~~— (a) — All fees as enumerated in the development fee schedule are non-refundable except as otherwise denoted in this section.~~

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~~— (b) — A refund shall require a refund fee to cover the cost of making the refund and/or costs incurred. This refund fee shall be deducted from any amount to be refunded.~~

~~— (c) — An overpayment equal to or less than the refund fee shall be considered the refund fee and shall be added to the permit fee.~~

~~— (d) — Any refund of a permit application fee submitted for land, which is later determined to be located outside the city is subject to a refund fee.~~

~~— (e) — The Director of Planning and Development may waive the refund fee upon determination that the refund is necessary due to an error on the part of a city employee.~~

~~— (f) — The Director of Planning and Development shall not refund a fee upon determination that the refund is necessary due to an error on the part of an applicant. (Ord. 0120 2007. Passed 6 18 07.)~~

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CHAPTER 149
Civil Service Commission

EDITOR'S NOTE: Rules and regulations of the Civil Service Commission were adopted by Council by Ordinance 0141-2002, and amended by Ordinance 0208-2002, Ordinance 0154-2010, Ordinance 0203, Ordinance 0021-2014 and Ordinance 0013-2015.

149.01 Powers and duties.	149.06 Fees.
149.02 Present employees.	149.10 Subpoena power.
149.03 Organization.	149.20 Failure to appear.
149.04 Rules.	149.25 Settlements and withdrawals.
149.05 Appeals/grievances to the Commission.	149.30 Disposition of appeals/grievances.
	149.35 Further appeals.

CROSS REFERENCES

Charter provisions - see CHTR. Art. XIII
Civil service - see Ohio Const., Art. XV, §10
Civil Service Law - see Ohio R.C. Ch. 124

149.01 POWERS AND DUTIES.

The Civil Service Commission shall have the jurisdiction derived from Article XIII of the Charter, and the power, and duty to hear and decide appeals/grievances from administrative determinations pursuant to the provisions of the Civil Service Rules and Regulations as enacted by Council and the Codified Ordinances. The Commission shall have such other powers, duties, and functions as provided by ordinance and in accordance with applicable collective bargaining agreements. The City may, from time to time, contract with other public entities. (Ord. 0065-2012. Passed 4-2-12.)

149.02 PRESENT EMPLOYEES.

Any person who has served the City in a position included in the classified service for at least thirty days preceding the effective date of Ordinance 193-95 shall retain his position without examination until discharged, reduced, promoted or transferred in accordance with this chapter or the rules and regulations of the Civil Service Commission adopted hereunder. (Ord. 0065-2012. Passed 4-2-12.)

149.03 ORGANIZATION.

Council shall establish the date, time and place for the first meeting each year, at which the Civil Service Commission shall organize under a Chairman and Vice Chairman. The Mayor shall preside at this meeting until the Chairman is elected. The Civil Service Commission shall establish its own rules of procedure. The Clerk of Council shall serve as the Secretary of the Board, shall serve as the official custodian of the records of the Commission, and shall perform such duties for the Commission as is required. All filings pertaining to official Board actions and appeals/grievances shall be submitted to the Clerk. A duly appointed Deputy Clerk of Council may perform the duties prescribed for the Clerk under this section. (Ord. 0065-2012. Passed 4-2-12.)

149.04 RULES.

The Civil Service Rules & Regulations as adopted by City Council shall be kept on file with the Clerk of Council and the Department of Human Resources for inspection by the public. The Civil Service Rules & Regulations shall be formally evaluated every 5 years by City Council. (Ord. 0065-2012. Passed 4-2-12.)

149.05 APPEALS/GRIEVANCES TO THE COMMISSION.

(a) Parties. The party filing an appeal/grievance is the appellant. The party against whom an appeal/grievance has been filed is the appellee. A party shall have the right to appeal/grieve an administrative determination pursuant to provisions of the Civil Service Rules and Regulations and the Codified Ordinances of the City of Gahanna.

(b) Rules of Evidence. The rules of evidence prevailing in civil actions in Ohio courts of general jurisdiction are adopted for guidance in hearings before the Commission, except as modified by this Code, Civil Service Rules & Regulations, and Civil Service Rules of Procedure. The rules of evidence shall not be strictly applied, but deference may be afforded to the rules of evidence.

(c) Appellant's Requirements. Appeals/grievances shall be in writing and shall be filed with the Clerk of Council within 30 calendar days from the date of the action being appealed. An appeal is considered filed when it is time stamped by the office of the Clerk of Council. Any appeal/grievance received after 5:00 p.m. on a business day or at any time on a non-business day shall be considered to be filed on the next business day. The following items shall be filed with each appeal/grievance:

- (1) A copy of the action being appealed/grieved shall be attached to the appeal/grievance.
- (2) A statement outlining the reason or legal basis for the appeal/grievance, along with a citation of the applicable rules and regulations section(s) signed by the appellant and/or agent.
- (3) The name, address, telephone number and e-mail address of the appellant and/or agent. Appellants shall notify the Clerk of Council, in writing, of any change of address while an appeal is pending.

(d) Appellees's Requirements. Within seven (7) business days of notification of an appeal/grievance, the appellee shall transmit to the Clerk of Council the records pertaining to the matter under appeal/grievance. Further, the Commission may require the appellees to provide a written statement describing the basis for the decision under appeal/grievance.

(e) Filing and Transmittal of Appeals/grievances. The Clerk of Council shall review the appellant's filings to ensure this section is complied with, and shall advise the appellant. Upon compliance with this section, the Clerk shall forward to the Commission members all documents filed by the appellant. The Clerk shall also forward to the Commission members the official record from the Department of Human Resources.

(f) Notification Procedures. At least twenty (20) calendar days prior to the hearing, the Clerk of Council shall notify in writing the appellant, the appellee(s), and any interested parties of record concerning the date, time, and location of the hearing. At the discretion of the Commission Chair the time requirements may be waived.

(g) Continuances. Either party may request a continuance of not more than thirty (30) calendar days. Such request must be made at least seven (7) calendar days prior to the scheduled hearing. At the discretion of the Commission Chair the time requirements may be waived. If a continuance is granted, it is incumbent upon the appellant and the appellee to inform any witnesses, including those that have been subpoenaed, of the continuance.

(h) Hearing Record. If a party wishes to have a stenographer present at hearing, the party may arrange to have one present and shall provide at least two business days prior written notice to the Clerk. The party requesting the stenographer is responsible for the cost of such stenographer. The Commission may have a stenographer present at a hearing. If a stenographer is present in accordance with this section, the stenographer's transcript shall be the official record. If no stenographer is present, the Clerk's minutes serve as the official record of the hearing.

(i) Appearances. An appellant may represent himself or herself. An appellant must file notice of representation by an attorney and/or agent providing name and contact information for the attorney and/or agent. Such notice shall be filed at least fourteen (14) days before the hearing. Any party who has a collective bargaining representative must be represented by the designated representative, unless the appellant submits to the Commission a letter from the collective bargaining representative authorizing other representation. A person who files an appeal/grievance is required to appear personally at the hearing. Employers shall appear through a designated representative or an attorney. Any party may cross examine a witness themselves or through their designated representative or attorney.

(j) Substitution of Parties. If an appellant dies or is incapacitated during the pendency of an appeal/grievance, the appellant's executor or administrator may be substituted for the appellant. An appeal/grievance shall be held open for a reasonable time to permit this substitution.

(k) Rules of Procedure. Any matter concerning hearing procedures not governed herein shall be governed by the Commission's rules of procedure.

(l) Standards. The City has the burden of proof for actions involving discipline, suspension, demotion, or termination of an employee. In all other matters, the appellant or proponent of a position which shall be before the Commission has the burden of proof by a preponderance of the evidence. The Commission shall consider all relevant evidence brought before it, provided however, evidence not disclosed as required may only be admitted in accordance with the Commission's rules of procedure. Evidence not admitted into the record by the Commission may be proffered into the record by a party.

(m) Service. All documents filed with the Clerk of Council shall also be served upon the opposing party, or if the party is represented by counsel, upon counsel. Failure to comply with this may result in the Commission striking the document from the record. (Ord. 0065-2012. Passed 4-2-12.)

149.06 FEES.

There are no fees to file an appeal/grievance with the Civil Service Commission.
(Ord. 0065-2012. Passed 4-2-12.)

149.10 SUBPOENA POWER.

The Commission shall have the power to subpoena and require the attendance and testimony of witnesses and the production thereby of books, papers, public records and other documentary evidence pertinent to any hearings, and to examine them as it may require in relation to any matter which it has authority to hear. Subpoenas must be issued at least ten (10) calendar days prior to the hearing. All officers and employees in the service shall attend and testify when summoned to do so by the Commission. Any party may request that the Commission issue a subpoena. (Ord. 0065-2012. Passed 4-2-12.)

149.20 FAILURE TO APPEAR.

If the party having the burden of proof fails to appear, the Commission may dismiss the appeal/grievance, grant appropriate relief, or based upon the information available to the Commission, resolve the appeal/grievance in the manner it deems appropriate.
(Ord. 0065-2012. Passed 4-2-12.)

149.25 SETTLEMENTS AND WITHDRAWALS.

An appeal/grievance may be withdrawn at any time prior to a decision of the Commission. An appeal/grievance may be settled by the parties to the hearing at any time prior to a decision of the Commission. Any settlement or withdrawal shall be filed in writing prior to the hearing or made on the record at the hearing.
(Ord. 0065-2012. Passed 4-2-12.)

149.30 DISPOSITION OF APPEALS/GRIEVANCES.

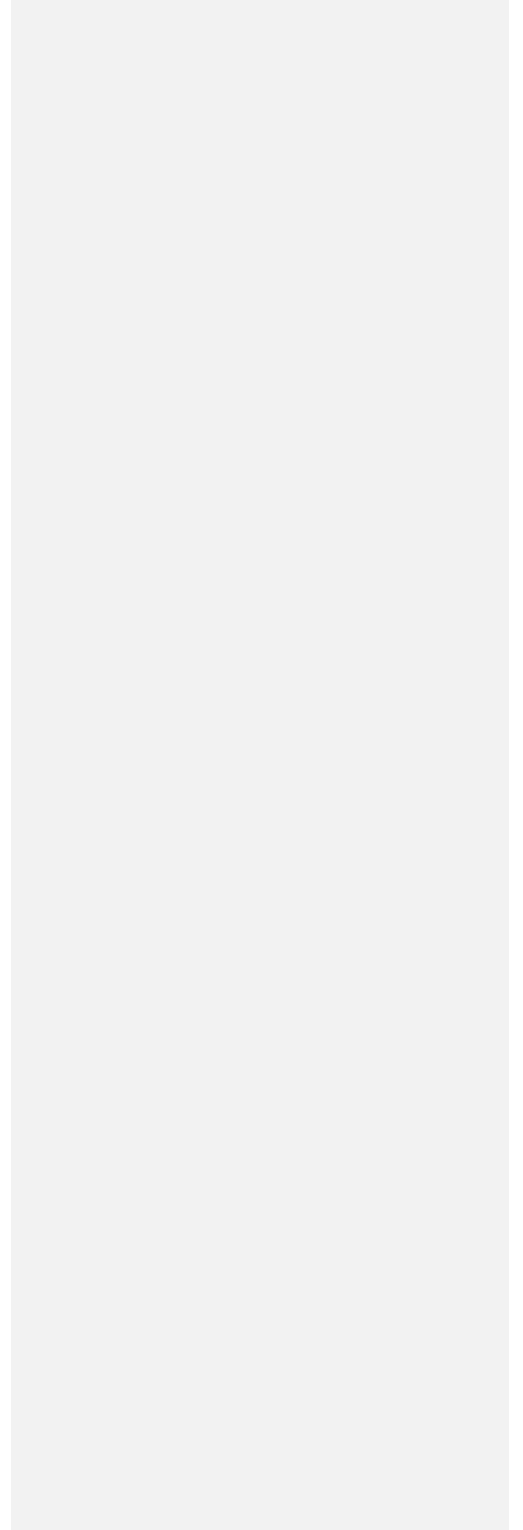
In any appeal/grievance the Commission may affirm, reverse, modify the decision or dismiss the appeal/grievance. A record of action shall be sent to the parties by the Clerk of Council. Said decision shall be made within sixty (60) days of the completion of the hearing.
(Ord. 0065-2012. Passed 4-2-12.)

149.35 FURTHER APPEALS.

Any decision of the Civil Service Commission with regard to an appeal/grievance may be appealed to the Franklin County Common Pleas Court by either party in accordance with Chapter 2506 of the Ohio Revised Code.
(Ord. 0065-2012. Passed 4-2-12.)

CHAPTER 150
Cable Advisory Board (Repealed)

EDITOR'S NOTE: Former Chapter 150 was repealed by Ordinance 0029-2009, passed February 17, 2009.



151.03 ADMINISTRATION.

- (a) The following books and records shall be retained at the office of the Director:
- (1) Such financial accounts and reports as directed by the Director of Finance.
 - (2) An attendance record of those Parks & Recreation Board and Landscape Board members and others who attend Board meetings.
 - (3) A Minute Book, recording the actions taken during Parks & Recreation Board and Landscape Board meetings. An action includes, but is not limited to: any rule, other than a rule of procedure of the Board, regulations; resolution; recommendation, other than one regarding changes in fees and charges; appointment; transfer; promotion; demotion; termination of employment; expenditure. Said minutes shall be removed at the end of each calendar year to the office of the Clerk of Council for permanent storage as established by the Records Commission.

(b) The Director shall submit in a timely manner to the Mayor any and all actions taken by the Parks & Recreation Board and Landscape Board at that meeting, and the Mayor shall have ten days from the date the notice was received to notify the Parks & Recreation Board, Landscape Board and Council in writing of disapproval of any action and reasons therefore. Failure to disapprove within the time specified shall be deemed approval. The Clerk of Council shall, upon receiving notice from the Mayor, set the disapproval as an order of business upon the agenda of the next regular meeting of Council for which an agenda has not yet been set. Council shall vote at that meeting on the matter of overriding the Mayor's veto or the decision shall be deemed approved.

(c) The Director shall, within two days of a meeting, report to the office of the Mayor, Council, or School Board the name of any member who has been absent from three regular meetings in any twelve-month period.
(Ord. 0030-2011. Passed 2-22-11.)

**CHAPTER 153
Parks and Recreation Board**

153.01 Creation.
153.02 Organization.

153.03 Powers and duties.
153.04 Setting of fees.

CROSS REFERENCES

Authority to establish - see CHTR. §4.18
Statutory provisions - see Ohio R.C. 755.12 et seq.
Open meetings - see ADM. Ch. 107

153.01 CREATION.

(a) There is hereby created a Gahanna Parks and Recreation Board which shall consist of seven electors of the Municipality. Three of the seven electors shall be appointed by the Mayor; three of the seven electors shall be appointed by Council; and one elector of the Municipality who is employed by the Gahanna Jefferson School District shall be appointed by the Board of Education. Beginning January 2, 1997, one of the seven electors will be appointed by the Mayor for three years, one will be appointed by Council for three years, one will be appointed by the Mayor for two years, one will be appointed by Council for two years, one will be appointed by the Mayor for one year and one will be appointed by Council for one year. Thereafter, each January 2 (if January 2 is a Sunday, then January 3) as the terms expire, City appointments shall be made for a term of three years by the respective appointing authorities for the position for which the term is ending. The School Board shall designate one City elector each year at its first meeting of the year to serve a one year term.

(b) A member of the Board may be removed from office for just cause by the appointing authority, following notice and an opportunity to be heard. Such removed member shall not be eligible for appointment to the Board for a period of five years following removal. Any member of the Parks and Recreation Board that has been absent from three regular meetings during any calendar year, whether excused or not, is removed from office, but may be reappointed at the will of any appointing authority.

(c) Vacancies shall be filled for unexpired terms in the same manner as initially executed. If an appointment to be made by the Mayor is not made within forty-five days after the date such vacancy occurs, Council, by majority vote, shall make the appointment to the Board for the unexpired term. If an appointment to be made by Council is not made within forty-five days after the date such vacancy occurs, the Mayor shall make the appointment to the Board for the unexpired term. In the event that the Board of Education fails to appoint a member to the Board within forty-five days from the date of vacancy, the Mayor, with confirmation by Council, shall appoint the additional member of the Board for that term.
(Ord. 0030-2011. Passed 2-22-11.)

153.02 ORGANIZATION.

Council shall establish the date, time and place for the first meeting each year, at which the Parks and Recreation Board shall organize. The Mayor shall preside at this meeting until the chairman is elected. The Parks and Recreation Board shall choose its own officers, establish its own rules of operation, and maintain a record of its proceedings and actions. A majority of the members shall be a quorum for the transaction of business. Meetings must be held a minimum of nine (9) times per year and must be open to the public. (Ord. 0030-2011. Passed 2-22-11.)

153.03 POWERS AND DUTIES.

The Parks and Recreation Board shall have the power to set and establish charges and fees except as otherwise provided herein; and it shall be its duty to make recommendations to the Mayor on equipping, operating, directing and maintaining all the recreational facilities, park facilities, and City recreational programs. The following powers and duties also are under the jurisdiction of the Parks and Recreation Board.

- (a) To set the overall parks and recreation policy.
- (b) To recommend to the administration establishment of positions within the Department, including requests to the Civil Service Commission for establishment of classified positions as deemed necessary.
- (c) To recommend to Council the adoption of and any changes to park rules.
- (d) To set the Board's rules of procedure.
- (e) To make recommendations to the Planning Commission regarding the acceptance of park land or fees in lieu of land dedication.
- (f) To review the budget as prepared by the Director before submittal to the Mayor.
- (g) The Board shall serve as the appeals body for resolving disputes involving the allocation and use of City parks and recreation facilities and programs. (Ord. 0033-2011. Passed 2-22-11.)

153.04 SETTING OF FEES.

(a) Annually the Board shall recommend to Council a pricing policy that guides the establishment of charges and membership fees for City recreational programs and City use.

(b) The pricing policy would include but not be limited to subsidy rates, non resident fees, and discounts.

(c) No permit or fee may be waived without the explicit consent of the Parks and Recreation Board. (Ord. 0026-2009. Passed 2-17-09.)

**CHAPTER 154
Landscape Board**

- 154.01 Creation.**
- 154.02 Organization.**
- 154.03 Duties and responsibilities.**
- 154.04 Public Landscape Trust Fund.**

CROSS REFERENCES

Authority to establish - see CHTR. 4.18
Open meetings - see ADM. Ch. 107

154.01 CREATION.

There is hereby created a Landscape Board which shall consist of five electors of the Municipality who are not otherwise serving as elected or appointed officials of the City. Three of the five electors shall be appointed by Council; and two of the five electors shall be appointed by the Mayor. Beginning January 2, 1997, one of the five electors will be appointed by Council for three years, one will be appointed by Council for two years, one will be appointed by Council for one year; one will be appointed by the Mayor for three years and one will be appointed by the Mayor for two years. Thereafter, each January 2 (if January 2 is a Sunday, then January 3) and as the terms expire, appointments shall be made for a term of three years by the respective appointing authorities for the position for which the term is ending.
(Ord. 0110-2012. Passed 6-4-12.)

154.02 ORGANIZATION.

Council shall establish the date, time and place for the first meeting each year, at which the Landscape Board shall organize. The Mayor shall preside at this meeting until the chairman is elected. The Landscape Board shall choose its own officers, establish its own rules of operation, and maintain a record of its proceedings and actions. A majority of the members shall be a quorum for the transaction of business. Meetings must be held a minimum of four (4) times a year and shall be open to the public.
(Ord. 0110-2012. Passed 6-4-12.)

154.03 DUTIES AND RESPONSIBILITIES.

It shall be the responsibility of the Landscape Board to study, investigate, counsel and develop and/or update and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas with such trees and shrubs being designated street trees or park trees. Such plan shall be reviewed and presented to Council every three (3) years. Upon Council acceptance and approval the plan shall constitute the official Comprehensive Landscape Plan for the City. The Board, when requested by Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work, and shall perform such other duties as may be prescribed by these Codified Ordinances. (Ord. 0110-2012. Passed 6-4-12.)

154.04 PUBLIC LANDSCAPE TRUST FUND.

Members of the Landscape Board shall act collectively as trustees of the Public Landscape Trust Fund and may not delegate or relinquish responsibility for the fund except as defined herein. (Ord. 0110-2012. Passed 6-4-12.)

CHAPTER 155
Employees Generally

155.01 Vehicle allowance.

155.02 Disability, pension and retirement system pick up by City.

CROSS REFERENCES

Welfare - see Ohio Const., Art. II, Sec. 34
 Workmen's compensation - see Ohio Const., Art. II, Sec. 35;
 Ohio R.C. Ch. 4123
 Wages and hours on public works - see Ohio Const., Art. II, Sec.
 37; Ohio R.C. Ch. 4115
 Sick leave - see Ohio R.C. 143.29
 Public Employees Retirement System - see Ohio R.C. Ch. 145
 Expenses for attendance at conference or convention - see Ohio R.C. 733.79
 Strikes by public employees - see Ohio R.C. Ch. 4117
 Leave for military training - see Ohio R.C. 5923.05

155.01 VEHICLE ALLOWANCE.

A vehicle allowance may be authorized by the Mayor to defer expenses as may be necessary to perform the functions of the office of a Director of a Department.
 (Ord. 0042-2010. Passed 3-1-10.)

**155.02 DISABILITY, PENSION AND RETIREMENT SYSTEM
 PICK UP BY CITY.**

(a) Effective on the effective date of this section, the full amount of the statutorily required contributions to the Police and Firemen's Disability and Pension Fund of Ohio and to the Public Employees Retirement System of Ohio shall be withheld from the gross pay of each person within any of the classes established in subsection (b) hereof and shall be "picked up" (assumed and paid to the Police and Firemen's Disability and Pension Fund of Ohio and to the Public Employees Retirement System of Ohio) by the City. This "pick up" by the City is, and shall be designated as, public employee contributions, and shall be in lieu of contributions to the Police and Firemen's Disability and Pension Fund of Ohio and to the Public Employees Retirement System of Ohio by each person within any of the classes established in subsection (b) hereof. No person subject to this "pick up" shall have the option of choosing to receive the statutorily required contribution to the Police and Firemen's Disability and Pension Fund of Ohio and to the Public Employees Retirement System of Ohio directly instead of having it "picked up" by the City or of being excluded from the "pick up".

The City, shall, in reporting and making remittance to the Police and Firemen's Disability and Pension Fund of Ohio and to the Public Employees Retirement System of Ohio, report that the public employee's contribution for each person subject to this "pick up" has been made as provided by the statute.

(b) The "pick up" by the City provided by this section shall apply to all persons that are elected/appointed officials and full-time employees of the City who are or become contributing members of the Police and Firemen's Disability and Pension Fund of Ohio or to the Public Employees Retirement System of Ohio.

(c) The City's method of payment of salary to elected/appointed officials and full-time employees who are participants in the Police and Firemen's Disability and Pension Fund of Ohio or to the Public Employees Retirement System of Ohio is hereby modified as contained in subsection (d) hereof in order to provide for a salary reduction pickup of elected/appointed officials and employee contributions to the Police and Firemen's Disability and Pension Fund of Ohio or to the Public Employees Retirement System of Ohio.

(d) The total salary for each elected/appointed official or full-time employee shall be the salary otherwise payable under the City ordinances. Such total salary of each elected/appointed official or full-time employee shall be payable by the City in two parts: (1) deferred salary; and (2) cash salary. An elected/appointed official's or full-time employee's deferred salary shall be equal to that percentage of that elected/appointed official's or full-time employee's total salary which is required from time to time by the Police and Firemen's Disability and Pension Fund of Ohio or to the Public Employees Retirement System of Ohio to be paid as an elected/appointed official or employee contribution by that elected/appointed official or full-time employee and shall be paid by the City to the Police and Firemen's Disability and Pension Fund of Ohio or to the Public Employees Retirement System of Ohio on behalf of that elected/appointed official or full-time employee as a pick up and in lieu of the Police and Firemen's Disability and Pension Fund of Ohio or to the Public Employees Retirement System of Ohio elected/appointed official or full-time employee contribution otherwise payable by that official or employee. An elected/appointed official's or full-time employee's cash salary shall be equal to that official's or full-time employee's total salary less the amount of the pick up for that official or employee, and shall be payable, subject to applicable payroll deductions to that official or employee. The City shall compute and remit its employer contributions to the Police and Firemen's Disability and Pension Fund of Ohio and to the Public Employees Retirement System of Ohio based upon an elected/appointed official's or full-time employee's total salary. The total combined expenditures of the City for such elected/appointed officials' and full-time employees' total salaries payable under applicable City ordinances and the pick up provisions of this section shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

(e) The Director of Finance is hereby authorized to implement the provisions of this section to institute the "pick up" of the statutorily required contributions to the Police and Firemen's Disability and Pension Fund of Ohio and to the Public Employees Retirement System of Ohio for all elected/appointed officials and full-time employees of the City so as to enable them to obtain the result in federal and state tax deferments and other benefits.
(Ord. 148-91. Passed 9-3-91.)

CHAPTER 157
Records Management Program

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| 157.01 City Records Commission. | 157.07 Commission duties and responsibilities. |
| 157.02 Membership. | 157.08 Compliance. |
| 157.03 Operation. | 157.09 Transfer of records. |
| 157.04 Funding. | 157.10 Authority not restricted. |
| 157.05 Adoption. | 157.99 Penalty. |
| 157.06 Records Administrator. | |

157.01 CITY RECORDS COMMISSION.

There is hereby established a City Records Commission. The purpose of the Commission shall be to establish rules, regulations and procedures for the retention and disposal of all City records and archives in compliance with the Charter of the City and laws of the State of Ohio, with particular reference to Ohio R.C. 149.39.
(Ord. 0148-2006. Passed 8-7-06.)

157.02 MEMBERSHIP.

The membership of the City Records Commission shall be the Mayor or the Mayor's appointed representative, Director of Finance, Director of Technology, City Attorney, Clerk of Council and two resident members appointed by Council. The appointment by Council shall be for a term of three years, commencing January 2, 1990. Elected and appointed officials who are employees of the City shall serve on the Commission without additional compensation. The Council appointee shall receive compensation as established by Council.
(Ord. 0176-2014. Passed 12-15-14.)

157.03 OPERATION.

The City Records Commission shall meet at least once every six months, and upon the call of the Chairman. One of these meetings shall be an annual meeting that shall be scheduled during January. At such annual meeting, the Commission members shall elect one of the members to serve as Chairman for a one-year term. There shall be no limit on the number of successive terms.
(Ord. 0148-2006. Passed 8-7-06.)

157.04 FUNDING.

The City Records Commission budget shall be included in the Council office budget.
(Ord. 0148-2006. Passed 8-7-06.)

157.05 ADOPTION.

The current edition of the Ohio Municipal Records Manual, published by the Ohio Historical Society, is hereby adopted to provide guidelines for the City Records Commission.
(Ord. 0148-2006. Passed 8-7-06.)

157.06 RECORDS ADMINISTRATOR.

A qualified person for the position of Records Administrator shall be selected and appointed by the City Council and work under the direction of the Clerk of Council. The Records Administrator shall not be a member of the Commission.
(Ord. 0148-2006. Passed 8-7-06.)

157.07 COMMISSION DUTIES AND RESPONSIBILITIES.

(a) The City Records Commission, acting under authority of Ohio R.C. 149.39 shall establish and implement a program to encompass such areas of records management as are required to preserve and keep in order all books, papers, documents, records and files of Council and of the executive departments of the City in order to achieve the following goals:

- (1) Release space and reduce the need for storage and filing equipment;
- (2) Establish an efficient retrieval operation for both active and inactive Municipal records;
- (3) Provide for routine disposition of paperwork;
- (4) Establish, control and maintain total security over Municipal records;
and
- (5) Communicate the need for an effective records management program.

(b) The Commission shall adopt a retention schedule for all documents and materials under its jurisdiction and shall apply to the Ohio Historical Society for approval of this schedule. Once approved, the records management program shall be administered according to this schedule except as may be amended by the Commission and approved by the Ohio Historical Society from time to time.
(Ord. 0148-2006. Passed 8-7-06.)

157.08 COMPLIANCE.

Any and all Municipal officials, employees and board or commission members shall comply with requests by the City Records Commission or the Records Administrator for documents, records or information, made pursuant to the authority granted herein, within a reasonable time.
(Ord. 0148-2006. Passed 8-7-06.)

157.09 TRANSFER OF RECORDS.

(a) All records defined herein and required by Ohio R.C. 121.21 are the property of the City and shall not be removed, destroyed, mutilated, transferred or otherwise damaged or disposed of, in whole or in part, except as provided by law or under the rules and regulations adopted by the Records Commission, pursuant to Ohio R.C. 149.32 to 149.42, inclusive.

(b) Such records shall be delivered by outgoing appointed and elected officials and employees of the City to the City for distribution as necessary and appropriately to successors, and shall not be otherwise removed, transferred or destroyed unlawfully.
(Ord. 0148-2006. Passed 8-7-06.)

157.10 AUTHORITY NOT RESTRICTED.

The provisions of Ohio R.C. 149.31 to 149.42, inclusive, shall not impair or restrict the authority given by other statutes over the creation of records, systems, forms, procedures or the control over purchases of equipment by public offices.
(Ord. 0148-2006. Passed 8-7-06.)

157.99 PENALTY.

Whoever violates Ohio R.C. 149.351 or 149.43 or any of the provisions of this chapter shall forfeit not more than five hundred dollars (\$500.00) for each offense. The City Attorney shall collect same by applicable action in a court of competent jurisdiction.
(Ord. 0148-2006. Passed 8-7-06.)

CHAPTER 159
Board of Health

159.01 Creation.

159.02 Adoption of regulations.

CROSS REFERENCES

Contract with general health district - see Ohio R.C. 3709.08

159.01 CREATION.

Pursuant to Ohio R.C. 3709.08, the Franklin County Public Health shall have all the powers and perform all the duties required of a board of health of the City Health District within the jurisdiction of the City of Gahanna. The City of Gahanna shall enter into contract with Franklin County Public Health on an annual basis to provide health services.
(Ord. 0027-2015. Passed 2-17-15.)

159.02 ADOPTION OF REGULATIONS.

(a) Council hereby adopts the Franklin County Public Health Regulations in effect on January 1, 2015, and any amendments or revisions thereto, to the extent that such regulations are not inconsistent with the previously adopted and effective Codified Ordinances of the City of Gahanna. Council incorporates such regulations and any amendments or revisions thereto, by reference, into the Codified Ordinances of the City of Gahanna.

(b) A copy of said Franklin County Public Health Regulations as adopted and incorporated by reference, and any amendments and revisions thereto, shall be kept on file with the Clerk of Council for inspection by the public.
(Ord. 0027-2015. Passed 2-17-15.)

TITLE SEVEN - Finance

Chap. 161. Income Tax.
 Chap. 163. Motor Vehicle License Tax.
 Chap. 165. Hotel/Motel Tax.

**CHAPTER 161
 Income Tax**

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| 161.01 Purpose. | 161.11 Interest and penalties. |
| 161.02 Definitions. | 161.12 Collection of unpaid taxes and refunds of overpayments. |
| 161.03 Imposition of tax. | 161.13 Violations and penalties. |
| 161.04 Effective period. | 161.14 Board of Review. |
| 161.05 Return and payment of tax. | 161.15 Information by landlords. |
| 161.06 Collection at source. | 161.18 Credit for tax paid to another municipality. |
| 161.07 Declarations. | 161.19 Contract provisions. |
| 161.08 Appointment and duties of Tax Administrator. | 161.20 Allocation of funds. |
| 161.09 Investigative powers of Tax Administrator; penalty for divulging confidential information. | 161.21 Saving clause. |
| 161.10 Assessment. | 161.99 Penalty. |

CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII, Sec. 3
 Payroll deductions - see Ohio R.C. 9.42
 Municipal income taxes - see Ohio R.C. Ch. 718

161.01 PURPOSE.

To provide funds for municipal purposes, there shall be and is hereby levied a tax on qualifying wages, commissions and other compensation, and on net profits and other taxable income as hereinafter provided.
 (Ord. 0257-2003. Passed 12-15-03.)

161.02 DEFINITIONS.

- (a) As used in this chapter, the following words shall have the meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.
- (1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
- A. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

- B. Add an amount equal to five percent (5%) of intangible income deducted under division (a)(1)A. of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.
- C. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
- D. 1. Except as provided in division (a)(1)D.2. of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
2. Division (a)(1)D.1. of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- E. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.
- F. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- G. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except;
1. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member or former member shall not be allowed as a deductible expense; and
2. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

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

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

- (2) "Association" means a partnership, limited partnership, S corporation or any other form of unincorporated enterprise, owned by one or more persons.
- (3) "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions.
- (4) "Board of Review" (Board of Appeals, Board of Adjudication, etc) means the Board created by and constituted as provided for in Section 161.14.
- (5) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, 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.
- (8) "Employee" means one who works for wages, salary, commission or other types of compensation in the services 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 profits, 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 twelve (12) months or less ending on any day other than December 31.
- (11) "Form 5754, Statement by Person(s) Receiving Gambling Winnings" means Internal Revenue Service Form 5754 filed by a taxpayer pursuant to the Internal Revenue Code.
- (12) "Form 1099-MISC, Miscellaneous Income" means Internal Revenue Service Form 1099-Misc filed by a taxpayer pursuant to the Internal Revenue Code.
- (13) "Form W-2, Wage and Tax Statement" means Internal Revenue Service Form W-2 filed by a taxpayer pursuant to the Internal Revenue Code.
- (14) "Form W-2G, Certain Gambling Winnings" means Internal Revenue Service Form W-2G filed by a taxpayer pursuant to the Internal Revenue Code.
- (15) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (16) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.
- (17) "Gross receipts" means total income of taxpayers from whatever source derived.
- (18) "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.

- (19) "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.
- (20) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (21) "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the World Wide Web.
- (22) "Joint Economic Development District" means districts created under the Ohio R.C. 715.70 through 715.83 as amended from time to time.
- (23) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (24) "Municipality" means the City of Gahanna.
- (25) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in division (F) of Section 161.03, required to be reported on schedule C, schedule E, or schedule F.
- (26) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
- (27) "Nonresident" means an individual domiciled outside the Municipality.
- (28) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
- (29) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
- (30) "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.
- (31) "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.
- (32) "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.
- (33) "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.

- (34) "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 clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity shall mean the parties or members thereof, and as applied to corporations, the officers thereof.
- (35) "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.
- (36) "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.
- (37) "Qualified plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.
- (38) "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)(2) of the Ohio Revised Code.
- (39) "Resident" means an individual domiciled in the Municipality.
- (40) "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business situs is within the Municipality.
- (41) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
- (42) "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.
- (43) "Rules and Regulations" means the Rules and Regulations as set forth in this Chapter.
- (44) "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (45) "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (46) "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (47) "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.
- (48) "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.
- (49) "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.

- (50) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code. In the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (51) "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
- (52) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(b) The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates. (Ord. 0160-2006. Passed 8-7-06.)

161.03 IMPOSITION OF TAX.

(a) Basis of Imposition. Subject to provisions of Section 161.01, an annual tax shall be, and is hereby levied on and after January 1, 1977, at the rate of one and one-half percent (1-1/2%) per annum upon the following:

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

- (5) On the portion attributable to the Municipality of the net profits earned by all corporations, estates and trusts that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.
- (6) On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and/or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings. Gambling losses are not allowed as a deduction from income unless the taxpayer is listed as a professional gambler.

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

- (1) Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
 - A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
 - B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Ohio Revised Code.
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
 - D. Adding together the percentages determined in accordance with subsections (b)(1) A, B, and C hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.
 - 1. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.

2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.
- (c) As used in division (b) of this section, "sales made in a municipal corporation" mean:
- (1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation.
 - (2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
- (d) Net Operating Loss (NOL).
- (1) The Municipality does not allow a net operating loss carryback or carryforward.
 - (2) Nothing in Ohio R.C. 718.01 requires a municipal corporation to allow a net operating loss carryforward.
 - (3) The net operating loss of any association, pass-through entity or unincorporated business activity may not be used to offset salaries, wages, commissions, other compensation or other miscellaneous non-business taxable income.
 - (4) If a taxpayer is engaged in two or more taxable associations, pass-through entities or unincorporated business activities to be included in the same return, the net loss of one association or 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 purposes of arriving at overall net profits.
- (e) Consolidated Returns.
- (1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
 - (2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.
- (f) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:
- (1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

- (2) Proceeds of insurance, annuities, Workers' Compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
- (3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
- (4) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (5) Alimony paid or received.
- (6) Compensation for damage to property by way of insurance or otherwise.
- (7) Interest and dividends from intangible property.
- (8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
- (9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio R.C. 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
- (11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
- (12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
- (13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
- (14) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subject to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
- (15) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
- (16) Personal earnings of any natural person under eighteen years of age.

- (17) Mentally retarded and developmentally disabled employees earning less than the minimum hours wage while employed at government sponsored sheltered workshops shall be exempt from the levy of the tax provided herein with approval of the Tax Administrator.
 - (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 (f)(19) 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 of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this State under division (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.
 - (21) Generally, the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.
- (g) Rentals from Real Property.
- (1) Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.
 - (2) Where the gross monthly rental of any real properties, regardless of number and value, aggregates in excess of one hundred dollars (\$100.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to

tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred dollars (\$100.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds one hundred dollars (\$100.00) per month; and provided further that the person who operates a rooming house of two or more rooms rented shall be considered in business whether or not the gross income exceeds one hundred dollars (\$100.00) per month.

- (3) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.
- (4) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- (5) Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property and any and all other types of real estate.
- (6) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal income tax purposes.
- (7) Nonresidents of Gahanna are subject to such taxation only if the real property is situated within the City. Nonresidents, in determining whether gross monthly rentals exceed one hundred dollars (\$100.00) shall take into consideration only real estate situated within Gahanna.
- (8) Residents of Gahanna are subject to taxation upon the net income from rentals, to the extent above specified, regardless of the location of the real property owned.
- (9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in Gahanna.
(Ord. 0160-2006. Passed 8-7-06.)

161.04 EFFECTIVE PERIOD.

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned or received and shall be levied with respect to the net profits of the businesses, professional or other activities earned from and after the effective date of this Tax Code, January 1, 1977.
(Ord. 0257-2003. Passed 12-15-03.)

161.05 RETURN AND PAYMENT OF TAX.

(a) On or before April 15 of each year, or if the federal income tax filing date is later, use the later federal date, every resident subject to the provisions of Section 161.03, paragraph (a) through (g) inclusive, shall, except hereinafter provided, make and file with the Tax Administrator a Municipal tax return on a form prescribed by and acceptable to the Tax Administrator, whether or not a tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation, and other taxable income of a nonresident

employee, and paid by him or them to the Tax Administrator may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such qualifying wages, commissions, other compensation and other taxable income. Any return not so filed shall be subject to a penalty of twenty-five dollars (\$25.00) and shall be subject to penalties and interest as provided for in Section 161.11.

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

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

(d) The return shall set forth:

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

- (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 161.03. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.
- (f) Payments With Returns.
- (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:
- A. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section 161.06; and
- B. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 161.07; and
- C. Credit to the extent allowed by Section 161.18 for tax paid to another municipality.
- (2) Subject to the limitations contained in Section 161.18 of this Tax Code, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Tax Code may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar and one cent (\$1.01) shall be collected or refunded.
- (g) Amended Returns.
- (1) Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 161.05. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.
- (3) Within one (1) month when a taxpayer receives a refund from another municipality of taxes which were previously claimed as a credit or used in reducing the tax imposed by Section 161.03.

(h) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator or his authorized representative, to file the items required by this paragraph.
(Ord. 0284-2007. Passed 12-17-07.)

161.06 COLLECTION AT SOURCE.

(a) Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in Section 161.03 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the fifteenth (15th) day of the month following such withholding, make a return and pay to the Tax Administrator the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed by the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

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

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

(d) The employer shall pay to the Municipality all income taxes withheld or required to be deducted and withheld on either a semi-monthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:

- (1) Semi-monthly payments of the taxes deducted are to be made by an employer if:
 - A. The total taxes deducted in the prior calendar year were twelve thousand dollars (\$12,000) or more, or
 - B. The amount of taxes deducted for any month in the preceding quarter exceeds one thousand dollars (\$1,000).
Such payment shall be paid to the Municipality within three banking days after the fifteenth and the last day of each month.
- (2) Monthly payment of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000) but more than one thousand one hundred ninety-nine dollars (\$1,199) or if the taxes withheld during any month for the preceding quarter exceeded one hundred dollars (\$100.00). Such payment shall be made to the Municipality within fifteen days after the close of each calendar month.

- (3) All employers not required to make semimonthly or monthly payment of taxes withheld under divisions (1) and (2) above shall make quarterly payment no later than the last day of the month following the end of each quarter.

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

(f) Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and are also liable under the provisions of Section 161.12 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

(g) Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before January 31 following the end of such calendar year, unless written request for thirty days extension is made to and granted by the Tax Administrator. Any return not so filed shall be subject to a penalty of twenty-five dollars (\$25.00) per month up to a maximum of one hundred dollars (\$100.00). Any person, including corporations, partnerships, employers, estates and trusts, who files 250 or more information returns of form W-2 for any calendar year, must file these returns using magnetic media or such other process as determined acceptable to the Tax Administrator. All requirements apply separately to both original and corrected forms. Employers filing fewer than 250 W-2's are encouraged but are not required to remit W-2 electronically.

(h) In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year, unless written request for thirty days extension is made to and granted by the Tax Administrator. Any return not so filed shall be subject to a penalty of twenty-five dollars (\$25.00) per month up to a maximum of one hundred dollars (\$100.00).

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

(j) Subcontractors. In addition to the reporting requirements, any person or organization that facilitates the ability of individuals or entities to earn income within the Municipality, shall report the required information concerning these individuals or entities for services within the Municipality.
(Ord. 0160-2006. Passed 8-7-06.)

161.07 DECLARATIONS.

(a) Requirement for Filing. Every person who anticipates any taxable income which is not subject to Section 161.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 161.05, and who expects to make a payment with declarations of two hundred dollars and one cent (\$200.01) or more for all declarations shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any (not to be less than two hundred dollars (\$200.00) per year). However, if a person's income is wholly from qualifying wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to this Municipality in accordance with Sections 161.06, and 161.18, such person need not file a declaration.

(b) Dates for Filing. Such declarations shall be filed according to one of the following three alternatives. On April 15 of each year the taxpayer must elect one of the alternatives and remain with that alternative for a minimum of one year. Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

- (1) Alternative 1: The taxpayer shall file a declaration and payment for the first six months on April 15 of that year and for the second six months on October 31 of that year. Fiscal taxpayers shall file declaration on the fifteenth day of the fourth and tenth month of their fiscal year accordingly.
- (2) Alternative 2: The taxpayer shall file a declaration and payment quarterly in accordance with the federal income tax on April 15, July 31, October 31 and January 31 of the succeeding year for a quarter of a year. Fiscal taxpayers shall pay on the fourth, sixth, ninth and the first month of the following year accordingly.
- (3) Alternative 3: One declaration shall be filed, with payment on April 15 for the entire year. Fiscal taxpayers shall pay on the fifteenth of the fourth month according to their fiscal year.

(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 161.18, credit may be taken for tax to be withheld and remitted to another taxing municipality.
- (2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent payment date as provided for herein.

- (3) 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 of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.
- (4) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

(d) Amended Declaration.

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

(e) Annual Return Required. On or before the 15th day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 161.05.

(f) A declaration of estimated tax which is less than ninety percent (90%) of the tax due as shown on the annual return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 161.11. (Ord. 0160-2006. Passed 8-7-06.)

161.08 APPOINTMENT AND DUTIES OF TAX ADMINISTRATOR.

- (a) (1) It shall be the duty of the Tax Administrator to collect and receive the tax imposed by this Chapter in the manner prescribed therein, to keep an accurate record thereof, and to report all monies so received.
- (2) It shall be the duty of the Tax Administrator to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of six (6) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.

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

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

(d) Subject to the consent of a majority of the Board of Review/Adjudication, the Tax Administrator shall have the power to compromise any liability imposed by this Tax Code.

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

(f) The Tax Administrator is hereby authorized to collect any and all non-sufficient checks issued as payment to the City of Gahanna. Should the originating party of the check or draft fail to make restitution within ten (10) days after receiving notice of dishonor, the Tax Administrator is hereby authorized to file charges thru the Gahanna's Mayors Court. (Ord. 0177-2007. Passed 9-4-07.)

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

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

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

(c) The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby, shall be deemed a violation of this Chapter punishable as provided in Section 161.13.

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

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

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

(g) In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal. (Ord. 0257-2003. Passed 12-15-03.)

161.10 ASSESSMENT.

(a) If the Tax Administrator finds that any taxpayer, or any employer subject to the provisions of Section 161.07 has failed to pay the full amount of the tax due or funds withheld, he shall issue a proposed assessment showing the amount of tax or funds due and unpaid together with any interest and penalty that may have accrued thereon.

(b) Such proposed assessment shall be served upon the taxpayer or employer, as the case may be, in person or by mailing to the last known address of such taxpayer or employer. Proof of mailing such proposed assessment shall be presumptive proof of receipt thereof by the addressee.

(c) A taxpayer or employer shall have twenty days after receipt of a proposed assessment within which to file a written protest with the Tax Administrator. The Tax Administrator then shall give the protestant an opportunity to be heard. After the hearing the Tax Administrator shall issue a final assessment setting forth the total amount found due in the proposed assessment, and any adjustment he may have made as a result of the protest. Such final assessment shall be served in the same manner as a proposed assessment.

(d) In the event a protest is not filed in response to a proposed assessment, it shall become final the twenty-first day after receipt thereof by a taxpayer or employer, and notice thereof shall be served in the same manner as in the case of a proposed assessment. (Ord. 0257-2003. Passed 12-15-03.)

161.11 INTEREST AND PENALTIES.

(a) All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Tax Code and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax or withholding, at the rate of one and one-half percent (1-1/2%) per month or fraction thereof.

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

- (1) For failure to pay taxes due, other than taxes withheld, five percent (5%) per month or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater, up to a maximum of one hundred percent (100%) of original tax due.
- (2) For failure to remit taxes withheld or required to be withheld from employees; ten percent (10%) per month or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater, up to a maximum of one hundred percent (100%) of original tax due.
- (3) Where the individual taxpayer has failed to file a return by the due date or by the date resulting from extension, twenty-five dollars (\$25.00).
- (4) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a return and paid the total tax on or before the end of the month following the end of the taxable year; ten percent (10%) of the difference between ninety percent (90%) of the actual tax for the year and the amount paid through withholding and declaration.

- (5) There is no maximum limit to the penalties imposed in this subsection in the case of a taxpayer who willfully neglects to pay any tax due or who intentionally disregards any provision of this chapter.
- (6) Any annual withholding reconciliation including employee W-2 information returns, not submitted on or before February 28 of each year, shall be subject to a penalty of twenty-five dollars (\$25.00) effective March 1 and increased by twenty-five dollars (\$25.00) the first day of each month thereafter that such employer remains in violation, to a maximum of one hundred dollars (\$100.00). Upon written request to the Tax Administrator, a thirty (30) day extension may be granted.

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

(d) Upon recommendation of the Tax Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest concerning an item of income or expense, the Board may nevertheless abate penalty or interest, or both.
(Ord. 0160-2006. Passed 8-7-06.)

161.12 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible by the City of Gahanna Tax Department or its authorized agent, together with any interest and penalties and reasonable administrative costs thereon, by suit or by other means as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return.

(b) "Reasonable administrative costs" associated with the delinquent tax collection includes, but is not limited to, fees no less than twenty-five percent (25%) of the total delinquent amount, including the tax amount, interest and penalty of any post judgment account assigned to a collection agency, and no greater than thirty-five percent (35%) of the total delinquent amount, including tax amount, interest and penalties of any prejudgment account assigned to a collection agency.

(c) In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Tax Administrator shall be extended one (1) year from the time of the final determination of the federal tax liability.

(d) 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.

(e) After the time period allowed for a refund of the tax or withholding paid to another municipality, a nonrefundable credit shall be allowed against tax or withholding erroneously paid or withheld to another municipality equal to the tax or withholding paid with respect to such income or wages.

- (1) If the tax rate is less than the tax rate paid or withheld on such income or wages, the credit described in subsection (c) hereof shall be calculated using the tax rate in effect.
- (2) Nothing in this section permits any credit carryforward.

(f) 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.

(g) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 0229-2006. Passed 12-4-06.)

161.13 VIOLATIONS AND PENALTIES.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Knowingly make an incomplete, false or fraudulent return; or
- (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Administrator; or
- (5) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers, or federal income tax returns; or
- (6) Fail to appear before the Tax Administrator and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Administrator; or
- (7) Refuse to disclose to the Tax Administrator any information with respect to such person's or such person's employer's income or net profits; or
- (8) Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
- (9) Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (10) Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Administrator; or

- (11) Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 161.07; 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 provision of Section 161.06; or
- (13) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter;

for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the fourth degree on a first offense and shall be fined; on a second offense within two years after the first offense, such person is guilty of a misdemeanor of the third degree and shall be fined or imprisoned or both, for each offense; on each subsequent tax code violation within two years after the first offense such person is guilty of a misdemeanor of the third degree, and punished as provided for herein.

(b) In addition to any other penalty imposed by this section or Section 161.11, the following penalties shall apply:

- (1) If a taxpayer, qualifying entity, or employer files what purports to be a return required by this chapter that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of the tax levied by Section 161.03, such filer is guilty of a misdemeanor of the third degree.
- (2) If a taxpayer or qualifying entity makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under this chapter, such filer is guilty of a misdemeanor of the first degree.
- (3) Any penalty imposed under this section shall be in addition to all other penalties imposed under this section. All or part of any penalty imposed under this section may be abated by the Tax Administrator with approval by the Tax Review Board. All or part of any penalty imposed under this section may be abated by the Tax Administrator if the taxpayer, qualifying entity, or employer shows that the failure to comply with the provisions of this chapter is due to reasonable cause and not willful neglect.

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

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

(e) Statute of Limitations.

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

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

(g) The term "person" as used in this section shall, in addition to the meaning prescribed in Section 161.02, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.
(Ord. 0293-2009. Passed 12-21-09.)

161.14 BOARD OF REVIEW.

(a) A Board of Review, consisting of three (3) members, residents of the Municipality, all to be appointed by the Mayor and approved by Council, is hereby created and shall be maintained to hear appeals. The members of the Board of Review shall be appointed for a term of three (3) years; however, in January 2005 the members of the Board of Review shall be appointed for one, two and three years respectively. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board shall be conducted privately and the provisions of Section 161.09 with reference to the confidential character of information required to be disclosed by the Chapter shall apply to such matters as may be heard before the Board on appeals.

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

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

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

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

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

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

(h) Each Board of Review 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 Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. (Ord. 0276-2004. Passed 12-20-04.)

161.15 INFORMATION BY LANDLORDS.

(a) All owners or management companies of rental property who rent to tenants of apartments, rooms and other rental accommodations, shall file with the Tax Administrator on a quarterly basis a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Municipality in the reporting period.

(b) On the quarterly reporting from subsection (a) above, the owner or management company of vacated rental property shall file with the Tax Administrator a report showing the date of vacation from the rental property and a forwarding address of any tenant that has vacated an apartment, room or other rental property located within the Municipality in the reporting period.

(c) The reporting period will be on a calendar quarter with the reporting being due in the Tax Administrator's office 30 days after the end of the quarter. (Reports are due as follows: 1st quarter - April 30th, 2nd quarter - July 31, 3rd quarter - October 31, and 4th quarter - January 31).

(d) Any person who violates this section shall be guilty of a misdemeanor and shall be subject to a fine of five dollars (\$5.00) per day for each and every day they remain in violation or subject to a maximum penalty of two hundred fifty dollars (\$250.00). (Ord. 0276-2004. Passed 12-20-04.)

161.18 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Each resident shall be allowed a nonrefundable credit against the tax imposed under this Chapter with respect to that resident's Creditable Income. For purposes of this section, "Creditable Income" means, with respect to any Taxable Year, the portion of a resident's income (1) on which the resident paid municipal income tax to a municipality other than the City of Gahanna, or (2) with respect to which the employer of the resident withheld the municipal income tax of a municipality other than the City of Gahanna. Creditable Income shall not include taxes paid or withheld to the extent the resident is eligible to receive a refund of such taxes from the other municipality.

(b) The credit under subsection (a) above shall be equal to the product calculated by multiplying the following two (2) numbers:

- (1) Eighty-three and one-third percent (83-1/3%).
- (2) The lesser of the following amounts for the Taxable Year:
 - A. The tax paid on the Creditable Income to the other municipality;

OR

- B. The tax imposed under this Chapter, prior to application of this credit.

(c) For purposes of this section, "Net Proceeds" means the total proceeds collected from the tax imposed under this Chapter on the Creditable Income of all residents, after the application of the credit under subsection (a). Until otherwise determined by Council, the Net Proceeds for each fiscal year, as those Net Proceeds are verified by the Finance Director, shall be expended for capital improvements and equipment in the following categories:

- (1) Safety;
- (2) Streets; and
- (3) Stormwater Maintenance.

(d) The credit became effective with respect to taxable income earned and/or received on and after January 1, 1989, and the purpose of and intention behind the revisions made to this section on January 6, 2015 are to provide clarification and to carry out the intent behind the credit since such effective date.

(e) Council shall conduct a minimum of three (3) public hearings at least sixty (60) days prior to any amendment of this section.
(Ord. 0162-2014. Passed 12-15-14.)

161.19 CONTRACT PROVISIONS.

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless such contract contains the following provisions:

"Said hereby further agrees to withhold all City income tax due or payable under the provisions of Chapter 161, Income Tax, of the Codified Ordinances of the City of Gahanna, Ohio, for wages, salaries, and commissions paid to its employees and further agrees that any of its contractors shall be required to agree to withhold any such City income taxes due under said Chapter for services performed under this contract."
(Ord. 0257-2003. Passed 12-15-03.)

161.20 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter except as defined in Section 161.18, shall be deposited to the General Fund and be applied for the following purposes, and in the following order to wit:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this chapter and the cost of maintaining the Division of Taxation and administering and enforcing the provisions thereof.
- (b) Such part thereof as Council may appropriate for the purpose of paying the cost of general municipal operations.
- (c) Such part thereof as Council may appropriate for the purpose of paying the cost for repairs and maintenance of streets.
- (d) Such part thereof as Council may appropriate for the purpose of purchasing new equipment, maintenance, and capital improvements.
- (e) Such part thereof as Council may appropriate for the payment of principal and interest on certain bond issues for capital improvements.

(Ord. 0257-2003. Passed 12-15-03.)

161.21 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 0257-2003. Passed 12-15-03.)

161.99 PENALTY.

Whoever violates any of the provisions of this chapter for which no penalty is otherwise provided shall be guilty of a minor misdemeanor on a first offense, and a third degree misdemeanor for a second and subsequent offense.
(Ord. 0257-2003. Passed 12-15-03.)

CHAPTER 163
Motor Vehicle License Tax

- | | | | |
|---------------|--|---------------|---------------------------------|
| 163.01 | Imposition. | 163.05 | Purpose. |
| 163.02 | Motor vehicle defined. | 163.06 | Certificate to Bureau of |
| 163.03 | Effective date; duration. | | Motor Vehicles. |
| 163.04 | Collection during registration. | | |

CROSS REFERENCES

State provisions - see Ohio R.C. 4503.10
Income tax - see ADM. Ch. 161

163.01 IMPOSITION.

Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on each and every motor vehicle the district of registration of which, as defined in Ohio R.C. 4503.10, is in the City. (Ord. 37-88. Passed 5-17-88.)

163.02 MOTOR VEHICLE DEFINED.

As used in this chapter, the term "motor vehicle" means any and all vehicles included within the definition of motor vehicle in Ohio R.C. 4501.01 and 4505.01. (Ord. 37-88. Passed 5-17-88.)

163.03 EFFECTIVE DATE; DURATION.

The tax imposed by this chapter shall apply to and be in effect for the registration year commencing January 1, 1988, and shall continue in effect and application during each registration year thereafter. (Ord. 37-88. Passed 5-17-88.)

163.04 COLLECTION DURING REGISTRATION.

The tax imposed by this chapter shall be paid to the Registrar of Motor Vehicles of the State of Ohio or to a Deputy Registrar at the time application for registration of a motor vehicle is made as provided in Ohio R.C. 4503.10. (Ord. 37-88. Passed 5-17-88.)

163.05 PURPOSE.

All moneys derived from the tax hereinbefore levied shall be used by the City for the purposes specified in this chapter, and more particularly defined as:

Uses of the Revenues.

The revenues are to be used for the following purposes: planning, construction, improving, maintaining, and repairing public roads, highways, and streets; maintaining and repairing bridges and viaducts; paying the Municipal corporation's portion of the costs and expenses of cooperating with the Department of Transportation in the planning, improvement, and construction of State highways; paying the Municipal corporation's portion of the compensation, damages, cost, and expenses of planning, constructing, reconstructing, improving, maintaining, and repairing roads and streets; paying any costs apportioned to the Municipal corporation under Ohio R.C. 4907.47; paying debt service charges on notes or bonds of the Municipal corporation issued for such purposes; purchasing, erecting, and maintaining street and traffic signs and markers; purchasing, erecting and maintaining traffic lights and signals.

(These are found in Ohio R.C. 4504.06.)

(Ord. 37-88. Passed 5-17-88.)

163.06 CERTIFICATION TO BUREAU OF MOTOR VEHICLES.

The Clerk of Council is directed and authorized to forward a certified copy of this chapter to the Bureau of Motor Vehicles immediately in order to effect such collections beginning in 1989.

(Ord. 37-88. Passed 5-17-88.)

CHAPTER 165
Hotel/Motel Tax

<p>165.01 Definitions.</p> <p>165.02 Imposition of tax.</p> <p>165.03 Transient guest to pay tax.</p> <p>165.04 Refund of illegal or erroneous payments.</p> <p>165.05 Required records; inspection and destruction.</p> <p>165.06 Returns required.</p> <p>165.07 Liability, assessment and petition for reassessment; penalties.</p>	<p>165.08 Four-year limitation for assessments; exceptions.</p> <p>165.09 Tax paid transient guest; false evidence of tax-exempt status.</p> <p>165.10 Vendor to collect tax; prohibition against rebates.</p> <p>165.11 Reports must be filed; fraudulent reports.</p> <p>165.12 Personal liability of corporate officers or employees.</p> <p>165.99 Penalty.</p>
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CROSS REFERENCES

Power to levy - see Ohio R.C. 5739.02, 5739.024

165.01 DEFINITIONS.

(a) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures. The term "hotel" shall include "motel".

(b) "Transient accommodations" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests in which four or less rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.

(c) "Transient guests" means individual persons, occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(d) "Vendor" means the person who is the owner or operator of the hotel or transient accommodation and who furnishes the lodging.
(Ord. 183-95. Passed 12-5-95.)

165.02 IMPOSITION OF TAX.

(a) Effective July 1, 2002, for the purpose of providing revenue with which to meet the needs of the City for the use of the General Fund of the City, and for the purpose of providing revenue to enhance the City's appeal to visitors and tourists and for the purpose of providing revenue to promote the publicize the City, an excise tax of six percent (6%) is hereby levied on transactions by which lodging by a hotel or transient accommodation is or is to be furnished to transient guests, pursuant to Ohio R.C. 5739.02(C)(1) and 5739.02.4(B).

(b) The tax applies and is collectible at the time the lodging is furnished regardless of the time when the price is paid. The tax does not apply to lodging furnished to the State, or any of its political subdivisions, or any charitable organization for lodging of transient indigent individuals.

(c) For the purpose of the proper administration of this chapter, and to prevent the evasion of tax, it is presumed that all lodging furnished by hotels or transient accommodations in the City to transient guests is subject to tax until the contrary is established.

(d) The distribution of this tax shall be 3-1/2% to the General Fund, including cost of collection, and revenues shall be disbursed from the General Fund, as follows, at the discretion of the Gahanna City Council:

- (1) Special events.
- (2) Promotion of development.
- (3) Any other project or expenditure which would enhance the City's appeal to visitors and tourists.

And 2-1/2% to the General Fund for allocation to the Gahanna Convention and Visitors Bureau. (Ord. 0073-2002. Passed 5-6-02.)

165.03 TRANSIENT GUEST TO PAY TAX.

(a) The tax imposed by this chapter shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

(b) If the transaction is claimed to be exempt, the transient guest must furnish to the vendor, and the vendor must obtain from the transient guest, a statement specifying the reason that the sale is not legally subject to the tax. If no statement is obtained, it shall be presumed the tax applies.
(Ord. 183-95. Passed 12-5-95.)

165.04 REFUND OF ILLEGAL OR ERRONEOUS PAYMENTS.

The Deputy Director of Finance shall refund to vendors the amount of taxes paid illegally or erroneously or paid on any illegal or erroneous assessment where the vendor has not reimbursed himself from the transient guest. When such illegal or erroneous payment or assessment was not paid to a vendor but was paid by the transient guest directly to the City, the Deputy Director of Finance shall refund the appropriate amount to the transient guest. Applications shall be filed with the Deputy Director of Finance on the form prescribed by him, within ninety (90) days from the date it is ascertained that the assessment or payment was illegal or erroneous. However, in any event such application for refund must be filed with the Deputy Director of Finance within three (3) years from the date of the illegal or erroneous payment of the tax. On filing of such application, the Director of Finance shall determine the amount of refund due and draw a warrant for such amount to the person claiming such refund. The Deputy Director of Finance shall make such payments from a Tax Refund Account as established by this chapter and the same is hereby established. (Ord. 183-95. Passed 12-5-95.)

165.05 REQUIRED RECORDS; INSPECTION AND DESTRUCTION.

Each vendor shall keep complete and accurate records of lodgings furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and such other pertinent documents. If the vendor furnishes lodging not subject to the tax, the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours to the inspection of the Deputy Director of Finance and shall be preserved not less than four (4) years, unless the Deputy Director of Finance, in writing, consents to their destruction within that period, or by order requires that they be kept longer.
(Ord. 183-95. Passed 12-5-95.)

165.06 RETURNS REQUIRED.

Each vendor shall file a monthly return on forms prescribed by the Director of Finance showing receipts from furnishing lodging, the amount of tax due from the vendor to the City for the period covered by the return, and such other information as the Director of Finance deems necessary for the proper administration of this chapter. The monthly return is due on or before the 15th day of each month during a calendar year. The Deputy Director of Finance may extend the time for making and filing returns. Returns shall be filed by mailing the same to the Deputy Director of Finance, together with payment of the amount of tax shown to be due thereon. The Deputy Director of Finance shall stamp or otherwise mark on all returns the date received by him and shall also show thereon by stamp or otherwise the amount of payment received with the return. Any vendor who fails to file a return under this chapter shall forfeit and pay to the City of Gahanna the sum of one percent (1%) of the tax due. The Deputy Director of Finance, if he deems it necessary in order to ensure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods. The returns shall be signed by the vendor or his authorized agent.
(Ord. 183-95. Passed 12-5-95.)

165.07 LIABILITY, ASSESSMENT AND PETITION FOR REASSESSMENT; PENALTIES.

(a) If any vendor collects the tax imposed by or pursuant to this chapter and fails to remit the same to the City as prescribed, he shall be personally liable for any amount collected which he failed to remit. The Deputy Director of Finance may make an assessment against such vendor based upon any information in the possession of the Deputy Director of Finance. If any vendor fails to collect the tax or any transient guest fails to pay the tax imposed by or pursuant to this chapter on any transaction subject to the tax, such vendor or transient guest shall be personally liable for the amount of the tax applicable to the transaction. The Deputy Director of Finance may make an assessment against either the vendor or transient guest, as the facts may require, based upon any information in his possession. An assessment against a vendor in cases where the tax imposed by or pursuant to this chapter has not been collected or paid, shall not discharge the transient guest's liability to reimburse the vendor for the tax applicable to such transaction.

(b) In each case the Deputy Director of Finance shall give to the vendor or transient guest assessed written notice of such assessment. Such notice may be served upon the vendor or transient guest personally or by registered or certified mail. An assessment issued against either, pursuant to the provisions of this chapter shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any vendor or transient guest for the tax due on a particular transaction if said tax has actually been paid by another.

(c) The Deputy Director of Finance may make an assessment against any vendor who fails to file a return required by this chapter or fails to remit the proper amount of tax in accordance with this chapter. When information in the possession of the Deputy Director of Finance indicates that the amount required to be collected is, or should be, greater than the amount remitted by the vendor, the Deputy Director of Finance may, upon the basis of test checks of a vendor's business for a representative period which are hereby authorized, determine the ratio which the tax required to be collected under this chapter bears to the hotel's or transient accommodations' lodgings which determination shall be the basis of an assessment as herein provided in this chapter. Notice of such assessment shall be made in the manner prescribed in this chapter.

(d) Unless the vendor or transient guest, to whom said notice of assessment is directed, files within thirty (30) days after service thereof, either personally or by registered or certified mail a petition, in writing, verified under oath by said vendor, transient guest, or his authorized agent, having knowledge of the facts, setting forth with particularity the items of said assessment objected to, together with the reasons for such objections, said assessment shall become conclusive and the amount thereof shall be due and payable, from the vendor or transient guest so assessed to the Deputy Director of Finance, 200 South Hamilton Road, Gahanna, Ohio 43230. When a petition for reassessment is filed, the Deputy Director of Finance shall assign a time and place for the hearing of same and shall notify the petitioner thereof by registered or certified mail, but the Deputy Director or Finance Director may continue the hearings from time to time if necessary.

(e) A penalty of eighteen percent (18%) shall be added to the amount of every assessment made under this chapter. The Deputy Director of Finance may adopt and promulgate rules and regulations providing for the remission of penalties added to assessments made under this chapter.

(f) When any vendor or transient guest files a petition for reassessment as provided in this chapter, the assessment made by the Deputy Director of Finance, together with penalties thereon, shall become due and payable within three (3) days after notice of the finding made at the hearing has been served, either personally or by registered or certified mail, upon the party assessed.

(Ord. 183-95. Passed 12-5-95.)

165.08 FOUR-YEAR LIMITATION FOR ASSESSMENTS; EXCEPTIONS.

No assessment shall be made or issued against a vendor or transient guest for any tax imposed by or pursuant to this chapter more than four (4) years after the return date for the period in which the lodging was furnished, or more than four (4) years after the return for such period is filed, whichever is later. This section does not bar an assessment:

- (a) When the Deputy Director of Finance has substantial evidence of amounts of taxes collected by a vendor from transient guest's lodging which were not returned to the City;
- (b) When the vendor assessed failed to file a return as required.
- (c) When the Director of Finance and the vendor or guest waive the limitation in writing.
(Ord. 183-95. Passed 12-5-95.)

165.09 TAX PAID TRANSIENT GUEST; FALSE EVIDENCE OF TAX-EXEMPT STATUS.

No transient guest shall refuse to pay the full and exact tax as required by this chapter, or present to the vendor false evidence indicating that the lodging as furnished is not subject to the tax.

(Ord. 183-95. Passed 12-5-95.)

165.10 VENDOR TO COLLECT TAX; PROHIBITION AGAINST REBATES.

No vendor shall fail to collect the full and exact tax as required by this chapter. No vendor shall refund, remit or rebate to a transient guest, either directly or indirectly any of the tax levied pursuant to this chapter, or make in any form of advertising, verbal or otherwise, any statements which might imply that he is absorbing the tax, or paying the tax for the transient guest by an adjustment of prices, or furnishing lodging at a price including the tax, or rebating the tax in any other manner.

(Ord. 183-95. Passed 12-5-95.)

165.11 REPORTS MUST BE FILED; FRAUDULENT REPORTS.

(a) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false or fraudulent return, report or statement.

(b) If any vendor required to file monthly returns under this chapter fails on two (2) consecutive months or on three (3) or more months within a twelve (12) month period, to file such returns when due or to pay the tax thereon, or if any other vendor authorized by the Deputy Director of Finance to file returns at less frequent intervals, fails on two or more occasions within a twenty-four month period, to file such returns when due or to pay the tax due thereon, the Director of Finance may require such vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one year, as determined by the Deputy Director of Finance from a review of returns or other information pertaining to such vendor, which amount shall in no event be less than one thousand dollars (\$1,000). The security may be in the form of a payment to be applied to pay the tax due on subsequent returns, or a satisfactory Standby Letter of Credit to the Deputy Director of Finance, conditioned upon payment of the tax due with the returns from the vendor. The security must be filed within ten (10) days following the vendor's receipt of the notice from the Deputy Director of Finance of its requirements.

(c) A Standby Letter of Credit filed under this chapter shall be returned to the vendor if, for a period of twelve (12) consecutive months following the date the Standby Letter of Credit was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this chapter.

(Ord. 183-95. Passed 12-5-95.)

165.12 PERSONAL LIABILITY OF CORPORATE OFFICERS OR

If any vendor corporation required to file returns and remit tax due to the City under the provisions of this chapter, fails for any reason to make such filing or payment, any of its officers or employees charged with the responsibility of filing returns and making payments, shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit tax due. The sum due for such liability may be collected by assessment in the manner provided in this chapter.

(Ord. 183-95. Passed 12-5-95.)

165.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not less one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00) for a first offense. For each subsequent offense such person shall, if a corporation, be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00), or if an individual, or a member of a partnership, firm or association, be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both, in addition to any other penalties as imposed by this chapter.

(Ord. 183-95. Passed 12-5-95.)

EMPLOYEES.

TITLE NINE - Judicial
Chap. 171. Mayor's Court.

CHAPTER 171
Mayor's Court

EDITOR'S NOTE: The Mayor has jurisdiction to hear and determine any prosecution for the violation of a Municipal ordinance, and has jurisdiction in all criminal causes involving moving traffic violations occurring on State highways located within the corporate limits, subject to the right of the defendant to trial by jury and before an impartial magistrate.

Ohio R.C. 2945.17 provides that an accused has a right to be tried by a jury at any trial in any court for the violation of any Ohio statute or of any Municipal ordinance, except in cases in which the penalty involved does not exceed a fine of one hundred dollars (\$100.00). Ohio R. C. 2937.08 and Criminal Rule 23(A) provide that if the court in which a defendant is charged with an offense is not a court of record (the Mayor's Court), and the charge is such that a right to a jury trial exists, such matter shall not be tried before him and shall be transferred to a court of record in the County if the defendant:

- (a) Does not waive his right to trial by jury in a serious offense case for which the penalty established by law includes confinement for more than six months, or
- (b) Demands a jury trial in a petty offense case in which the penalty prescribed is a fine greater than one hundred dollars (\$100.00) and/or imprisonment for not more than six months. "Such demand must be in writing and filed with the clerk of court not less than ten days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial, whichever is later. Failure to demand a jury trial as provided in this subdivision is a complete waiver of the right thereto."

In Ward v. Village of Monroeville, Ohio, 93 S. Ct. 80 (1972), the United States Supreme Court held that where the mayor before whom the defendant was compelled to stand trial was responsible for municipal finances and the mayor's court provided a substantial portion of municipal revenues, defendant was denied a trial before a disinterested and impartial magistrate as guaranteed by the due process clause of the United States Constitution.

The Supreme Court of Ohio has adopted the "Ohio Traffic Rules" which prescribe the procedure to be followed in the Mayor's Court in traffic cases. Rule 9(A) thereof states the jury demand shall be made pursuant to Criminal Rule 23 referred to above. Rule 9(B) sets forth the conditions under which the Mayor may hear a traffic case incorporating therein the holding in Ward v. Village of Monroeville as further interpreted in State, ex rel. Brockman v. Procter, 35 Ohio St. 2d 79 (1973): "Where, in a mayor's court, a defendant is entitled to a jury trial and a jury demand is made pursuant to Criminal Rule 23, the Mayor shall transfer the case pursuant to subdivision (C). If a jury demand is not made pursuant to Criminal Rule 23, and (or?) the defendant waives his right to jury trial in writing, a mayor may try the case if (1) his compensation as a judge is not directly dependent upon criminal case convictions, or (2) he is not the chief executive and administrative officer of the municipality and as such responsible for the financial condition of the municipality. Guilty and no contest pleas may be taken by any mayor including mayors whose compensation as a judge is directly dependent upon criminal case convictions and mayors who as chief executive and administrative officer of the municipality are responsible for the financial condition of the municipality."

The procedure for transferring a case to a court of record is set forth in Rule 9(C): "Where a transfer is required, the mayor's court shall make a written order directing the defendant to appear at the transferee court, continuing the same bail, if any, and making appearance before the transferee court a condition of bail, if any. Upon transfer, the mayor's court shall transmit to the clerk of the transferee court the ticket and all other papers in the case, and any bail taken in the case. Upon receipt of such papers the clerk of the transferee court shall set the case for trial and shall notify the defendant by ordinary mail of his trial date."

Rule 13 provides that a court shall establish a traffic violation bureau and specifies certain restrictions as to the designated offenses and schedule of fines to be accepted as waiver payment in lieu of court appearance.

CROSS REFERENCES

Disposition of fines and costs - see Ohio R.C. 733.40

Mayor's powers and duties - see Ohio R.C. 1905.20 et seq.

Trial - see Ohio R.C. Ch. 2938

Notification to Director of liquor law convictions - see Ohio R.C. 4301.991

Record of traffic violations - see Ohio R.C. 4513.37

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