DOCKET
OF A MEETING OF
THE LAKEWOOD CITY COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS
LAKEWOOD CITY HALL - 12650 DETROIT AVENUE
NOVEMBER 2, 2015
7:30 P.M.

The Regular Meetings of Lakewood City Council shall be held on the first and third Mondays of each month at 7:30 P.M., except that when such meeting date falls on a holiday such meeting shall instead be held on the following day. A Docket and Agenda of the business proposed to be transacted by Council will be available in the Clerk's Office and on the City's website www.onelakewood.com as soon after 4 PM on the Friday before a Council meeting as possible.

Section 121.08 of the Codified Ordinances of the City of Lakewood establishes rules for the public to follow when speaking before Council:

ADDRESSING COUNCIL – The President may recognize any non-member for addressing Council on any question then pending. In such cases, the person recognized shall address the chair, state his or her name and address and the subject matter he or she desires to discuss. Speakers must be courteous in their language and avoid personalities. When addressed by the Chair, the speaker must yield the floor and comply with all rulings of the chair, said rulings not being open to debate. Except with permission of Council specifically given, speakers shall be limited to five minutes. No person who has had the floor shall again be recognized until all others desiring an opportunity to speak have been given an opportunity to do so.

AGENDA ITEMS PROTOCOL:

The Clerk at the beginning of the meeting will present the AGENDA ITEMS sign-in sheet to the President of Council. Speakers will be called to address Council by the Chair. A citizen must first write his or her name, address and agenda item number on the designated sign-in sheet in order to be recognized.

PUBLIC COMMENT PROTOCOL:

The clerk at the end of the meeting will present the PUBLIC COMMENT sign-in sheet to the President of Council. Public Comment will be welcomed at the end of a Council Meeting on miscellaneous issues or issues other than agenda items. A citizen must first write his or her name, address and topic on the designated sign-in sheet in order to be recognized. The forum is not designed to be a question and answer session.

I. Pledge of Allegiance
II. Moment of Silence
III. Roll Call
Reading & disposal of the minutes of the Regular Meeting of Council held October 19, 2015.
Reports, legislation and communications from Members of Council, the Mayor and other City Officials.

****OLD BUSINESS****

1. Committee of the Whole Report regarding 11/2/15 Committee Meeting; Ms. Madigan; Chair (To Be Provided)

2. Public Safety Committee Report regarding 10/19/15 Committee Meeting. Mr. Bullock; Chair (To Be Provided)

3. **ORDINANCE NO. 29-15** - An Ordinance to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, to approve the editing and inclusion of certain ordinances and resolutions as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter. (PLACED ON 1ST READING 10/5/15, 2 ND READING 10/19/15) (Pg. 4)

4. Finance Committee Report regarding Ordinance 30-15 & 31-15. Mr. Nowlin; Chair. (To Be Provided)

5. **ORDINANCE NO. 30-15** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending Ordinance 43-14, adopted December 15, 2014, authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance and operating supplies, services and equipment as authorized by the 2015 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 10/5/15, 2nd READING 10/19/15)(Pg. 6)

6. **ORDINANCE NO. 31-15** – AN ORDINANCE to take effect on January 1, 2016 provided it receives the vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, amending Chapter 128, Municipal Income Tax, of the Codified Ordinances of the City of Lakewood for the purpose of meeting the mandates for municipal tax codes contained in Sub. H.B. 5, in which the 130th General Assembly comprehensively amended Chapter 718 of the Ohio Revised Code and reformed the imposition of municipal income taxes. (PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 10/19/15),. (Pg. 12)

7. **ORDINANCE NO. 32-15** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to provide for creating positions and rates of pay for full-time and certain part-time annual salaried employees and hourly rate employees not covered by a collective bargaining agreement in the several departments, divisions and offices the City of Lakewood, including the Chief of

Fire, Chief of Police and Civil Service Commissioners. (1ST READING & REFERRED TO FINANCE COMMITTEE 10/19/15) (Pg. 92)

****NEW BUSINESS****

8. Communication from Councilmember O'Leary regarding Edgewater Sewer Separation Project. (Pg. 98)

9. Communication from Law Director Butler regarding Revision of legislation to permit bicyclists in Clifton Boulevard bus lanes. (Pg.99)

10. Communication from Law Director Butler regarding Resolution authorizing the Mayor to enter into agreement with the Cuyahoga County Board of Health for the provision of public health services in Lakewood in 2016. (Pg.100)

11. **RESOLUTION NO. 8827-15** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an agreement with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed $204,354.00 for a one-year period commencing January 1, 29016. (Pg. 101)

12. Liquor Permit Application for D5 and D6 transfers to Burgers 2 Beer from Eddie and Eddie; 14725 Detroit Avenue. (Pg. 103).

13. Liquor Permit Application for D5 and D6 TRANSFERS TO Sarita A Restaurant from Players; 14523-27. (Pg. 104).

First Reading 10/5/15

Second Reading 10/19/15.

ORDINANCE NO. 29-15 BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, to approve the editing and inclusion of certain ordinances and resolutions as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter.

WHEREAS, the Walter H. Drane Company has completed a quarterly revision and updating of the Codified Ordinances of the City; and

WHEREAS, various ordinances and resolutions of a general and permanent nature that have been passed by Council but not yet included in the Codified Ordinances of the City have now been made a part thereof; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments, in that the publication and distribution of the 2015 Replacement Pages for the Codified Ordinances of the City of Lakewood should be conducted at the earliest date possible; now, therefore,

BE IT ORDAINED BY CITY OF LAKEWOOD, OHIO:

Section 1. The editing, arrangement and numbering and renumbering of the following ordinances and resolutions and parts of ordinances and resolutions are hereby approved as parts of the various component codes of the Codified Ordinances of the City, so as to conform to the classification and numbering system of the Codified Ordinances:

Ord. No.	Date	C.O. Section
13-15	5-4-15	143.01 to 143.04, 143.99
14-15	5-4-15	1105.02

Section 2. The Second Amended Charter published in the Codified Ordinances is the official charter of the City of Lakewood.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least five members of Council this ordinance shall take effect and be in force immediately, or otherwise shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

_____
President of Council

_____
Clerk of Council

Approved: _____

_____
Mayor

PLACED ON 1ST READING & REFERRED TO
FINANCE COMMITTEE 10/5/15.
SECOND READING 10/19/15.

ORDINANCE NO: 30-15 BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, amending Ordinance 43-14, adopted December 15, 2014, authorizing the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance and operating supplies, services and equipment as authorized by the 2015 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law.

WHEREAS, this Council desires to provide the authorization to the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager to enter into contracts for professional services, and to advertise for bids and enter into contracts for the purchase of repair maintenance and operating supplies, services and equipment as authorized by the 2015 Appropriation Ordinance and the Administrative Code of the City of Lakewood with the lowest and best bidder or bidders or as otherwise provided by law, and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments in that delay could impair the City's ability to provide necessary services in a timely manner; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 1 of Ordinance 43-14, adopted December 15, 2014 currently reading as follows:

Section 1. That the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager be and are hereby authorized and directed to enter into a contract or contracts for supplies, services and equipment with the lowest and best bidder or bidders or as otherwise provided by law, as follows:

Professional services contracts included in the 2015 Budget are as follows:

1) Legal Services.....300,000
2) Recodification of Ordinances.....12,500

3) Financial Audit 75,000
4) Hospitalization and Health Care Benefit Consulting Services 45,000
5) Consultant for Workers Compensation 40,000
6) Risk Management Consulting Services 13,000
7) Healthcare, Physicals, Drug & Alcohol Testing 20,000
8) Employee Assistance Program 10,000
9) Supervisor / Manager / Employee Training 125,000
10) Exams for Classified Positions 75,000
11) Housing and Building Plans Examinations 25,000
12) Lakewood Jail Medical Services 75,000
13) Band Concerts 15,000
14) Municipal Engineering Consultant 60,000
15) Debt Issuance Costs 75,000
16) Forensic Services 10,000
17) Long Term Control Plan and Storm Water Professional Services 300,000
18) Administrative Professional Services 250,000

Sub-Total $1,525,500

Services contracts included in the 2015 Budget are as follows:

1) Government Agreements (WEB) 100,000
2) Government Agreements (Bd of Ed/Pools) 210,000
3) Financial Institution Service Charges 50,000
4) Electronic Payment Services 150,000
5) Property & Liability Insurance Contracts 450,000
6) Workers' Comp Stop Loss Insurance 85,000
7) Life Insurance 25,000
8) Hospitalization and Health Care Benefit Services 5,500,000
9) Medical Claims Billing Service 100,000
10) Sentenced Prisoners Full Jail Service 300,000
11) Home Delivered Meals 45,000
12) Distribution System Leak Survey 30,000
13) Disposal of Screenings and Grit (WWTP) 13,000
14) Excavation Spoils Removal 100,000
15) Roll of Box for Street Sweeping 50,000
16) Solid Waste Disposal Site 900,000
17) Waste Collections – Condominiums 90,000
18) Biosolids Disposal 90,000
19) Roll-Off Box for Construction Debris 60,000
20) Equipment Lease - Leaf Collection Project 15,000
21) Lab Analysis Service 25,000
22) Citywide Computer Hrdwr Op. Sys., & Software Maint Contracts 350,000
23) Communications Services 100,000
24) Water Meter Program Maintenance 25,000
25) Telephone Service 150,000
26) Cellular Phone Service 85,000
27) Janitorial Services 15,000
28) Laundry Service-Police Department 12,000
29) HVAC Maintenance 65,000
30) Elevator Maintenance 25,000
31) Fire Alarm Maintenance 50,000
32) Copier Maintenance Service 25,000
33) Postage, Mailing Services, Equipment Lease/Maintenance 250,000
34) Rental and Laundry of Uniforms 12,000
35) Advertising 35,000
36) Printing Services 115,000
37) CRIS/LEADS Fees 35,000

38) Parking Citation Billing Service 50,000
39) Fireworks Display 35,000
40) Transportation Services 35,000

Sub-Total $9,857,000

Materials, supplies, and equipment authorized for purchase under the 2015 Budget are as follows:

1) Sand and Aggregate 30,000
2) Concrete Supplies 50,000
3) Asphalt Materials 50,000
4) Asphalt Cold Patch 25,000
5) Crack Sealant 40,000
6) Road Salt (Sodium Chloride) 350,000
7) Fire Hydrants, Sewer and Water Appurtenances 100,000
8) Water Meter Supplies & Materials 75,000
9) Sign Shop-Supplies, Blanks & Reflective Material 100,000
10) Polymer Flocculants 18,000
11) Wastewater Treatment Chemicals 120,000
12) Tires and Road Service 80,000
13) Automotive Repairs, Parts and Supplies 500,000
14) Oil and Lubricants 40,000
15) Fuel (Gasoline and Diesel) 750,000
16) Purchase of Uniforms and Gear 40,000
17) Electrical Supplies 30,000
18) Hardware Supplies 35,000
19) Janitorial Supplies 45,000
20) Landscape Materials 25,000
21) Lumber Supplies 90,000
22) Plumbing Supplies 40,000
23) Pool Supplies – Chemicals 45,000
24) Small Tools and Equipment 110,000
25) Prisoner Food Supplies 40,000
26) Purchase Uniforms & Gear – Safety Forces 60,000
27) Ammunition 25,000
28) Office Supplies 35,000
29) Computer Supplies 10,000
30) Computer Software 10,000
31) Communications Equipment 75,000
32) Paper Supplies 20,000
33) Lease Copier Equipment 35,000
34) Subscriptions/Publications 35,000
35) Reforestation 115,000
36) Police Operating Equipment 125,000
37) Fire/EMS Operating Equipment 200,000
38) Waste Water Treatment Plant Operating Equipment 150,000

Sub-Total $3,668,000

Total $15,050,500

be and hereby is hereby amended to read:

Section 1. That the Mayor (Director of Public Safety), the Director of Public Works, the Director of Law, the Director of Finance, and/or the Purchasing Manager be and are hereby authorized and directed to enter into a contract or contracts for supplies, services and equipment with the lowest and best bidder or bidders or as otherwise provided by law, as follows:

Professional services contracts included in the 2015 Budget are as follows:

1)	**Legal Services**	**400,000**
2)	Recodification of Ordinances	12,500
3)	Financial Audit	75,000
4)	Hospitalization and Health Care Benefit Consulting Services	45,000
5)	Consultant for Workers Compensation	40,000
6)	Risk Management Consulting Services	13,000
7)	Healthcare, Physicals, Drug & Alcohol Testing	20,000
8)	Employee Assistance Program	10,000
9)	Supervisor / Manager / Employee Training	125,000
10)	Exams for Classified Positions	75,000
11)	Housing and Building Plans Examinations	25,000
12)	Lakewood Jail Medical Services	75,000
13)	Band Concerts	15,000
14)	Municipal Engineering Consultant	60,000
15)	Debt Issuance Costs	75,000
16)	Forensic Services	10,000
17)	Long Term Control Plan and Storm Water Professional Services	300,000
18)	**Administrative Professional Services**	**275,000**
	Sub-Total	**$1,650,500**

Services contracts included in the 2015 Budget are as follows:

1)	Government Agreements (WEB)	100,000
2)	Government Agreements (Bd of Ed/Pools)	210,000
3)	Financial Institution Service Charges	50,000
4)	Electronic Payment Services	150,000
5)	Property & Liability Insurance Contracts	450,000
6)	Workers' Comp Stop Loss Insurance	85,000
8)	Life Insurance	25,000
8)	**Hospitalization and Health Care Benefit Services**	**6,500,000**
9)	Medical Claims Billing Service	100,000
10)	Sentenced Prisoners Full Jail Service	300,000
12)	Home Delivered Meals	45,000
12)	Distribution System Leak Survey	30,000
13)	Disposal of Screenings and Grit (WWTP)	13,000
14)	Excavation Spoils Removal	100,000
15)	Roll of Box for Street Sweeping	50,000
16)	Solid Waste Disposal Site	900,000
17)	Waste Collections – Condominiums	90,000
18)	Biosolids Disposal	90,000
19)	Roll-Off Box for Construction Debris	60,000
20)	Equipment Lease - Leaf Collection Project	15,000
21)	Lab Analysis Service	25,000
22)	Citywide Computer Hrdwr Op. Sys., & Software Maint Contracts	350,000
23)	Communications Services	100,000
24)	Water Meter Program Maintenance	25,000
25)	Telephone Service	150,000
26)	Cellular Phone Service	85,000
27)	Janitorial Services	15,000
28)	Laundry Service-Police Department	12,000
29)	**HVAC Maintenance**	**75,000**
30)	Elevator Maintenance	25,000
31)	Fire Alarm Maintenance	50,000
32)	Copier Maintenance Service	25,000

33) Postage, Mailing Services, Equipment Lease/Maintenance 250,000
34) Rental and Laundry of Uniforms 12,000
35) Advertising 35,000
36) Printing Services 115,000
37) CRIS/LEADS Fees 35,000
38) Parking Citation Billing Service 50,000
39) Fireworks Display 35,000
40) Transportation Services 35,000

Sub-Total $10,867,000

Materials, supplies, and equipment authorized for purchase under the 2015 Budget are as follows:

1) Sand and Aggregate 30,000
2) Concrete Supplies 50,000
3) Asphalt Materials 50,000
4) Asphalt Cold Patch 25,000
5) Crack Sealant 40,000
6) **Road Salt (Sodium Chloride) 450,000**
7) Fire Hydrants, Sewer and Water Appurtenances 100,000
8) Water Meter Supplies & Materials 75,000
9) Sign Shop-Supplies, Blanks & Reflective Material 100,000
10) Polymer Flocculants 18,000
11) Wastewater Treatment Chemicals 120,000
12) Tires and Road Service 80,000
13) Automotive Repairs, Parts and Supplies 500,000
14) **Oil and Lubricants 45,000**
15) Fuel (Gasoline and Diesel) 750,000
16) Purchase of Uniforms and Gear 40,000
17) **Electrical Supplies 45,000**
18) Hardware Supplies 35,000
19) Janitorial Supplies 45,000
20) Landscape Materials 25,000
21) Lumber Supplies 90,000
22) Plumbing Supplies 40,000
23) Pool Supplies – Chemicals 45,000
24) Small Tools and Equipment 110,000
25) Prisoner Food Supplies 40,000
26) Purchase Uniforms & Gear – Safety Forces 60,000
27) Ammunition 25,000
28) Office Supplies 35,000
29) Computer Supplies 10,000
30) Computer Software 10,000
31) Communications Equipment 75,000
32) Paper Supplies 20,000
33) Lease Copier Equipment 35,000
34) Subscriptions/Publications 35,000
35) Reforestation 125,000
36) Police Operating Equipment 60,000
37) Fire/EMS Operating Equipment 200,000
38) Waste Water Treatment Plant Operating Equipment 150,000

Sub-Total $3,788,000

Total $16,305,500

Section 2. Contracts for supplies, services and equipment in excess of $7,500 and for professional services in excess of $5,000 shall not be awarded except as approved herein or further approved by Resolution of Council.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____ _____
President

_____
Clerk

Approved: _____ _____
Mayor

PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 10/19/15.

ORDINANCE NO. 31-15 BY:

AN ORDINANCE to take effect on January 1, 2016 provided it receives the vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law,, amending Chapter 128, Municipal Income Tax, of the Codified Ordinances of the City of Lakewood for the purpose of meeting the mandates for municipal tax codes contained in Sub. H.B. 5, in which the 130th General Assembly comprehensively amended Chapter 718 of the Ohio Revised Code and reformed the imposition of municipal income taxes.

WHEREAS, the home rule amendment of the Ohio Constitution, Article XVIII, Section 3, provides that "[m]unicipalities shall have authority to exercise all powers of local self-government," and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipalities power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that "laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes"; and

WHEREAS, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

WHEREAS, more specifically, the General Assembly enacted Sub. H. B. 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is "levied in accordance with the provisions and limitations specified in [Chapter 718];" and

WHEREAS, upon a detailed review of Sub. H. B. 5 and the Codified Ordinances of the City of Lakewood, this ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be "levied in accordance with the provisions and limitations specified in [Chapter 718]" and thus reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure and that it shall take effect on January 1, 2016 as set forth in

Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments in that the City must make this new chapter effective in accordance with state law; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Chapter 128, Municipal Income Tax, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

CHAPTER 128
Municipal Income Tax

ENACTMENT

128.0101 PURPOSE OF LEVY OF INCOME TAX.
To provide funds for the purposes of general municipal functions of the City, there shall be and is hereby levied a tax on all income, salaries, qualifying wages, commissions and other compensations, and on net profits as hereinafter provided. (Ord. 71-10. Passed 11-1-10.)

DEFINITIONS

128.0301 DEFINITIONS GENERALLY.
For the purposes of this chapter, the terms, phrases, words and their derivatives shall have the meanings given in the next succeeding sections. The singular shall include the plural, and the masculine shall include the feminine and the neuter. (Ord. 71-10. Passed 11-1-10.)

128.03011 ADJUSTED FEDERAL TAXABLE INCOME
"Adjusted federal taxable income" means a "C" corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute "adjusted federal taxable income" as if the pass-through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) Section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004. (Ord. 71-10. Passed 11-1-10.)

128.0302 ADMINISTRATOR.
"Administrator" means the individual designated to administer and enforce the provisions of the City income tax. (Ord. 71-10. Passed 11-1-10.)

128.0303 ASSOCIATION.
"Association" means any partnership, limited partnership, limited liability company, Subchapter S Corporation or any other form of unincorporated enterprise, owned by one or more persons. (Ord. 71-10. Passed 11-1-10.)

128.0304 BOARD OF REVIEW.
"Board of Review" means the Board created by and constituted as provided in Section 128.2501. (Ord. 71-10. Passed 11-1-10.)

128.0305 BUSINESS.
"Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an indi-

vidual, partnership, association, corporation or any other entity excluding, however, the portion of all nonprofit corporations which is exempt from the payment of Federal Income Tax. (Ord. 71-10. Passed 11-1-10.)

128.03051 CITY.
"City" means the City of Lakewood, Ohio. (Ord. 71-10. Passed 11-1-10.)

128.0306 CORPORATION.
"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, but does not include Subchapter S Corporations. (Ord. 71-10. Passed 11-1-10.)

128.03061 DOMICILE
"Domicile" means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile. (Ord. 71-10. Passed 11-1-10.)

128.0307 EMPLOYEE.
"Employee" means one who works for income, wages, salary, commission or other type of compensation in the service of and under the control of an employer. (Ord. 71-10. Passed 11-1-10.)

128.0308 EMPLOYER.
"Employer" means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on an income, salary, wage, commission or other basis of compensation. (Ord. 71-10. Passed 11-1-10.)

128.0309 FISCAL YEAR.
"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31. (Ord. 71-10. Passed 11-1-10.)

128.03091 FUNDAMENTAL CHANGE.
"Fundamental change" means any substantial alteration by an employer including liquidations, dissolution, bankruptcy, reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization. (Ord. 71-10. Passed 11-1-10.)

128.03092 GENERIC FORM.
"Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds that contain all the information required on Lakewood's regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering Lakewood's procedures for processing forms. (Ord. 71-10. Passed 11-1-10.)

128.0310 GROSS RECEIPTS.
"Gross receipts" means the total income from any source whatever revenue derived from sales, work done, or service rendered. (Ord. 71-10. Passed 11-1-10.)

128.03101 INCOME
"Income" means all monies and compensation in any form, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:
(a) All income, qualifying wages, commissions, other compensation and other income from whatever source received by residents of Lakewood.

(b) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in Lakewood.
(c) The portion attributable to the City of the net profits of all businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in Lakewood. (Ord. 71-10. Passed 11-1-10.)

128.03102 MANAGER.
"Manager" means any of the employer's officers, responsible persons, employees having control or supervision and employees charged with the responsibility of filing the return, paying taxes and otherwise complying with the provisions of this chapter. (Ord. 71-10. Passed 11-1-10.)

128.0311 NET PROFITS.
"Net profits" means, for taxable years prior to 2004, a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting (that is, cash or accrual) system used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this chapter, federal, state and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners. (For taxable years 2004 and later, see "adjusted federal taxable income".) (Ord. 71-10. Passed 11-1-10.)

128.0312 NONRESIDENT.
"Nonresident" means an individual domiciled outside the City of Lakewood. (Ord. 71-10. Passed 11-1-10.)

128.0313 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.
"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Lakewood. (Ord. 71-10. Passed 11-1-10.)

128.03131 PASS-THROUGH ENTITY.
"Pass-through entity" means a partnership, S corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code. Unless otherwise specified, for purposes of this chapter, the tax treatment for pass- throughs is the same as "association". (Ord. 71-10. Passed 11-1-10.)

128.0314 PERSON.
"Person" means every natural person, partnership, fiduciary, association or corporation.
Whenever used in any clause prescribing and imposing a penalty, the term "person" , as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations the officers thereof. (Ord. 71-10. Passed 11-1-10.)

128.0315 PLACE OF BUSINESS.
"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. (Ord. 71-10. Passed 11-1-10.)

128.03151 QUALIFYING WAGE.
"Qualifying wage" means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" repre-

sents employees' income from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by a municipality. This definition is effective January 1, 2004, for taxable years 2004 and later. (Ord. 71-10. Passed 11-1-10.)

128.0316 RESIDENT.
"Resident" means an individual domiciled in the City of Lakewood, but shall not include those individuals attending an accredited college or university on a full-time basis who reside within the City sixteen weeks or less during the taxable year. (Ord. 71-10. Passed 11-1-10.)

128.0317 RESIDENT UNINCORPORATED BUSINESS ENTITY.
"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Lakewood. (Ord. 71-10. Passed 11-1-10.)

128.03171 S CORPORATION.
"S Corporation" or "Subchapter S Corporation" means any association that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year. (Ord. 71-10. Passed 11-1-10.)

128.0318 TAXABLE INCOME.
"Taxable income" means income minus the deductions and credits allowed by this chapter. (See "income".) (Ord. 71-10. Passed 11-1-10.)

128.0319 TAXABLE YEAR.
"Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and in the case of a fractional part of a year, the period for which such return is required to be made. (Ord. 71-10. Passed 11-1-10.)

128.0320 TAXPAYER.
"Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax. (Ord. 71-10. Passed 11-1-10.)

IMPOSITION OF INCOME TAX

128.0501 RATE AND INCOME TAXABLE.
An annual tax for the purposes specified in Section 128.0101shall be imposed on and after January 1, 1981, at the rate of one and one-half percent (1-112%) per annum upon the following:
(a) On all income, salaries, qualifying wages, commissions and other compensation earned and/or received on and after January 1, 1981, by residents of the City. For clarification "income" includes, but is not limited to, lottery, gambling and sports winnings, and games of chance.
(1) If the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.
(2) If the taxpayer is not considered a professional gambler for federal income tax purposes, a deduction equal to the amount of up to $600 of income combined from lottery, gambling and sports winnings, and games of chance, or a deduction of $600, whichever is less, shall be allowed, provided that in no case shall the deduction exceed the amount of combined income from lottery, gambling and sports winnings, and games of chance. If said income is payable to the taxpayer in more than one year, the deduction applies only in the first year in which the income is received.

(b) On all income, salaries, qualifying wages, commissions and other compensation earned and/or received on and after January 1, 1981, by nonresidents of the City for work done or services performed or rendered within the City. Separation pay, termination pay, reduction-in- force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to the city.

(1) Lakewood shall not, however, tax the compensation of a non-resident individual who will be deemed to be an occasional entrant if all of the following apply:

A. The compensation is paid for personal services performed by the individual in the City on twelve or fewer days during the calendar year, in which case the individual shall be considered an occasional entrant for purposes of the City income tax. A day is a full day or any fractional part of a day.

B. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the City and the individual pays tax on compensation described in Section 1 28.0SOl(b) to the municipality, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.

C. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the City.

(2) Beginning with the thirteenth day an individual deemed to have been an occasional entrant to the City performs services within the City, the employer of said individual shall begin withholding the City income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the City in accordance with the requirements of this chapter.

Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the City by the individual for the first twelve days.

(3) If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the City.

(c) (1) On the portion attributable to the City on the net profits earned on and after January 1, 1981, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

(2) On the portion of the distributive share of the net profits earned or received on and after January 1, 1981, of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City. The tax imposed on the individual members or owners of a resident unincorporated business entity shall be collected by the resident unincorporated business entity, and remitted on behalf of the individual members or owners.

(d) (1) On the portion attributable to the City of the net profits earned on or after January 1, 1981, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.

(2) On the portion of the distributive share of the net profits earned or received on or after January 1, 1981, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City.

(e) Effective for tax years 2004 and later, the distributive share of income paid to an C corporation shareholder shall be taxable in the following manner:

(1) If no portion of the net profits of the S corporation are allocated or apportioned to the State of Ohio, the distributive share is taxable only to the extent that it represents wages or net earnings from self-employment.

(2) If any portion of the net profits of the S corporation are allocated or apportioned to the State of Ohio, the full amount of the distributive share is taxable.
(f) On the portion attributable to the City of the net profits earned on and after January 1, 1981, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.
(g) On the portion attributable to this Municipality pursuant to the terms of this chapter and including "Royalty income" , which means income earned from a royalty interest in the production of an oil or gas well. (Ord. 71-10. Passed 11-1-10.)

128.0502 EFFECTIVE PERIOD.
Such tax shall be levied, collected and paid with respect to the income, salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1981. (Ord. 71-10. Passed 11-1-10.)

DETERMINATION OF ALLOCATION OF TAX

128.0701 METHOD OF DETERMINATION.
Net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of:
(a) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all 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 this section, real property includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
(b) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed. For tax year 2004 and subsequent tax years, wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.
(c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
In the event that the foregoing allocation formula does not produce an equitable result, another basis (including the books and records method) may, under uniform regulations, be substituted so as to produce such result. (Ord. 71-10. Passed 11-1-10.)

128.0702 SALES MADE IN THE CITY.
As used in Section 1 28.0701(c), "sales made in the City" means:
(a) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.
(b) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.

(c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside of the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made. (Ord. 71-10. Passed 11-1-10.)

128.0703 TOTAL ALLOCATION.
Add together the percentages determined in accordance with subsections (a), (b) and (c) of Section 128.0701, or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentage referred to in Section 128.0701. A factor is applicable even though it may be allocable entirely in or outside the City. (Ord. 71-10. Passed 11-1-10.)

128.0704 RENTALS.
(a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under subsections (c), (d) and (e) of Section 128.0501 , only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived (whether so rented, managed or operated by a taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part. If it does not constitute a business activity, the income is taxable simply as "other income" .
(b) Where the gross monthly rental of any and all real properties regardless of number and value, aggregates in excess of two hundred fifty dollars ($250.00) per month, it shall be prima- facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars ($250.00) per month; in the case of farm property, the owner shall be considered engaged in a business activity when he shares in 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 two hundred fifty dollars ($250.00) per month; the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars ($250.00) per month. (Ord. 71-10. Passed 11-1-10.)

128.0705 OPERATING LOSS CARRY FORWARD.
(a) The portion of a net operating loss sustained in any taxable year subsequent to July 1, 1967, allocable to the City may be applied against the portion of the profit of succeeding tax years allocable to the City, until exhausted but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
(b) The portion of net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.
(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry forward shall be determined. (Ord. 71-10. Passed 11-1-10.)

EXEMPTIONS

128.0901SOURCES OF INCOME NOT TAXED.
The tax provided for herein shall not be levied on the following:
(a) Pay or allowance of active members of the armed forces of the United States and of members of their reserve components, including the National Guard.

(b) The income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.
(c) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, state or federal governments or charitable, religious or educational organizations.
(d) Proceeds of insurance paid by the death of the insured; payments from pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
(e) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.
(f) Alimony received.
(g) Personal earnings of any natural person under eighteen years of age.
(h) Compensation for personal injuries or for damages to property by way of insurance or otherwise. This exclusion does not apply to compensation paid for lost salaries or wages or to compensation from punitive damages.
(i) Compensation paid to a precinct election official, to the extent that such compensation does not exceed one thousand dollars ($1,000) annually.
(j) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained clergy's compensation. The clergy must be duly ordained,
commissioned, or licensed by a religious body constituting a religious denomination, and must have authority to perform all sacraments of the religious body.
(k) Interest, dividends and other revenue from intangible property.
(l) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
(m) Taxpayers are permitted to deduct expenses on federal Form 2106 in accordance with federal guidelines for Form 2106. Expenses reported on Form 2106 are subject to audit and approval by the Administrator.
(n) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
(o) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes. (Ord. 71-10. Passed 11-1- 10.)

RETURNS

128.1101 WHEN RETURN REQUIRED TO BE MADE.
(a) Each taxpayer shall, whether or not a municipal income tax is due thereon to Lakewood, make and file a return on or before April 15 of the year following the effective date of this chapter and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the 15th day of the fourth month following the end of such fiscal year or period.
(b) Any person who has no income taxable to Lakewood need not file an annual return, and shall be considered exempt. Any person who has is exempt income must file a return an exemption certificate each year and declare to the Administrator the nature of his exemption. The taxpayer that is exempt shall inform the

administrator within thirty (30) days if at any point the taxpayer again receives begins receiving income taxable to Lakewood. (Ord. 71-10. Passed 11-1-10.)

128.1102 FORM AND CONTENT OF RETURN.
The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, or on an acceptable generic form as defined in this chapter, setting forth:
(a) The aggregate amounts of income, salaries, wages, commissions and other compensation earned or received and gross income receipts from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;
(b) The amount of the tax imposed by this chapter on such earnings and profits; and
(c) Such other pertinent statements, information returns or other information as the Administrator may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous income forms, page one of Form 1040, page one and two of Form 1120, 1120s (including (K-1), 2106, 1065, Schedule C (including cost of goods manufactured and/or sold), Schedule E, Schedule F and any other federal schedules, if applicable. (Ord. 71-10. Passed 11-1-10.)

128.1103 EXTENSION OF TIME FOR FILING RETURNS.
For tax years prior to 2004, the Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. For taxable years 2004 and later, the extended due date for individuals shall be the last day of the month following the month to which the federal income tax due date has been extended. For businesses, if the extension is filed through the Ohio Business Gateway the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended. If not filed through the Ohio Business Gateway the extended due date 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. The Tax Commissioner may deny the extension if the taxpayer fails to file the request timely, fails to file a copy of the federal extension request, or if the taxpayer's income tax account with the City is delinquent in any way. The Administrator may require a tentative return, accompanied by a payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. (Ord. 71-10. Passed 11-1-10.)

128.1104 CONSOLIDATED RETURNS.
(a) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Municipality.
(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds that net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City. (Ord. 71-10. Passed 11-1-10.)

128.1105 AMENDED RETURNS.
(a) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Sections 128.1701, 128.1702, 128.1703 and 128.1902. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting (that is, cash or accrual) or apportionment of net profit after the due date for filing the original return.
(b) Within three months from the final determination of any federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City 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. (Ord. 71-10. Passed 11-1-10.)

128.1106 BUSINESS LOSSES.
Each taxpayer may offset business losses against business net profits from any business
conducted in the Municipality or in any Municipality that does not levy an income tax on net profits therefrom. However, a loss from the operation of a business may not be used to offset the income on a taxpayer's W-2 and/or 1099 forms. (Ord. 71-10. Passed 11-1-10.)

128.1107 REPORTING A NET LOSS.
Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this chapter. (Ord. 71-10. Passed 11-1-10.)

PAYMENT OF TAX

128.1301PAYMENT OF TAX ON FILING OF RETURNS.
(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon provided, however, that:
(1) Where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 128.1302 or,
(2) Where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 128.1303 or,
(3) Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in Section 1 28.1902, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable
at the time of filing the return.
(b) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder, or, at his election, indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than five dollars ($5.00) shall be collected or refunded.
(c) If any employer which is liable for tax obligations imposed by this chapter undergoes a fundamental change, then the employer and its manager shall be liable for taxes due up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. Any successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalty which the predecessor employer owes pursuant to this chapter. The successor employer shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amount, then the successor, and in a personal manner, the successor's

manager shall be jointly and severally liable for the payment of such taxes, interest and penalty. (Ord. 71-10. Passed 11-1-10.)

128.1302 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City shall deduct, at the time of the payment of such income, salary, wages, commission or other compensation, the tax of one and one-half percent (1-1/2%) per annum of the gross income, salaries, wages, commissions or other compensation due by the employer to each employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by an employer in any one month is less than one hundred
dollars ($100.00) per month based on the previous tax year's quarterly average, the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Such returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. The 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.

(c) The employer in collecting the tax shall be deemed to hold the same until payment is made by such employer to the City as a trustee for the benefit of the City, and any such tax collected by such employer from his employees shall, until the same is paid to the City be deemed a trust fund in the hands of such employer.

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

(e) Manager's Obligation.

(1) Every manager is deemed to be a trustee of this Municipality in collecting funds and holding the tax required under ordinance to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to this Municipality for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to this Municipality, whether or not the employer actually remits the tax to this Municipality for purposes of determining employee payments or credits.

(2) All managers shall be personally liable to the extent of the tax, interest, and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.

(3) No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employees' or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.

(f) On or before February 28 of each year, beginning with the year 1986, each employer shall file a withholding return setting forth the names, addresses, and social security numbers of all employees from whose compensation the tax was withheld during the preceding calendar year, the amount of tax withheld from his or her employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

(g) On or before February 28 of each year all individuals, businesses, employers, brokers or other who engage persons, either on a fee or commission basis or as independent contractors and not employees (those who are not subject to withholding) must provide the Municipality with copies of all 1099 miscellaneous income forms and/or a list of names, addresses, Social Security Numbers or

federal identification numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person.
(h) All employers that provide any contractual service within the City, and who employ subcontractors in conjunction with that service shall, prior to commencement of the service, provide the City the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax employer requirements under this chapter. (Ord. 71-10. Passed 11-1-10.)

128.1303 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.
(a) Every person who anticipates any taxable income which is not subject to Section 128.1902 and/or from which tax will not be fully withheld at Lakewood's tax rate, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 128.0501, 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, and shall make the estimated payments required herein.
(b) If the estimated tax for the current year, less the tax to be withheld and less the tax credit allowed in Section 1 28.1902, is less than one hundred dollars ($100.00), no declaration or payment of estimated tax is required. (Ord. 71-10. Passed 11-1-10.)

128.1304 FILING OF DECLARATION.
(a) The declaration required by Section 128.1303 shall be filed on or before the April 15 of
each year during the effective period set forth in Section 1 28.0502 or within one hundred five (105) days of the date the taxpayer becomes subject to tax for the first time.
(b) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month following the end of such fiscal year or period. (Ord. 71-10. Passed 11-1-10.)

128.1305 FORM OF DECLARATION.
(a) The declaration required by Section 128.1303 shall be filed upon a form furnished by or obtainable from the Administrator, or on an acceptable generic form as defined in this chapter. Credit shall be taken for the City tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of Section 128.1902.
(b) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein. (Ord. 71-10. Passed 11-1-10.)

128.1306 PAYMENT TO ACCOMPANY DECLARATION.
Such declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least one-fourth of the estimated non-withheld and/or underwithheld tax due, and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning
of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. However, if 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.
(a) If the taxpayer is an individual, at least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th), and thirteenth (13th) months after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(b) If the taxpayer is a corporation or association, at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth, and twelfth months of the taxable year; provided, however, that in case 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.
(c) No penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the City on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent (100%) of the previous year's tax liability, provided that the previous year reflected a twelve-month period and the taxpayer filed a return for that year, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to ninety percent (90 %) of the final tax liability for the tax year due on or before April 15th of the current year. (Ord. 71-10. Passed 11- 1-10.)

128.1307 ANNUAL RETURN.
On or before the fifteenth day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 128.1301. (Ord. 71-10. Passed 11-1-10.)

INTEREST AND PENALTIES

128.1501 INTEREST ON UNPAID TAX.
All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due, shall bear interest at the rate of eight percent (8%) per annum. (Ord. 71-10. Passed 11-1-10.)

128.1502 PENALTIES ON UNPAID TAX.
In addition to interest as provided in Section 1 28.1501, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:
(a) For failure to pay taxes or estimated taxes due, other than taxes withheld: one percent (1%)
per month or fraction of a month thereof, but not less than twenty-five dollars ($25.00).
(b) For failure to remit taxes withheld from employees: ten percent (10%) per month or fraction of a month thereof, but the accumulated penalty shall not exceed fifty percent (50 %) upon any unpaid amount and shall not be less than twenty-five dollars ($25.00).
(c) A Penalty of twenty-five dollars ($25.00) shall be assessed for failure to file an income tax return. This penalty shall be in addition to any other penalties that may be assessed. (Ord. 71-10. Passed 11-1-10.)

128.1503 EXCEPTIONS.
A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and 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 months after a final determination of the federal tax liability. (Ord. 71-10. Passed 11-1-10.)

128.1504 ABATEMENT OF INTEREST AND PENALTY.

Either the Administrator hereunder or the Board of Review may abate penalty or interest, or both, for good cause shown. (Ord. 71-10. Passed 11-1-10.)

128.1505 VIOLATIONS.
Any person who shall:
(a) Fail, neglect or refuse to make any return or declaration required by this chapter; or
(b) Make any incomplete, false or fraudulent return; or
(c) Intentionally or willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
(d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
(e) Refuse to permit the Administrator, or any duly authorized agent or employee to examine his books, records, papers and federal and State income tax returns relating to the income or net profits of a taxpayer; or
(t) Fail to appear before the Administrator and to produce his books, records, papers or federal and State income tax returns relating to the income or net profits of a taxpayer upon order of subpoena of the Administrator; or
(g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
(h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
(i) Give to an employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and date thereof; or
(j) Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and City tax withheld, or to knowingly give the Administrator false information; or
(k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter;
shall be guilty of a first-degree misdemeanor and shall be fined not more than one thousand dollars ($1,000) or imprisoned not more than six months, or both, for each offense. (Ord. 71-10. Passed 11-1-10.)

128.1506 LIMITATION ON PROSECUTION.
All prosecutions under this section must be commenced within three (3) years from the time of
the offense complained of, except in the case of failure to file a return or in the case of filing a false or fraudulent return or a return having an omission of twenty-five percent (25%) or more of
income subject to this tax, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed. (Ord. 71-10. Passed 11-1-10.)

128.1507 FAILURE TO PROCURE FORMS NOT EXCUSE.
The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, or declaration, from filing such form, or from paying the tax. (Ord. 71-10. Passed 11-1-10.)

COLLECTION OF UNPAID TAXES
AND REFUNDS OF OVERPAYMENTS

128.1701 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.
All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. All legal actions to recover municipal income taxes and penalties and interest there-

on shall be brought within three (3) years after the tax was due or the return was filed, whichever is later, except in the case of fraud, of omission of twenty-five percent (25%) or more of income subject to this tax, or of failure to file a return, an additional assessment shall not be made or legal action initiated after six (6) years from the time the return was due or filed, whichever is later. However, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the federal tax liability. (Ord. 71-10. Passed 11-1-10.)

128.1702 REFUNDS OF TAXES ERRONEOUSLY PAID.

(a) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such payment was made or the return was due, or within three months after the final determination of the federal tax liability, whichever is later. In addition, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

(1) A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.

(2) A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.

(3) Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.

(b) Income tax that has been deposited with the City of Lakewood, but should have been deposited with another municipality, is allowable by the City of Lakewood as a refund but is

subject to the three-year limitation on refunds. Income tax that should have been deposited with the City of Lakewood, but was deposited with another municipality, shall be subject to recovery by the City of Lakewood. The City of Lakewood will allow a non-refundable credit for any amount owed the City of Lakewood that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the City of Lakewood's tax rate. If the City of Lakewood's tax rate is higher, the tax representing the net difference of the

rates is also subject to collection by the City of Lakewood.

(c) Overpayments of withheld tax that have resulted due to incorrect withholding of an employee by an employer, and are not due as a result of excess withholding requested by the

employee, shall be refunded to the employer. It shall be the responsibility of the employer, and not the City of Lakewood, to refund such overpayment to the employee. However, nothing in this subparagraph shall affect the right of a nonresident employee to apply directly to the City of Lakewood for refund of income tax withheld for days worked out of Lakewood.

(d) Payments on delinquent amounts shall be applied in the following manner:

(1) To unpaid tax, then to penalty and interest assessments, on a year-by-year order beginning with the oldest year for which delinquencies are due.

(2) To the taxpayer's current estimated tax liability. (Ord. 71-10. Passed 11-1-10.)

128.1703 AMOUNTS OF LESS THAN FIVE DOLLARS.
Amounts of less than five dollars ($5.00) shall not be collected or refunded. (Ord. 71-10. Passed 11-1-10.)

CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

128.1901NONRESIDENT TAXPAYERS.
Section 128.1901was repealed by Ordinance 73-71, passed December 20, 1971. (Ord. 71-10. Passed 11-1-10.)

128.1902 TAX CREDIT.
(a) When the taxable income of a resident of the City of Lakewood is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to fifty percent (50%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the City of Lakewood by the taxable income earned in or attributable to the municipality of employment or business activity but, in any event, such credit shall not be applied to a rate in excess of one percent (1%) of the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.
(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event such Lakewood resident fails, neglects, or refuses to file an annual return or declaration on the form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return. (Ord. 71-10. Passed 11-1-10.)

128.1903 CLAIM FOR CREDIT.
Section 128.1903 was repealed by Ordinance 73-71, passed December 20, 1971. (Ord. 71-10. Passed 11-1-10.)

DISBURSEMENT OF RECEIPTS OF TAX COLLECTION

128.2101 DISBURSEMENT OF FUNDS COLLECTED.
The funds collected under the provisions of this chapter shall be disbursed in the following manner:
(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for municipal purposes. (Ord. 71-10. Passed 11-1-10.)

DUTIES AND AUTHORITY OF THE ADMINISTRATOR

128.2301 DUTY TO RECEIVE TAX IMPOSED.
It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof, and to report all moneys so received. (Ord. 71-10. Passed 11-1-10.)

128.2302 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to the City, to keep accurate records for a minimum of six (6) years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and to show the dates and amounts of payments thereof. (Ord. 71-10. Passed 11-1-10.)

128.2303 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.
The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of 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. Taxpayers are hereby required to comply with the requirements of this chapter and the rules and regulations. (Ord. 71-10. Passed 11-1-10.)

128.2304 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.
The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts
owed by him under this chapter. Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 1 28.1 505 and 1 28. 1 701shall apply. (Ord. 71-10. Passed 11-1-10.)

128.2305 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.
(a) If the taxpayer fails to file a tax return which is required by this chapter within the time prescribed, but consents to disclose all information necessary to the preparation thereof, then the Administrator may prepare such return which, after being signed by such person, may be received by the Administrator as the return of such person.
(b) If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefore, or makes willfully or otherwise, a false or fraudulent return, then the Administrator shall make in a reasonable manner such return from his own knowledge and from such information as he can obtain throughout testimony or otherwise.
(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 Administrator may determine the amount of tax appearing to be due this City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. Such determination may be modified or amended based upon information or data subsequently secured
by or made available to the Administrator. If the taxpayer fails to respond to the assessment within 30 days, the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes, penalty, and interest.
(d) Neither the Tax Administrator's execution of a return nor the Tax Administrator's assessment of a taxpayer shall start the running of the period of limitations on prosecutions set forth elsewhere in this chapter. (Ord. 71-10. Passed 11-1-10.)

128.2306 AUTHORITY TO MAKE INVESTIGATIONS.
The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal and State income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the

accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, within ten (10) calendar days following a upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized. (Ord. 71-10. Passed 11-1-10.)

128.2307 AUTHORITY TO COMPEL PRODUCTIONS OF RECORDS.
The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal and State income tax returns and the attendance of all persons before him whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry. (Ord. 71-10. Passed 11-1-10.)

128.2308 REFUSAL TO PRODUCE RECORDS.
The refusal to produce books, papers, records and federal and State income tax returns, or the refusal to submit to such examination by any employer or persons 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 chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 128.1505. (Ord. 71-10. Passed 11-1-10.)

128.2309 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.
(a) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter, including returns or return information received from Federal, state or local taxing authorities pursuant to part (b) of this section, shall be confidential except for official tax purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this Section, shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
(b) The Director of Finance is hereby authorized to enter into agreements with the United States Commissioner of the Internal Revenue Service, an Internal Revenue Service District Director, the State of Ohio Tax Commissioner, and the heads of other state and local taxing authorities, to provide for the disclosure and exchange by the Director of Finance and each of the aforementioned officials, of returns or return information under the jurisdiction of such official, for tax collection purposes. The Director of Finance is further authorized to pay the costs of services, materials or information received pursuant to such agreements, and to charge such officials for services, materials or information supplied. (Ord. 71-10. Passed 11-1-10.)

128.2310 TAXPAYER REQUIRED TO RETAIN RECORDS.
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 withholding taxes are paid. (Ord. 71-10. Passed 11-1-10.)

128.2311AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES. (Repealed)

BOARD OF REVIEW

128.2501BOARD OF REVIEW ESTABLISHED.
(a) A Board of Review, consisting of five members who are electors of the City, is hereby created. Three members shall be appointed by the Mayor, and two members shall be appointed by Council. The members shall serve overlapping terms of three years, with the first two members appointed for one year, one of those members being appointed by Council and one by the Mayor; the second two members appointed for two years, one of those members being appointed by the Council and one by the Mayor; and the fifth member for three years, appointed by the Mayor. Each subsequent appointment shall be for a full three year term.
(b) The Board shall select, each year for a one year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions.
(c) No member of the Board shall take part in any hearing or determination in which he has a personal or financial interest. The members of the Board shall receive no compensation, and may be removed for Cause by the Mayor.
(d) The provisions of Section 128.2309 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal. (Ord. 71-10. Passed 11-1-10.)

128.2502 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.
All rules and regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation. (Ord. 71-10. Passed 11-1-10.)

128.2503 RIGHT OF APPEAL.
(a) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter and the rules and regulations, and who has filed the required returns or other documents pertaining to the contested issue, may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. The Board must schedule a hearing within forty- five (45) calendar days of receiving the appeal. The Board must issue a written decision within ninety (90) days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision.
(b) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals. (Ord. 71-10. Passed 11-1-10.)

OTHER PROVISIONS

128.2701 DECLARATION OF LEGISLATIVE INTENT.
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 unconstitu-

tional, 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. 71-10. Passed 11-1-10.)

128.2702 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.
(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 128.1505 to 128.1507 and 128.1701 to 128.1703.
(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 128.1101 and 128.1302 as though the same were continuing. (Ord. 71-10. Passed 11-1-10.)

128.2703 LIABILITY FOR NON-PAYMENT BY CONSTRUCTION CONTRACTORS, SUBCONTRACTORS, INDEPENDENT CONTRACTORS, AND OWNERS.
(a) Any individual or entity that contracts or subcontracts, for any portion of work on a construction project in the City of Lakewood, (for purposes of this section, hereafter "the contractor"), to another individual or entity for the performance of construction work ("the subcontractor"), shall be liable for any failure of the subcontractor to pay or forward for payment all taxes required to be withheld or paid under provisions of this Chapter, together with applicable penalties and interest for nonpayment as provided in Section 1 28.1501and 128.1502 above. It is the intention to impose liability for non-payment of taxes, and any applicable interest and penalties, upon the entire chain of construction employment and contracting, from wage worker or independent contractor up through each subcontractor, contractor, general contractor, and even to the owner, except as that owner may be exempt under subsection (b) herein, to ensure that income taxes on construction projects are paid as required. No good faith exception under Section
128.1503 shall be permitted to limit liability under this section. Issuance of an IRS Form 1099 is not a defense, but may be evidence of liability under this section.
(b) Notwithstanding the foregoing, the owner or owners of residential premises and who also occupy those premises shall be exempt from liability under this section if the total cost of the project at the residence is fifty thousand dollars ($50,000) or less and the owner or owners have obtained written confirmation that the contractor employed for the project is registered with the City of Lakewood prior to the commencement of work.
(c) The City will not issue any type of building, occupancy or construction permit to any individual or entity unless first presented with documentation from the Administrator that all taxes required to be paid or withheld under this Chapter have been paid to the City.
(d) The City will not release draws for work performed on any construction project undertaken by the City to any individual or entity working on such protect until presented with documentation from the Tax Administrator that all taxes required to be paid or withheld under this Chapter have been paid and forwarded to the City. (Ord. 71-10. Passed 11-1-10.)

shall be and hereby is repealed only with respect to municipal income tax liability created on or after January 1, 2016.

Section 2. New Chapter 128, Municipal Income Tax, shall be enacted to read as follows:

CHAPTER 128
Municipal Income Tax

128.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE

128.011 AUTHORITY TO LEVY TAX

(a) The tax on income and the withholding tax established by this Chapter 128 of the codified ordinances of the City of Lakewood are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Chapter 718 of the Ohio Revised Code. This Chapter is deemed to incorporate the provisions of Chapter 718 of the Ohio Revised Code. To the extent any provision of this Chapter conflicts with Chapter 718 of the Ohio Revised Code, said Chapter 718's provisions shall prevail.

(b) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the City of Lakewood, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein. (ORC 718.04)

128.012 PURPOSES OF TAX; RATE

(a) To provide funds for the purposes of general municipal operations, maintenance, new equipment and capital improvements of the City there is hereby levied a tax on salaries, wages, commissions, net profits, lottery, gambling, sports winnings, income from games of chance and other compensation as hereinafter provided.

(b) An annual tax for the purposes specified in Chapter XXX.XX shall be and is hereby imposed commencing on January 1, 1981, and continuing thereafter at the rate of one and one-half percent (1-1/2%) per annum on all taxable income. (ORC 718.04)

128.013 ALLOCATION OF FUNDS

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

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for municipal purposes.

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

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

(b) As mandated by H.B. 5, municipal income tax Ordinance 2015-XX, effective January 1, 2016, comprehensively amends Chapter 128 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.

128.02 EFFECTIVE DATE

(a) Ordinance 2015-XX, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 128 apply to taxable years beginning 2016 and succeeding taxable years.

(b) Ordinance 2015-XX does not repeal the existing sections of Chapter 128 for any taxable year prior to 2016, but rather amends Chapter 128 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016.

(Uncodified Section 2 of Am Sub HB 5, passed Dec 2014; ORC 718.04)

128.03 DEFINITIONS

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

For purposes of this Section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this chapter:

(a) "ADJUSTED FEDERAL TAXABLE INCOME," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(B) Add an amount equal to five per cent of intangible income deducted under division (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) (i) Except as provided in division (1)(D)(ii) 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;

(ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

(G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;

(H) (i) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.

(iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section.

(iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (1)(H) of this section.

(v) Nothing in division (1)(H)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(H)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (1)(H)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(H)(iii)(a) of this section shall apply to the amount carried forward.

(I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section XXX.063 of this Chapter.

(J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 128.063 of this Chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(D) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

(2)(a) "Assessment" means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 21, and has "ASSESSMENT" written in all capital letters at the top of such finding.

(b) "Assessment" does not include a notice denying a request for refund issued under division (c)(3) of Section 9, a billing statement notifying a taxpayer of

current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (c)(2)(A) of this section.

(3) "AUDIT" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax

(4) "BOARD OF REVIEW" has same meaning as "Local Board of Tax Review".

(5) "CALENDAR QUARTER" means the three-month period ending on the last day of March, June, September, or December.

(7) "CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE," and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.

(8) "COMPENSATION" means any form of remuneration paid to an employee for personal services.

(9) "DISREGARDED ENTITY" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(10) "DOMICILE" means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return. A taxpayer, even if having more than one residence, may only have one domicile. This term is further defined in Section 128 of this Chapter.

(11) "EXEMPT INCOME" means all of the following:

(A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;

(B) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

(C) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(D) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may shall be subject to taxation by a municipal corporation. A municipal corporation shall not

require the payer of such compensation to withhold any tax from that compensation.

(E) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;

(F) Alimony and child support received;

(G) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;

(H) 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. Division (11)(I) of this section does not apply for purposes of Chapter 5745. of the Ohio Revised Code.

(I) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;

(J) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;

(K) Employee compensation that is not qualifying wages as defined in division (34) of this section;

(L) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

(M) All of the municipal taxable income earned by individuals while they are under eighteen years of age.

(N) (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (b)(1) or (e) of Section 128.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.

(ii) The exemption provided in division (11)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (d)(2) of Section 128.052 of this Chapter

(iv) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in division (b)(1) of Section 128.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 128.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(O) (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.

(ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the Municipality.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 128.052 of this Chapter.

(iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(P) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(Q) Income the taxation of which is prohibited by the constitution or laws of the United States.

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

(12) "FORM 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(13) "GENERIC FORM" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(14) "INCOME" means the following:

(A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(D) of this section.

(ii) For the purposes of division (14)(A)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section;

(b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 14(E) of this Section.

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For taxpayers that are not individuals, net profit of the taxpayer;

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses

and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 128.081 of this Chapter.

(E) For residents, an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733. of the Ohio Revised Code, and the tax shall apply to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

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

(16) "INTERNAL REVENUE CODE" means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(17) "LIMITED LIABILITY COMPANY" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(18) "LOCAL BOARD OF TAX REVIEW" and "BOARD OF TAX REVIEW" means the entity created under Section 128.18 of this Chapter..

(19) "MUNICIPAL CORPORATION" means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.

(20) (A) "MUNICIPAL TAXABLE INCOME" means the following:

(i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Municipality under Section 128.062 of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

(ii) (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by de-

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

(iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Municipality under Section 128.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) "MUNICIPALITY" means the City of Lakewood.

(22) "NET OPERATING LOSS" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) (A) "NET PROFIT" for a person other than an individual means adjusted federal taxable income.

(B) "NET PROFIT" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division , the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.

(C) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(D) (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(ii) For the purposes of this chapter, and not withstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partner-

ship were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

(iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.

(iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

(v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) "NONRESIDENT" means an individual that is not a resident of the Municipality.

(25) "OHIO BUSINESS GATEWAY" means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(26) "OTHER COMPENSATION" all forms of earned income including but not limited to tips, tax shelter plans, gift of any type for services rendered, vacation and holiday pay, wage continuation benefits, director's fees, jury duty fees, stock options granted in connection with the performance of service and not designated as capital gains, property in lieu of cash, sick pay, bonuses, incentive payments in whatever form, company closing benefits, earnings designated as deferred compensation or compensation paid by an employer in whatever form for services rendered, employer paid premiums for group-term insurance in excess of fifty thousand dollars ($50,000), strike benefits, depreciation recapture, ordinary income shown on the federal form 4797, and a resident partner's or stockholder's distributive share of a nonresident partnership or S-corporation net profits.

(27) "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 fed-

eral gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

(28) "PASS-THROUGH ENTITY" means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(29) "PENSION" means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(30) "PERSON" includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(31) "POSTAL SERVICE" means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(32) "POSTMARK DATE," "DATE OF POSTMARK," and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course if its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery

(33) (A) "PRE-2017 NET OPERATING LOSS CARRYFORWARD" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.

(B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(34) "QUALIFYING WAGES" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(A) Deduct the following amounts:

(i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

(iii) Any amount included in wages that is exempt income.

(B) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.

(vi) Any amount not included in wages if all of the following apply:

(a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;

(b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;

(c) For no succeeding taxable year will the amount constitute wages; and

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(35) "RELATED ENTITY" means any of the following:

(A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;

(D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.

(36) "RELATED MEMBER" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(37) "RESIDENT" means an individual who is domiciled in the Municipality as determined under Section 128.042 of this Chapter.

(38) "S CORPORATION" means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(39) "SCHEDULE C" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) "SCHEDULE E" means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) "SCHEDULE F" means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) "SINGLE MEMBER LIMITED LIABILITY COMPANY" means a limited liability company that has one direct member.

(43) "SMALL EMPLOYER" means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(44) "TAX ADMINISTRATOR" means the Director of Finance or designee who is charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:

(A) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency where the authority granted in this Chapter is extended to those agencies through a written agreement.

(45) "TAX RETURN PREPARER" means any individual described in section 7701(a)(36) of the Internal Revenue CODE AND 26 C.F.R. 301.7701-15 .

(46) "TAXABLE YEAR" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(47) (A) "TAXPAYER" means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.

(B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company.

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

(c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

(e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

(ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

(48) "TAXPAYERS' RIGHTS AND RESPONSIBILITIES" means the rights provided to taxpayers in sections 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(49) "VIDEO LOTTERY TERMINAL" has the same meaning as in section 3770.21 of the Ohio Revised Code.

(50) "VIDEO LOTTERY TERMINAL SALES AGENT" means a lottery sales agent licensed under Chapter 3770. of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code. (ORC 718.01)

128.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS

128.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS

(a) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 128.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(A) "Income" is defined in Section 128.03 (14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 128.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 128.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(h) of Section 128.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 128.062(e).

(iii) Section 128.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).

(iv) "Pass Through Entity" is defined in Section 128.03(28).

(B) "Exempt Income" is defined in Section 128.03 (11) of this Chapter.

(C) Allowable employee business expense deduction is described in (20)(B) of Section 128.03 of this Chapter, and is subject to the limitations provided in that section.

(D) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 128.03 (33) of this Chapter

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

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the Municipality as provided in Section 128.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 128.03 of

this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(A) "Income" is defined in Section 128.03(14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 128.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 128.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 128.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

(iii) "Pass Through Entity" is defined in Section 128.03(28).

(B) "Exempt Income" is defined in Section 128.03(11) of this Chapter.

(C) "Apportioned or sitused to the Municipality as provided in Section 128.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 128.062(E).

(D) "Allowable employee business expense deduction" as described in (20)(B) of Section 128.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.

(E) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 128.03(33) of this Chapter.

128.042 DOMICILE

(a) As used in this section:

(1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return. A taxpayer, even if having more than one residence, may only have one domicile.

(2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.

(3) An individual may rebut the presumption of domicile described in division (a)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

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

(1) The individual's domicile in other taxable years;

(2) The location at which the individual is registered to vote;

(3) The address on the individual's driver's license;

(4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;

(5) The location and value of abodes owned or leased by the individual;

(6) Declarations, written or oral, made by the individual regarding the individual's residency;

(7) The primary location at which the individual is employed.

(8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;

(9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

(c) All applicable factors are provided in Ohio Revised Code Section 718.012. (ORC 718.012)

128.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES

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

(b) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge. (ORC 718.50)

128.05 COLLECTION AT SOURCE

128.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES

(a) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount

equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 128.052 of this Chapter or division (d) or (f) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under division (a)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(b) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

(A) Any employer, agent of an employer, or other payer not required to make payments under division (b)(1)(B) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.

(B) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (b)(1)(B) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.

(C) An employer, agent of an employer or other payer may be required to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality shall be remitted to the Municipality at the same time that the federal tax withholding payment is due.

(c) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator

(d) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposi-

tion of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

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

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

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

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

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

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

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

(k) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld

by this Chapter to be tax required to be withheld and remitted for the purposes of this section. (ORC 718.03)

128.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT

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

(1) "Employer" includes a person that is a related member to or of an employer.

(2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.

(3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

(4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.

(7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (b)(1)(A) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.
For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (b)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

(b) (1) Subject to divisions (c), (e), (f), and (g) of this section, an employer is

not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:

(A) The employee's principal place of work is located in the Municipality.

(B) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:

(i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;

(ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.

(C) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 128.051 of this Chapter.

(D) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.

(2) For the purposes of division (b)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

(A) Traveling to the location at which the employee will first perform services for the employer for the day;

(B) Traveling from a location at which the employee was performing services for the employer to any other location;

(C) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;

(D) Transporting or delivering property described in division (b)(2)(C) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

(E) Traveling from the location at which the employee makes the employee's

final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

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

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

(2) An employer required to begin withholding tax for a municipal corporation under division (d)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

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

(e) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 128.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(f) Divisions (b)(1) and (d) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of section 128.051 of this Chapter.

(g) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter. (ORC 718.011; ORC 718.01)

128.053 COLLECTION AT SOURCE; VLT

(a) The Municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal in-

come tax with respect to amounts other than qualifying wages as provided in this section.

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

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

(1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.

(2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.

(3) A video lottery sales agent shall maintain a record of all receipts issued under division (e) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.

(4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

(6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld

and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

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

(1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;

(2) A certificate from the Tax Administrator indicating that no amounts are due. If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

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

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

(1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;

(2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(g) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 128.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(h) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section. (ORC 718.031)

128.06 INCOME SUBJECT TO NET PROFIT TAX

128.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS

"Municipal Taxable Income" for a taxpayer who is not an individual for the Municipality is calculated as follows: "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.

(1) "Net Profit" for a person other than an individual is defined in Section 128.03(23).

(2) "Adjusted Federal Taxable Income" is defined in Section 128.03(1) of this Chapter.

(b) "Exempt Income" is defined in Section 128.03(11) of this Chapter.

(c) "Apportionment" means the apportionment as determined by Section 128.062 of this Chapter.

(d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 128.03 (32) of this Chapter. (ORC 718.01)

128.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT

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

(a) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 128.052 of this Chapter;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(b) (1) If the apportionment factors described in division (a) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the

following:

(A) Separate accounting;

(B) The exclusion of one or more of the factors;

(C) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;

(D) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (a) of Section 128.19 of this Chapter.

(3) A The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (b)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (a) of Section 128.19 of this Chapter.

(4) Nothing in division (b) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(c) As used in division (a)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(A) The employer;

(B) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(C) A vendor, customer, client, or patient of a person described in division (c)(1)(B) of this section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (c)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(d) For the purposes of division (a)(3) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:

(1) Gross receipts from the sale of tangible personal property shall be sitused to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

(A) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

(B) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.

(C) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(2) Gross receipts from the sale of services shall be sitused to the municipal corporation to the extent that such services are performed in the municipal corporation.

(3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be sitused to the municipal corporation.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be sitused to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be sitused to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(e) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused under this division to the municipal corporation in which the property is located.

(f) (1) Except as provided in division (f)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of a municipal corporation that imposes a

municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 128.081 of this Chapter.

(g) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 128.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

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

(h) When calculating the ratios described in division (a) of this section for the purposes of that division or division (b) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity. (ORC 718.02)

128.063 CONSOLIDATED FEDERAL INCOME TAX RETURN

(a) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (a)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.

(5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

(b) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidat-

ed municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.

(A) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.

(B) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (b)(2) of this section; or

(C) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (b)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (b)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(c) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

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

(e) (1) Except as otherwise provided in divisions (e)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 128.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 128.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(A) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 128.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(B) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 128.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(A) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 128.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation;

(B) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(f) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 128.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

(h) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016. (ORC 718.06)

128.07 DECLARATION OF ESTIMATED TAX

(a) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(b) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:

(A) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.

(B) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(C) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(D) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (g) of Section 128.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(c) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

(A) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year;

(B) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;

(C) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;

(D) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.

(2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (c)(1)(A) through (D) of this section.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 128.091 of this Chapter.

(A) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.

(B) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.

(4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.

(d) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 128.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (e) of this section. The amount of the underpayment shall be determined as follows:

(A) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(B) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(C) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(D) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

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

(1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 128.091 of this Chapter for that year.

(3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

(F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors. (ORC 718.08)

128.08 CREDIT FOR TAX PAID

(a) When the taxable income of a resident of the City of Lakewood is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to fifty percent (50%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the City of Lakewood by the taxable income earned in or attributable to the municipality of employment or business activity but, in any event, such credit shall not be applied to a rate in excess of one percent (1%) of the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regu-

lation provide. In the event such Lakewood resident fails, neglects, or refuses to file an annual return or declaration on the form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return.

128.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS

(a) As used in this section:

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

(2) (A) Except as provided in division (a)(2)(B) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(B) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (a)(2)(A) of this section computed without regard to division (a)(2)(B) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(C) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

(b) (1) Except as provided in division (d) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit

that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

(c) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

(d) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation. (ORC 718.021)

128.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 128.081 of this Chapter. (ORC 718.16)

128.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND

(a) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 128.096 of this Chapter.

(b) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 128.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(c) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 128.096 of this Chapter.

(d) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 128.081 of this Chapter regarding any limitation on credit shall prevail. (ORC 718.121)

128.09 ANNUAL RETURN

128.091 RETURN AND PAYMENT OF TAX

(a) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident and resident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 128.051(C) of this Chapter when the nonresident or resident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, 18 years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.

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

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

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

(e) Spouses shall be permitted to file a joint return.

(f) (1) Each return required to be filed under this section must contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social

security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

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

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(g) (1) (A) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality.

(B) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an indi-

vidual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality.

(C) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(3) With respect to taxpayers to whom Section 128.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 128.092 of this Chapter, the provision in Section 128.092 of this Chapter prevails.

(h) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (h)(1) of this section shall file with the Municipality an annual net profit return under division (f)(3) and (4) of this section.

(i) This division shall not apply to payments required to be made under division (b)(1)(B) of Section 128.051 of this Chapter.

(1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(j) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 128.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to

the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

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

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

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

(n) (1) As used in this division, "worksite location" has the same meaning as in section 128.052 of this chapter.

(2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(A) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

(B) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise be-

come subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(C) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person. (ORC 718.05)

128.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE

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

(b) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (b)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (b)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(c) (1) Nothing in this division denies to any person described in this division the application of divisions (a) and (b) of this section.

(2) (A) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (c)(2)(A) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

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

(d) For each taxable year to which division (a), (b), or (c) of this section applies to a taxpayer, the provisions of divisions (b)(2) and (3) or (c) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year. (ORC 718.052)

128.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED

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

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

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

(d) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(e) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (ORC 718.051)

128.094 EXTENSION OF TIME TO FILE

(a) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an ex-

tension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(b) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(c) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(d) An extension of time to file under this chapter is not an extension of the time to pay any tax due.

(e) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return. (ORC 718.05)

128.095 AMENDED RETURNS

(a) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.

(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return, where otherwise permitted by this Chapter.

(b) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (b)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under section 128.19 of this Chapter has not expired for a

previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

(c) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (a)(2) of section 128.19 of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (c)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 128.096 of this Chapter. Except as set forth in division (c)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. (ORC 718.12, 718.41)

128.096 REFUNDS

(a) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

(1) Overpayments of more than ten dollars;

(2) Amounts paid erroneously if the refund requested exceeds ten dollars.

(b) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (b)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If a the Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 128.18 of this Chapter.

(c) A request for a refund that is received after the last day for filing specified in division (b) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(d) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (a)(4) of Section 128.10 of this Chapter.

(e) As used in this section, "withholding tax" has the same meaning as in section 128.10 of this Chapter. (ORC 718.19. 128.)

128.10 PENALTY, INTEREST, FEES, AND CHARGES

(a) As used in this section:

(1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (a) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division

(a)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(b) (1) This section shall apply to the following:

(A) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(B) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016.

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules,, as adopted from time to time before January 1, 2016 of this Municipality.

(c) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.

(1) Interest shall be imposed at the rate defined as "interest rate as described in division (a) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

(2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.

(4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month,

or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(d). With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(e) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(f) The Municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees. (ORC 718.27)

128.11 AUDIT

(a) At or before the commencement of an audit, as defined in Section 128.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(b) Except in cases involving suspected criminal activity, the Tax Administrator shall is required to conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(c) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(d) A taxpayer may record, electronically or otherwise, the audit examination.

(e) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case. (ORC 718.36)

128.12 ROUNDING

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document. (ORC 718.25)

128.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR

128.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

(a) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under this chapter or otherwise authorized by Council;

(b) Appoint agents and prescribe their powers and duties;

(c) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

(d) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;

(e) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(f) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 128.062 of this Chapter;

(g) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an

appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(h) Destroy any or all returns or other tax documents in the manner authorized by law;

(i) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 128.051 of this Chapter. (ORC 718.24)

128.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME

(a) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.

(b) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:

(1) Compromise a claim;

(2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.

(c) The Tax Administrator's rejection of a compromise or payment agreement proposed by a person with respect to a claim shall is not be appealable.

(d) A compromise or payment agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.

(e) (1) A compromise or payment agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

(2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment agreement.

(f) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment agreement. (ORC 718.28)

128.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE

(a) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose

of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(b) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.

(c) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(d) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply. (ORC 718.23)

128.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION

(a) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(b) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 128.10 of this Chapter, in addition to any applicable penalty described in section 128.99 of this Chapter.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (a) of this section within thirty days after

filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 128.10 of this Chapter.

(3) The penalties provided for under divisions (b)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 128.99 of this Chapter for a violation of 128.15 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law. (ORC 718.26)

128.14 CONFIDENTIALITY

(a) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax_information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(b) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers. (ORC 718.13)

128.15 FRAUD

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator. (ORC 718.35)

128.16 OPINION OF THE TAX ADMINISTRATOR

(a) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(b) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (c), (g), and (h) of this section, provided all of the following conditions are satisfied:

(1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.

(2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.

(3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(c) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

(1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

(2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;

(3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;

(4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

(5) The effective date of any change in the taxpayer's material facts or circumstances;

(6) The effective date of the expiration of the opinion, if specified in the opinion.

(d) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of section 128.15 of this Chapter.

(e) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:

(1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (c) of this section;

(2) It is the duty of the taxpayer to be aware of such changes.

(f) A Tax Administrator may refuse to offer an opinion on any request received

under this section.

(g) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

(h) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(i) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

(j) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under division (f) may not be appealed. (ORC 718.38)

128.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY

(a) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code.

(2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.

(3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.

(b) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (b)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of

either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review. (ORC 718.18)

128.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW

(a) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.

(2) The Local Board of Tax Review shall consist of three members who must be domiciled in the Municipality.

Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.

(4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.

(5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

(7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.

(9) A member of a Local Board of Tax Review shall not be appointed to or serve on another such board simultaneously.

(b) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(c) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(d) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (c) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

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

(f) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing. (ORC 718.11)

128.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS

(a) (1) (A) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:

(i) Three years after the tax was due or the return was filed, whichever is later; or
(ii) One year after the conclusion of the qualifying deferral period, if any.

(B) The time limit described in division (a)(1)(A) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the

employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (c) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(A) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 128.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(B) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(b) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 128.096 of this Chapter.

(d) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 128.18 of this Chapter, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 128.096 of this Chapter, with interest on that amount as provided by division (d) of this section.

(e) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending. (ORC 718.12)

128.20 ADOPTION OF RULES

(a) Pursuant to Section 718.30 of the Revised Code, the Tax Administrator is hereby authorized to adopt rules and regulations consistent with this Chapter to carry out the functions of the position. .

(b) All rules adopted under this section shall be published and posted on the internet. (ORC 718.30)

128.97 COLLECTION AFTER TERMINATION OF CHAPTER

(a) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 128.19.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 128.091 as though the same were continuing.

128.98 SAVINGS CLAUSE

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

128.99 VIOLATIONS; PENALTY

(a) Except as provided in division (b) of this section, whoever violates Section 128.15 of this Chapter,, division (a) of Section 128.14 of this Chapter, or Section 128.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(b) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony under that code. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(c) Each instance of access or disclosure in violation of division (a) of Section 128.14 of this Chapter constitutes a separate offense.

(d) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the first degree. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

(1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or

(2) Knowingly make any incomplete return; or

(3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or

(4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 128.051; or

(5) Neglect or refuse to withhold or remit municipal income tax from employees; or

(6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or

(7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

(8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or

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

(10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or

(11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or

(12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or

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

(14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 128.03, include in the case of a corporation, asso-

ciation, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter. (ORC 718.99)

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least five members of Council this ordinance shall take effect and be in force on January 1, 2016, or otherwise shall take effect and be in force after the earliest period allowed by law.

Adopted: _____ _____
President

_____
Clerk

Approved: _____ _____
Mayor

PLACED ON 1ST READING & REFERRED TO THE FINANCE COMMITTEE 10/19/15.

ORDINANCE NO. 32-15 BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to provide for creating positions and rates of pay for full-time and certain part-time annual salaried employees and hourly rate employees not covered by a collective bargaining agreement in the several departments, divisions and offices of the City of Lakewood, including the Chief of Fire, Chief of Police and Civil Service Commissioners.

WHEREAS, pursuant to the Constitution of the State of Ohio, the Ohio Revised Code and the Second Amended Charter of the City of Lakewood, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality, and to provide for local self-government, including establishing salaries and rates of pay; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that these changes need to be incorporated in order for new hires to occur immediately; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Classifications, rates of pay, pay grades, levels and certain other supplemental compensation for non-probationary full-time and certain part-time, annual salaried and hourly rate employees not covered by a collective bargaining agreement are hereby authorized, effective on the effective date of this ordinance, in the several departments, divisions and offices of the City of Lakewood, as modified herein, and with the approval of the Department Director, Director of Finance, Director Human Resources and Mayor as follows.

Section 2. Classification/Pay Grade Assignments and Pay Schedules.

Grade	Classification Assigned to Pay Grade	Minimum Rate	Maximum Rate
25	Property/Evidence Technician	$29,310.57	$41,439.11
26	Legislative Liaison Part-time Administrative Assistant	$32,291.50	$45,603.29
27	Project Specialist I Human Resource Associate	$34,279.14	$48,533.28
28	Administrative Assistant to the Mayor Civil Service/Mediation Program Coordinator Human Resource Specialist Legal Secretary	$36,265.72	$51,235.12
29	Assistant Law Director/Prosecutor I Chief Prosecutor (Part Time) First Assistant Law Director	$38,253.37	$55,176.45
31	Budget Analyst Clerk of Council Project Specialist II Public Information Officer City Planner I	$44,215.24	$62,383.11
32	Nutrition Supervisor Part-time Grants Administrator	$46,201.81	$64,442.92
33	Assistant Building Commissioner Assistant Law Director/Prosecutor II Project Manager Public Works Unit Manager Senior Center Manager Tax Office Supervisor Finance Manager Clinical Manager City Planner Budget Manager City Planner II	$49,180.63	$69,364.80

Grade	Classification Assigned to Pay Grade	Minimum Rate	Maximum Rate
34	Building Commissioner Programs Manager Traffic Signs & Signals Manager Development Officer Senior City Planner	$52,659.26	$74,432.07
35	Assistant Director/Human Services Assistant Director/Planning and Development Chief Assistant Law Director Chief Prosecutor (Full Time) Executive Assistant to the Mayor/Community Relations Executive Assistant to the Mayor Project Administrator Public Works Division Manager	$57,131.19	$80,625.28
36	Assistant Director Finance I IS Project Manager	$62,098.71	$85,354.02
37	Assistant Director/Finance II Assistant Director, Safety – Building and Housing	$72,034.80	$89,688.00
38	Deputy Fire Chief Information Systems Manager City Architect	$75,015.74	$93,687.68
39	Fire Chief Police Chief	$78,989.95	$108,084.03

Section 3. Pay Grade Assignments for Certain Unclassified Positions.

LEVEL I (Minimum $55,198.74 – Maximum $102,696.28)

Director of Finance
Director of Law
Director of Human Resources
Director of Human Services
Director of Planning and Development
Director of Public Works

LEVEL II (Minimum as statutorily required – Maximum $21.88/hour)

Bus Driver
Cleaning Aide
Clerk/Receptionist
Complaint Investigator
Education Specialist
Kitchen Aide
Law Clerk
Legal Assistant I
Photo Lab Technician
Programmer/Scheduler
School Guard
Security Guard
Student Laborer
Student Police Cadet
Student Technician
Utility Inspector

LEVEL III (Minimum $9.60/hour – Maximum $21.45/hour)
(Classifications contained in the AFSCME II labor agreement)

Part-time Assistant Home Health Aide
Part-time Customer Service Representative
Part-time Human Services Case Manager
Part-time Juvenile Diversion Program Coordinator
Part-time Office Assistant
Part-time Staff Assistant
Part-time Tax Auditor
Part-time Tax Collection Specialist

LEVEL IV (Minimum $22.50/hour – Maximum $30.69/hour)

Part-Time Police Officer

LEVEL V ($4,120/year)

Civil Service Commissioner

LEVEL VI (Minimum $16.89/hour – Maximum $21.13/hour)

Part-time Dispatcher

LEVEL VII (Minimum $15.95/hour – Maximum 2-year rate of Full-time Corrections Officer as established by the collective bargaining agreement)

Part-time Corrections Officer

All full-time employees are in a classification that has been assigned to a specific grade or level within the compensation system as identified herein. Newly hired full-time employees shall be placed at a pay rate within the pay grade or level to which their classification has been assigned in accordance with the Human Resources Department Policy and Procedures. All full-time employees may advance through the pay grade in accordance with the Human Resources Department Policy and Procedures.

Section 4. Additional Annual License/Certification Supplement.

Full-time administrative employees working in a classification that requires a below listed license/certification shall receive the following license/certification supplements in biweekly or hourly increments as applicable:

License/Certification	Amount
Chief Building Official License	$1,000
Master Plumber's License	$1,000
Plumbing Inspector's License	$1,000
Electrical Inspector's License	$1,000
Class III Field Inspector's License	$1,000
Class I Wastewater Treatment License	$750
Class II Wastewater Treatment License	$1,000
Class III Wastewater Treatment License	$1,500
Class IV Wastewater Treatment License	$2,000
Class I Water Distribution License	$500
Class II Water Distribution License	$1,000
Class I Water/Wastewater Collection License	$500
Class II Water/Wastewater Collection License	$1,000
ISA Certified Arborist	$500
Licensed Independent Social Worker	$500
Licensed Social Worker	$500
Registered Nurse	$500
Licensed Practical Nurse	$200
Certified Home Health Aide	$200
Licensed Professional Counselor	$500
Communication Technician License	$1,000
Certified Chemical Dependency Counselor III	$500
Registered Sanitarian	$500
Certified Lead Risk Assessor	$500
Certified Pool Operator	$200
Two or more ASE (Automotive Service Excellence) Certificates	$500
Notary Public	$50

Section 5. Compensation for full-time salaried employees and for Level V part-time employees provided for herein shall be paid in equal biweekly installments. Compensation for part-time employees provided for herein shall be at an identified hourly rate of pay for all hours worked in a particular pay period.

Section 6. To the extent it is inconsistent with any other ordinance or resolution previously adopted by Council with respect to the salary and wages of employees of the City, this ordinance is meant to and shall supersede such previously-adopted legislation.

Section 7. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 8. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least five members of Council this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

_____
PRESIDENT

_____
CLERK

Approved: _____

_____
MAYOR

12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650
www.onelakewood.com
Lakewood City Council
MARY LOUISE MADIGAN, PRESIDENT
RYAN P. NOWLIN, VICE PRESIDENT

Council at Large
RYAN P. NOWLIN
THOMAS R. BULLOCK III
CINDY MARX

Ward Council
DAVID W. ANDERSON, WARD 1
SAM O'LEARY, WARD 2
SHAWN P. JURIS, WARD 3
MARY LOUISE MADIGAN, WARD 4

Re: Edgewater Sewer Separation Project

October 28, 2015

Dear Colleagues,

As you know, portions of Edgewater Drive west of Lakewood Park underwent a sewer separation project, the result of which was that approximately one hundred homes are now properly connected to the City's sanitary and storm sewer system. However, for some twenty-nine remaining home owners, work remains to achieve the same successful outcome.

The affected residents have expressed myriad concerns with aspects of the City's requirement that the remaining work be completed, encompassing issues such as necessity of compliance, compliance timeframe, technical assistance, financial assistance, as well as other questions and requests.

The Mayor and I have had several productive conversations with these residents and with each other regarding how Lakewood can increase the collaboration between the City and residents on this project, from providing additional information and technical support, to extensions of time in which to comply. Still, questions from our residents persist, and some of the topics raised pertain to Council's previous actions, as well as future appropriations and policies. For that reason, I am requesting that the Public Works Committee meet at the Chair's earliest convenience to take up this topic in formal discussion.

Thank you in advance for your consideration of this issue and willingness to work with our fellow residents to achieve the important, common goals of a functional sewer system, and a safe, clean river and lake.

Respectfully Submitted,

Sam O'Leary
Rules & Ordinances, *Chair*
Public Works, *Member*

KEVIN M. BUTLER
DIRECTOR OF LAW

PAMELA L. ROESSNER
CHIEF PROSECUTOR

JENNIFER L. SWALLOW
CHIEF ASSISTANT
LAW DIRECTOR

MANDY J. GWIRTZ
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kevin.butler@lakewoodoh.net

November 2, 2015

Lakewood City Council
12650 Detroit Avenue
Lakewood, OH 44107

Re: Revision of legislation to permit bicyclists in Clifton Boulevard bus lanes

Dear Members of Council:

Led by Councilman Juris, your Public Works Committee has diligently taken up the discussion of the recently created rush-hour bus lanes on Clifton Boulevard. One issue in committee has been whether to adopt, as part of any legislation, a specific exemption of bicyclists from the vehicular lane-use restrictions.

I would ask that the committee reconvene to discuss the bicyclist exemption from the bus-lane restrictions, in keeping with RTA's, Lakewood's and Cleveland's original intent in developing the plan for Clifton. While other provisions of the traffic code, namely L.C.O. §§ 331.08(a)(3), 313.01(a) and 313.09, already permit our enforcement of bus-lane restrictions, Council at a minimum would need to clarify the codified ordinances to ensure bicyclists are exempted and unsafe cycling conditions are mitigated.

Thus, I'd merely ask the Public Works Committee to reconvene that discussion and to consider amending the ordinance already pending in committee. Thank you for your consideration.

Very truly yours,

Kevin M. Butler

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November 2, 2014

Lakewood City Council
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: Resolution authorizing the Mayor to enter into agreement with the Cuyahoga County Board of Health for the provision of public health services in Lakewood in 2016

Dear Members of Council:

Please find attached a resolution that, if adopted, would permit Mayor Summers to enter into an agreement with the District Advisory Council of Cuyahoga County (by its Board of Health) for the provision of public health services in Lakewood in 2016. This legislation is introduced pursuant to Rev. Code § 3709.07.

The resolution is ready for adoption this evening but may be referred to committee for further review.

Very truly yours,

Kevin M. Butler

Kevin M. Butler

RESOLUTION NO. BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an agreement with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed $204,354.00 for a one-year period commencing January 1, 2016.

WHEREAS, the Cuyahoga County Board of Health has proposed providing public health services for residents of the City of Lakewood at a per capita rate of $3.92, which represents no increase for the services over last year; and

WHEREAS, it is necessary to continue public health services to residents of the City of Lakewood through the District Advisory Council of Cuyahoga County, Ohio General Health District; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal services, in that this agreement must be in effect prior to January 1, 2016 to continue health services; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor, on behalf of the City, is hereby authorized to enter into an agreement, attached as Exhibit A, with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed $204,354.00 for a one-year period commencing January 1, 2016 pursuant to the authority granted in Section 3709.07 of the Ohio Revised Code.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberation of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the

Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____ _____
President of Council

_____
Clerk of Council

Approved: _____ _____
Mayor

NOTICE TO LEGISLATIVE AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD, P.O. BOX 4005
REYNOLDSBURG, OHIO 43068-9005
(614)644-2360 FAX(614)644-3166

TO

1055501 PERMIT NUMBER	TRFO TYPE	B2B LAKEWOOD LLC DBA BURGERS 2 BEER BASEMENT COOLER 14725 DETROIT AVE STE 100 LAKEWOOD OH 44107
10 01 2014 ISSUE DATE		
10 13 2015 FILING DATE		
D5 D6 PERMIT CLASSES		
18 TAX DISTRICT 286	C RECEIPT NO. F14959	

FROM 10/15/2015 SAFEKEEPING

25087000005 PERMIT NUMBER	TYPE	EDDIE & EDDIE LLC DBA EDDIE CERINOS CASUAL ITALIAN BASEMENT COOLER 14725 DETROIT AVE STE 100 LAKEWOOD OH 44107
10 01 2014 ISSUE DATE		
10 13 2015 FILING DATE		
D5 D6 PERMIT CLASSES		
18 TAX DISTRICT 286	RECEIPT NO.	

MAILED 10/15/2015 RESPONSES MUST BE POSTMARKED NO LATER THAN. 11/16/2015

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES C TRFO 1055501
(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature) (Title)- ☐ Clerk of County Commissioner (Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

CLERK OF LAKEWOOD CITY COUNCIL
12650 DETROIT AV
LAKEWOOD OHIO 44107

NOTICE TO LEGISLATIVE AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL
6606 TUSSING ROAD, P.O. BOX 4005
REYNOLDSBURG, OHIO 43068-9005
(614)644-2360 FAX(614)644-3166

TO

7744188 (PERMIT NUMBER) TRFO (TYPE) 10 01 2015 (ISSUE DATE) 10 23 2015 (FILING DATE) D5 D6 (PERMIT CLASSES) 18 286 C F15025 (TAX DISTRICT / RECEIPT NO.)	SARITA A RESTAURANT INC DBA SARITA A RESTAURANT 1ST FL & BSMT & PATIO 14523-27 MADISON AV LAKEWOOD OHIO 44107

FROM 10/27/2015.

18086430005 (PERMIT NUMBER) (TYPE) 10 01 2015 (ISSUE DATE) 10 23 2015 (FILING DATE) D5 D6 (PERMIT CLASSES) 18 286 (TAX DISTRICT / RECEIPT NO.)	CREATIVE CAFES INC DBA PLAYERS 1ST FL & BSMT & PATIO 14523-27 MADISON AV LAKEWOOD OHIO 44107

MAILED 10/27/2015 RESPONSES MUST BE POSTMARKED NO LATER THAN. 11/27/2015

IMPORTANT NOTICE

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES C TRFO 7744188
(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT THE HEARING BE HELD ☐ IN OUR COUNTY SEAT. ☐ IN COLUMBUS.

WE DO NOT REQUEST A HEARING. ☐

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature) (Title)- ☐ Clerk of County Commissioner (Date)

☐ Clerk of City Council

☐ Township Fiscal Officer

CLERK OF LAKEWOOD CITY COUNCIL
12650 DETROIT AV
LAKEWOOD OHIO 44107