

CODIFIED ORDINANCES OF FAIRVIEW PARK

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CHAPTER 101 Codified Ordinances

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CROSS REFERENCES

- See sectional histories for similar State law
- Codification in book form - see Ohio R.C. 731.23
- Imprisonment until fine and costs are paid - see Ohio R.C. 1905.30, 2947.20
- Standard of time - see Ohio R.C. 1.04
- Ordinances and resolutions - see ADM. Ch. 113
- Rules of construction for offenses and penalties - see GEN. OFF. 501.04
- Statute of limitations on prosecutions - see GEN. OFF. 501.06

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Fairview Park, 1996, for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances. (ORC 1.01)

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

101.02 GENERAL DEFINITIONS.

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

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

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

101.03 RULES OF CONSTRUCTION.

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

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

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

(c) Calendar; Computation of Time.

- (1) Definitions.
 - A. "Week" means seven consecutive days.
 - B. "Year" means twelve consecutive months.(ORC 1.44)
- (2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month. (ORC 1.45)

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

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

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

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

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

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

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

- (1) Affect the prior operation of the ordinance or any prior action taken thereunder;
- (2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred "hereunder";

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

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

101.05 CONSTRUCTION OF SECTION REFERENCES.

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

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

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

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

101.06 CONFLICTING PROVISIONS.

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

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

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

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

101.07 DETERMINATION OF LEGISLATIVE INTENT.

- (a) In enacting an ordinance, it is presumed that:
 - (1) Compliance with the constitutions of the State and of the United States is intended;
 - (2) The entire ordinance is intended to be effective;
 - (3) A just and reasonable result is intended;
 - (4) A result feasible of execution is intended. (ORC 1.47)

- (b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective. (ORC 1.48)

- (c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:
 - (1) The object sought to be attained;
 - (2) The circumstances under which the ordinance was enacted;
 - (3) The legislative history;
 - (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
 - (5) The consequences of a particular construction;
 - (6) The administrative construction of the ordinance.
(ORC 1.49)

101.08 SEVERABILITY.

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

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

CHAPTER 103
Official Standards

**103.01 Fairview Park Cemetery
declared a City landmark.**

**103.02 Bain Park and Cabin declared
City landmarks.**

CROSS REFERENCES

State standard of time - see Ohio R.C. 1.04
State legal holidays - see Ohio R.C. 1.14, 5.20 et seq.
State flag - see Ohio R.C. 5.01
Designation of landmarks - see P. & Z. Ch. 1155

103.01 FAIRVIEW PARK CEMETERY DECLARED A CITY LANDMARK.

(a) Effective Memorial Day 1982, the Fairview Park Cemetery shall be designated a historical landmark.

(b) The dedication of the Cemetery as a historical landmark shall take place on Memorial Day 1982.

(c) The Director of Public Service and Development shall be authorized to secure a plaque designating the Cemetery a historical landmark.
(Ord. 82-26. Passed 4-19-82.)

103.02 BAIN PARK AND CABIN DECLARED CITY LANDMARKS.

(a) Effective September 15, 1985, the portion of Bain Park, hereinafter described as follows and the Bain Park Cabin shall be designated as City historical landmarks.

(1) East boundary: from the intersection of West 210th Street and North Park Drive south to a line drawn 10' - 0" south of the southeast corner of the Cabin foundation, east to West 210th Street.

(2) South boundary: from an established southeast point, as described in "A" above, to a point due west to 10' - 0" from the southwest corner of the Cabin and then following a line 5' - 0" from the north bank of Coe Creek until it reaches a point 5' - 0" north from the northeast corner of the first stone bridge west of the Cabin.

- (3) West boundary: from the point 5' - 0" at the northeast corner of the bridge as previously described, to a point 120' - 0" from the southerly side of the driveway and running along the park side of North Park Drive.
- (4) North boundary: from an established point 120' - 0" from the drive, as previously described, running along the park side of North Park Drive, to the northeasterly point established at West 210th Street.

(b) The dedication of Bain Park and Bain Park Cabin as City historical landmarks shall take place on September 15, 1985.

(c) The Director of Public Service and Development shall be authorized to secure a plaque designating Bain Park and Bain Park Cabin as City historical landmarks.
(Ord. 85-64. Passed 9-3-85.)

CHAPTER 105
Wards and Boundaries

105.01	Division into five wards.	105.04	Ward 3.
105.02	Ward 1.	105.05	Ward 4.
105.03	Ward 2.	105.06	Ward 5.

CROSS REFERENCES

Name and boundaries - see CHTR. Art. I
Division into wards - see Ohio R.C. 731.06

105.01 DIVISION INTO FIVE WARDS.

The City is hereby subdivided into five wards, to be known as Wards 1, 2, 3, 4 and 5 as provided by Ohio R.C. 731.06.
(Ord. 01-36. Passed 7-16-01.)

105.02 WARD 1.

Beginning at the intersection of the northerly corporation boundary and the centerline of Wooster Road, (81.80870 W Longitude, 41.457492 N Latitude); thence southerly along the centerline of Wooster Road, following the corporation boundary, to the intersection of the centerline of Carolyn Avenue; thence westerly along the centerline of Carolyn Avenue; and a line extended to the centerline of West 204th Street; thence southerly along the centerline of West 204th Street to the centerline of Lorain Road; thence easterly along the centerline of Lorain Road to a point of intersection of the lot line between 20201 Lorain Road and 20123 Lorain Road extended; thence southerly along said lot line about 600 feet to the rear line of said lot; thence easterly along the rear lot line of about 400 feet to the westerly lot line between 20011 Lorain Road and 20005 Lorain Road; thence northerly along said lot line to the centerline of Lorain Road; thence easterly along the centerline of Lorain Road to the centerline of Cleveland Metro Park Road; thence southerly along the centerline of Cleveland Metro Park Road to the centerline of Mastick Road; thence easterly along the centerline of Mastick Road to a point on the corporation boundary; thence northerly and easterly along the corporation boundary following the abandoned course of the Rocky River to a point where the boundary rejoins the river; thence in a generally northern and western direction along the corporation boundary and the course of the Rocky River to a point at (81.832108 W Longitude, 41.464605 N Latitude); thence southerly along the corporation boundary to the centerline of Story Road (81.831487 W, 41.459796 N); thence westerly along the centerline of Story Road to a point at (81.832204 W, 41.459597 N); thence southerly along the corporation boundary to a point at (81.832209 W, 41.457109 N); thence westerly along the corporation boundary to the point of origin.
(Ord. 01-36. Passed 7-16-01.)

105.03 WARD 2.

Beginning at the intersection of the northern corporation boundary and the centerline of West 219th Street extended; thence southerly along the centerline of West 219th Street extended to the centerline of Westwood Avenue; thence easterly along the centerline of Westwood Avenue to the centerline of West 217th Street; thence southerly along the centerline of West 217th Street to the centerline of Lorain Road; thence northeasterly along the centerline of Lorain Road to the centerline of West 204th Street; thence northerly along the centerline of West 204th Street to intersection with the northern corporation boundary (81.846004 W, 41.453701 N); thence westerly along the corporation boundary to a point at (81.849133 W, 41.453849 N); thence northerly along the corporation boundary to the centerline of Center Ridge Road (81.848959 W, 41.462909 N); thence southwestwardly along the centerline of Center Ridge Road to a point at (81.858663 W, 41.459613 N); thence southerly along the corporation boundary to a point at (81.859197 W, 41.449716 N); thence westerly along the corporation boundary to the point of origin. (Ord. 01-36. Passed 7-16-01.)

105.04 WARD 3.

Beginning at the intersection of the centerline of Lorain Road and the centerline of West 223rd Street; thence southerly along the centerline of West 223rd Street to the centerline of Morton Avenue; thence westerly along the centerline of Morton Avenue to the centerline of West 227th Street; thence southerly along the centerline of West 227th Street to the centerline of Marleen Drive; thence easterly along the centerline of Marleen Drive to the centerline of Sharon Lane; thence southwestwardly along the centerline of Sharon Lane to the centerline of Sandy Lane; thence easterly along the centerline of Sandy Lane to the centerline of West 220th Street; thence northerly along the centerline of West 220th Street to the centerline of Cromwell Avenue; thence easterly along the centerline of Cromwell Avenue to the centerline of West Park Drive; thence southerly along the centerline of West Park Drive to the intersection of the centerlines of West Park Drive, Seabury Avenue and South Park Drive; thence northerly along the centerline of South Park Drive to the centerline of Cromwell Avenue; thence easterly along the centerline of Cromwell Avenue to the centerline of West 213th Street; thence northerly along the centerline of West 213th Street to the centerline of Cromwell Avenue; thence easterly along the centerline of Cromwell Avenue to the centerline of West 210th Street; thence southerly along the centerline of West 210th Street to the centerline of Mastick Road; thence along a line extended from West 210th Street to a point of intersection with the southeast corporation boundary (81.853515 W, 41.430377 N); thence in an easterly direction along the corporation boundary to the centerline of the Rocky River; thence in a northeasterly direction along the centerline of the Rocky River and the corporation boundary to the centerline of Mastick Road; thence westerly along the centerline of Mastick Road to the centerline of Cleveland Metro Park Road; thence northerly along the centerline of the Cleveland Metro Park Road to the centerline of Lorain Road; thence westerly along the centerline of Lorain Road to the westerly lot line between 20011 Lorain Road and 20005 Lorain Road; thence southerly along the said westerly line about 600 feet rear line of said lots; thence westerly about 400 feet to the lot line between 20201 Lorain Road and 20123 Lorain Road; thence northerly along said lot line to the centerline of Lorain Road; thence westerly along the centerline of Lorain Road to the point of beginning. (Ord. 01-36. Passed 7-16-01.)

105.05 WARD 4.

Beginning at a point on an exterior corner of the corporation boundary located at (81.874880 W, 41.449802 N); thence southerly along the western corporation boundary to the centerline of Macbeth Avenue; thence easterly along the centerline of Macbeth Avenue to the centerline of West 229th Street; thence northerly along the centerline of West 229th Street to the centerline of Macbeth Avenue; thence easterly along the centerline of Macbeth Avenue to the centerline of West 227th Street; thence northerly along the centerline of West 227th Street to the centerline of Morton Avenue; thence easterly along the centerline of Morton Avenue to the centerline of West 223rd Street; thence northerly along the centerline of West 223rd Street to the centerline of Lorain Road; thence northeasterly along the centerline of Lorain Road to the centerline of West 217th Street; thence northerly along the centerline of West 217th Street to the centerline of Westwood Avenue; thence westerly along the centerline of Westwood Avenue to the centerline of West 219th Street; thence northerly along the centerline of West 219th Street extended to the northern corporation boundary; thence westerly along the northern corporation boundary to the point of beginning. (Ord. 01-36. Passed 7-16-01.)

105.06 WARD 5.

Beginning at the intersection of the centerline of Macbeth Avenue and the westerly corporation boundary; thence southerly along the corporation boundary to a point (81.875494 W, 41.417751 N) on the exterior corner on the corporation boundary; thence easterly along the southern corporation boundary to a point in the centerline of the Brookpark Road Bridge over the Rocky River, above the centerline of the Rocky River; thence northerly along the centerline of the Rocky River and the corporation boundary to a point located at (81.853954 W, 41.426539); thence northerly along the corporation boundary to a point (81.853472 W, 41.430920 N) at the intersection of the centerlines of Mastick Road and West 210th Street; thence northerly along the centerline of West 210th Street to the centerline of Cromwell Avenue; thence westerly along the centerline of Cromwell Avenue to the centerline of West 213th Street; thence southerly along the centerline of West 213th Street to the centerline of Cromwell Avenue; thence westerly along the centerline of Cromwell Avenue to the centerline of South Park Drive; thence southerly along the centerline of South Park Drive to the intersection of the centerlines of South Park Drive, Seabury Avenue and West Park Drive; thence northerly along the centerline of West Park Drive to the centerline of Cromwell Drive; thence westerly along the centerline of Cromwell Drive to the centerline of West 220th Street; thence southerly along the centerline of West 220th Street to the centerline of Sandy Lane; thence westerly along the centerline of Sandy Lane to the centerline of Sharon Lane; thence northeasterly along the centerline of Sharon Lane to the centerline of Marleen Drive; thence westerly along the centerline of Marleen Drive to the centerline of West 227th Street; thence southerly along the centerline of West 227th Street to the centerline of Macbeth Avenue; thence westerly along the centerline of Macbeth Avenue to the centerline of West 229th Street; thence southerly along the centerline of West 229th Street to the centerline of Macbeth Avenue; thence westerly along the centerline of Macbeth Avenue to the west corporation line and the point of beginning. (Ord. 01-36. Passed 7-16-01.)

CHAPTER 106
Elections

106.01 Filing deadlines.

CROSS REFERENCES
Nominations and elections - see CHTR. Art. IX

106.01 FILING DEADLINES.

Any person desiring to become a candidate for election to any office to be voted for at the next regular municipal election shall, not later than 4:00 p.m. of the seventy-fifth (75th) day before the day of the primary election, file with the Cuyahoga County Board of Elections a petition for nomination as required by Article IX of the Charter of the City of Fairview Park, Ohio. (Ord. 08-69. Passed 12-15-08.)

CHAPTER 107
Continuity of Government

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| 107.01 Definitions. | 107.04 Recording and effective date. |
| 107.02 Designation, status, qualifications of successors. | 107.05 Formalities of taking office. |
| 107.03 Assumption of powers and duties by successor. | 107.06 Quorum and vote requirements. |

CROSS REFERENCES

Vacancy in office of Mayor - see CHTR. Art. III, §4
Continuity of local government in event of enemy attack - see
Ohio R.C. Ch. 161

107.01 DEFINITIONS.

As used in this chapter, unless the context otherwise clearly indicates:

- (a) "Unavailable" means either that a vacancy in office exists and there is no deputy authorized to exercise all of the powers and discharge the duties of the office, or that the lawful incumbent of the office, including any deputy exercising the powers and discharging the duties of an office because of a vacancy, and his duly authorized deputy are absent or unable, for physical, mental or legal reasons, to exercise the powers and discharge the duties of the office.
- (b) "Attack" means any attack or series of attacks by an enemy of the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner, by sabotage or by the use of bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological or biological means, or other weapons or processes.
- (c) "Duly authorized deputy" means a person who is presently authorized to perform all of the functions, exercise all of the powers and discharge all of the duties of an office in the event the office is vacant or at such times as it lacks administration due to the death, absence or disability of the incumbent officer.
- (d) "Emergency interim successor" means a person designated, pursuant to this chapter, for possible temporary succession to the powers and duties, but not the office, of a City officer in the event that such officer or any duly authorized deputy is unavailable to exercise the powers and discharge the duties of the office.
(Ord. 62-38. Passed 5-21-62.)

107.02 DESIGNATION, STATUS, QUALIFICATIONS OF SUCCESSORS.

(a) Elective Officers. Within thirty days following the effective date of this section, and thereafter within thirty days after first entering upon the duties of his office, the Mayor and each member of Council shall, in addition to any duly authorized deputy, designate such number of emergency interim successors to his office and specify their rank in order of succession after any duly authorized deputy, so that there will be not less than three duly authorized deputies or emergency interim successors, or combination thereof, for the office.

(b) Appointive Officers. The Mayor shall, within the time specified in subsection (a) hereof, in addition to any duly authorized deputy, designate for all appointive officers such number of emergency interim successors to these officers and specify their rank in order of succession after any duly authorized deputy, so that there will be not less than three duly authorized deputies or emergency interim successors, or combination thereof, for each officer.

(c) Review of Designations. The incumbent, in the case of those elective officers specified in subsection (a) hereof, and the Mayor, in the case of those appointive officers specified in subsection (b) hereof, shall review and, as necessary, promptly revise the designations of emergency interim successors to insure that at all times there are at least three such qualified emergency interim successors or duly authorized deputies, or any combination thereof, for each officer specified.

(d) Qualifications. No person shall be designated or serve as an emergency interim successor unless he may, under the Constitution and statutes of this State and the Charter or ordinances of this City, hold the office of the person to whose powers and duties he is designated to succeed, but no provision of any ordinance prohibiting an officer or employee of this City from holding another office shall be applicable to an emergency interim successor.

(e) Status of Emergency Interim Successor. A person designated as an emergency interim successor holds that designation at the pleasure of the designator, provided that he must be replaced if removed. He retains this designation as emergency interim successor until replaced by another appointed by the authorized designator.
(Ord. 62-38. Passed 5-21-62.)

107.03 ASSUMPTION OF POWERS AND DUTIES BY SUCCESSOR.

If, in the event of an attack, any officer named in subsections (a) and (b) of Section 107.02 and any duly authorized deputy is unavailable, his emergency interim successor highest in rank in order of succession who is not unavailable shall, except for the power and duty to appoint emergency interim successors, exercise the powers and discharge the duties of such officer. An emergency interim successor shall exercise these powers and discharge these duties only until such time as the lawful incumbent officer or any duly authorized deputy or an emergency interim successor higher in rank in order of succession exercises, or resumes the exercise of, the powers and discharge of the duties of the office, or until, where an actual vacancy exists, a successor is appointed to fill such vacancy or is elected and qualified as provided by law.
(Ord. 62-38. Passed 5-21-62.)

107.04 RECORDING AND EFFECTIVE DATE.

The name, address and rank in order of succession of each duly authorized deputy shall be filed with the City Clerk, and each designation, replacement or change in order of succession of an emergency interim successor shall become effective when the designator files with the City Clerk the successor's name, address and rank in order of succession. The City Clerk shall keep on file all such data regarding duly authorized deputies and emergency interim successors, and it shall be open to public inspection.

(Ord. 62-38. Passed 5-21-62.)

107.05 FORMALITIES OF TAKING OFFICE.

At the time of their designation, emergency interim successors shall take such oath and do such other things, if any, as may be required to qualify them to exercise the powers and discharge the duties of the office to which they may succeed.

(Ord. 62-38. Passed 5-21-62.)

107.06 QUORUM AND VOTE REQUIREMENTS.

In the event of an attack, quorum requirements for Council shall be suspended, and where the affirmative vote of a specified proportion of members for approval of an ordinance, resolution or other action would otherwise be required, the same proportion of those voting thereon shall be sufficient. (Ord. 62-38. Passed 5-21-62.)

CHAPTER 109
Conflict of Interest

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| <p>109.01 Declaration of policy.</p> <p>109.02 Responsibilities of public office.</p> <p>109.03 Dedicated service.</p> <p>109.04 Fair and equal treatment.</p> <p>109.05 Conflict of interest.</p> <p>109.06 Disclosure of private interest in legislation.</p> <p>109.07 Applicability of Code.</p> | <p>109.08 Board of Ethics; creation, composition and term.</p> <p>109.09 Complaints, hearings and procedure; oaths and subpoenas.</p> <p>109.99 Penalty.</p> |
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CROSS REFERENCES

- Unlawful interest in public contract - see GEN. OFF. 525.10
 Soliciting or receiving improper compensation - see GEN. OFF. 525.11
 Council judge of own qualifications - see ADM. 111.20

109.01 DECLARATION OF POLICY.

The proper operation of democratic government requires that all public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals there is hereby established this Code of Ethics for all public officials and employees, whether elected or appointed, paid or unpaid. Accordingly, this Code shall apply to, and regulate the conduct of, all members of Council, the Mayor, all officers and employees of the City, and all members of any board, commission or advisory committee or council of the City, to all of whom the phrase "officials and employees", as used in this Code, shall be deemed to apply. The purpose of this Code is to establish ethical standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the City. The provisions and purpose of this Code and such rules and regulations as may be established are hereby declared to be in the best interest of the City.
 (Ord. 91-13. Passed 5-6-91.)

109.02 RESPONSIBILITIES OF PUBLIC OFFICE.

The public officials and public employees of the City are agents of public purpose and hold office for the benefit of the public only. They are bound to uphold the Constitution and laws of the United States, the Constitution and laws of the State of Ohio and the Charter and laws of the City; and to carry out impartially the laws of the United States, the State of Ohio and the City and thus foster respect for government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest shall be their primary concern. Their conduct in their official affairs should be above reproach.

(Ord. 91-13. Passed 5-6-91.)

109.03 DEDICATED SERVICE.

All public officials and public employees of the City should be loyal to the objectives expressed by the electorate and the programs developed to attain and maintain those objectives. Appointive officials and employees shall adhere to the rules of work and performance established for their positions by the appropriate authority.

Officials and employees should not exceed their authority or breach the law, or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by the officially recognized confidentiality of their work.

(Ord. 91-13. Passed 5-6-91.)

109.04 FAIR AND EQUAL TREATMENT.

No official or employee of the City shall request, use or permit the use of City owned, leased or controlled vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy adopted pursuant to ordinance for the use of such official or employee in the conduct of official business. No official or employee of the City shall grant any special consideration, treatment or advantage to any person beyond that which is available to every other person.

(Ord. 91-13. Passed 5-6-91.)

109.05 CONFLICT OF INTEREST.

No member of Council, the Mayor or other public official or public employee of the City, whether paid or unpaid, shall engage in any business or transaction or have a financial or personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or which would tend to impair his independence of judgment or action in the performance of his official duties, without first making a public disclosure thereof. Personal interest, as distinguished from financial interest, includes an interest arising from blood, adoption, guardianship or marriage or close business or political association.

Specific conflicts of interest are enumerated herein for the guidance of all public officials and public employees:

- (a) Holding, engaging in or accepting private employment or rendering services for or on behalf of private interests where such employment or service is incompatible with the proper discharge of the official public duties of the official or employee or which would tend to impair the independence of judgment or action in the performance of the official duties of the public official or public employee.
- (b) Disclose, without appropriate authorization, any information acquired by the public official or public employee in the course of his official duties which is confidential because of statutory or ordinance provisions, or when clearly designated as confidential to him when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is clearly necessary to the proper conduct of government business, or use such information to advance the financial or private interest of the public official or public employee or others.
- (c) Solicit, receive, accept or agree to receive or accept or use or authorize the use of the authority or influence of his office or employment to secure anything of value or the promise or offer of anything of value for or in connection with his public service or public employment including, but not limited to, any gift, service, loan, gratuity, compensation, favor, thing or promise from any person, partnership, trust, business trust, corporation or association which to the knowledge of the public official or public employee is interested, directly or indirectly, in any manner whatsoever in business dealings with the City or that may tend to manifest an influence upon the public official or employee in the proper discharge of public duties; nor shall any public official or employee grant in the discharge of public duties any improper favor, service or thing of value.
- (d) Engage in the practice of law or represent or otherwise appear in behalf of a person, partnership, trust, business trust, corporation or association before any court or administrative agency in which the City is a party except on behalf of the City as an official or employee; or volunteer opinion evidence against the interests of the City in any litigation or proceeding in which the City is a party; or accept a retainer or other compensation that is contingent upon a specific action by a City agency, including Council, administrative department, division or office, board or commission; or appear before any board, commission or other public body of the City except in the performance of public obligations or official duties.
The provisions of this subsection (d) shall not prohibit:
 - (1) An appearance at or participation by a public official or employee before any department, division, office, board, commission or other City agency in the discharge of his duties as such public officer or employee and without private compensation for such appearance or participation, including appearance or participation on behalf of constituents as a representative of the electorate.

- (2) An appearance at or participation by a public official or employee, on his own behalf, or on behalf of partnership, trust, business trust, corporation, association or business in which he is a proprietor, partner, officer or employee before an agency of the City of which he is not a member, with respect to a matter which is not in conflict with duties as such official or employee of the City.
- (e) Acting, directly or indirectly, as attorney, agent, broker or employee or in any other representative capacity on behalf of any private person, partnership, trust, business trust, corporation or association interested, directly or indirectly, in any manner whatsoever in any contract, work or service, or the sale or acquisition by the City of any property, the cost of which is payable by City funds or to the City, or, directly or indirectly, be interested in the profits of any contract, work or service with the City or in the sale or acquisition by the City of any property, the cost of which is payable by City funds or to the City. No official or employee of the City shall, directly or indirectly, have any interest other than his fixed compensation and reimbursable expenses in any expenditures of funds by the City. A public official or employee shall not be deemed interested in any contract, work or service, or the sale or acquisition by the City of any property, or the profits of any contract, work or service, or the sale or acquisition by the City of any property unless such is approved, authorized, awarded or entered into by the public official or public employee in his official capacity.
- (f) Within one year after termination of public service or employment, no public official or employee shall represent a client or act in a representative capacity or accept private employment or receive private compensation for services, whether as attorney, agent, broker or employee with respect to any matter, case, proceeding, application, determination, issue or question in which he personally participated through decision, approval, disapproval, recommendation, the rendering of advice, investigation or other substantial exercise of administrative discretion or which was under his charge during the period of his service as such official or employee.
- (g) Use of public position for personal gain.
- (h) Holding (possession of) investments which interfere with or tend to interfere with the proper discharge of public duty. This shall include participation in transactions as a public representative with a person, partnership, trust, business trust, corporation or association in which the public official or employee has a direct or indirect financial or other personal interest.
- (i) Personal interest in legislation to the extent that private interest takes precedence over public interest or duty.
- (j) Entering into contracts or other conduct of business by a person, partnership, trust, business trust, corporation or association in which the public official or employee has a controlling or other substantial financial interest and when the public official or employee can influence such contract or business because of his public position. "Substantial financial interest" includes any of the following interests in a business entity: proprietor, member of a partnership, officer or director of a corporation or association, trustee of a trust or a shareholder in a corporation whose shares are not obtainable on a recognized public stock exchange.

- (k) Soliciting employment with a person, partnership, trust, business trust, corporation or association doing business with the City over which the public official or employee had some control in his official capacity within one year of the termination of public service.
- (l) Promising any person appointment to any municipal position as a reward for any political activity.
(Ord. 91-13. Passed 5-6-91.)

109.06 DISCLOSURE OF PRIVATE INTEREST IN LEGISLATION.

A member of Council or the City administration including any official or employee who participates in discussion of or who gives an official opinion to Council shall publicly disclose on the official records of Council the nature and extent of any direct or financial interest or other personal or private right he may have in any legislation pending before Council immediately after its introduction and prior to passage, provided, however, that such disclosure shall not deprive the member of Council of his right to vote on such legislation. A member of Council who elects to abstain regarding such legislation shall not participate in the consideration of, or take any official action with respect to such legislation, and shall make the same disclosure as otherwise required herein. This section shall not be interpreted as permitting any interest in contracts with the City or in City expenditures prohibited by Section 109.05.
(Ord. 91-13. Passed 5-6-91.)

109.07 APPLICABILITY OF CODE.

When an official or employee of the City has doubt as to the applicability to a particular situation of a provision of this Code or the City Charter or any law which establishes ethical standards or otherwise regulates the conduct of officials or employees of the City, the official or employee should apply to the Board of Ethics for an advisory opinion and be guided by that opinion when given. The official or employee shall have the opportunity to present his interpretation of the facts at issue and of the applicable provisions of this Code, Charter and law before such advisory decision is made.

This Code shall be operative in all instances covered by its provisions except when superseded by an applicable statutory or Charter provision and the statutory or Charter action is mandatory, or when the application of a statutory or Charter provision is discretionary but determined to be more appropriate or desirable.
(Ord. 91-13. Passed 5-6-91.)

109.08 BOARD OF ETHICS; CREATION, COMPOSITION AND TERM.

(a) There is hereby established a Board of Ethics, consisting of three members who shall be residents of the City and appointed by the Mayor with the approval of Council. Such members shall serve without compensation for three-year terms except that of the original appointment, one member shall be appointed for a three-year term, one shall be appointed for a two-year term, and one shall be appointed for a one-year term. The Board shall select its own chair and, subject to the provisions of Section 109.09, set its own rules of procedure.

(b) It shall be the duty of the Board to render advisory opinions with respect to matters dealing with conflict of interest as set forth in the Codified Ordinances and to hear complaints against persons as set forth in Section 109.09. Advisory opinions shall be rendered pursuant to a written request of a member of Council, or any officer or employee of the City. (Ord. 91-13. Passed 5-6-91.)

109.09 COMPLAINTS, HEARINGS AND PROCEDURE; OATHS AND SUBPOENAS.

(a) The Board of Ethics shall receive complaints against persons subject to this chapter concerning conduct alleged to be in violation of any provision of the Ohio Constitution, Ohio statutory law, the City Charter or ordinance of the City which establishes ethical standards for or otherwise regulates the conduct of such persons. All complaints shall be filed by affidavit made on personal knowledge, subject to the penalties of perjury. The Board shall investigate complaints and charges presented to it.

(b) If the Board finds that a complaint is not frivolous, and that the facts alleged in a complaint, if true, would constitute a violation of any of the provisions enumerated in this chapter, it shall hold a hearing to determine whether there is reasonable cause to believe that the facts alleged in the complaint are true. If the Board does not so find, it shall dismiss the complaint.

(c) The person against whom the complaint is directed shall be given not less than ten days notice of the date, time and place of the hearing, a statement of the charges and the law directly involved, and shall be given the opportunity to be represented by counsel, to examine the evidence against him, to produce evidence and to call and subpoena witnesses, to confront his accuser, and to cross-examine witnesses. The Board shall have a stenographic record made of the hearing. The hearing shall be open to the public except as otherwise provided by law.

(d) If upon the basis of such hearing, the Board finds, based upon a preponderance of the evidence, that the facts alleged in the complaint are true and constitute a violation of any provision of the Ohio Constitution, Ohio statutory law, the City Charter or ordinance of the City which establishes ethical standards for or otherwise regulates the conduct of persons subject to the provisions of this chapter, it shall report its findings by written report to the Mayor, each member of Council and to the accused person.

(e) If the Board does not find based upon a preponderance of the evidence that the facts alleged in the complaint are true and constitute any of the aforementioned violations, it shall dismiss the complaint and make the report of that finding public.

(f) The Board, or a member of the Board, may administer oaths, and the Board may issue subpoenas to any person within the State compelling the attendance of witnesses, and the production of relevant papers, books, accounts, and records. The Board shall issue any such subpoena upon request of the accuser or the accused. The provisions of Ohio R.C. 705.21, insofar as applicable, shall govern the issuance of such subpoenas. Upon refusal of any person to obey a subpoena or to be sworn or to answer as a witness, the Board may apply Ohio R.C. 705.21 to enforce compliance. The Board or the accused person may take depositions of witnesses within or without the state in the same manner as prescribed by law for the taking of depositions in civil actions.

(g) The Board shall schedule a hearing within ninety days after a complaint is filed if the Board determines that the facts alleged in a complaint, if true, would constitute a violation of any of the provisions of this chapter. The complaint shall be disposed of within ninety days after it has been heard.

(h) All papers, records, affidavits and documents upon any complaint, inquiry or investigation relating to the proceedings of the Board shall be open to the public, except as otherwise provided by law.

(i) Any complaint regarding a member of Council concerning an alleged violation of this chapter may, at the option of the accuser, be filed with the Clerk of Council. Should such a complaint be so filed, the President of Council or the Presiding Officer shall appoint a special select committee to investigate the complaint, conduct a hearing, and make findings as required of the Board with the same powers and duties as the Board.
(Ord. 91-13. Passed 5-6-91.)

109.99 PENALTY.

(a) Whoever knowingly violates any provision of Section 109.04 through 109.06 is guilty of a misdemeanor of the first degree.

(b) Except as provided in subsection (c) hereof, and in addition to the penalty prescribed in subsection (a) hereof, whoever knowingly violates any provision of Section 109.04 through 109.06 shall be cause for suspension of the public official or public employee, removal from office or employment, written reprimand, or other disciplinary action.

(c) In addition to the penalty prescribed in subsection (a) hereof, whoever willfully conceals a substantial financial interest or otherwise violates the requirements of Section 109.05(e) or (j) shall be guilty of malfeasance in office or position and shall, subject to any applicable provision of the Charter, forfeit his office or position. Violation of such subsection with the knowledge, express or implied, of the business entity shall render the contract void.
(Ord. 91-13. Passed 5-6-91.)

CHAPTER 110
Open Meetings

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contrary to this chapter. |
| 110.03 | Required; minutes. | 110.09 | Compliance with certificate. |
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| 110.06 | Notification of individuals. | | |

CROSS REFERENCES

Meetings of public bodies to be open - see Ohio R.C. 121.22
Disturbing lawful meeting - see GEN. OFF. 509.04

110.01 LIBERAL CONSTRUCTION.

This chapter shall be liberally construed to require public bodies to take official action and to conduct all deliberations upon official business only in open meetings, unless the subject matter is specifically excepted by law.
(Ord. 89-59. Passed 3-5-90.)

110.02 DEFINITIONS.

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

- (a) "Public body" means Council, any board, commission and any other public body of the City, including, but not limited to a citizen advisory committee, agency, council or authority, and whether established by ordinance or resolution of Council, by administrative action, or by the Charter, as well as any committee of any of the foregoing.
(Ord. 91-14. Passed 4-15-91.)
- (b) "Meeting" means any prearranged discussion of the public business of the public body by a majority of its members.
(Ord. 80-22. Passed 5-5-80.)

- (c) "Clerk" means, in the case of Council, the Clerk of Council, or, in the case of another public body, the person designated by the public body to post written notice of meetings and to transmit the personal notification of meetings on specific subject matter to the necessary persons or organizations.
(Ord. 89-59. Passed 3-5-90.)
- (d) "Day" means calendar day.
(Ord. 80-22. Passed 5-5-80.)
- (e) "Post" means to post in an area accessible to the public during the usual business hours at the office of the Clerk and at the following locations:
- (1) City Hall, front entrance bulletin board.
 - (2) City Hall, back entrance bulletin board.
 - (3) Reception desk, bulletin board.
- All regular and special meetings of Council, other than committee meetings thereof, shall be posted on the front yard bulletin board, City Hall. All regular and special meetings of any other public body and committee meetings of Council may be posted thereon.
(Ord. 89-59. Passed 3-5-90.)
- (f) "Published" means published once in a newspaper having a general circulation in the City.
- (g) "Special meeting" means a meeting which is neither a regular meeting nor an adjournment of a regular (or special) meeting to another time or day to consider items specifically stated on the original agenda of such regular (or special) meeting.
- (h) "Public hearing" means a meeting wherein the general public is invited to give its opinion or statements concerning the specific matters to be considered at such hearing.
(Ord. 80-22. Passed 5-5-80.)
- (i) "Committee meeting" means a meeting of those committees enumerated in Chapter 111 and such other committees, including citizens advisory committees, as Council may from time to time approve. "Committee" shall also include any committee of any other public body.
(Ord. 89-59. Passed 3-5-90.)
- (j) "Written notification" means notification in writing mailed, telegraphed or delivered to the address of the person for whom such notification is intended as shown on the records kept by the Clerk under this chapter, or in any way delivered to such person.
- (k) "Oral notification" means notification given orally either in person or by telephone directly to the person for whom notification is intended or by leaving an oral message for such person at the address or if by telephone at the telephone number of such person as shown on the records kept by the Clerk under this chapter.

- (l) Any notification provided herein to be given by the Clerk may be given by any person acting in behalf of or under the authorization of the Clerk.
(Ord. 80-22. Passed 5-5-80.)

110.03 REQUIRED; MINUTES.

(a) Except as may otherwise be provided by law, all meetings of any public body are declared to be public meetings open to the public at all times. A member of a public body shall be present in person at a meeting open to the public to be considered present or to vote at the meeting and for purposes of determining whether a quorum is present at the meeting.

(b) The minutes of a regular or special meeting of any public body except committee meetings shall be recorded and minutes timely and accurately prepared thereafter. The minutes shall be open to public inspection at all reasonable times. The minutes of any special or regular meeting of a public body shall include an accurate and brief summary of the discussions by any member of the public body or public official on any resolution, ordinance, motion or other matter before the public body, the complete text of any written committee report and, where applicable, shall also include the reports, announcements, remarks and communications from the administration and members of the public body. Any person may obtain from the Clerk of the public body a copy of the minutes of the public body at minimal cost as established by Council. The general subject matter of all committee meetings and executive sessions shall be reported at the next meeting of the public body at which the subject matter of the report is considered or the next regular meeting of the public body, whichever is earlier, and shall become part of the minutes thereof. (Ord. 89-59. Passed 3-5-90.)

110.04 POSTING OF MEETINGS.

(a) The Clerk of the public body shall post a statement of the time(s) and place(s) of regular meetings of each public body for each calendar month in a calendar of meetings not later than the third day preceding the day of the first regular meeting (other than the organizational meeting) of the calendar month of that public body at all locations mentioned in Section 110.02(e) other than the bulletin board. The Clerk of the public body shall check at reasonable intervals to insure that such statement remains so posted during such calendar month. If at any time during the calendar month the time or place of regular meetings, or of any regular meeting, is changed on a permanent or temporary basis, a statement of the time and place of such changed regular meeting shall be so posted by the Clerk of the public body at least twenty-four hours before the time of the first changed regular meeting. Should such time or day of a regular meeting be changed on a permanent basis, the Clerk of the public body shall cause same to be published. Upon the adjournment of any regular or special meeting to another day, the Clerk of the public body shall promptly post notice of the time and place of such adjourned meeting.

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

(c) Except in the case of a public hearing, the Clerk of the public body shall, no later than twenty-four hours before the time of a regular meeting or a special meeting or a committee meeting of a public body, post a statement of the time and place of such meeting. The posting shall state such specific or general purpose or purposes then known to the Clerk to be intended to be considered at such regular or special meeting or committee meeting and may state, as an additional general purpose, that any other business as may properly come before such public body or committee thereof at such meeting may be considered and acted upon.

(d) The Clerk of the public body shall, no later than seventy-two hours before the time of a public hearing of a public body, including an investigation of charges or complaints against a licensee, franchisee or regulated individual, post a statement of the time, place and purpose of such public hearing. The posting shall state such specific or general purposes then known to the Clerk to be intended to be considered at such public hearing. The Clerk shall further, no later than seventy-two hours before the time of a public hearing, cause the time, place and purposes of same to be published.

(e) Nothing contained herein shall be construed as prohibiting any public body from adopting a rule in accordance with this chapter to provide for notification to the general public of regular or special meetings or committee meetings, by causing the time, place and purpose of such meetings to be published.

(f) In addition to the posting of statements as provided in subsections (a) and (b) hereof, the Clerk of the public body shall cause to be published once a statement of the time(s) and place(s) of regular meetings for the calendar year of each public body. Such publication shall occur no later than the day preceding the day of the first such regular meeting.
(Ord. 89-59. Passed 3-5-90.)

110.05 NOTIFICATION OF NEWS MEDIA.

(a) Any news media organization that desires to be given advance notification of special meetings of a public body shall file with the Clerk of the public body a written request therefor on a form provided by the Clerk.

Except in the event of an emergency requiring immediate official action as referred to in subsection (d) hereof, a special meeting or committee meeting shall not be held unless at least twenty-four hours advance notice of the time, place and purposes of such special meeting or committee meeting is given to the news media that requested such advance notification in accordance with subsection (b) hereof.
(Ord. 89-59. Passed 3-5-90.)

(b) News media requests for such advance notification of special meetings or committee meetings shall specify: the public body that is the subject of such request; the name of the media; the name and address of the person to whom written notifications to the media may be mailed, telegraphed or delivered; the names, addresses and telephone numbers (including addresses and telephone numbers at which such notifications may be given either during or outside of business hours) or at least two persons to either one of whom oral notification to the media may be given.

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

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

(d) In the event of an emergency requiring immediate official action, a special meeting may be held without giving twenty-four hours advance notification thereof to the requesting news media. The persons calling such meeting, or any one or more of such persons or the Clerk on their behalf, shall immediately give oral notification or written notification, or both, as the person or persons giving such notification determine, of the time, place and purposes of such special meeting to such news media that have requested such advance notification in accordance with subsection (b) hereof. The minutes or the call, or both, of any such special meeting shall state the general nature of the emergency requiring official action.
(Ord. 80-22. Passed 5-5-80.)

110.06 NOTIFICATION OF INDIVIDUALS.

(a) Any person, group or organization, upon written request and as provided herein, may obtain reasonable advance notification of all meetings at which any specific type of public business is scheduled to be discussed. Such a person shall file a written request, upon the form provided, with the Clerk of the public body specifying:

- (1) The person's name and the address(es) and telephone number(s) at or through which the person can be reached during any outside business hours;
- (2) The specific type of public business the discussion of which the person is requesting advance notification of; and
- (3) The public body that is the subject of the request.
(Ord. 89-59. Passed 3-5-90.)

(b) A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the City, public body that is the subject of such request and the Clerk. Such request may be cancelled by written request from such person to the Clerk.

(c) Each such written request shall also be accompanied by cash, or a check or money order payable to the City in the amount of fifteen dollars (\$15.00) per year which amount has been determined by Council to represent a reasonable fee to cover costs of providing such advance notification for twelve calendar months commencing with the month in which the request is made.

Additionally, each request shall be accompanied by self-addressed envelopes sufficient to cover the number of regular meetings of the public body, or bodies, which are the subject of the request for twelve months. Each request shall be renewed at the expiration of twelve months.

(d) The Clerk shall give such advance notification under this section by written notification; further provided that the Clerk may give oral notification of all special meetings if the circumstances so dictate. Written notification may be accomplished by providing copies of the agenda.

(Ord. 80-22. Passed 5-5-80.)

(e) This section does not require separate or additional notice of notification to be given of the continues portion of a meeting following a recess or adjournment of not more than seventy-two hours to a time and place announced publicly at the meeting prior to the recess or adjournment.

(Ord. 80-97. Passed 1-5-81.)

110.07 EXECUTIVE SESSIONS.

(a) Except as provided in subsection (b) hereof, any public body may only in accordance with and subject to the provisions of the Charter, hold an executive session.

(b) Any committee of a public body may hold an executive session only if authorized to do so by the public body in accordance with and subject to the provisions of the Charter. Any member of the public body may attend an executive session of a committee of the public body.

(Ord. 91-14. Passed 4-15-91.)

110.08 INVALIDITY OF ANY ACTION CONTRARY TO THIS CHAPTER.

(a) An ordinance, resolution, rule or formal action of any kind is invalid and void unless adopted in an open meeting of the public body. An ordinance, resolution, rule or formal action of any kind that results from deliberations in a meeting not open to the public is invalid and void unless the deliberations were for a purpose specifically authorized by the Charter and conducted at an executive session held in compliance with the Charter and this chapter.

(b) Any person may bring an action to enforce the provisions of this section. Upon proof of a violation or threatened violation of this section in an action brought by any person, the Court of Common Pleas shall issue an injunction to compel the members of the public body to comply with its provisions. If the Court of Common Pleas issues an injunction pursuant to this section, the court may award to the person that sought the injunction all court costs and reasonable attorney's fees and also shall order the public body that it enjoins to pay a civil forfeiture of one hundred dollars (\$100.00). If the Court of Common Pleas does not issue an injunction pursuant to this section and the court determines at that time that the bringing of the action was frivolous conduct as defined in Ohio R.C. 2323.51(A), the court may award to the public body all court costs and reasonable attorney's fees. Irreparable harm and prejudice to the party that sought the injunction shall be conclusively and irrebuttably presumed upon proof of a violation or threatened violation of this section.

(c) A member of a public body who knowingly violates an injunction issued pursuant to this section may be removed from office by an action brought in the Court of Common Pleas for that purpose by the Law Director, his designee or by the Attorney General of the State of Ohio.

(Ord. 91-14. Passed 4-15-91.)

110.09 COMPLIANCE CERTIFICATE.

(a) A certificate shall be made part of each and every ordinance, rule, resolution and regulation, and any other action taken by any public body as defined in Section 110.02 by the Clerk demonstrating compliance with this chapter.

(b) Such certificate shall be conclusive upon this City and the public body involved.
(Ord. 80-22. Passed 5-5-80.)

TITLE THREE - Legislative

Chap. 111. Council.

Chap. 113. Ordinances, Resolutions and Contracts.

**CHAPTER 111
Council**

111.01 Office of Council.

111.02 Clerk; appointment; hours; duties.

111.03 Rules of Council.

111.04 Charter amendment proposed by Council; preparation and dissemination of arguments.

CROSS REFERENCES

Legislative powers of Mayor - see CHTR. Art. III, Sec. 5

The Council - see CHTR. Art. IV

Code of Ethics - see ADM. Ch. 109

Quorum requirements suspended in emergency - see ADM. 107.06

Open meetings - see ADM. Ch. 110

Requirements for legal publication in newspaper - see ADM. 113.01

111.01 OFFICE OF COUNCIL.

There is hereby established the Office of Council, which shall be under the direct supervision of the Clerk of Council and shall consist of the Clerk and such assistant full-time and part-time clerks and assistants as shall, from time to time, be authorized by Council.

The Office of Council shall be located in the City Hall at such place, and shall be equipped with such furniture and equipment, files and other accessories as Council may, from time to time, authorize. (Ord. 89-7. Passed 12-18-89.)

111.02 CLERK; APPOINTMENT; HOURS; DUTIES.

(a) The Clerk of Council shall be elected by a majority of the members elected to Council present and voting within seven days from the commencement of their term.

(b) The Clerk of Council shall, once elected, serve the entire term of Council unless such person dies, resigns or unless removed from such office in accordance with the provisions of this subsection. No Clerk of Council shall be removed from office except for gross misconduct, or misfeasance, malfeasance or nonfeasance in or disqualification for office, or for the conviction while in office of a crime involving moral turpitude, or for persistent failure to abide by the Rules of Council, or for absence without justifiable excuse from three consecutive regular meetings of Council, further provided that such removal shall not take place without the concurrence of two-thirds of all the members elected to Council nor until the Clerk so accused shall have been notified in writing at least ten days in advance of any hearing upon such charge, and the Clerk or the Clerk's counsel has been given the opportunity to be heard, present evidence or examine any witness appearing in support of such charge or charges.

(c) The Clerk of Council, except as provided in subsection (g) hereof, shall not hold any elective office within the City or be a candidate for any elective office while serving as Clerk of Council.
(Ord. 89-7. Passed 12-18-89.)

(d) The office hours of the Clerk of Council shall be determined by Council.
(Ord. 93-35. Passed 6-7-93.)

(e) The Clerk of Council shall receive such various benefits as set forth for employees in Chapter 143 and shall also be subject to all general rules and regulations governing City employees not otherwise inconsistent herewith.

(f) The position of the Clerk of Council involves responsible administrative and clerical work. The requirements of the work shall include:

Considerable experience in full-time secretarial work of a progressively responsible nature; graduation from high school including or supplemented by courses in business and secretarial subjects, or any equivalent combination of experience and training which provides the following knowledges, abilities and skills:

- (1) Knowledge of modern office practices, systems and procedures;
- (2) Knowledge or ability to acquire such knowledge within a reasonable period of training, of the functions, purposes, duties and operations of municipal government;
- (3) Ability to maintain complex official records;
- (4) Ability to establish office procedures and priorities and to supervise personnel;
- (5) Ability to read and comprehend moderately complex laws, ordinances, rules and regulations;
- (6) Ability to make minor decisions in accordance with laws, ordinances, rules and regulations;
- (7) Ability to prepare routine correspondence and other items;

- (8) Skill in the taking and transcribing of dictation and the use of a dictaphone;
- (9) Skill in the use of a typewriter, recording equipment, word processor and other general office equipment;
- (10) Skill in shorthand/speedwriting or comparable ability;
- (11) Skill in typing (not less than sixty words per minute);
- (12) Ability to initiate and carry out research projects; and
- (13) Ability to deal with people.

(g) If the Clerk of Council is unable to attend any regular or special meeting of Council, a temporary acting Clerk of Council shall be designated by the President of Council, or in the absence of the President, by the Presiding Officer. In the event the Clerk of Council is unable due to injury, illness, disease or other justifiable cause to attend regular or special meetings of Council or otherwise perform the duties and functions of the position for an extended period, Council shall designate a temporary acting Clerk of Council.

(h) In the case of death, resignation or removal from office of the Clerk of Council, Council shall by motion declare the office of Clerk of Council vacant and shall appoint a new Clerk provided, however, that a new Clerk shall not be appointed until after the Council advertises the availability of the position not less than once a week for two consecutive weeks in a newspaper of general circulation in the City and have interviewed all persons who have made written application by the date specified in the advertisement.

(i) The functions, duties and job classification of the Clerk of Council shall encompass the following items:

- (1) Serve as office manager of the Office of Council;
- (2) Attend all regular and special meetings of Council, and act as recording secretary thereat;
- (3) Maintain, or cause to be maintained, accurate, timely and complete records of all official Council documents;
- (4) Prepare, or supervise the preparation of, timely and accurate records and minutes of all regular and special Council meetings and proceedings, and public hearings if requested by Council or a committee thereof;
- (5) Receive, sort and accept on behalf of the Council and the members thereof, all communications which may necessitate Council deliberation and consideration;
- (6) Prepare, or supervise the preparation of, the Agenda for Council meetings under the direction of the President of Council, and cause to be delivered to each member of Council, the Mayor and each department and division head a copy thereof;
- (7) Attend all public hearings conducted by Council or a committee thereof and record the minutes for same if requested by Council or a committee thereof;
- (8) Answer all inquires directed to ordinances, resolutions, Council proceedings and official Council records, or direct such inquiries to the proper City official for answer;

- (9) Be responsible for the custody, maintenance, distribution and sale, pursuant to instructions of Council, of all copies of the Codified Ordinances, and the sale of copies of the City Charter, ordinances, resolutions and other public documents of Council where no provision for the sale is otherwise made by ordinance or resolution;
- (10) Be responsible for the preparation of all transcripts of Council meetings, and other documents, when such transcript and documents relate specifically to appropriations, notes, bonds and tax levies;
- (11) Be responsible for the posting, publishing, advertising and certification of ordinances, resolutions, other actions, approved minutes of regular and special meetings of Council, notices, hearings and other documents as required by the Municipal Ordinances, the City Charter or statutory law including any public notice of hearings on applications authorized by and filed pursuant to the Zoning Code on matters before Council, and to all property owners of land adjacent and abutting such area proposed for public hearing on matters submitted to and before Council, pursuant to the City Charter, ordinance or resolution;
- (12) Prepare regular and special reports of various Council committee meetings when requested by the committee, and attend same as recording secretary when requested by the committee and cause to be kept minutes of each such committee meeting so attended which shall be kept in report form;
- (13) Transmit to other City officials, department and division heads, copies of all ordinances, resolutions or related information pertaining to the respective departments or divisions;
- (14) Have the duty of ensuring that all Council and committee meetings are held in accordance with law and ordinance and that appropriate notices thereof are posted and published as required by the City Charter and ordinances;
- (15) Compose and attend to all correspondence relative to the office and to assist Council or any member thereof by obtaining information upon the request of Council or any member thereof necessary to the formulation of an ordinance, resolution or other matter to be promptly proposed for consideration by Council and action by Council;
- (16) Provide each member of Council a summary of all matters referred to a committee of Council and/or member of the Administration within a reasonable time following each regular Council meeting and shall post a summary list in the Council Chamber prior to the next regular meeting of Council. The summary shall include the subject matter referred, the date of referral, the name and members of the committee and/or member of the Administration to which the matter has been referred, the author/sponsor of the communication, ordinance, resolution or other matter so referred, previous action, if any, by the Council, and a brief statement of its then present status;

- (17) Shall be responsible for the recording of regular and special meetings of Council, and public hearings if requested by Council or a committee thereof, and the care and custody of the tapes, which shall be kept for one year after acceptance by Council of printed minutes. The audio tapes shall be stored in the Council Office and shall not be released from the office;
- (18) Prepare for distribution at the end of each year a cumulative index and report of the adopted legislation and summary of the proceedings of Council.
A copy of the cumulative index and report shall be furnished to any resident of the City who has requested same and has paid the fee therefore as has been set by ordinance or resolution of Council;
- (19) Receive and furnish to all members of Council a copy of the reports, minutes and proceedings of all boards and commissions;
- (20) Serve as custodian of all ordinances, resolutions, motions and other actions adopted by Council and all papers and documents kept by Council;
- (21) Type legislation when requested by any member of Council; and
- (22) Perform such other and further duties as may be required by formal action of Council.

(j) The Clerk of Council shall work directly under the general direction and supervision of the President of Council and the Clerk's methods of performance is the Clerk's sole responsibility as long as such performance is accomplished within the established policies, rules and regulations as established by Council. Any decision of the President of Council relating to the direction and supervision of the Clerk of Council shall be subject to subsection (i)(22) hereof. (Ord. 89-7. Passed 12-18-89.)

111.03 RULES OF COUNCIL.

(a) The following Rules of Order shall govern the procedure of Council and the conduct of its members:

I. MEETINGS; PLACE, TIME OF CONVENING, QUORUM, ORDER OF BUSINESS.

- (1) Rule 1. Meetings: Place. All meetings of Council shall be held in the Council Chamber in the City Hall unless otherwise ordered by Council.
- (2) Rule 2. Meetings: Public. Except as otherwise provided by law, all meetings of Council or its committees thereof shall be public. Any citizen may appear and be heard by Council during the public session. Any person desiring to address Council shall first secure the permission of the Presiding Officer to do so. Priority in speaking shall be given to those presenting to the Clerk of Council a written request to address Council.
Each person addressing Council shall rise, give their name and address in an audible tone of voice for the record and, unless further time is granted by Council, shall limit their address to five minutes. All remarks shall be addressed to Council as a body, to any member thereof or to the

administration or any member thereof. Speakers shall be courteous in their language and avoid personalities. No person, other than Council, the administration and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of Council, without the permission of the Presiding Officer. No questions shall be asked of a member of Council or by a member of Council except through the Presiding Officer.

Persons, including members of Council not a member of the committee and other City officials, desiring to be heard by any committee of Council shall be given an opportunity to be heard thereat. All minutes and the record of Council and its committees shall be open to the public at all reasonable times except as otherwise provided by law as applicable to executive sessions.

- (3) Rule 3. Regular Meetings. Regular meetings of Council shall be held in the Council Chamber of the first and third Monday evenings at 7:00 p.m., unless otherwise ordered by motion, resolution or ordinance. Whenever the regular meeting falls on a legal holiday or a special election day, the meeting may be held on the business day next following such holiday or special Election Day. As used in this Rule, "legal holiday" shall have the same meaning as set forth in Ohio R. C. 1. 14.
- (4) Rule 4. Summer Schedule. During the months of July and August, Council may be on recess and shall meet at such times as a special meeting as may be called by the Mayor. The call of such a special meeting shall be in accordance with the provisions of Rule 5, subsection (a) (5) hereof.
- (5) Rule 5. Special Meetings. Special meetings of Council may be called by a vote of Council taken at any regular or special meeting thereof shall be called by the Clerk of Council on written request of the Mayor, the President of Council or any three members of Council. Any written request for a special meeting shall state the subject or subjects to be considered at the special meeting and no other subject or subjects shall be considered. Notice in writing of each special meeting called at the written request of the Mayor, the President of Council or three members of Council shall state the date, time, place and subject or subjects of the special meeting and shall be posted on the bulletin boards at the City Hall and served on the Mayor and each member of Council, either personally or by leaving a copy of such notice at his/her usual place of residence. Such posting and service shall be accomplished not less than twenty-four hours preceding the time for the special meeting. If a special meeting is called by a vote of Council taken at any regular or special meeting from which the Mayor or any member of Council is absent, written notice of such special meeting shall be posted and given each absentee in the manner herein described. Service of notice of any special meeting shall be deemed conclusively to have been waived by the Mayor or by any member of Council who shall be present thereat. In addition to the subject or subjects to be considered, the order of business shall include items 1, 2, 3, 4, 7 (if related to the subject or subjects to be considered), and 14 of Rule 8A.
- (6) Rule 6. Adjourned Meetings. Regular and special meetings may be adjourned from day to day, but if the regular or special meeting is adjourned to a day other than the day immediately succeeding the regular or special meeting day, any member of Council, or the Mayor, absent from the regular or special meeting shall be given at least twelve hours' notice of such adjournment and the date and hour of such adjourned meeting.

- (7) Rule 7. Quorum. A majority of all the members elected to Council shall be a quorum to do business, but a lesser number may adjourn from day to day and compel the attendance of absent members in the manner and under such penalties as shall be prescribed by ordinance or resolution.
- (8) Rule 8. Order of Business:
- A. The business of the regular meetings of Council shall be transacted in the following order, unless Council by a majority vote of its members present and voting shall suspend the rules and change the order.
1. Call to order.
 2. Moment of silent prayer.
 3. Pledge of Allegiance.
 4. Roll call of members; report on absent members. (Members absent for cause shall be excused by motion).
 5. Presentation of Resolutions (if any)
 6. Dispose of minute journal.
 7. Written communications, petitions and claims.
 8. Reports of committees.
 9. Reading of legislation (ordinances and resolutions) by Clerk of Council.
 - a. First reading and referral to standing committee.
 - b. Second reading.
 - c. Audience input on legislation up for passage (3 minutes max per person)
 - d. Third reading.
 - e. Reading and passage of legislation under suspension of the Rules and without readings on three different days.
 10. Reports and communications from the Mayor, the Directors of Departments, and other City officials.
 11. Appointments and confirmations.
 12. Public session.
 13. Miscellaneous business and comments by members of Council.
 14. Adjournment.
- B. The President of Council may at any time permit a member of Council to introduce a motion, ordinance or resolution out of the regular order, unless objection is made thereto by any member present or unless otherwise provided by these Rules.
- (9) Rule 9. The Agenda
- A. It shall be the duty of the Clerk, under the supervision and direction of the President of Council, to have a Council meeting agenda prepared. Under this title the Clerk shall arrange and have printed in consecutive order by title all by-laws, ordinances or resolutions to be entertained, considered, introduced, read, acted upon or enacted in accordance with the following format: The Agenda of the Council Meeting of (Date)
1. Legislation be read and referred to Committee.
 - a. First reading.
 - b. Second reading.

2. Legislation on for passage.
 - a. Second reading suspension of the Rules.
 - b. Third reading.
 - c. On for passage under suspension of the rules and without readings on three different days. "The Agenda" and a copy of any legislation shall be delivered to each member of Council or left at his usual place of residence at least two days prior to the regular meeting for which "The Agenda" is prepared and at least twenty-four hours prior to a special meeting.
 - B. No by-law, ordinance or resolution shall be entertained, considered, read, acted upon or enacted at any meeting unless its title is printed upon "The Agenda " for each meeting, except as follows:
 1. When action upon legislation appearing on "The Agenda" of a previous meeting is postponed to a day certain, whether or not it appears on "The Agenda" of the day certain.
 2. Action upon the Mayor's veto of any legislation.
- II. OFFICERS AND EMPLOYEES OF COUNCIL.
- (10) Rule 10. Presiding Officer. The President of Council and, in that person's absence, the President of Council Pro Tempore, shall preside over the meetings of the Council. In the absence of the President of Council and the President of Council Pro Tempore, the Clerk of Council shall call the Council to order; and, if after the roll call is called a quorum shall be present, Council shall choose one of its members to act as temporary chair, who shall preside until the President of Council or the President of Council Pro Tempore appears, but in no event beyond such meeting, and that person shall discharge all the duties and be clothed of all the powers of the President of Council as such Presiding Officer during the President's absence. The Presiding Officer shall call all meetings of Council to order at the hour appointed and shall proceed with the order of business. If a quorum be present, the Presiding Officer shall give the members an opportunity for correcting the Journal of the previous meeting(s), a copy of which shall have been delivered to each member of the Council. In the absence of any objections or corrections, a motion to approve the minutes as submitted without a reading thereof shall be in order. The Presiding Officer shall preserve order and decorum, may in common with any other member call any member to order who shall violate any of the rules, prevent personalities or the impugning of members' motives, confine members in debate to the question under discussion, and shall decide all points of order subject to an appeal to Council as set out in Rule 28. Prior to the first meeting of Council, the President of Council shall call an organizational meeting of the Council for the purpose of establishing the membership of the Standing Committees of Council, including the naming of a Chair and Vice-Chair of each committee. At such meeting, the President of Council shall submit to the members of Council his or her choices for the membership, Chair and Vice-Chair of each committee, which choices shall be subject to, and effective only after approval by a majority of the voting members of Council present, unless otherwise

ordered by Council (See Rule 14 for Subcommittees), coordinating the work of the various committees. The President of Council shall have all the powers, duties, functions, obligations and rights of any other member of Council.

When the Mayor is absent or inaccessible, or is unable for any cause or reason to perform his or her duties, the President of Council shall become the acting Mayor, but he or she shall not thereby cease to be President of Council. In the event the office of Mayor shall become vacant for any reason, the President of Council shall thereupon become the Mayor and serve for the unexpired term or until the beginning of the term of a successor duly elected as provided in Article III, Section 4(d) of the Charter, and the office of President of Council shall become vacant. In case of a vacancy in the office of President of Council, the President of Council shall be elected by Council from among its members, and the one so elected shall vacate his office as Councilman and shall serve for the unexpired term of such President of Council.

- (11) Rule 11. The Selection of a President of Council Pro Tempore The Vote Necessary for Election of President Pro Tempore. The members of Council, within seven days from the commencement of their term shall elect a President of Council Pro Tempore. No candidate for President Pro Tempore shall be declared elected unless they shall have received a majority vote of the members elected to Council present and voting. While presiding over and acting as President Pro Tempore of Council during the temporary absence of the President, such President Pro Tempore shall and he hereby is declared to retain all his rights as an individual member of Council and he shall be entitled to vote on all legislation and other matters before Council to the same extent and purpose as if he were not acting as such President Pro Tempore, but serving in the capacity of member of Council alone.
- (12) Rule 12. Roll Call Upon Election of President Pro Tempore. Upon the roll call for the election of President Pro Tempore, each member shall respond by stating the name of the candidate of their choice eligible for such office or appointment, which candidate shall not be required to be a person duly nominated and seconded.
- (13) Rule 13. Sergeant-at-Arms. Council shall have the authority to appoint a Sergeant-at-Arms who, under the direction of the Presiding Officer, shall preserve order and compel the attendance of absent members in the manner to be prescribed by ordinance or resolution.

III. COMMITTEES OF THE COUNCIL

- (14) Rule 14. Standing Committees. Prior to the first meeting of Council, the President of Council shall call an organizational meeting of the Council for the purpose of establishing the membership of the Standing Committees of Council, including the naming of a Chair and Vice-Chair of each committee. At such meeting, the President of Council shall submit to the members present his or her choices for the membership, Chair and Vice-Chair of each committee, which choices shall be subject to, and effective only after approval by a majority of the voting members of Council present. Not later than the first regular meeting of Council, the President of Council shall appoint standing committees for the term of Council of not less than four (4) members each, exclusive of ex-officio members, and shall

designate for the term of Council a Chair and a Vice-Chair thereof. In the absence of the Chair, the Vice-Chair shall preside until the Chair appears and shall discharge all the duties and be clothed with all the powers of the Chair during such absence. In the absence of the Chair and the Vice-Chair, a quorum being present, a temporary Chair shall be selected by a majority vote of the members present who shall preside until the appearance of the Chair or Vice-Chair and he shall be clothed with the powers of the Chair during such absence. The standing committees shall be styled as follows:

- A. COMMITTEE ON FINANCE: To which shall be referred all ordinances, resolutions and other matters relating to municipal finance; assessments; the budget; insurance; municipal indebtedness and the payment of moneys not otherwise provided for by previous legislation; appropriations for existing and proposed municipal departments, divisions, offices, boards and commissions; Civil Service and the Civil Service Commission; wages, salaries, pensions and other employee benefits; conditions of municipal employment; the creation of positions in the classified or unclassified service; the personnel and composition of the various City departments, divisions, and offices; the Clerk of Council; the purchase, lease or sale of real property or personal property by or from the City; taxation; concessions, licenses and permit fees; long-term financial planning; and, financial co-ordination of all committees.
- B. COMMITTEE ON ENVIRONMENT, AND PUBLIC WORKS, PLANNING, ZONING AND DEVELOPMENT: To which shall be referred all ordinances, resolutions and other matters relating to natural watercourses, streams, creeks, brooks and the pollution thereof; water supply and the pollution thereof; air pollution; all other environmental nuisances; the improvement, repair, construction, maintenance and cleaning of streets and sidewalks, including any fees or charges relating thereto; transportation; the use of streets and sidewalks; street lighting; surface and storm water drainage; the construction, maintenance, repair and cleaning of storm and sanitary sewers including any fees or charges relating thereto; sewage disposal; the collection and disposal of refuse and other waste; public parks, public playgrounds, existing and proposed municipal buildings; the use of City property and land for public or private purpose including any fees or charges for the use thereof; recreational buildings and facilities; the location, maintenance and repair of public buildings and real properties; and, rates to be paid by the City or its residents for public utility services, all matters relating to City planning; the recommendations of the Planning & Design Commission; zoning and land use regulations and building, housing and property maintenance regulations, amendment to the Zone Map; business regulation; community and economic development; the Fire Prevention Code; existing or proposed franchises; and, annexation.

- C. **COMMITTEE ON LOCAL GOVERNMENT AND COMMUNITY SERVICES:** To which shall be referred all ordinances, resolutions and other matters relating to initiative, recall and referendum petitions; Charter proposals or amendments; redistricting; the Rules of Council; intergovernmental relations with the United States, State of Ohio or Cuyahoga County Governments, the Board of Education, or any public or quasi-public body of any of the foregoing, including any act, bill, proposal, rule, regulation, policy or practice as may affect the City and/or the residents of the City; Rocky River Municipal Court; recreation programs, social services, senior citizen programs and services, youth activities and other human services and programs; the Traffic Code; and the imposition of fines, penalties, forfeiture, imprisonment or otherwise regulating conduct not within the jurisdiction of another standing committee including offenses against persons or property or in the operation of vehicles. No member of Council shall serve as Chair or Vice-Chair of more than one standing committee of Council except as provided in subsection I. hereof. The President of Council shall serve as an ex-officio member of all Council committees with the same powers, duties, functions, obligations and rights as any other member.
- D. Council shall appoint a Chair and a Vice-Chair of all other committees which Council shall authorize and the President of Council shall appoint one member of Council to serve as a member of the Planning and Design Commission for such term and as approved by Council. Council shall appoint one member of Council as a member of the Parks and Recreation Commission for a term of two years.
- E. Any member of Council appointed to a standing committee shall continue as such member for the term of Council, but may be removed therefrom by the President of Council upon the recommendation of the remaining members of the committee for failure to attend the meetings of the committee without just cause or excuse, malfeasance, nonfeasance, misfeasance, gross misconduct or for other cause provided, however, that any Council member so removed from a committee may appeal such removal order to Council, not later than at its next regular meeting, who may overrule such removal order by a majority vote of the other members of Council eligible to vote.
- F. Any member of Council appointed to or designated as a member of or representative to any board or commission of the City, however such appointment or designation was made by the President of Council or by Council, itself, may be removed therefrom by a majority vote of the other members of Council eligible to vote for gross misconduct, malfeasance, nonfeasance, misfeasance, failure to attend the meetings of the board or commission without just cause or excuse, or for other cause. Prior to the removal, the member of Council shall be given an opportunity to be heard and present evidence thereon.

- G. The Director of Law, when requested by the Chair of a committee to which any ordinance or resolution has been referred, shall assist in the examination of such ordinance or resolution to assure such ordinance or resolution comports with law.
- H. In the event of death, resignation, expulsion or removal of a member of Council from Council who serves as a committee chair, the vice chair shall become the Chair and the person appointed to the Council vacancy shall assume the vacated committee vice chairmanship; otherwise the person appointed to the Council vacancy shall assume the vacated committee assignments. In the event of the removal of a Chair from a committee, but not from Council, the Chair and the President of Council shall designate another member of the committee to serve as Vice-Chair for the balance of the term of Council. In the event of the removal of the Vice-Chair from a committee, the Council shall designate another member of the committee to service as Vice-Chair for the balance of the term of Council.
- I. **SUBCOMMITTEES:** A Chair may appoint subcommittees consisting of members of the committee.
- (15) Rule 15. Committee Meetings. A majority of the members of a committee shall constitute a quorum for the transaction of business. Committees shall meet at the call of the Chair or upon the call of a majority of the other members thereof. General notice of committee meetings is to be given to the newspapers, elected officials and directors. Except as otherwise provided by law, all committee meetings shall be open to the public and a record of the attendance of members of the committee and the action taken thereat shall be kept by the Chair of the committee in a report provided for that purpose. Such report shall be kept on file with the Clerk of Council and open to public inspection as other public records but a report of attendance shall not be included in the report made pursuant to Rule 17. Legislation may be amended while in committee and it shall be the duty of the committee to recommend to Council the approval, disapproval or amendment of any legislation pending before the committee. A majority of the members of a committee present and voting shall be necessary for the recommendation of approval, disapproval or amendment of any legislation or other matter pending before a committee. All other motions shall require only a majority vote of members of a committee present and voting. Except as otherwise determined by the committee, committee meetings shall be held in the caucus room or Council Chamber.
- (16) Rule 16. Rules of Committees. Except in case of obvious inconsistency or inapplicability, committee meetings shall be governed by the rules applicable to Council proceedings. Any person may tape a committee meeting provided the person has first notified the committee. The Chair or, in the absence of the Chair, the Vice-Chair shall preside at the committee meeting, shall maintain order and decorum thereat, and shall have the authority to re-arrange the order in which business shall be considered at the committee meeting.

- (17) Rule 17. Reports. No ordinance, resolution, communication, petition or other matter referred to a committee for action shall be approved or disapproved and reported out or placed before Council for further reading or consideration until it shall have first been considered at a committee meeting regularly called as provided for herein, and no committee, except as provided in Rule 59, Rule 68 and Rule 74, shall consider or hold a meeting on any proposed ordinance, resolution, communication, petition or other matter until it has been introduced in or presented to Council and referred to the committee.
- The question of the recommendation of approval or of approval when amended, shall be put by the Chair upon motion of any member, which shall not require a second. If a majority of the members of the committee present and voting vote affirmatively, such ordinance, resolution, communication, petition or other matter shall be reported forthwith to Council as recommended for passage or adoption but if a majority of the members of the committee present and voting vote negatively on such question, such ordinance, resolution or other matter shall be reported forthwith to Council as a recommendation of rejection of such legislation or matter. The vote on all matters before the committee shall be recorded in the minutes of the meeting. When a majority of a committee present and voting has reported, recommending, with or without amendment, or not recommending the passage, adoption or approval of the ordinance, resolution, communication, petition or other matter under consideration, the minority may present a minority report. Council may accept or reject any committee report or recommendation in whole or in part. The committee to which any ordinance, resolution, communication, petition or other matter has been referred for consideration shall report to Council the status of such referral by the third next regular Council meeting from such reference and at each third next regular meeting thereafter until final report. Such status report shall be given by the Chair of the Committee, or in the absence of the Chair by the Vice-Chair, and shall be written. Notwithstanding the provisions of Rule 56, any ordinance, resolution, communication, petition or other matter which has been referred to a Council committee shall be automatically discharged from the committee at the adjournment of the eighteenth regular Council meeting after the date referred to Council committee and shall be deemed as recommended by the committee. In such event, such ordinance, resolution, communication, petition or other matter shall be placed on the agenda of the next succeeding regular meeting of Council, unless prior to adjournment Council postpones consideration thereof to a day certain. Any committee or status report shall be given orally at the next regular meeting of Council following the committee meeting provided that such committee report shall be given at a special meeting of Council when the report concerns a subject to be considered at the special meeting. Committee or status reports submitted in writing shall be set forth verbatim in the minutes of the meeting.
- (18) Rule 18. Undisposed of Legislation Pending in Committee. Ordinances and resolutions, which at the date of the first day in January have not been acted upon by the committee or committees to which referred within a period of one year from the date of introduction in Council, shall be reassigned to Committee by the President of Council.

- (19) Rule 19. Committee of the Whole. When Council shall decide to go into Committee of the Whole, without objection the regular officers shall continue to serve, otherwise, Council shall appoint a Chair to preside, and the Presiding Officer of Council shall leave the chair. The Rules of Council, insofar as practicable, shall be observed in the Committee of the Whole, except that no limit shall be placed on the frequency of speaking, that the "yes" and "no" votes shall not be taken except as provided in Rule 67, and that a motion to rise and report progress shall always be in order and shall be decided without debate. Except as may otherwise be provided in the Rules of Council or in the ordinance or resolution creating same, interviews of private citizens to be considered for appointment by Council to any advisory group or commission shall be conducted by the Committee of the Whole in such manner as is determined by the Committee of the Whole; the Committee of the Whole shall also determine the manner of evaluation to be used.
- (20) Rule 20. Joint Committee. When it is desired that legislation or other matter shall be considered by two or more committees jointly, a reference by the President of Council or upon motion to refer by any member and adopted by a majority vote of the members of Council present and voting, to a joint committee composed of the membership of said standing committees, shall operate to constitute such committees a single committee. A quorum of such joint committees shall consist of a majority thereof counting membership in each committee separately so that a member of each of two or more committees constituting such joint committee shall be counted once for each committee of which they are a member. A majority vote of the members present and voting, similarly counted, shall be required for action by such joint committee. (See also Rule 55)

IV. DUTIES, PRIVILEGES AND DECORUM OF MEMBERS

- (21) Rule 21. Roll Call of Council. Every member shall be in his/her seat at the time of roll call; otherwise, he/she shall not be recorded as present except upon special order of Council. The Clerk shall record the names of the members present and absent.
- (22) Rule 22. Duty of Vote. Every member present shall vote on all questions upon the call of the "yes" and "no" vote, except that any member may abstain from voting on any question in which that member has any direct or financial interest or which in any way involves that member's personal or private rights. Any member present, unless excepted as above, who refuses to vote upon any question relating to the City government, upon which they may vote, when the "yes" and "no" votes are being taken, shall be guilty of contempt of Council, and may, for such contempt, be censured by a majority vote of all the members of Council, or may be expelled from Council by a vote of a majority plus one of all the members of Council. If a member of Council shall abstain from voting "yes" or "no", the President of Council shall ask the member the reason for the abstention. The member's reason for the abstention shall be recorded in the journal.

On the passage of every ordinance, resolution or motion and on the appointment of every officer or other person, the vote shall be taken by "yes" and "no", and entered in full upon the journal. On any other question, the "yes" and "no" shall likewise be entered upon the journal. Upon the call of the "yes" and "no", the Clerk shall call the roll on the members and record the vote. When once begun, voting shall not be interrupted.

- (23) Rule 23. Codified Ordinance Book. Within five days of assumption of office, a member of Council shall be provided a Codified Ordinance book or in electronic format which shall, at all times, remain the property of the City. Within five days of leaving office, the Codified Ordinance book shall be returned to the Clerk of Council. The Director of Law shall have the authority to enforce the provisions of this Rule by appropriate legal action.
- (24) Rule 24. Change of Vote. Before the announcement of the vote of any question, the Clerk shall read the vote of each member so taken upon the demand of any member, at which time any member of Council, on account of error or for any other reason, may change their vote; but no member of Council shall be permitted to change their vote as recorded after the roll call has been verified and the result declared.
- (25) Rule 25. Right of Floor. When any member is about to address Council, that member shall respectfully address themselves to the Presiding Officer and, when recognized by the Presiding Officer, shall confine themselves to the question under debate, avoid personalities and refrain from impugning the motives of any other member's argument or vote. When two or more members ask recognition at the same time, the Presiding Officer shall name the member who was first to speak and the exercise of such discretion by the Presiding Officer shall not be subject to appeal under Rule 28.
- (26) Rule 26. Time Limitation of Speaking. No member of Council, public official or other person shall be allowed to speak more than once on the same matter until every other member desiring to speak on that matter shall have had an opportunity to do so, nor more than twice on any subject, not for a time longer than five minutes without permission of Council.
- (27) Rule 27. Members Called to Order. If any member in speaking or otherwise transgresses the Rules of Council, the President shall call the offending member to order. The member so called to order shall immediately cease speaking unless permitted by the President to explain. Any member may, by raising the point of order, call the attention of the President to such transgression. The point of order shall be decided by the President without debate. Every such decision of the President shall be subject to appeal to Council by any two members.
- (28) Rule 28. Right of Appeal. Any member may appeal to Council from a ruling of the Presiding Officer. The member making the appeal may briefly state their reasons for the appeal, and the Presiding Officer may briefly explain the ruling, but there shall be no debate on the appeal and no other member shall participate in the discussion. The Presiding Officer shall then put the question; "Shall the decision of the Chair be sustained?" If a majority of the members present and voting vote "yes" the ruling of the Chair is sustained; otherwise it is overruled.

- (29) Rule 29. Division of Question. If the question contains two or more divisible propositions, the Presiding Officer may, and upon request of a member shall, divide the same; but a motion to strike out a provision and insert a substitute is not divisible. No question shall be divided unless it comprehends a question so distinct that if one is taken away, the other shall stand as an entire question for decision.
- (30) Rule 30. Personal Privilege. Any member may rise to explain a matter personal to themselves, and on stating that it is a matter of personal privilege, they shall be recognized by the Presiding Officer, but shall not discuss a question or issue in such explanation. Such explanation shall not consume more than five minutes of time unless extended by consent of the Council. Matters of personal privilege shall yield only to a motion to recess or adjourn.
- (31) Rule 31. Verbatim Transcript. Any member of Council or other City Official desiring specific remarks to be included verbatim in the minutes of any regular or special meeting of Council shall make such request therefore at the meeting in which the remarks were made and shall also submit such remarks in writing to the Clerk of Council.

V. MOTIONS

- (32) Rule 32. Purpose and Form. Motions shall be used only to expedite the orderly transaction of the business of Council and shall not be substituted for resolutions or ordinances. The form of all motions shall be "I move that" followed by the substance of the motion. A second shall be required for any motion except as specifically provided for in these Rules and upon demand of any member; any motion shall be reduced to writing. Any motion may be withdrawn by the makers before it has been amended or voted upon. When a motion is made, it shall be stated by the Presiding Officer before any debate shall be in order. All motions which have been entertained by the Presiding Officer shall be entered upon the minutes.
- (33) Rule 33. Precedence of Motions.
- A. When a resolution, ordinance, motion or other proposition is before Council or under debate, no motion shall be entertained except the following:
1. To fix the time to which to adjourn.
 2. To adjourn.
 3. To recess.
 4. To lay on the table.
 5. For the previous question.
 6. To postpone to a day certain.
 7. To refer to committee.
 8. To amend.
 9. To postpone indefinitely.
- B. These motions shall have precedence in the order indicated. Motions to adjourn, or to lay on the table, or for the previous question or to recess, shall be put to a vote without debate; the motion to fix the time to which to adjourn shall be debatable only as to the time of such adjournment; and all other motions shall be debatable. These motions shall always be in order until the clerk has started the call of the roll.

- (34) Rule 34. The Previous Question. The motion for the previous question shall require a majority plus one of the members elected to Council present and voting; shall be considered only once; may be renewed after intervening business; shall take precedence over all debatable questions and shall be in order to prevent amendment of undebatable questions. If the previous question is demanded and seconded on an amendment, it shall apply only to the amendment. When the previous question is demanded and seconded on the main question, it shall be put as follows: "Shall the main question be now put?" If the motion for the previous question is carried as to the main question, there shall be no further amendment or debate, but pending amendments shall be put in their order before the main question. If the question, "Shall the main question be now put?" or "Shall the amendment be now put?" be decided in the negative, the main question or the amendment remains before Council.
- (35) Rule 35. Motion to Lay on the Table. The motion to lay on the table shall, subject to the provisions of Rule 42, dispose finally of the legislation or other matter against which it is invoked, but a motion to lay a pending amendment to an ordinance, resolution or motion shall not carry the ordinance, resolution or motion with it. A motion to lay on the table shall require a majority vote of the members elected to Council present and voting. A motion to lay on the table may not be reconsidered.
- (36) Rule 36. Motion to Postpone to Day Certain. A motion to postpone to a day certain shall require a majority vote of the members elected to Council present and voting; shall be subject to reconsideration; may be renewed after intervening business; shall be debatable as to the propriety of the postponement, but not upon the merits of the legislation or other matter; may be amended by changing the date; and shall be subject to the previous question. Upon the arrival of the date to which postponed, the legislation or other matter shall be considered in the regular order of business of that day.
- (37) Rule 37. Motion to Postpone Indefinitely. The motion to postpone indefinitely shall have the same effect as a motion to lay on the table, and shall require a majority vote of the members elected to Council present and voting. A motion to postpone indefinitely may be reconsidered only if decided in the affirmative, shall be debatable and shall open the legislation or other matter to debate; may be renewed after intervening business and may not be amended or laid on the table, and shall be subject to previous question.
- (38) Rule 38. Motion to Reconsider. A motion to reconsider a subject, including legislation, that may have been acted upon favorably shall be made before adjournment of that meeting of Council. A motion to reconsider any other subject may be made not later than the next regular meeting after such action was taken. A motion to reconsider may be made only by any member who voted with the prevailing side. A motion to reconsider shall be in order at any time except when a motion on some other subject is standing. A motion to reconsider, being laid on the table, may be taken up and acted upon at any time in accordance with this Rule when Council is engaged in the transaction of new or miscellaneous business. No motion to reconsider

shall be made more than once on any matter or subject, and the same number of votes shall be required to reconsider the action of Council as was required to pass or adopt the same. A motion to reconsider may not be applied to a motion to adjourn, a motion to suspend the rules or a motion to lay on the table.

- (39) Rule 39. Motion to Amend. A motion to amend may be amended only once. An amendment once rejected may not be moved again in the same form.
- (40) Rule 40. Motion on Question of Privilege. First: Those affecting the rights of Council collectively, its safety, dignity and the integrity of its proceedings. Second: The rights, reputation and conduct of the members of Council individually, in their capacity as such members. A question of privilege shall have precedence over all questions except a motion to adjourn. A question of privilege shall not require a second and shall be decided by the President of Council subject to a right of appeal as set forth in Rule 28.
- (41) Rule 41. Motion that Matter be Taken From Committee. When any ordinance, resolution or other matter has been referred to a committee, and the committee to which such has been referred fails by the third next regular Council meeting from the date of referral to report, or to offer a valid reason for its failure to report, any member of Council shall have the right to make a motion that such ordinance, resolution or other matter be taken from the committee to which such ordinance, resolution or other matter has been referred and that the same may be laid before Council for action. Such motion shall be decided without debate, provided that the member making the motion may state briefly the reasons for the motion.
- (42) Rule 42. Motion to Take From Table. A motion to take from the table shall be in order when that order of business is being transacted in which such matter to be taken up was laid upon the table, or under the head of new or miscellaneous business. Such motion shall be decided without debate, provided the mover may be permitted to state briefly the reasons for the motion.
- (43) Rule 43. Motion to Adjourn. A motion to adjourn shall always be in order unless Council is engaged in voting on an ordinance, resolution or motion.

VI. ORDINANCES AND RESOLUTIONS

- (44) Rule 44. Introduction. Ordinances and resolutions shall be introduced only by members of Council, with the name of the sponsor or sponsors endorsed on the face of such ordinance or resolution, except such ordinances and resolutions as may be presented to Council upon written recommendation of some committee of Council. Ordinances and resolutions as may be presented to Council upon written recommendation of some committee of Council shall have endorsed thereon as sponsors the names of the members thereof who assent thereto. Ordinances submitted by the Initiative shall have endorsed thereon "Submitted by Initiative Petition". Any ordinance or resolution shall, when introduced, be placed on first reading unless objection is made thereto by a majority plus one the members of Council.

- (45) Rule 45. Preparation of Legislation. In order that adequate time may be given to the preparation of legislation, any requests for legislation to be prepared by the Director of Law shall be submitted to the Director of Law not later than 5:00 p.m. on the Tuesday preceding the meeting at which such legislation is to be introduced for first reading, and not later than 5:00 p.m. on the Monday preceding the meeting at which such legislation is to be introduced for passage under suspension of the rules. The exception to either of the foregoing shall be such legislation where investigation and/or unavoidable circumstances exist and an adequate time for preparation would not otherwise be provided or where a sudden and unforeseen emergency affecting or likely to affect the public health, safety or welfare arises subsequent to the aforementioned days and times. Any legislation, except as hereinafter stated, shall be delivered to the Clerk of Council no later than the close of business on Thursday prior to the regular meeting; otherwise it shall not be included on the agenda. The exception to this Thursday requirement shall be the same as applicable to the preparation of legislation by the Director of Law provided, however, that any such legislation within such exception shall be delivered to the Clerk of Council no later than 12:00 noon the Friday preceding the regular meeting of Council. All legislation shall be timely reviewed for form and legality of content by the Director of Law prior to adoption. Violations of any of the provisions of this Rule shall not invalidate any resolution or ordinance duly adopted according to the other provisions of these Rules and the Charter.
- (46) Rule 46. Legislation. All legislation shall comply with the following rules:
- A. Any legislation originating from a member or members of Council shall have indicated thereon the name or names of the members of Council requesting or originating same following the words "Requested by:"
 - B. Any legislation originating from an administrative division, department, office or public official shall have indicated thereon the name and position of the person requesting or originating same following the words "Requested by:" Such legislation shall also have endorsed thereon the name of the department head following the words "Approved by" if not originating from a member or members of Council or the Mayor.
 - C. No legislation requested or originated under subsection (a) (46) B. hereof shall be introduced in Council unless a member of Council has consented to introduce the legislation.
 - D. All ordinances or resolutions shall state the name or names of the member or members of Council who is sponsoring same, following the words "Sponsored by"; and if requested by someone other than a member of Council, such shall be indicated following the words "By Request" with the name and position of the individual that requested same.
 - E. All ordinances and resolutions introduced in Council shall be identified and numbered as follows: The first two numbers shall represent the last two numbers of the respective calendar year during which such ordinance or resolution was introduced and which numbers shall be followed by a dash (-), after which shall appear a number as shall represent the numerical order in which the ordinance or resolution was introduced during the calendar year.

- F. Any member of Council may submit a request, in writing, to the Clerk of Council to add his/her name to any legislation as a cosponsor. Upon receipt of such written or oral request, the Clerk of Council shall insert the name or names of the members of Council in the order received after the words "Co-sponsored by" on the legislation. During a vote on adoption of legislation, if a member of Council votes "no" or "abstains", that member's name shall be removed by the Clerk of Council as sponsor or co-sponsor of the legislation prior to posting.
- (47) Rule 47. Legislation on for Passage Under Suspension of the Rules. In arranging "The Agenda ", the Clerk shall not include any introductory legislation in the "On For Passage Under Suspension of Rules and Without Readings on Three Different Days" portion of "The Agenda ", unless the member of Council, committee of Council, official or department head originating or requesting such legislation provides the Clerk with a written statement setting forth in detail the reasons requiring immediate action thereon. A copy of such statement shall be attached to the legislation and delivered in accordance with Rule 9 hereof. In the event that such written statement shall not be timely provided, the Clerk shall include such legislation in the "First Reading" portion of "The Agenda ". Any legislation included in the "First Reading" portion may not be passed without the unanimous consent of all members elected to Council present.
- (47-1) Rule 47-1. Legislation on for Passage Second Reading Suspension of the Rules. In arranging "The Agenda ", the Clerk shall not include any legislation in the "Second Reading Suspension of the Rules" portion of "The Agenda ", unless the committee of Council to which the legislation was referred has so recommended and has also provided the Clerk with a written statement setting forth in detail the reasons requiring immediate action thereon, said statement to be signed by the members of the committee voting in favor of the recommendation. A copy of such statement shall be attached to the legislation and delivered in accordance with Rule 9 hereof. In the event such written statement shall not be timely provided, the Clerk shall include such legislation in the "Second Reading" portion of "The Agenda".
- (48) Rule 48. Form of Ordinances and Resolutions. The enacting clause of all ordinances and resolutions shall be "Be it ordained (resolved) by the Council of the City of Fairview Park, County of Cuyahoga, and State of Ohio". No ordinance or resolution or section thereof shall be revised or amended unless the new ordinance or resolution contains the entire ordinance or resolution, or section revised or amended, and the original ordinance, resolution, section or sections so amended shall be repealed. No ordinance or resolution shall contain more than one subject, which shall be clearly stated in its title. The determination as to whether the ordinance or resolution contains more than one subject shall be that of Council alone.
- (49) Rule 49. Emergency Ordinances and Resolutions. If an emergency ordinance or resolution fails to receive a two-thirds affirmative vote of all members elected to Council, such measure shall cease to be before Council as an emergency measure and shall have the standing that a measure would have had if it had not been read as an emergency measure.

- (50) Rule 50. Voting. and Form of Legislative Action.
- A. Any action of Council shall be by ordinance, resolution or motion, and the voting upon such ordinance, resolution or motion shall be by roll call, and the vote of each member of Council shall be entered upon the journal.
 - B. All legislative action by Council shall be by ordinance or resolution introduced in written or printed form. An affirmative vote of at least a majority of the members of Council elected to Council shall be required for the passage or enactment of every ordinance or resolution. Unless otherwise provided herein, every ordinance or resolution shall be read at three different Council meetings, unless a majority plus one of the members elected to Council dispense therewith in which event such ordinance or resolution shall be read at least once before passage. Every ordinance or resolution shall be deemed to have been read on the first reading thereof if the title of the ordinance or resolution is fully and distinctly read if a written or printed copy of the ordinance or resolution shall have been furnished to each member of Council prior to its introduction unless two or more members of Council request the ordinance or resolution be read in full. Every ordinance or resolution shall be deemed to have been read on the second and third readings thereof if the title of the ordinance or resolution is fully and distinctly read unless two or more members of Council request the ordinance or resolution be read in full. Should any member of Council request that the ordinance or resolution be read in full, such request to be made after the Clerk of Council has read the title of the ordinance or resolution, the President of Council shall forthwith and prior to the consideration of further business, inquire as to whether any other member of Council concurs in the request. If any other member of Council concurs in the request, the Clerk of Council shall read the ordinance or resolution in full prior to the consideration of further business. If no other member of Council concurs in the request, the ordinance or resolution shall not be read in full and Council may proceed to the consideration of further business including the question of adoption of the ordinance or resolution.
 - C. As used in this Rule, "a majority of the members of Council" means four members of Council.
- (51) Rule 51. Effective Date of Ordinances and Resolutions. Each ordinance or resolution providing for the appropriation of money, for an annual tax levy or for improvements petitioned for by the owners of a majority of the front footage of property to be benefited and specially assessed therefor, and any emergency ordinance or resolution necessary for the immediate preservation of public peace, health or safety, shall take effect, unless a later date be specified therein, upon its approval by the Mayor, or upon the expiration of the time within which it may be vetoed by the Mayor, or upon its passage after veto by the Mayor, as the case may be. No other ordinance or resolution shall become effective until forty days after its approval by the Mayor or upon the expiration of the time within which it may be vetoed by the Mayor, or upon its passage after veto by the Mayor, as the case may be.

Each emergency measure shall contain therein a statement of the necessity for such emergency action, and shall require the affirmative vote of a majority plus one of the members elected to Council for its enactment. No action of Council authorizing the surrender or joint exercise of any of its powers, or in granting any franchise, or rezoning ordinance or amendment or repeal of any zoning ordinance, shall be designated an emergency measure or enacted under a suspension of rules.

- (52) Rule 52. Enactment of Zoning Ordinances. Enactment of Zoning ordinances and regulations and notice thereof shall be in accordance with the applicable provisions of the Charter and applicable provisions of the Codified Ordinances of the City.
- (53) Rule 53. Roll Call; Seating Order. For all roll calls in matters before Council, the Clerk of Council shall call the roll of members in order from the member of Council seated to the furthest right of the President of Council to the furthest left. The seating order of the members of Council and the Clerk of Council shall be in the following order beginning with the seat to the furthest right of the President of Council: Council Wards 1 through 3, the Clerk of Council, the President of Council, Council Wards 4 and 5 and Council-at-Large. Reports of committees (Rule 8 A.7.) and Miscellaneous Business and Comments (Rule 8 A. 12.) shall be given or made in the same order except that such from the President of Council shall be given or made after all other members of Council.
- (54) Rule 54. Reference to Committee. All ordinances, resolutions, communications or other matters shall be read on the day introduced or presented except as provided in Rule 44 and shall be referred to committee by the President of Council, which reference shall be forthwith announced. The committee to which reference is made, after due consideration and at least one meeting which shall be open to the public except as otherwise provided by law, shall report the same back with or without proposed amendments and with recommendation for approval or disapproval. When so reported, such ordinance, resolution, communication or other matter shall be read a second time and, except as provided in Rule 57, laid over until the next meeting of Council when it shall be read a third time and a vote taken thereon. No ordinance, resolution, communication or other matter shall be enacted or otherwise adopted or further action taken thereon without first having been referred to committee and reported upon, except for a resolution of condolence or congratulations or an ordinance, resolution or other matter included in the "On For Passage Under Suspension of the Rules and Without Readings on Three Different Days" portion of "The Agenda".
- (54-1) Rule 54-1. Re-reference to Committee. Any pending legislation, communication or other matter may, by the President of Council or by a vote of a majority of the members elected to Council present and voting, be re-referred to any committee to which previously referred under these rules, or to any appropriate committee with jurisdiction over the subject matter designated in the motion to re-refer. When referred back to Council, such legislation, communication or other matter shall have the same standing as it had at the time when re-referred. Such legislation, communication or other matter shall be subject to the provisions of Rule 17 and Rule 56.

- (55) Rule 55. Reference to More Than One Committee. Whenever any pending matter is referred to more than one committee for consideration and report, such committees may consider the same in joint session as a Joint Committee, if the Chair of the committees concerned consent thereto. The Chair of the committee first named shall preside at such joint sessions, and each member of the Joint Committee shall have one vote for each committee of which they are a member composing the Joint Committee. A majority of the members of each of the separate committees shall constitute a quorum of such committee and the vote shall be taken by roll call of each of the separate committees constituting the Joint Committee. Its report shall be made in the same manner and under the same rules as reports are made by standing committees.
- (56) Rule 56. Relieving Committees.
- A. Any committee or committees to which an ordinance, resolution, communication or other matter has been referred by the Presiding Officer under Rule 54, without specific motion to commit, may be relieved of further consideration of such legislation, communication or other matter by a motion duly made and adopted by a majority plus one vote of the members elected to Council; provided a majority vote of the members elected to Council present and voting shall be sufficient to relieve a committee if notice of the intention to relieve such committee or committees of further consideration of said legislation, communication or other matter has been made at the meeting preceding the meeting at which such motion is made.
- B. Any committee to which an ordinance, resolution, communication or other matter has been referred by motion to commit or recommit may be relieved of further consideration of such legislation, communication or other matter at the next meeting following the meeting at which such legislation was referred by a motion to reconsider the vote to commit or recommit as the case may be, which motion shall require only a majority vote of the members elected to Council present and voting; and at any time subsequent to the meeting next succeeding the meeting at which such legislation, communication or other matter has been committed or recommitted, the procedure to relieve the committee shall be as provided in subsection (a)(56)A. hereof.
- C. In the event any committee is relieved of further consideration pursuant to either subsection (a)(56)A. or B. hereof, such ordinance, resolution, communication or other matter shall be placed on the Calendar Agenda at the next succeeding regular meeting of Council, unless otherwise directed by Council.
- (57) Rule 57. Three Readings. Copies of all first reading legislation to be introduced for passage under suspension of the Rules and without reading on three different days shall be delivered to each member of Council either personally or at their residence address, so that such copy or copies shall be in their hands or at their residence address at least two days prior to the date of introduction. No motion to suspend the Rule that first reading legislation be read on three different days shall be entertained unless the reason for the suspension is set forth in accordance with Rule 47 by the

member making such motion or the official or the Director of the department involved. When it is desired to suspend Rule 50 and Rule 54, in order to permit the passage of legislation upon introduction, the question on the motions for suspension shall be as follows:

"Shall the Charter provision and Rule 50 requiring reading on three different days be dispensed with?" If a majority plus one of the members elected to Council, vote "yes", the Charter and the Rule provisions requiring reading on three different days shall be suspended and the question on the motion to suspend Rule 54 shall be as follows: "Shall Rule 54 requiring reference to Committee be dispensed with and (Ordinance No. -) (Resolution No. -) be placed on final passage?" If a majority plus one of the members of Council present and voting vote "yes", the Rule requiring reference to Committee shall be suspended. Both motions set forth in this paragraph shall be debatable as to the propriety of same but not upon the merits of the legislation. Copies of all second reading legislation to be placed for passage under suspension of the Rules and without reading on three different days shall be delivered to each member of Council either personally or at their residence address, so that such copy or copies shall be in their hands or at their residence address two days prior to the date of second reading. No motion to suspend the rule that second reading legislation be read on three different days shall be entertained unless the reason for the suspension is set forth in accordance with Rule 47-1 by the committee recommending such motion. When it is desired to suspend Rule 50, in order to permit the passage of legislation upon second reading, the question on the motion for suspension shall be as follows: "Shall the Charter provision and Rule 50 requiring reading on three different days be dispensed with?" If a majority plus one of the members elected to Council, vote "yes", the Charter and Rule provisions requiring reading on three different days shall be suspended. The motion set forth in this paragraph shall be debatable as to the propriety of same but not upon the merits of the legislation.

- (58) Rule 58. Appropriation Ordinances and Resolutions. Ordinances or resolutions making appropriations shall be confined to the subject of appropriations. No money shall be appropriated except by ordinance or resolution. All ordinances or resolutions for fixing a tax rate, the appropriation of money, the issuance of bonds, the transfer of money to any fund, or the payment of claims, and all resolutions and ordinances whereby the City shall become liable for the payment of any money, shall be referred without debate to the Committee on Finance for consideration and report.
- (59) Rule 59. Substitute Legislation. Legislation dealing with the same subject matter may be substituted for any pending ordinance or resolution by a majority vote of the members elected to Council present and voting, upon the recommendation of any committee to which such legislation has been referred. Substitute legislation shall be subject to all the provisions of the Charter, ordinances and rules applying to ordinances or resolutions to be placed on first reading, and the legislation for which such substitute is offered shall be laid upon the table permanently as a final disposition thereof. Before accepting for introduction any substitute legislation, the sponsor or sponsors of the original legislation shall be given written notice thereof by the Clerk of Council.

- (60) Rule 60. Ordinances Fixing Fines and Penalties. All ordinances imposing fines, penalties, forfeiture or imprisonment shall be referred to the appropriate standing committee of Council as provided for in Rule 14, and the Director of Law shall be asked to give an opinion thereon.
- (61) Rule 61. Amendments. It shall be in order to amend an ordinance or resolution at any time when not in the hands of a committee. A majority vote of all the members elected to Council present and voting shall be necessary for the adoption of an amendment to any legislation pending before Council.
- (62) Rule 62. Approval of Ordinances and Resolutions. Every ordinance passed or resolution adopted shall be signed by the President of Council or other Presiding Officer and presented promptly to the Mayor by the Clerk of Council. If the Mayor approves such ordinance or resolution, the Mayor shall sign and return it to the Clerk of Council within ten days after its passage or adoption by Council, but if the Mayor does not approve it, he the Mayor shall return it to Council within such ten days with his or her written objections by delivery to the Clerk of Council. The Mayor's objections shall be read at the next Council meeting and be entered in full on the journal of Council. The Mayor may approve or disapprove the whole or any item of an ordinance or resolution appropriating money, but otherwise his or her approval or disapproval shall be addressed to the entire ordinance or resolution. If the Mayor does not return an ordinance or resolution within the time limited in this Rule, it shall take effect in the same manner as if he or she had signed it. When the Mayor disapproves an ordinance or resolution or any part thereof, and returns it to the Council with his or her objections, Council shall, not later than the next regular meeting, reconsider it and, if such ordinance, resolution or item, upon such reconsideration, is approved by the vote of at least a majority plus one members elected to Council, it shall take effect at the time of the vote of approval or at such later time as may be specified in such ordinance, resolution or item.
- (63) Rule 63. Adoption of Ordinances by Reference. Council may adopt standard ordinances and codes prepared by public or private agencies on such matters as fire prevention, building construction, electric wiring, plumbing, heating, ventilating and air conditioning by reference to the date and source of the code without reproducing the same at length in the ordinance. In all such cases, publication of the code at length by the City shall not be required. In any such instance at least ten copies of such code shall be kept in the Building Department for reference by interested parties, and copies shall be available for sale by the Clerk of that division.

VII. ADMINISTRATIVE OFFICERS

- (64) Rule 64. Attendance Required. The Mayor, the Directors of all departments and the City Engineer should attend the regular and special meetings of Council and shall be provided with seats on the floor of the Council Chamber. They shall, subject to the provisions of Rule 5, answer such questions relating to the affairs of the City under their respective supervision and control as may be put to them by any member of Council. The Mayor shall make such recommendations in writing to Council for the welfare of the City as seem wise. The Mayor, the Directors of all departments, Building Commissioner, City Engineer, the Police Chief and the Fire Chief, or their respective designees, should be available to attend committee meetings as required by Council.

- (65) Rule 65. Reports of City Officers. All ordinances, resolutions and communications pertaining to matters that come under the supervision and control of the Mayor and the Directors of departments shall, in addition to being referred to the proper committees, be also referred to such respective administrative officers for recommendation and report. No later than thirty days after reference to the administrative officer or officers, as the case may be, each ordinance, resolution or communication so referred shall be returned to the Clerk of Council with the endorsement of each administrative officer's approval, disapproval or recommended changes of such matter so referred; if response is not received within thirty days, Council shall assume that approval is granted. It shall be the duty of the President of Council to enforce this rule rigidly. The Clerk shall use all diligence in seeing that departments, commissions and boards to which measures are referred, return them to the Clerk's office within the time fixed herein or the time fixed by Charter should a longer period of time be allowed therein.
- (66) Rule 66. Report or Status on Pending Measures. The Clerk of Council shall keep the members of Council informed regarding the status of pending ordinances and resolutions. All ordinances and resolutions to be acted upon by committees or the Council shall be in the hands of the Clerk as prescribed in Rule 45.
- (67) Rule 67. Approval of Council of Appointments by Mayor. Whenever the approval of Council is required for appointments by the Mayor, the President of Council, upon written request of the Mayor for approval of any appointment, shall forthwith refer the name of each person whose appointment is submitted for approval of Council to the Committee of the Whole. Not later than the next regular meeting of Council following such reference, the committee shall report to Council its recommendation thereon. Thereupon Council, as part of the appropriate order of business, shall proceed to vote upon the approval of each appointment, the question being "Shall the Council approve the appointment by the Mayor?" Except as provided by the Charter or an ordinance or resolution specifically applicable to the appointment in question, if a majority of all the members elected to Council eligible to vote, vote "yes", the Council shall approve such appointment.
- (68) Rule 68. Reports from Mayor and City Officials. All reports from the Mayor and City officials suggesting or recommending action by Council on any matter not referred to the source of such report by Council, or not otherwise provided for by the Rules of Council, shall be submitted in writing to the President of Council, who shall refer the same to the standing committee to which such suggestion or recommendation is most closely related. Such standing committee shall consider the suggestion or recommendation thus referred to it and report thereon to Council without unnecessary delay. Such consideration shall be subject to the provisions of Rule 17, Rule 54 and Rule 56.

VIII. COUNCIL CHAMBER

- (69) Rule 69. Use of Council Chamber. The Council Chamber shall be used only for meetings of Council or committees thereof, except where the President of Council authorizes its use by persons other than City Officials, when the Chamber is not in use by Council or its committees. The Clerk, with the written approval of the President of Council, may permit the other public officials to use the Council Chamber on public business, when not in use by the Council or its committees. The Clerk of Council shall notify all members of Council when the Council Chamber shall be used by persons or other City officials pursuant to this Rule.
- (70) Rule 70. Privileges of Floor. While Council is in session, no person except members of Council, officers named in the Rules, and persons invited by the President of Council, or by vote of Council, shall be admitted within the bar of the Council Chamber, and the Presiding Officer shall cause this Rule to be rigidly enforced.

IX. RULES - SUSPENSION - AMENDMENT AND OTHER

- (71) Rule 71. Suspension of Rules. Any provision of these Rules may be suspended at any meeting of Council, by a majority vote of the members of Council present and voting, except when a greater number is required by law, by the Charter or by the Rules. The vote on any such suspension shall be taken by "yes" and "no" and entered upon the journal. In case Council takes action on any measure or in the case any Rule shall not have been adhered to by Council the same shall be regarded as having been suspended.
- (72) Rule 72. Other Rules. Except as herein otherwise provided, the proceedings of Council shall be governed by the Charter and the Codified Ordinances of the City of Fairview Park, the Ohio Revised Code, and Robert's Rules of Order, and it shall be the duty of the Presiding Officer to adhere to and enforce such Rules. In case of conflict or questions as to the powers of Council, or any member thereof, the Charter shall prevail, any provision to the contrary notwithstanding herein.
- (73) Rule 73. Investigations. Council may with or without notice cause the affairs of any department, division or office or the conduct of any officer or employee of the City to be examined. Council shall have the power to compel the attendance of witnesses, the production of books, papers and other evidence, and to cause witnesses to be punished for contempt as is conferred by law. Council may, by ordinance or resolution duly adopted, retain the services of such experts as it deems necessary and appropriate to assist it or any committee thereof in the discharge of legislative duties and powers. Council may, by ordinance or resolution duly adopted, authorize the creation of advisory groups and commissions composed in whole or in part of private citizens as it deems necessary and appropriate to assist it or any committee thereof in the discharge of legislative duties and powers, the composition, term and purpose of which shall be specified in the ordinance or resolution. Any committee of Council may determine to conduct an investigation of any matter or subject within the jurisdiction of the committee as set forth in Rule 14 without there having first been a reference of same to the committee by either the President of Council or by a duly adopted motion of Council to refer provided the matter or subject had not been previously referred to another committee.

- (74) Rule 74. Vacancy in Office. A. Whenever any office of Councilman becomes vacant, the vacancy shall be filled for the unexpired term by majority vote of the remaining members of Council. If the vacancy is not so filled within thirty days, the Mayor shall fill it by appointment. B. When there is a vacancy in the office of Councilman which has not been filled in accordance with subsection (a) (75) A. hereof, a quorum shall consist of a majority of all the remaining members of Council.
- (75) Rule 75. Resignation. A. The resignation of a member of Council shall not take effect until the same has been accepted by a vote of the majority of the members of Council eligible to vote, exclusive of the person tendering the resignation. B. If a vacancy shall occur as a result of the foregoing contingency, it shall then be filled as other vacancies in Council, in accordance with Article IV, Section 5 of the Charter.
- (76) Rule 76. Removal. Council shall be the judge of the election and qualifications of its own members, including the President of Council. Council may, by at least majority plus one vote of the members elected to Council, expel or remove any member, including the President of Council, for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office; for violation of his or her oath of office; for the conviction while in office of a crime involving moral turpitude; for persistent failure to abide by the rules of Council, or for absence without justifiable excuse from three consecutive regular meetings. Prior to any such action by Council, the accused member shall be notified in writing of the charge against him or her at least ten days in advance of any hearing upon such charge, and he or she and his or her counsel shall be given an opportunity to be heard, present evidence or examine under oath any witness appearing in support of such charge.
- (77) Rule 77. Continuity of Rules. These Rules shall constitute and serve as the Rules of Council for Council unless amended or new Rules adopted. (Ord. 10-30. Passed 9-20-10.)

(Editor's Note: The next printed page is page 71.)

CHAPTER 113
Ordinances, Resolutions and Contracts

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| <p>113.01 Requirements for legal publication in newspaper.</p> <p>113.02 Preference for American-made products.</p> <p>113.03 Participatory and cooperative purchase agreements.</p> <p>113.04 Purchase of recycled paper.</p> | <p>113.045 Purchase of products with recycled content; preference.</p> <p>113.05 Award of contracts to lowest responsive and responsible bidders.</p> |
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CROSS REFERENCES

Contract interest - see CHTR. Art. IV, §2; ADM. Ch. 109
 Form and publication of legislative action - see CHTR. Art. IV, §11; ADM. 111.07
 Effective dates - see CHTR. Art. IV, §12; ADM. 111.08
 Advertising contracts - see CHTR. Art. IV, §13
 Enactment of zoning ordinances - see CHTR. Art. IV, §14; P. & Z. Ch. 1157

113.01 REQUIREMENT FOR LEGAL PUBLICATION IN NEWSPAPER.

Whenever any legal publication or notice is required by the Charter, City Ordinances, or by virtue of the laws of the State to be made in a newspaper of general circulation in the City, such legal publication or notice shall be made in either the Plain Dealer, the Sun-Herald, the West Life or any other newspaper of general circulation in the City.
 (Ord. 89-8. Passed 3-6-89.)

113.02 PREFERENCE FOR AMERICAN-MADE PRODUCTS.

(a) The purpose of this section is to require the procurement of domestic source end products for public use except as otherwise provided in this section. This section shall not be construed so as to impair the ability of the City to reject all bids, offers and proposals, award partial bids, offers and proposals, and rebid, re-request and resolicit if it is deemed in the best interest of the City to do so.

(b) Unless the Board of Control when public bidding, public solicitation for offers or public request for proposals is required shall determine it to be inconsistent with the public interest, or the price to be excessive, only such unmanufactured end products as have been mined or produced in the United States, and only such manufactured end products as have been manufactured in the United States substantially all from components mined, produced or manufactured, as the case may be, in the United States shall be acquired for public use by the City. The requirements of this section shall not apply if the end products of the class or kind to be used or the components from which they are manufactured are not mined, produced or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities or of a satisfactory quality or where there is not sufficient competition in the United States.

(c) Bids or offered prices shall first be evaluated to determine that a bid or offered price is for a domestic source end product. Any bid, proposal or offer that does not meet this requirement shall be rejected, except in those circumstances where the Board determines that certain end products, or any component thereof, are not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities or of a satisfactory quality or where there is not sufficient competition in the United States. Where the preliminary analysis by the Board identifies the apparent lowest and best bid, proposal or offer as one other than a domestic source end product bid, proposal or offer, the Board shall consider:

- (1) Whether the end product can be acquired in the United States in sufficient and reasonably available quantities and of a satisfactory quality;
- (2) Whether the lowest and best domestic bid, proposal or offer offers an excessive price;
- (3) Whether a domestic bid, proposal or offer has been submitted to the City;
- (4) Whether the lowest and best domestic bid, proposal or offer offers an end product of an unsatisfactory quality; and
- (5) Whether there is sufficient competition within the United States.

Where the Board determines that selection of the lowest and best domestic source end product bid, proposal or offer will not result in an excessive price to the City or the acquisition of an end product of an unsatisfactory quality, and that the exceptions to the requirements of this section as hereinbefore set forth do not apply, the contract shall be awarded to the lowest and best bidder or offeror of a domestic source end product. Where the Board determines that selection of the lowest and best domestic source end product bid, proposal or offer will result in an excessive price to the City or the acquisition of an end product of an unsatisfactory quality or that one or more of the exceptions to the requirements of this section as hereinbefore set forth do apply, the Board shall award the contract to the lowest and best bidder or offeror without regard to the provisions of this section.

(d) All invitations to bid, requests for proposals and solicitations for offers shall require the bidder or offeror to complete and attest to the following:

"The bidder (or offeror) hereby certifies that each end product, except the end products listed below, is a domestic source end product and that components of an unknown origin have been considered to have been mined, produced or manufactured outside the United States."

(e) In any case in which it is determined that the acquisition of domestic source end products would be inconsistent with the public interest, or the price to be excessive, the Board shall submit a written report of the facts of each case in which such determination is made within ten days thereafter to Council.

(f) If the Board which has authorized any contract containing the requirements of this section finds that in the performance of such contract there has been a failure to comply with such requirements, the Board shall make public its findings, including therein the name of the obliger under such contract, and no other contract for the acquisition of end products shall be awarded to such obliger or to any person with which the obliger is associated or affiliated within a period of three years after such finding is made public.

(g) As used in this section:

- (1) "Components" means those articles, materials and supplies which are directly incorporated in end products.
- (2) "Domestic bid" means a bid or offered price for a domestic source end product, including transportation to destination.
- (3) "Domestic source end product" means an unmanufactured end product which has been mined or produced in the United States, or an end product manufactured in the United States if the cost of its components which are mined, produced or manufactured in the United States exceeds fifty percent (50%) of the cost of components. The cost of components shall include the transportation costs to the place of incorporation into the end product and, in the case of components of foreign origin, duty. A component shall be considered to have been mined, produced or manufactured in the United States if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind:
 - A. Determined by the Board to be not mined, produced or manufactured in the United States in sufficient and reasonably available commercial quantities or of satisfactory quality; or
 - B. As to which the Board has determined that it would be inconsistent with the public interest to require.
- (4) "End products" means articles, materials, supplies and equipment to be acquired for public use, as specified in the contract, including articles, materials, supplies and equipment to be acquired for public use in connection with service contracts, whether of a manufactured or of an unmanufactured nature, and whether to be acquired by purchase, lease or lease with an option or agreement to purchase. In determining whether an end product is a "domestic source end product" only the end product and its components, if any, shall be considered.
- (5) "Excessive price" means a price that exceeds by more than five percent (5%) of the sum or offered price, including duty, of end products of foreign origin. When more than one line item is offered in response to an invitation to bid, request for proposals or solicitation for offers, the factor of five percent (5%) may be applied to any item or group of items as to which the invitation to bid, request for proposals or solicitation for offers specifically provides that award is to be made on a particular item or group of items.

- (6) "Foreign bid" means a bid or offered price for a foreign end product, including transportation to destination and duty.
- (7) "Foreign end product" means an end product other than a domestic source end product.
- (8) "Inconsistent with the public interest" means the end product offered is of an unsatisfactory quality, or can not be acquired in sufficient and reasonably available quantities or there is not sufficient competition within the United States.
- (9) "Scrap" generated in, collected in and prepared for processing in the United States shall be considered as a domestic source end product/component.
- (10) "Sufficient competition" means two or more qualified bids or offered prices from bidders or offerors not owned or controlled, directly or indirectly, by the same interests, that offer domestic source end products.
- (11) "United States" means any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legislative authority of the United States of America.
(Ord. 86-21. Passed 5-4-87.)

113.03 PARTICIPATORY AND COOPERATIVE PURCHASE AGREEMENTS.

(a) State. Subject to Section 113.02, the Mayor is hereby authorized to participate in contracts with the Department of Administrative Services, Office of State Purchasing, of the State of Ohio for the purchase, lease or lease with an option or agreement to purchase articles, supplies, services, materials and equipment as may be required for municipal use under such contract terms and conditions as may be prescribed by the Department. The City shall directly pay the vendor or lessor under each such purchase contract for items it receives pursuant to the contract.

(b) County. Subject to Section 113.02, the Mayor is hereby authorized to participate in contracts with the Regional Planning Commission of Cuyahoga County for the purchase, lease or lease with an option or agreement to purchase articles, supplies, services, materials and equipment as may be required for municipal use by the City under such contract terms and conditions as may be prescribed by the Commission. The City shall directly pay the vendor or lessor under each such purchase contract for items it receives pursuant to the contract. As used in this subsection, the term services includes the purchase of liability insurance.

(c) Other Municipalities and School Districts. Subject to Section 113.02, the Mayor is hereby authorized to participate in contracts with other cities, villages and townships and with school districts for the purchase, lease or lease with an option or agreement to purchase articles, supplies, services, materials and equipment as may be required for municipal use by the City under such contract terms and conditions as may be agreed to. The City shall directly pay the vendor or lessor under each such purchase contract for items it receives pursuant to the contract. As used in this subsection, the term services includes the purchase of liability insurance.
(Ord. 86-21. Passed 5-4-87.)

(d) Westshore Council of Governments.

- (1) Subject to Section 113.02, the Mayor is hereby authorized to join with the Westshore Council of Governments in issuing invitations to bid and request for proposals, as determined by the appropriate officials of the Westshore Council of Governments for vehicles, equipment, operating supplies, materials, services and such other equipment and supplies as may be deemed beneficial by the Westshore Council of Governments and the Mayor for collective bidding.
- (2) Subject to Section 113.02, the Mayor is hereby authorized to sign invitations to bid or requests for proposals in the name of the City and to be bound by all contract terms and conditions as the Westshore Council of Governments shall prescribe in such collective procurement procedures and any contracts or agreements resulting from such procedures.
- (3) The Mayor is hereby authorized to agree, in the name of the City, to pay directly the vendor or through the Westshore Council of Governments under each such collective purchasing agreement in which it participates, for items or services it received pursuant to such contracts or agreements, and the Director of Finance is hereby authorized to make such payments.

(e) Any and all participatory or cooperative contract or purchasing agreement authorized by this section shall be subject to the approval of Council by individual resolution of Council. (Ord. 90-91. Passed 10-1-90.)

113.04 PURCHASE OF RECYCLED PAPER.

(a) As used in this section:

- (1) "Recycled paper" means a paper product with not less than fifty percent (50%) of its total weight consisting of secondary and postconsumer waste and with not less than twenty-five percent (25%) of its total weight consisting of postconsumer waste.
- (2) "Postconsumer waste" means a finished material, including paper, paperboard and other fibrous wastes generated by a household, business or other consumer, which would normally be disposed of as solid waste having completed its life cycle as a consumer item or having served its intended end use.
- (3) "Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value, and including postconsumer waste and other material generated after completion of the papermaking process such as envelope cuttings, bindery trimmings, printing waste, cutting and other converting waste, butt rolls and mill wrappings, but not including mill broke, wood slabs, chips, sawdust or other wood residue from the manufacturing process. "Secondary waste" also includes finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, wholesalers, dealers, merchants, printers and convertors. (Ord. 91-87. Passed 10-7-91.)

- (4) "Reasonably" competitive means a comparable recycled product with a cost premium of no greater than five percent (5%) over the lowest bid of price quoted by suppliers offering nonrecycled paper products.

(b) When purchasing or otherwise obtaining paper products, the City shall, whenever the price is reasonably competitive and the quality is that intended, purchase the recycled paper. (Ord. 91-87. Passed 10-7-91.)

(c) Information on the recycled content shall be requested on all bids or quotes for paper products issued by the City and on other bids or quotes for products which could have recycled contents such as oil, plastic products, compost materials, aggregate, solvents and rubber products. (Ord. 89-5. Passed 6-19-89.)

**113.045 PURCHASE OF PRODUCTS WITH RECYCLED CONTENT;
PREFERENCE.**

(a) In addition to the provisions of Section 113.04, the Board of Control shall adopt procurement procedures and contract specifications that:

- (1) Eliminate discrimination against the procurement of equipment, materials and supplies with recycled content;
- (2) Encourage the procurement of equipment, materials and supplies with recycled content;
- (3) Ensure, to the maximum extent economically feasible, that equipment, materials and supplies procured by the City may be recycled or reused after having served its intended end use;
- (4) Require equipment, materials and supplies to contain a specified minimum percentage of recycled content to the extent that such equipment, materials and supplies are commercially reasonably available;
- (5) To the maximum extent possible, procure equipment, materials and supplies with recycled content from vendors and suppliers who agree to purchase recyclable materials from the City for recycling or reuse.

(b) The Board of Control shall prescribe criteria and procedures that give preference to recycled content which shall include:

- (1) Information to be submitted by bidders as to the percentage of recycled content;
- (2) Waivers on a contract by contract basis when a preference for equipment, materials or supplies with a recycled content requirement would result in the payment of a price which is not reasonably competitive or the procurement of a disproportionately inferior product.

(c) Any contract specification that requires the procurement of equipment, materials or supplies with a minimum percentage of recycled content shall require the Board of Control to evaluate the bids received in accordance with the provisions of subsections (a) and (b) hereof. In calculating the lowest responsive and responsible bid, the Board of Control shall reduce a bidder's actual bid price by one percent (1%) for every ten percent (10%) of recycled content in excess of the minimum recycled content required by the contract specifications. Any bidder who is awarded a contract following the calculation set forth herein shall be paid the actual bid price.

- (d) As used in this section:
- (1) "Recyclable materials" means materials that have served their intended end use which are to be subsequently collected, separated or processed for re-use as raw materials or finished products.
 - (2) "Recycled content" means that portion of equipment, materials and supplies that consist of recyclable materials.
 - (3) "Reasonably competitive" means a comparable recycled product with a cost premium of no greater than five percent (5%) over the lowest bid of price offering nonrecycled products or products which do not have the recycled content required by the contract specifications.

(e) When purchasing or otherwise obtaining equipment, materials and supplies, the City shall, whenever the price is reasonably competitive and the quality is that intended, purchase the equipment, materials and supplies with the recycled content.
(Ord. 91-87. Passed 10-7-91.)

113.05 AWARD OF CONTRACTS TO LOWEST RESPONSIVE AND RESPONSIBLE BIDDERS.

(a) Subject to Section 113.02, any expenditure required to be made pursuant to contract by Article VIII, Section 6 of the Charter shall be made with the lowest responsive and responsible bidder. A bidder on a contract shall be considered as responsive if the bid responds to bid specifications in all material respects and contains no irregularities or deviations which would affect the amount of the bid or otherwise give the bidder a competitive advantage. In determining whether a bidder on a contract is responsible, the experience, financial condition, conduct and performance on prior contracts, facilities, management skills and the ability to execute the contract of the bidder shall be considered. An apparent low bidder found not to be responsive and responsible shall be notified by the Board of Control of that finding and the reasons for it. The notification shall be given in writing and by certified mail.

(b) Where the Board determines to award a contract to a bidder or bidders other than the apparent low bidder or bidders it shall meet with the apparent low bidder or bidders upon the filing of a timely written protest. The written protest shall be received by the Board within five days of the notification required by subsection (a) hereof. No final award shall be made until the Board either affirms or reverses its earlier determination.

(c) The provisions of this section shall apply to all contracts required to be made pursuant to contract by Article VIII, Section 6 of the Charter including, but not limited to, the construction, reconstruction, improvement, enlargement, alteration, repair, painting or decoration of a public improvement.
(Ord. 90-105. Passed 12-3-90.)

TITLE FIVE - Administration

- Chap. 121. Mayor.
- Chap. 123. Department of Law.
- Chap. 125. Department of Finance.
- Chap. 127. Department of Public Service and Development.
- Chap. 129. Police Department.
- Chap. 131. Fire Department.
- Chap. 133. Division of Building.
- Chap. 135. Parks and Recreation Commission.
- Chap. 136. Department of Recreation.
- Chap. 137. Planning and Design Commission.
- Chap. 141. Civil Service Commission.
- Chap. 143. Employment Provisions.
- Chap. 147. Senior Life Office.
- Chap. 149. Fairview Park Youth Commission.
- Chap. 150. Shade Tree Advisory Committee.
- Chap. 151. Residential Child Day Care Services
Resource Registry.
- Chap. 153. Airport Environmental Commission.

**CHAPTER 121
Mayor**

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| 121.01 Stenographer - recording secretary. | 121.04 Annual inventory. |
| 121.02 Authority to appoint employees. | 121.05 Secretary. |
| 121.03 Operating budget. | 121.06 School guards. |
| | 121.07 Secretarial help. |
| | 121.08 Department directors to take an oath of office. |

CROSS REFERENCES

Mayor - see CHTR. Art. III

Planning and Design Commission member - see CHTR. Art. VII, §2

Ex-officio president of Board of Control - see CHTR. Art. VII, §4

121.01 STENOGRAPHER - RECORDING SECRETARY.

There is hereby created the position of stenographer - recording secretary, which position shall be filled by an appointment by the Mayor, to serve at the pleasure of the Mayor.
(Ord. 64-8. Passed 2-17-64.)

121.02 AUTHORITY TO APPOINT EMPLOYEES.

The Mayor and Director of Public Service and Development are authorized and directed to appoint such employees as are necessary for the proper operation of the municipal departments of the City, in accordance with the rules and regulations of the Civil Service Commission and the City Charter. (Ord. 64-18. Passed 2-17-64.)

121.03 OPERATING BUDGET.

The Mayor shall submit a proposed operating budget for each fiscal year which shall contain at least the following:

- (a) A statement of estimated revenues from all sources, including fund balances from the preceding year;
- (b) A statement of proposed expenditures, shown by department office, board and commission, and by activity, character and object; and
- (c) A summary of the contents of the proposed operating budget, including any proposals for and the reasons of major changes in financial policies and in expenditures, appropriations and revenues as compared with the preceding fiscal year and the reasons therefor.

(Ord. 80-101. Passed 1-5-81.)

121.04 ANNUAL INVENTORY.

(a) The head of every operating division, department and office of the City shall provide an inventory of all the City's personal property, valued or at a cost of two hundred dollars (\$200.00) or more, to Council on or before March 1 of each year commencing with the year 1984.

(b) The inventory list above shall be detailed and of sufficient description. The inventory shall include, date of acquisition and cost, date of disposal and revenue received, if applicable, the condition of such equipment at the time of inventory, (good, fair or bad) and registration numbers. If a registration number is not provided, an identification number shall be placed on such property.

(c) Any of the City's personal property not assigned to any of the departments of the City, shall be listed under the title of "Miscellaneous Property" and fall under the office of the Director of Public Service and Development.

(Ord. 83-31. Passed 6-20-83.)

121.05 SECRETARY.

Council does hereby create the position of Secretary to the Mayor and Director of Public Service and Development, who shall be appointed by the Mayor and shall be compensated at a rate fixed by Council. (Ord. 84-18. Passed 3-28-84.)

121.06 SCHOOL GUARDS.

The Mayor is authorized to employ school guards for the purpose of assisting school children at dangerous crossings during school hours.

(1954 Code §2-41)

121.07 SECRETARIAL HELP.

The Mayor is hereby authorized to hire part-time secretarial help for the various boards and commissions of the City of Fairview Park with authority to establish their hours.

(Ord. 69-8. Passed 2-17-69.)

121.08 DEPARTMENT DIRECTORS TO TAKE AN OATH OF OFFICE.

(a) All directors of City departments appointed by the Mayor and confirmed by City Council shall take an oath of office that such director will support the constitution of the United States and of the State of Ohio and of the Charter and ordinances of the City of Fairview Park; will not be influenced by any consideration except that of merit and fitness in the employment or discharge of employees; will not make or authorize any expenditure of public money otherwise than for adequate consideration and efficient service to the Municipal Corporation; and will faithfully in all other respects discharge the duties of the position or office.

(b) Any director that refuses to take such oath of office is subject to removal from office by the appointing authority. (Ord. 99-76. Passed 11-1-99.)

CHAPTER 123
Department of Law

**123.01 Assistant Director of Law/
Prosecutor and Assistant
Director of Law/Boards
and Commissions.**

**123.02 Legal action to recover
confinement costs.**

**123.03 Legal action to recover
investigation and
prosecution costs.**

**123.04 Employment of special
counsel.**

CROSS REFERENCES

Director of Law - see CHTR. Art. V, Sec. 2
Powers and duties - see Ohio R.C. 733.51 et seq.

**123.01 ASSISTANT DIRECTOR OF LAW/PROSECUTOR AND ASSISTANT
DIRECTOR OF LAW/BOARDS AND COMMISSIONS.**

(a) Positions Created. There is hereby created the positions of Assistant Director of Law/Prosecutor and Assistant Director of Law/Boards and Commissions who shall be appointed by the Mayor and who shall serve at the pleasure of the Mayor. They shall be Attorneys at Law admitted to practice before the Courts of Ohio. (Ord. 91-8. Passed 5-6-91.)

(b) Assistant Director of Law/Prosecutor. The Assistant Director of Law/Prosecutor shall serve in the capacity of police prosecutor and represent the City as the prosecutor of all criminal and traffic cases before the Rocky River Municipal Court and all other courts having criminal and traffic wherein the City is a party and, if such cases are appealed, before the reviewing courts. He shall represent the City in any civil case assigned to him by the Director of Law. He shall attend all meetings of City Council in the absence of the Law Director and Assistant Director of Law/Boards and Commissions. He shall perform such other duties as may be assigned or directed by the Director of Law.

(c) Assistant Director of Law/Boards and Commissions. The Assistant Director of Law/Boards and Commissions shall attend all meetings of the Planning and Design Commission and the Board of Zoning and Building Appeals. He shall serve and give legal advice and opinions to such Boards and Commissions in the manner prescribed by the Director of Law. He shall represent the City in any civil or criminal case assigned to him by the Director of Law. He shall attend Council meetings in the absence of the Director of Law. He shall perform such other duties as may be assigned or directed by the Director of Law. Any person appointed to serve as Assistant Director of Law/Boards and Commissions shall have not less than three years substantive experience in municipal zoning. (Ord. 98-60. Passed 10-19-98.)

(d) The Assistant Director of Law/Prosecutor and the Assistant Director of Law/Boards and Commissions shall be attorneys licensed to practice law in the State of Ohio who have a minimum of four years experience in the practice of law, with one prior year of experience in municipal law or a related field. (Ord. 99-97. Passed 11-15-99.)

123.02 LEGAL ACTION TO RECOVER CONFINEMENT COSTS.

(a) Any person convicted of any offense other than a minor misdemeanor and who is thereafter confined to a workhouse, prison, station house or county jail shall reimburse to the City of Fairview Park its expenses incurred by reason of such confinement, including but not limited to, the provision of food, clothing and shelter. The amount of reimbursement shall be determined by a court of competent jurisdiction in an amount and manner provided by law.

(b) The Director of Law is hereby authorized and directed to institute an appropriate civil action in the name of the City in a court of competent jurisdiction to recover from the convict reimbursement for the expenses of confinement in a workhouse, prison, station house or county jail, as may be determined by the court in accordance with law.

(c) All amounts recovered for reimbursement of expenses of confinement shall be paid into the General Fund of the City.
(Ord. 84-55. Passed 11-5-84.)

123.03 LEGAL ACTION TO RECOVER INVESTIGATION AND PROSECUTION COSTS.

(a) Any person who is convicted of or pleads guilty to committing, attempting to commit or complicity in committing a violation of any provision of Chapter 513 or of Section 537.02 of the Codified Ordinances if the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, shall reimburse the City for its costs, including the reasonable value of the time of employees or officials of the City and the fair market value of all resources, that were expended or used by the City in connection with the investigation or prosecution of the offender as shall be determined by a court of competent jurisdiction in the manner provided by law.
(Ord. 89-37. Passed 12-4-89.)

(b) Any person who is convicted of or pleads guilty to committing, attempting to commit or complicity in committing a violation of Section 333.01 or of any provision of Chapter 529 of the Codified Ordinances shall reimburse the City for its costs, including the reasonable value of the time of employees or officials of the City and the fair market value of all resources, that were expended or used by the City in connection with the investigation or prosecution of the offender as shall be determined by a court of competent jurisdiction in the manner provided by law. (Ord. 95-50. Passed 8-21-95.)

(c) The Director of Law is hereby authorized and directed to institute an appropriate civil action in the name of the City in a court of competent jurisdiction to recover from an offender the costs of investigation and prosecution as set forth in subsections (a) and (b) hereof as may be determined by the court and in a manner as may be prescribed by the court.
(Ord. 89-37. Passed 12-4-89.)

(d) All amounts recovered for reimbursement of the costs of investigation and prosecution shall be paid into the Fairview Park Civil Reimbursement Fund to be used by the Department of Police with the approval of Council to assist in the arrest, investigation and prosecution of violators of Chapter 513, Section 537.02, Chapter 529 and Section 333.01. (Ord. 95-50. Passed 8-21-95.)

123.04 EMPLOYMENT OF SPECIAL COUNSEL.

(a) When the cost of such services is or will be in excess of the amounts provided in Article VIII, Section 6 of the Charter, the Mayor is hereby empowered and authorized to employ special legal counsel, who may be one or more, or a firm of attorneys at law for the purpose of assisting the Director of Law and the Assistant Director of Law or for the purpose of, under the supervision of the Director of Law or Assistant Director of Law, representing the City in the handling of litigation, including trial preparation and the conduct of trials or other proceedings in court or before any administrative body, for advisory opinions, and for specialized legal services in a particular branch of law subject to and in accordance with the provisions of this section.

(b) Special legal counsel may be employed by the Mayor only under the following circumstances:

- (1) The Director of Law has first certified in writing to the Mayor and Council that neither he nor the Assistant Director of Law should, for a stated specific reason as is consistent with the Code of Professional Responsibility applicable to lawyers and the Disciplinary Rules thereunder, handle the legal matter without employing special legal counsel to assist in or to represent the City in a specific legal matter.
- (2) Council approves the employment of special legal counsel by ordinance.

(c) Any ordinance of Council authorizing and approving the employment of special legal counsel shall indicate:

- (1) The name of the person or persons or firm of attorneys at law who shall be employed as special legal counsel;
- (2) The nature of the specific legal services to be provided by the special legal counsel including whether the special legal counsel is to assist the Director of Law or the Assistant Director of Law or is to represent the City under the supervision of the Director of Law or Assistant Director of Law;
- (3) The fees to be paid to the special legal counsel for legal services including both the hourly rate and the maximum amount to be paid for such services;
- (4) Whether the City or the special legal counsel shall be responsible for the payment of the costs and expenses, other than the fees for legal services, associated with and related to the specific legal services and if the City is to be responsible, a description of such costs and expenses and the approximate amount thereof; and
- (5) The anticipated duration of such employment.

(d) The special legal counsel shall submit, not less than every thirty days, to both the Mayor and the Clerk of Council, a statement reflecting the legal fees earned and a report detailing the progress of the specific legal matter.

(e) The City and its officers, employees, agents, officials and representatives shall not be liable for or obligated in any manner to pay legal fees to the special legal counsel except as set forth in the duly adopted and approved ordinance employing the special legal counsel.
(Ord. 90-113. Passed 12-17-90.)

CHAPTER 125
Department of Finance

125.01	Assistant Director of Finance.	125.11	Beautification Trust Fund.
125.02	Withdrawing funds; authorized signatures.	125.12	Cable Television Franchise Fee Trust Fund.
125.03	Fees for photographic and photostatic work.	125.13	S.A.V.E. Fund.
125.04	Fees for publications.	125.14	Fire insurance proceeds transferred to City.
125.05	Tax Auditor.	125.15	Reports.
125.06	Anti-recession Fiscal Assistance Fund.	125.16	Gilles Sweet Community Center Enterprise Fund.
125.07	Federal General Revenue Sharing Trust Fund.	125.17	Law Enforcement Mandatory Drug Fine Fund.
125.08	Emergency Cash Purchasing Fund.	125.18	Payment procedures for City contractors.
125.09	Sidewalk Fund.	125.19	General Reserve Fund.
125.10	Cumulative Reserve Public Works Preservation Fund.	125.20	Manager of Information Systems.
		125.21	Redevelopment Fund.

CROSS REFERENCES

Director of Finance - see CHTR. Art. V, §3

Finance Director may be Clerk of Council - see ADM. 111.02(a), 111.24(a)

Admissions tax duties - see ADM. Ch. 171

Income tax duties - see ADM. 173.2301 et seq.

125.01 ASSISTANT DIRECTOR OF FINANCE.

The office of Assistant Director of Finance is hereby established, who shall be appointed pursuant to the Charter, and shall perform such duties as are directed by the Director of Finance. In the absence or disability of the Director, the Assistant Director shall perform the duties of the Director. (Ord. 59-109. Passed 12-7-59.)

125.02 WITHDRAWING FUNDS; AUTHORIZED SIGNATURES.

In accordance with the Charter, City funds in depository accounts, which have been heretofore authorized and maintained by the City, may be withdrawn from such accounts by checks and/or other instruments issued in the name of this Municipality upon the signatures of the following officers or employees of the City: The Director of Finance or the Assistant Director of Finance, and the Mayor or the Director of Public Service and Development. (Ord. 59-114. Passed 12-7-59.)

125.03 FEES FOR PHOTOGRAPHIC AND PHOTOSTATIC WORK.

(a) From time to time, the Director of Finance is authorized and directed to establish reasonable charges or rates for photographic and photostatic work performed by any department or division of the City, and any funds collected therefrom shall be paid to the City.

(b) The various departments or divisions of the City are authorized to furnish photographs and photostats of reports to any person entitled to the same by law upon payment of the aforesaid charges or rates established by the Director.

(Ord. 65-36. Passed 7-19-65.)

125.04 FEES FOR PUBLICATIONS.

The Director of Finance is hereby authorized and directed to establish certain fees to be paid by any person desiring or obtaining from the City a copy of any Fairview Park publication, including the Codified Ordinances of such City. Any fees collected under authority of this section shall be paid into the General Fund of the City.

(Ord. 80-23. Passed 4-7-80.)

125.05 TAX AUDITOR.

The position of Tax Auditor in the Department of Finance is hereby created. The Director of Finance shall set forth the duties of the Tax Auditor which will include, but not be limited to, supervision of the income tax records, files and compliance notices of the City.

(Ord. 71-58. Passed 12-20-71.)

125.06 ANTI-RECESSION FISCAL ASSISTANCE FUND.

There is established under Ohio R. C. 5705.12, and subject to the approval of the Bureau of Inspection and Supervision of Public Offices of the State of Ohio, an Antirecession Fiscal Assistance Fund. Such fund is to receive moneys from the U. S. Department of Treasury under the Public Works Employment Act of 1976, (Title II, Public Law 94-369). Expenditures may be made from such fund for those purposes enumerated in Public Law 94-369, Section 204.

(Ord. 76-69. Passed 12-20-76.)

125.07 FEDERAL GENERAL REVENUE SHARING TRUST FUND.

There is hereby established a special fund to be known as the Federal General Revenue Sharing Trust Fund under the provisions of Ohio R. C. 5705.12. All moneys paid to the City under the State and Local Fiscal Assistance Act of 1972 shall be credited to such Fund and expended in accordance with the terms and provisions of such Federal Act.

(Ord. 72-67. Passed 11-6-72.)

125.08 EMERGENCY CASH PURCHASING FUND.

The Finance Director is authorized to establish an Emergency Cash Purchasing Fund, with the initial amount of two hundred dollars (\$200.00) and to be replenished from time to time so that the Fund is maintained at a balance not to exceed two hundred dollars (\$200.00).

(Ord. 74-29. Passed 4-15-74.)

125.09 SIDEWALK FUND.

The Finance Director is hereby authorized to set up a fund to be designated as Sidewalk Fund. The Director shall send a certified copy of this section to the Cuyahoga County Auditor. (Ord. 74-51. Passed 7-15-74.)

125.10 CUMULATIVE RESERVE PUBLIC WORKS PRESERVATION FUND.

(a) There is hereby created and established a Cumulative Reserve Public Works Preservation Fund. Such fund shall be used only for such public works projects as determined by the majority of the members of Council eligible to vote and approved by the Mayor. The Cumulative Reserve Public Works Preservation Fund shall be financed by at least twenty-five percent (25%) and not more than fifty percent (50%) of any revenues received by the City from any industrial development, industrial park, or the inclusion of new land area to the City, and any balance remaining in such Cumulative Reserve Public Works Preservation Fund from the previous fiscal year.

(b) Public works projects as used in this section shall be maintenance, rehabilitation, repair, renovation or replacement of existing municipal public works facilities, including streets, storm sewers, culverts, parks and public buildings.

(c) In the appropriation of funds for specific public works projects, Council and the Mayor shall consider documented condition information, maintenance standards, engineering standards, intensity of use, safety factors, project feasibility, cost-effectiveness and other relevant factors.

(d) Moneys credited to the Cumulative Reserve Public Works Preservation Fund shall be applied to the lump sum or installment payment of public works projects or to the payment of the principal or interest or premium on any bonds or notes issued by the City to finance public works projects. (Ord. 84-36. Passed over veto 12-31-85.)

125.11 BEAUTIFICATION TRUST FUND.

(a) The Finance Director is hereby authorized to set up a fund to be designated as a Beautification Trust Fund to be used for the following purposes:

- (1) To receive any and all deposits of moneys from any participating residents of the beautification program.
- (2) To hold such deposits in a Beautification Trust Fund.
- (3) To pay out of such Fund such sums as may be needed for the staking and planting of trees, other beautification projects and any incidental costs required for such tree planting or other landscaping.

(b) A donor to the Fund shall be able to designate the location to which the donor desires the contribution to be used. Such location shall be subject to the approval of the Director of Public Service and Development. If not approved, the donor shall be entitled to receive his contribution. (Ord. 80-44. Passed 6-16-80.)

125.12 CABLE TELEVISION FRANCHISE FEE TRUST FUND.

The franchise fee provided to be paid into the City, pursuant to Chapter 733 or pursuant to any other grant of a television franchise as authorized by Article XI of the City Charter, shall be placed into a special fund entitled, Cable Television Franchise Fee Trust and shall be subject to disbursement, only by Ordinance or Resolution, by further action of Council.
(Ord. 99-54. Passed 7-19-99.)

125.13 S.A.V.E. FUND.

(a) The Director of Finance is hereby authorized and directed to establish a special fund, to be identified as the S.A.V.E. Fund, and such Fund shall be used solely and exclusively for the purpose of receiving and disbursing all moneys related to the S.A.V.E. program.

(b) The Director is authorized to receive donations or contributions made by individuals, businesses and public or private organizations or groups to support the program and all such donations or contributions shall be deposited in the Fund.

(c) Expenditures from the Fund for operation, administration and rewards shall be made by the Director upon receipt of an authorization of payment signed by the Chief of Police and any one other member of the Rewards Committee.

(d) The Director is hereby authorized and directed to transfer from the General Funds of the City the sum of five hundred dollars (\$500.00) to the Fund to provide the initial moneys necessary to commence the program.
(Ord. 80-47. Passed 6-16-80.)

125.14 FIRE INSURANCE PROCEEDS TRANSFERRED TO CITY.

(a) The City hereby adopts and implements the provisions and procedures set forth in Ohio R.C. 3929.86, particularly paragraphs (C) and (D) thereof, providing for the transfer and receipt of portions of fire insurance proceeds as set forth in such section.

(b) The Finance Director is hereby designated as the officer of the City to carry out the duties under Ohio R.C. 3929.86.

(c) The Clerk of Council is hereby directed for forward a certified copy of this section to the Superintendent of Insurance, State of Ohio, as provided for in Ohio R.C. 3929.86 (C).
(Ord. 81-88. Passed 9-21-81.)

125.15 REPORTS.

(a) The Director of Finance shall report by the third Monday after the end of each fiscal month to Council, to other administrative officials and to the public the recorded facts in such summaries with such analytical schedules in detailed support thereof, as shall be necessary, to show the full effect of expenditures, transactions and investments for each fiscal year or part thereof upon the finances of the City and in relation to each department of the City.

(b) The Director of Finance shall annually prepare and submit to the Mayor and Council by March 1 of each year a recommended two year financial plan for the City's operating and capital needs. The financial plan shall indicate the estimated cost and the proposed or established method of financing each capital program and permanent improvement. The Director of Finance's recommended plan shall be prepared after consultation with the Mayor and the heads of other City departments affected thereby, and such recommended financial plan shall be advisory only and need not be followed in the adoption of the City's tax budget, annual, temporary or supplemental appropriation measures or ordinances, resolutions or other actions concerning capital programs or permanent improvements.
(Ord. 82-61. Passed 2-7-83.)

125.16 GILLES SWEET COMMUNITY CENTER ENTERPRISE FUND.

(a) The Director of Finance is hereby authorized and directed to create the Gilles-Sweet Community Center Enterprise Fund as a special fund in the City Budget. This fund shall be maintained as a separate account on the books of the City and shall, in detail, state all revenues and receipts including source thereof, all transfer including the source thereof, all expenditures including the purpose thereof, and such other information as necessary to indicate the status of the Fund.

(b) The Director of Finance shall provide, in writing to Council, at the end of each fiscal quarter a report which indicates the status of the fund, including the information required in the first paragraph hereof. (Ord. 82-91. Passed 2-7-83.)

125.17 LAW ENFORCEMENT MANDATORY DRUG FINE FUND.

(a) The Director of Finance is hereby authorized to accept all mandatory drug fines and forfeited bail imposed for violations of Ohio R.C. 2925.03.

(b) In accordance with Ohio R.C. 2925.03, there is hereby established the Law Enforcement Mandatory Drug Fine Fund. All money forfeited to the City pursuant to Ohio R.C. 2925.03 shall be credited to the Fund.

(c) The revenues in the Law Enforcement Mandatory Drug Fine Fund shall be allocated from the Fund only to the Police Department, and only to pay the costs of investigations or prosecutions pertaining to drug offenses.

(d) The Chief of Police shall annually, on or before the tenth day of January, file with the Director of Finance an itemized statement, verified by the Chief as to the manner in which the Law Enforcement Mandatory Drug Fine Fund has been expended during the preceding calendar year. (Ord. 87-45. Passed 2-1-88.)

125.18 PAYMENT PROCEDURES FOR CITY CONTRACTORS.

(a) The Director of Finance, in consultation with the City Engineer and the City Architect, is hereby authorized to enact payment procedures for authorized contractors doing business with the City.

(b) The Director of Finance shall submit monthly to the Chairman of Council's Finance Committee a report detailing the following for each contract for building or improvements: contractor's name, project title, total contract amount, contract start date, amount paid-to-date and estimated completion date.
(Ord. 94-106. Passed 12-19-94.)

125.19 GENERAL RESERVE FUND.

There is hereby established under Ohio R.C. 5705.12 and subject to the approval of the Bureau of Inspection and Supervision of Public Offices of the State of Ohio, a General Reserve Fund. Said fund is established for budget stabilization. The total amount in said fund shall not exceed five percent (5%) of the general fund's revenue for the preceding fiscal year. Funds on deposit in the General Reserve Fund shall be withdrawn only upon the affirmative vote of not less than two-thirds (2/3) of the voting members of Council. (Ord. 06-05. Passed 4-3-06.)

125.20 MANAGER OF INFORMATION SYSTEMS.

There is hereby created the position of Manager of Information Systems, who shall be appointed pursuant to the Charter, and who shall perform such duties as are directed by the Director of Finance, including, but not limited to, planning and direction of all computer functions within the City; planning for improvements and maintenance of the City computer and informational system. (Ord. 99-53. Passed 7-19-99.)

125.21 REDEVELOPMENT FUND.

There is hereby established under the Ohio R.C. 5705.121 and subject to the approval of the Bureau of Inspection and Supervision of Public Offices of the State of Ohio, a Redevelopment Fund. Said fund is established for segregating Redevelopment Expenditures and Revenue. (Ord. 00-65. Passed 9-18-00.)

127.02 DIVISION OF SIGNALS AND SIGNS.

There is hereby created a Division of Signals and Signs in the Department of Public Service and Development under the direction of the Director. The Director is hereby authorized to hire a qualified signal technician and to hire such other seasonal part-time staff as are deemed necessary by the Director.

(Ord. 74-63. Passed 12-2-74.)

127.03 CLERK.

There is hereby created the position of Clerk in the Department of Public Service and Development, which position shall be filled by an appointment by the Director. Such Clerk shall be bonded. The duties of such Clerk shall be prescribed by the Assistant Director of Public Service and Development in charge of public works.

(Ord. 68-77. Passed 9-16-68.)

CHAPTER 129
Police Department

129.01	Composition.	129.09	Emergency alarms.
129.02	Work week.	129.091	Automated teller machines; surveillance cameras.
129.03	Appointment and term.	129.10	Crime Prevention Bureau.
129.04	Police clerk.	129.11	S.A.V.E. Rewards Program.
129.05	Police Matron.	129.12	Law Enforcement Trust Fund.
129.06	Auxiliary police officers.	129.13	Jail fees.
129.07	Private policemen.	129.14	Animal Control Officer.
129.08	Compulsory retirement; exceptions.		

CROSS REFERENCES

Auxiliary police unit - see Ohio R.C. 737.051, 737.06
 Police and Firemen's Disability and Pension Fund - see Ohio R.C. Ch. 742
 Paid vacations - see ADM. 143.01
 Compliance with lawful order of police officer - see TRAF. 303.01
 Impersonation - see GEN. OFF. 525.03
 Obstructing official business - see GEN. OFF. 525.07
 Enforcement of park rules - see S.U. & P.S. 921.05

129.01 COMPOSITION.

(a) The Police Department shall be composed of a Chief of Police, four Lieutenants of Police, three Sergeants of Police and not more than twenty-one patrol or police officers. (Ord. 06-13. Passed 4-17-06.)

(b) The Police Chief may designate one of the members of the Police Department to serve as Juvenile Public Relations Officer and Crime Prevention Officer. (Ord. 91-101. Passed 12-2-91.)

129.02 WORK WEEK.

Except in case of necessary appearances in court and emergency special duty assignments, the policemen's work week shall not exceed forty hours. (Ord. 64-53. Passed 10-5-64.)

129.03 APPOINTMENT AND TERM.

The appointment and term of the members of the Police Department shall be in accordance with the civil service rules and regulations adopted by the Civil Service Commission of the City and the laws of the State pertaining to the members of the Police Department under civil service. (1954 Code Sec. 18-2)

129.04 POLICE CLERK.

There is hereby established the position of full-time clerk in the office of the Police Department. Such full-time clerk shall do clerical and stenographic work as directed by the Police Chief. (Ord. 67-22. Passed 3-20-67.)

129.05 POLICE MATRON.

There is hereby created the position of Police Matron in the Police Department. The Police Chief shall appoint the Police Matron to serve at the hours specified by the Chief. (Ord. 69-13. Passed 2-17-69.)

129.06 AUXILIARY POLICE.

(a) Appointment of Members. There is hereby created within the Police Department an auxiliary police unit to consist of not more than twenty-five persons, the members of which shall be appointed by the Mayor.

(b) Term of Service. Auxiliary police officers shall serve as long as the Police Chief may direct, or until a resignation submitted by a member shall be accepted by the Chief

(c) Qualification of Members. The members of the auxiliary police unit may not be under the age of twenty-one years at the time of their appointment, and shall meet such other requirements as provided by rules and regulations provided for in subsection (e) hereof. (Ord. 81-118. Passed 1-4-82.)

- (1) Exception: Qualified students enrolled in a Criminal Justice Program at an accredited college or university may become members at age nineteen. (Ord. 05-04. Passed 2-22-05.)

(d) Control of Unit. The Police Chief shall be the executive officer of the auxiliary police unit. The Chief shall be the commanding officer and shall have control of the assignment, training, stationing and the direction of work. The auxiliary police unit shall have only such police powers and shall perform only such police duties as assigned by the Chief, and shall act only when in prescribed uniform or portion of uniform. The Mayor or Police Chief shall prescribe the time and place such uniforms or portions thereof shall be worn. Such auxiliary members shall obey the chain of command of the Police Department and shall take orders from all regular appointed members thereof.

(e) Rules and Regulations. The Police Chief shall prescribe the rules and regulations for the organization, administration, conduct and control of the auxiliary police unit.

(f) Uniform. The Police Chief is authorized to prescribe by rules and regulations the type of uniform or part thereof which shall be worn by members of the auxiliary police unit. (Ord. 81-118. Passed 1-4-82.)

(g) Compensation; Where Services Performed.

- (1) All services performed by auxiliary police shall be within the City.
- (2) Auxiliary police shall be compensated for their services in an amount determined by Council.
- (3) Auxiliary police shall be entitled to any benefits of any relief or pension funds of the City or the State of Ohio, or any other similar benefit, except as may otherwise be provided by law.
(Ord. 82-15. Passed 5-3-82.)

(h) Nonliability. This section is declared by Council as an exercise by the City of its police powers for the protection of the public peace, health, property, safety and general welfare. Neither the City, or agent or representative of the City, an officer appointed under the provisions of this section, or any individual, firm, partnership, corporation or the receiver, trustee or any agent thereof, who in good faith executes any executive order, rule or regulation promulgated pursuant to the provisions of this section, shall be liable for injury or damage sustained to person or property as the direct proximate result of such action. In addition to any other responsibilities or immunities, the members of the auxiliary police unit shall bear the same responsibilities and the same immunities as any other regularly employed member of the Police Department, except as herein provided. (Ord. 81-118. Passed 1-4-82.)

129.07 PRIVATE POLICEMEN.

(a) Authority to Issue Private Police Commissions. The Police Chief pursuant to Ohio R.C. 737.05 is hereby authorized to commission private policemen and private policewomen not in the classified services of the City, under such rules and regulations as Council shall grant.

(b) Rules and Regulations. The Police Chief is hereby authorized to prescribe rules and regulations, and the uniform which shall be worn by such private policemen and private policewomen wherever and whenever their services are conducted. Such private policemen and private policewomen shall each give bond by a bonding company authorized by law in the State of Ohio in the sum of one thousand dollars (\$1,000) to the satisfaction of the Police Chief and the Director of Law, and shall pay an annual fee in the sum of twenty-five dollars (\$25.00).

(c) Official Uniform not to be Copied. No person not a member of the Police or Fire Departments shall wear a uniform, cap, badge or buttons similar to, or in imitation of the official uniform, cap, badge or buttons at the time in use by the members of the Police and Fire Departments.

(d) Uniform Approval. Any person, firm or corporation desiring to provide special police, watchmen or detective service, either for itself or for hire to others, shall use no distinctive uniform, cap, badge or buttons, to be worn by such person or any employees of such person, firm or corporation, engaged for such purpose, until the form, design and color thereof have first been submitted to and approved by the Police Chief, and a record thereof sufficient to identify the users thereof shall have been made by the Police Chief.
(Ord. 70-28. Passed 6-15-70.)

(e) Duration of Commission. No commission as such private policeman and/or private policewoman shall be valid for a greater period of time than one year from the date of issuance and no person shall be commissioned as such private policeman and/or private policewoman who is not a citizen of the United States of America. The issuance of a private police commission shall not in itself constitute authority to carry firearms. Applicants shall comply with the laws of the State of Ohio regarding the carrying of firearms. The Police Chief shall prescribe such uniform, badge and/or other distinguishing uniform marks for such private policemen or private policewomen as he may see fit in order to distinguish such private police officers from regular police officers of the Police Department.
(Ord. 81-100. Passed 11-16-81.)

(f) Application for Commission; Qualifications. No person shall be commissioned as private policeman and/or private policewoman unless he is licensed to do so. An applicant for such commissions shall:

- (1) Be at least twenty-one years of age or over, an American citizen or have declared his intention to become a citizen.
- (2) Be of sound physique, with good eyesight and not subject to vertigo, heart trouble or any other infirmity of body or mind, which might render him unfit for the safe carrying out of the duties of such commission. Each applicant shall supply an affidavit to the Police Chief for his application for a commission that he is free from any and all of the infirmities mentioned in this section.
- (3) Be able to read, write and speak the English language.
- (4) Be clean in dress and person, of good moral character and not addicted to the use of intoxicating liquors and drugs.
- (5) Produce, on forms to be provided by the Police Chief, affidavits of his good character from two reputable citizens of the City or Cuyahoga County, who have known him personally, and a further testimonial on a form provided for that purpose, from his last employer, unless, in the estimation of the Police Chief sufficient reason is given for its omission.
- (6) Fill out, upon a form to be provided by the Police Chief, a statement giving his full name, residence, places of residence for ten years previous to moving to his present address, age, color, height, color of eyes and hair, place of birth, length of time he has resided in Cuyahoga County, whether a citizen of the United States, place of previous employment, whether single or married, whether he has ever been arrested or convicted of a felony or misdemeanor, whether he has been summoned to court, whether his driving license has ever been revoked, and if so, for what cause. Such statement shall be signed and sworn to by the applicant, and filed with the Police Chief as a permanent record. The Police Chief is hereby authorized and empowered to establish additional rules and regulations covering the issuance of such commission of private policemen or private policewomen, not inconsistent herewith, as may be necessary and reasonable.

(g) Photograph and Police Check on Applicant. Each applicant for a commission as private policeman or private policewoman shall file with his application three unretouched color photographs of himself or herself, in such position as the Police Chief may specify, taken within thirty days preceding the filing of his application. Photographs shall be of a size which may be easily attached to his commission, one of which shall be attached to the commission when issued, the others shall be filed with the application in the office of the Police Chief. The photograph shall be so attached to the commission that it cannot be removed and another photograph substituted without detection. Where the application for a commission is denied, two copies of the photograph shall be returned to the applicant by the Police Chief. Each commissioned private policeman or private policewoman shall, upon demand of an inspector of licenses, or a policeman of the Police Department, exhibit his license and photograph for inspection. All applications for such commission as private policemen and/or private policewomen shall be notarized, and failure to list arrests, and/or any other information desired by the Police Chief, would be considered falsifying the application, and the applicant shall be subject to arrest. All applicants for special police work as such private policemen and private policewomen shall be fingerprinted and the Police Chief through his Police Department shall cause a complete record check made of the applicant's character, or obtain any other information he may desire.

(h) Identification. An identification card, with a photograph attached, as outlined in subsection (g) hereof shall be carried by such private policeman and/or private policewoman at all times while on duty in the City, in order to identify him, or her, to our Police Department, showing that he has been qualified to the satisfaction of the Police Chief and the City.
(Ord. 70-28. Passed 6-15-70.)

129.08 COMPULSORY RETIREMENT; EXCEPTIONS.

(a) Effective January 1, 1974, no full-time members of the City Police Department shall be employed or continue to serve as a member of the police, after attaining the age of sixty-five except those full-time members who shall be permitted to continue their employment past age sixty five until completion of twenty-five years of continuous service contingent upon the individual member passing an annual physical examination given by a physician selected by the City.

(b) Any officer or member of the Police Department compelled to retire under this section, having accumulated overtime upon attaining his sixty-fifth birthday, shall be paid for overtime at the regular rate of compensation that he has received at his attained rank on the date of retirement.

(c) This section shall not apply to school guards or auxiliary police.
(Ord. 73-45. Passed 6-18-73.)

129.09 EMERGENCY ALARMS.

(a) Authority to Install Alarm; Definitions. Any residence or lawful business located within the City may be equipped with an alarm system for the purpose of detecting and signaling the presence of smoke, fire or unauthorized intrusion upon compliance with this section. Existing installations shall be subject to the requirements of this section including those pertaining to permits.

As used in this section "automatic dialing service" means an alarm system which automatically sends over the telephone switching network a prerecorded voice message or coded signal indicating the existence of smoke, fire or an unlawful act to which Fire and/or Police Department response is requested.

As used in this section "alarm system" means an assembly of equipment and devices, mechanical or electrical (or a single device such as a solid state unit) which is arranged, designed or used for the detection and signaling the presence of a hazard requiring urgent attention and to which police or firefighter/paramedic response is expected. The term "alarm system" shall include:

- (1) "Automatic hold-up alarm system" means an alarm system in which a signal transmission is initiated by the action of a robber.
- (2) "Burglar alarm system" means an alarm system signaling an entry or attempted entry into the area protected by the system.
- (3) "Hold-up alarm system" means an alarm system signaling a robbery or attempted robbery.
- (4) "Manual hold-up alarm system" means an alarm system in which the signal transmission is initiated by the direct action of the person attacked or by an observer of the attack.
- (5) "Fire alarm system" means an alarm system which monitors temperature, humidity or other condition of a fire hazard nature, and not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at the premises.

The term "alarm system" does not include audible alarms on motor vehicles unless the vehicle is permanently located at a site or an alarm designed to alert the inhabitants of a premises only.

(b) Automatic Dialing Devices.

- (1) The City may subscribe to one or more telephone lines for burglar alarms, hold-up alarms, occurrence of fire or for similar purposes; and when any line is designated as provided for in subsection (a) hereof, persons may, upon proper application and compliance with applicable laws, be granted a permit to install a device or devices which automatically select the designated telephone line for purpose of playing a recorded message or to otherwise report an intrusion or other emergency.
- (2) Except as otherwise provided herein, no person shall install, operate, maintain, use or otherwise cause any telephone device or telephone attachment that automatically selects any telephone line allocated by the telephone company to the City or any of its departments or divisions except a telephone line which may be specifically designated by the Police Chief for such purpose. Such designated telephone line or lines shall terminate at the police station communication center.

- (3) No person shall install, operate, maintain, use or otherwise cause any telephone device or attachment that automatically selects the number 9-1-1 to report a recorded message or coded signal.
 - (4) For alarms of the type described in subsection (a) hereof, the message shall comply with the following:
 - A. Length of message shall be fifteen seconds maximum;
 - B. The message shall not be repeated more than three times for each dialing;
 - C. Contents of the message shall first state: "This is a recording". The balance of the message shall be appropriate to the purpose for which the alarm is installed and shall be subject to the approval of the Chief of Police. The entire message shall be intelligible.
 - (5) For alarms of the type described in subsection (b)(2) hereof, each such device shall be programmed to first dial the Division of Police using an unlisted number assigned for that purpose. The device shall next dial a number selected by the applicant, such second number being that at which a person having a key to the building where the alarm is installed can normally be found. A third number subject to the approval of the Chief of Police may be programmed for the next dialing. No more than three such dialings may be programmed except under unusual circumstances and upon approval of the Chief of Police. No enforcement agency other than the City Police Department may be selected.
 - (6) The cost of providing the service described above, including any fee or payment charged by the telephone company, shall be paid by the applicant.
 - (7) The fee to be charged by the City under subsection (b)(6) hereof, shall be determined on an annual basis by dividing the cost of telephone service to the City by the number of holders of permits for alarms, as described in subsection (b)(1) hereof, adding fifteen percent (15%) for administration and rounding it off to the next dollar, except that the minimum charge shall be five dollars (\$5.00) per month, payable in advance. Delinquency in excess of ten days shall result in cancellation of the permit or permits.
- (c) Police Signal Alarm Connection; Fee and Noncompliance.
- (1) There is hereby established a tie-in charge fee of ninety dollars (\$90.00) for each connection to be collected from all persons or firms connecting a police alarm signal to a central electronic panel alarm signal installed and located at the Police Department. There shall also be established an annual charge in the amount of ninety dollars (\$90.00) for each tie-in connection payable at the beginning of each calendar year or prorated from the date of the connection for that year.
 - (2) Each person or firm connecting to such system shall be responsible for the maintenance and operation of their respective signal line. If any signal line becomes inoperative or in a state of disrepair, the party maintaining such a line shall be given notice of such disrepair and shall from that point be given thirty days to either repair such line or give the Chief of Police notice of a good faith attempt to repair such line and intentions for any further action.

- (3) If payment, as outlined in subsection (c)(1) hereof is not made in compliance with that subsection, noncompliance regarding subsection (c)(4) hereof shall be deemed to have taken place.
- (4) Whoever does not comply with subsections (c)(2) or (3) hereof shall be deemed to have waived their privilege to use the system, and any line related to such noncompliance shall be disconnected.
- (5) The Chief of Police shall be given the authority to determine which persons or firms are entitled to the privilege of use of such system, such determination to be made in good faith and with reasonable application.

(d) Local Alarms. A permit for the installation of a local alarm which, when activated, sounds a horn, bell, buzzer, siren or other type of audible alarm, and/or visual signaling device shall be required if the sound created by the alarm is audible beyond the premises being served. The Police Chief or his authorized representative shall issue a permit for such an alarm, provided the intensity of sound does not exceed sixty-five decibels at any location outside the premises being served, and such alarms shall have an automatic cut-off device as provided herein.

- (1) Each such local alarm shall be equipped with an automatic cut-off device which deactivates the alarm noise within ten minutes of the first noise emitted by the alarm.
- (2) Each violation of this section shall constitute an accidental/false alarm.

(e) Accidental/False Alarms.

- (1) Except as provided in subsection (e)(3) hereof, a charge of twenty-five dollars (\$25.00) shall be assessed for each accidental/false alarm received through equipment described above, or for each accidental/false alarm received through any other alarm service which the City has given permission to be installed. Such fee shall be assessed against the owner, agent or person in charge of or in possession of the premises from which the accidental/false alarm has emanated.
- (2) Except as provided in subsection (e)(3) hereof, a charge of twenty-five dollars (\$25.00) shall be assessed for each accidental/false alarm received by telephone from a central station system or alarm company answering service. Such fee shall be assessed against the owner, agent or other person in charge of or in possession of the premises from which the accidental/false alarm has emanated. As used in this section "central station system" means a system in which the operation of electrical protection circuits and devices are signaled to, recorded in, maintained and supervised from a central station, or any combination of the foregoing, having trained operators and/or personnel therein.
- (3) No charge shall be assessed for the first accidental/false alarm nor shall there be any charge assessed for an accidental false alarm to which there is no response from the Fire and/or Police Departments.

- (4) As used in this section, accidental/false alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, improper operation or through the negligence of or misuse by the owner, lessee, employee or agency whereby the Fire and/or Police Departments are summoned when there is no incident occurring or having occurred as reported by the alarm. Alarms attributable to tornadoes, earthquakes and other similar comparable abnormal conditions are not included within the scope of this provision provided that the burden of proof of such exception shall be upon the alarm subscriber and/or alarm business.
- (f) General Maintenance Requirements.
- (1) All equipment used in installations for which a permit is required shall meet the applicable standards of the Underwriters' Laboratory and/or other recognized testing laboratory. An applicant shall be required to submit evidence of the reliability and suitability of the equipment to be installed.
 - (2) The sensory mechanism used in connection with any alarm system shall be maintained to suppress false indications of heat, fire, smoke or intrusion so that the alarm system will not be activated by impulses due to transient pressure change in water pipes, short flashes of light, wind noises, vehicular noise or other forces unrelated to a genuine alarm. The sensitivity of an alarm system shall not be such that the simple vibration or motion of a protected door or window shall cause the activation of the alarm system without the actual breaking or opening leading to forcible entry.
 - (3) All components comprising any alarm system shall be maintained by the owner and/or lessee in good repair to assure reliability of operation.
 - (4) Every alarm business that sells or leases to any person any alarm system which is installed on such person's residence or place of business shall furnish such person with instructions as to the manner in which the alarm system operates, along with the maintenance instructions. "Alarm business" means and includes any business engaged in any of the activities of selling, leasing, leasing with an option to purchase, installing, servicing, altering, repairing, maintaining, replacing, moving, monitoring, responding to a fire, burglary, hold-up or other similar alarm systems, or causing any of such of the foregoing activities to take place.
 - (5) Every alarm business as described in subsection (f)(4) shall also furnish the Chief of Police with a copy of the instructions as to the manner in which the alarm system operates. If the Chief finds such to be incomplete, unclear or inadequate, he shall require the alarm business to have same revised to meet his approval and then promptly have copies distributed to persons for whom installations of such systems are made.
 - (6) No person shall manually activate an alarm system for any reason other than the occurrence of an event for which such alarm system was installed and intended.

- (7) Any alarm business that sells or leases to any person an alarm system which is installed on such person's residence or business shall provide for the receiving of calls for service, maintenance or repairs, whether directly or through an agent, on a twenty-four hour, seven day a week basis and shall respond to such calls within four hours of the time such are received. Such alarm system shall be installed in accordance with all applicable laws of the City.
- (8) At the time of installation of any alarm system, the alarm business shall furnish to the person for whom the alarm system has been installed, written information as to how service, maintenance or repair can be obtained at any time, including the telephone number to call for such service, maintenance or repair. Such person shall be responsible for having the alarm system serviced, maintained or repaired after it is learned from any source, including the City, that the alarm system is not operating properly.
- (9) All alarm systems shall be maintained in good operating condition, in the manner for which such system was designed and in compliance with City building and electrical codes. The Chief of Police shall require that repairs be made when the Chief determines such are necessary to assure proper operation.
- (10) For a violation of this section, for failure to properly maintain any installation, or when the number of accidental/false alarms reaches six in any twelve month period, or three in any sixty day consecutive period, the Chief of Police shall serve written notice upon a permit holder of intent to revoke their permit. Such notice shall be given not less than seven days prior to revocation. Such notice shall state the right of the permit holder to appeal to the Mayor. If an appeal is filed in writing, the Mayor shall hold a hearing on the matter and shall render a decision on the basis of the facts presented. The Mayor's decision shall be final. No person shall operate an alarm system during the period in which the permit for such alarm system has been revoked.

(g) Liability of City. The issuance of any permit or permits in conjunction with this section shall not constitute acceptance by the City of any liability to maintain any equipment, to answer alarms or for anything in connection therewith.

(h) Rules and Regulations. The Police Chief or his authorized representative shall make and enforce such rules and regulations as he may deem necessary for the enforcement of the provisions hereof, and for the proper determination and collection of the fees and charges herein provided.

(i) Permit and Inspection Fee. A fee of fifty dollars (\$50.00) shall be paid to the City for each permit issued as provided herein, to cover administrative and inspection costs. A separate permit and fee shall be required for an intrusion alarm and a fire alarm emanating from the same premises. Such permit shall not be transferable or assignable.

(j) Financial Institutions.

- (1) Any financial institution required to have an alarm system pursuant to Federal or State law, rule or regulation, may install any such specialized equipment thus mandated, and such costs of installation, maintenance, repair and operation shall be borne solely by the institution installing the same.
- (2) In the event that the specialized equipment permitted in subsection (j)(1) is installed over or upon City property, the Police Chief shall have full, complete and final authority to mandate the placement of such specialized equipment, the continuous inspection of the same as may be necessary, and the repair or replacement of inoperative or damaged equipment, the same being at the sole expense of the financial institution placing such specialized equipment.
- (3) A financial institution which places specialized alarm equipment over or upon property of the City may, at any reasonable time, remove such specialized equipment from City property, but no fee previously charged for such installation or permit, or portion of such fee, shall be refundable to such financial institution.
- (4) All financial institutions coming within the purview of this subsection (j) shall remain amenable to all other provisions of this chapter and shall make whatever application, receive whatever permits, and pay whatever fees which may be applicable to the ownership and operation of any other alarm system within the City by any other person.
(Ord. 87-61. Passed 4-4-88.)

(k) Penalty. Whoever violates any provision of this section shall be guilty of a minor misdemeanor for the first offense. Whoever violates any provision of this section shall be guilty of a fourth degree misdemeanor for the second offense or subsequent offense.
(Ord. 94-31. Passed 5-2-94.)

129.091 AUTOMATED TELLER MACHINES; SURVEILLANCE CAMERAS.

(a) Surveillance Cameras. Effective July 1, 1997 all banks and other financial institutions in the City of Fairview Park providing access to an Automated Teller Machine which is located outside of a building or other structure shall have installed and have functioning for the safety of all users of Automated Teller Machines cameras capable of photographing the general area around the ATM as well as the areas of ingress and egress to the ATM.

(b) Inspection and Approval. The location of the cameras required by this ordinance must be inspected and approved by the Chief of Police or his designated representative.

(c) Penalty. Whoever violates any provision of this section shall be guilty of a first degree misdemeanor. (Ord. 96-89. Passed 1-21-97.)

129.10 CRIME PREVENTION BUREAU.

(a) The Police Chief is hereby authorized and directed to establish a Crime Prevention Bureau within the Police Department which shall be operated under the day to day supervision of the Chief of the Department. The person in charge of the Bureau shall be referred to and known as the Crime Prevention Officer and shall be designated on the basis of training, experience and other qualifications related to crime prevention. The Chief may designate such other officers and members of the Department as he may, from time to time deem necessary or appropriate, as crime prevention officers for duties incident to the operation of the Bureau.

(b) The duties of the Bureau, on behalf of the City and of all residents, shall include the following:

- (1) To develop methods and systems for the prevention of crime;
- (2) To conduct and implement education programs and activities designed to advise, recommend and assist the general public of and in measures which may be taken to assist in the prevention of crime or assist in the solution of crime;
- (3) To advise all persons upon request relative to home and personal security;
- (4) To advise all residents, apartment owners and tenants, and business owners and tenants relative to the installation and maintenance of security systems, alarms, locks, lighting and other safeguards;
- (5) To review plans for the construction of all structures within the City to ascertain hazards relating to crime prevention and to suggest a means to cause the elimination thereof as may be required by ordinance or State law;
- (6) To review the investigation and circumstances of all crimes in order to evaluate crime prevention measures and devices which may be established in the future and determine the feasibility and propriety of existing crime prevention measures and devices;
- (7) To advise other members of the Police Department, not in the Bureau, relative to various crime prevention practices and measures;
- (8) To establish procedures for the security and transportation of sums of money and other valuables;
- (9) To establish procedures for the security of public officials and other dignitaries while in the City;
- (10) To coordinate neighborhood block watch, park patrol and neighborhood patrol programs within the guidelines as established by the Police Chief; and
- (11) To enforce all ordinances of the City relative to crime prevention.

The Bureau shall have such powers and perform such other duties as may be conferred and imposed from time to time by law. This delegation of duty shall not relieve any other division, department, officer or employee of the City of any power or duty conferred by law or ordinance.

(c) The members of the Bureau may, at all reasonable hours with the consent of the owner, enter any building or premises within their jurisdiction for the purpose of inspecting same to ascertain whether there exists any hazard to crime prevention which is required to be corrected by law or ordinance. (Ord. 91-101. Passed 12-2-91.)

129.11 S.A.V.E. REWARDS PROGRAM.

(a) The Chief of Police is hereby authorized and directed to establish a rewards program within the City to be known as S.A.V.E. (Stop A Vandal Easily).

(b) The Program shall be administered and conducted in the manner and form set forth and described in detail in the rules and regulations attached to the original Ordinance 80-46, passed June 16, 1980, made a part hereof and marked Exhibit "A".

(c) The Mayor, the Police Chief and the Chairman of the Safety Committee of Council shall constitute the Rewards Committee and shall be solely responsible for determining when a reward is appropriate and determining the amount of such reward.

(d) There shall be established a special fund account to be identified as the S.A.V.E. Account, and such Account shall be used solely for the purpose of receiving and disbursing funds related to the Program. (Ord. 80-46. Passed 6-16-80.)

129.12 LAW ENFORCEMENT TRUST FUND.

(a) Pursuant to Ohio R.C. 2933.43(D), Council hereby establishes a Law Enforcement Trust Fund which shall consist of the proceeds of the sale of contraband, lawfully seized and forfeited to the Police Department, pursuant to the provisions of Ohio R.C. 2933.43(C).

(b) Proceeds distributed to the Fund shall be allocated from the Fund by Council and shall only be expended for the following purposes:

- (1) To pay the costs of protracted or complex investigations or prosecutions;
- (2) To provide reasonable technical training or expertise;
- (3) To provide matching funds to obtain Federal grants to aid law enforcement;
- (4) For such other law enforcement purposes as Council determines to be appropriate.

(c) Pursuant to Ohio R.C. 2933.43(D) the Fund shall not be used to meet operating costs of the City that are unrelated to law enforcement. (Ord. 86-58. Passed 11-3-86.)

129.13 JAIL FEES.

(a) Other governmental entities using the Fairview Park City Jail shall be charged at the rate of eighty-five dollars (\$85.00) per day plus reimbursement for medical expenses with the exception that the City of Cleveland be charged with the same amount per day that the City of Cleveland charges the City of Fairview Park for the use of its facilities. (Ord. 91-97. Passed 8-19-91.)

(b) The Chief of Police shall report to Council annually setting forth the costs which the City pays other governmental entities for the housing of Fairview Park prisoners.

(c) The Chief of Police, or his designee, shall keep an accurate record of the use of the City Jail by other governmental entities and shall promptly invoice the governmental entity using such City Jail and forward a copy thereof to the Director of Finance of the City of Fairview Park. (Ord. 90-123. Passed 1-22-91.)

129.14 ANIMAL CONTROL OFFICER.

The Police Chief is authorized to appoint and employ a part-time Animal Control Officer who shall enforce Section 505 specifically, and perform such other duties as are specified by the Chief. (Ord. 99-102. Passed 11-15-99.)

**CHAPTER 131
Fire Department**

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| <p>131.01 Composition and duties.</p> <p>131.02 Appointment, advancement, vacancies.</p> <p>131.03 Fire Prevention Bureau Officer.</p> <p>131.04 Special fire investigations.</p> | <p>131.05 Fire protection outside City.</p> <p>131.06 Compulsory retirement.</p> |
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CROSS REFERENCES

Fire protection contracts - see Ohio R.C. 307.05, 505.44, 717.02
 Emergency alarms - see ADM. 129.10
 Traffic direction in emergencies - see TRAF. 303.02
 Following and parking near emergency or public safety vehicle - see TRAF. 331.27
 Fire Prevention Bureau annual report - see FIRE PREV. 1501.02

131.01 COMPOSITION AND DUTIES.

- (a) The Fire Department shall be composed of the following:
- One Fire Chief.
 - Three Captains.
 - Three Lieutenants.
 - Fire fighter first grade.
 - Firefighter second grade.
 - Firefighter probationary.
- (Ord. 06-12. Passed 4-17-06.)
- (b) Two extra firefighters shall relieve regular firefighters on vacation or absent through disability or other emergency, but no such extra firefighter shall be employed unless needed for the purpose herein set forth, nor for a period of more than three consecutive months at a time. The total number of firefighters in grades 1, 2 and 3 shall not exceed twenty-four.
 (Ord. 75-67. Passed 12-8-75.)

(c) The Fire Department shall be charged with the prevention of fire, the protection of life and property against fire, the operation and staffing of the City ambulance and Emergency Paramedic Unit and shall under day to day authority and direction of the Chief of the Department:

- (1) Be responsible for the maintenance, improvement and care of all properties, apparatus, tools, vehicles, equipment and fire alarms and signals used by the Department in accordance with the directions of the Fire Chief.
- (2) Make and maintain a record of all fire, ambulance, mutual aid and Emergency Paramedic Unit calls and maintain a dispatch center and perform such other communications duties as may be required.
- (3) Perform various miscellaneous public services of an emergency and nonemergency nature, including but not limited to, rescue, ambulance, emergency medical, the suppression of unfriendly fire, the abatement of hazardous conditions, disaster services and paramedic services.
- (4) Inspect potential fire hazards and other conditions unsafe to life safety and abate existing fire hazards and other conditions unsafe to life safety.
- (5) Conduct an educational fire safety and fire prevention program.
- (6) Inspect and maintain fire hydrants.
- (7) Provide such training programs to Department personnel as may be required consistent with effective operation and services.
- (8) Conduct such investigations as may be required by the Fire Chief.
- (9) Perform such other duties as are directed by the Fire Chief, which are not inconsistent with the duties of the Fire Department.

Upon recommendation of the Fire Chief the requirement that members of the Fire Department maintain the paramedic and/or emergency medical technical qualification may be waived for an indefinite or specified period by the appointing authority if the appointing authority determines that such waiver is consistent with the maintenance of the highest level of paramedic, emergency medical and fire fighting service to the City and its citizens. Although professional judgment should be exercised in each case, such judgment shall be based upon:

- A. The occurrence of a medically certified change in the physical or emotional abilities of the individual which prevents the performance of the duties of a paramedic and/or emergency medical technician;
or
- B. The failure to pass the recertification testing requirements provided the individual continues to make good faith efforts to regain paramedic certification and does regain such certification within six months.
- C. A job change which, due to the responsibilities thereof, does not require paramedic and/or emergency medical technician certification as determined by the appointing authority.
(Ord. 83-5. Passed 12-19-83.)

131.02 APPOINTMENT, ADVANCEMENT, VACANCIES.

(a) All officers and firemen shall be appointed by the Fire Chief, and shall be under the rules and regulations of the Civil Service Commission of the City.

(b) A fireman shall serve as a fireman third grade for the first six months next following his original appointment to the Fire Department, and thereafter he shall automatically advance to the rank of fireman second grade and shall serve in that grade for the next twelve months. Thereafter, he shall automatically advance to the position of fireman first grade.

(c) Any vacancies in the above classes shall be filled under the rules and regulations of the Civil Service Commission.
(Ord. 64-56. Passed 11-16-64.)

131.03 FIRE PREVENTION BUREAU OFFICER.

In accordance with the provisions of the Fire Prevention Code, the Fire Chief is hereby authorized and directed to assign and detail one officer to the Bureau of Fire Prevention, to perform such duties as shall be consistent with such office. Notwithstanding the provisions of Section 131.02, the work week for such officer assigned and detailed to the Bureau of Fire Prevention shall consist of an average of forty hours per week.
(Ord. 64-40. Passed 6-15-64.)

131.04 SPECIAL FIRE INVESTIGATIONS.

The Fire Chief is authorized and directed to employ members of the Fire Department for such specialized fire investigations and services and for maintaining the special fire alarm or warning system at his sole discretion and when he deems it advisable.
(Ord. 62-73. Passed 12-3-62; Ord. 65-34. Passed 7-6-65.)

131.05 FIRE PROTECTION OUTSIDE CITY.

(a) Effective October 8, 1965, in accordance with Ohio R.C. 717.021, Council hereby grants authority to the Fire Department to render its services to another municipal corporation or political subdivision in times of emergency.

(b) The Mayor, the Fire Chief and/or any officer in charge of the Fire Department may order and authorize such emergency fire service to be furnished to another municipal corporation or political subdivision in times of emergency.
(Ord. 65-39. Passed 7-26-65.)

131.06 COMPULSORY RETIREMENT.

(a) Effective January 1, 1974, no full-time members of the City Fire Department shall be employed or continue to serve as a member of the Department after attaining the age of sixty-five, except those full-time members of the Department who shall be permitted to continue their employment past age sixty-five until completion of twenty-five years of continuous service contingent upon the individual member passing an annual physical examination given by a physician selected by the City.

(b) Any officer or member of the Fire Department compelled to retire under this section having accumulated overtime upon attaining his sixty-fifth birthday, shall be paid for such overtime at the regular rate of compensation that he has received at his attained rank on the date of retirement. (Ord. 73-44. Passed 6-18-73.)

CHAPTER 133
Division of Building

133.01 Building Commissioner.	133.04 Clerk-Secretary.
133.011 Engaged professional Class I (CBO) Building Official services.	133.05 Clerk-Recording Secretary for boards and commission.
133.012 Engaged professional inspection services.	133.051 Assistant Clerk-Secretary.
133.02 Assistant Building Commissioner.	133.06 Property Maintenance Officer.
133.021 Building/Electrical/Plumbing Inspector residential/commercial.	133.07 Administrator of Community Development.
133.03 City Architect.	133.08 Annual report.

CROSS REFERENCES

Zoning Code enforcement - see P.& Z. 1149.07
 Administration and enforcement of Building Code - see BLDG. Ch. 1303
 Examination of buildings - see BLDG. 1323.02
 Exterior Property Maintenance Code enforcement - see BLDG. 1345.01

133.01 BUILDING COMMISSIONER.

There is hereby established the position of Building Commissioner for the City, which office shall be under the supervision of the Director of Public Service and Development. The Mayor shall, subject to the ordinances of the City and laws of the State of Ohio, appoint a Building Commissioner.

- (a) The Building Commissioner shall be responsible for the administration and enforcement of the Planning and Zoning, Building Codes, Residential Code of Ohio, Housing and Property Maintenance Codes with regard to original construction, alteration, erection, reconstruction, addition or repair of all buildings and structures within the City and to the use, maintenance and occupancy thereof and pursuant to such responsibility shall:
- (1) Administer and enforce the ordinances of the City relating to the use of land;
 - (2) Cause inspections to be made regularly in order to determine compliance with the codes of the City pertaining to such buildings, structures and uses;
 - (3) Cause the issuance of all building permits and supervise the inspection of all work done pursuant to such permits;

- (4) Cause the issuance and service upon the owner or violator of orders requiring the repair or removal of all buildings, structures or conditions not in compliance with the codes pertaining thereto and all requirements of law or ordinance relating to the maintenance, use or occupancy thereof;
 - (5) Cause the initiation of proceedings to compel compliance with such codes and requirements;
 - (6) Cause the issuance of all certificates of occupancy and inspection as authorized and required by law;
 - (7) Maintain a register of all building permits and a record of all compliance orders;
 - (8) Review and make recommendations to the Mayor, Council and the appropriate Boards and Commission on proposals for changes or amendments to the Planning and Zoning, Building, Housing and Exterior Property Maintenance Codes;
 - (9) Review plans and specifications for compliance to the Planning and Zoning Code, Building Code and Residential Code of Ohio; and
 - (10) Issue rules and regulations for the operation of the Division of Building consistent with the Charter, applicable rules and regulations of the Director of Public Service and Development, ordinances of the City and laws of the State of Ohio.
- (b) The Building Commissioner shall perform such other duties, consistent with his office, as may be required by the Charter, by ordinance of Council, or as directed by the Mayor or the Director of Public Service and Development.
- (c) Whenever the phrases "Building Commissioner", "Building Inspector" or "Building Official" appear in the Charter or in any ordinance of the City, such phrases shall, for the purpose of construing the Charter or such ordinance, be deemed to mean each of the other phrases enumerated herein.
- (d) The Building Commissioner is hereby designated as the Building Official responsible for the overall administration of the Division of Building and the enforcement of the Ohio Building Code and the Residential Code of Ohio. The Building Commissioner shall hold Certificates of Building Official and Residential Building Official as required by the Ohio Administrative Code.
(Ord. 87-46. Passed 4-4-88; Ord. 08-66. Passed 1-19-09.)

133.011 ENGAGED PROFESSIONAL CLASS I (CBO) BUILDING OFFICIAL SERVICES.

Effective March 1, 2001, the Mayor may engage a professional Class I Building Official to provide backup inspection services in the event of the unavailability of the City's full time Class I Building Official; and to pay for such services the fixed rate of one hundred dollars (\$100.00) per day. The cost of such services shall be paid from account 100.520.5234.000.
(Ord. 01-21. Passed 5-7-01.)

133.012 ENGAGED PROFESSIONAL INSPECTION SERVICES.

Effective March 1, 2001 the Mayor may engage professional back-up inspection services when necessary; and to pay for such services the fixed rate of thirty-five dollars (\$35.00) per inspection. The cost of such services shall be paid from account 100.520.5234.000.
(Ord. 01-22. Passed 5-7-01.)

133.02 ASSISTANT BUILDING COMMISSIONER.

(a) There is hereby established in the Division of Building the position of Assistant Building Commissioner to be filled by appointment by the Mayor to serve at the pleasure of the Mayor.

(b) The duties of the Assistant Building Commissioner shall be as directed and prescribed by the Director of Public Service and Development and the Building Commissioner or as may be required by ordinance of Council. In the absence of the Commissioner, he shall perform any and all duties required to be performed by the Commissioner by virtue of any law or ordinance applicable and effective in the City.

(Ord. 87-46. Passed 4-4-88.)

(c) The Assistant Building Commissioner shall hold a valid Certificate of Building Official, and Residential Building Official, Electrical Safety Inspector, Plumbing Inspector, Building Inspector or any combination of the foregoing.

(Ord. 08-66. Passed 1-19-09.)

**133.021 BUILDING/ELECTRICAL/PLUMBING INSPECTOR
RESIDENTIAL/COMMERCIAL.**

(a) There is hereby established in the Division of Building, the position of Building, Electrical or Plumbing Inspector to be filled by appointment by the Mayor to serve at the pleasure of the Mayor.

(b) The inspector shall hold at least one valid certificate issued by the Board of Building Standards to execute the duties required to enforce the rules of the board.

(c) The duties of the Inspector shall be as directed and prescribed by the Director of Public Service and Development and the Building Commissioner.

The Inspector shall perform any and all duties by virtue of any law or ordinance applicable and effective in the City. (Ord. 08-66. Passed 1-19-09.)

133.03 CITY ARCHITECT.

(a) When so authorized by Council, a City Architect shall be employed to assist and advise the Division of Building and the various boards and commissions of the City in architectural, planning and building matters, if such assistance is deemed advisable, with the exception that such architect shall not be employed or his assistance solicited with respect to any matters relating to the construction or alteration of single-family residences.

(b) Any additional cost and expense of employing the architect, which is directly attributable to an applicant or any other person submitting plans, drawings and specifications to the City, which the City deems advisable to have the architect renew and obtain his approval thereof, shall be paid by the applicant or other person.

(Ord. 65-60. Passed 12-6-65.)

133.04 CLERK-SECRETARY.

(a) There is hereby established in the Division of Building the position of Clerk-Secretary to be filled by appointment by the Mayor to serve at the pleasure of the Mayor.

(b) The duties of the Clerk-Secretary shall be as directed and prescribed by the Director of Public Service and Development and the Building Commissioner or as may be required by ordinance of Council. (Ord. 87-46. Passed 4-4-88.)

133.05 CLERK-RECORDING SECRETARY FOR BOARDS AND COMMISSION.

(a) There is hereby established in the Division of Building the position of Clerk-Recording Secretary whose duties shall include responsibility as Secretary for the Board of Zoning and Building Appeals and the Planning and Design Commission to be filled by appointment by the Mayor to serve at the pleasure of the Mayor.

(b) The duties of the Clerk-Recording Secretary for the Board of Zoning and Building Appeals and the Planning and Design Commission shall be as directed and prescribed by the Director of Public Service and Development and the Building Commissioner or as may be required by ordinance of Council. In addition thereto, the Clerk-Recording Secretary shall be responsible for the taking and preparation of meeting minutes, for the providing of such notice of meetings of the Boards and Commission as required by law and for the preparation of all communications from the Boards and Commission; to attend the meetings of such Boards and Commission; and to perform such other duties as may be required by such Boards and Commission in the discharge of their respective responsibilities and duties.

(Ord. 87-46. Passed 4-4-88.)

133.051 ASSISTANT CLERK-SECRETARY.

(a) There is hereby established in the Division of Building, the position of Assistant Clerk-Secretary to be filled by appointment by the Mayor to serve at the pleasure of the Mayor.

(b) The duties of the Assistant Clerk-Secretary shall be as directed and prescribed by the Director of Public Service and Development and the Building Commissioner or as may be required by ordinance of Council.

(Ord. 08-66. Passed 1-19-09.)

133.06 PROPERTY MAINTENANCE OFFICER.

(a) There is hereby established in the Division of Building the position of Property Maintenance Officer to be filled by appointment of the Mayor to serve at the pleasure of the Mayor.

(Ord. 87-46. Passed 4-4-88.)

(b) The duties of the Property Maintenance Officer shall be as directed and prescribed by the Director of Public Service and Development and the Building Commissioner or as may be required by ordinance of Council. In addition thereto, the Property Maintenance Officer shall enforce the Zoning and Property Maintenance Codes in the course of the Property Maintenance Officer's duties.

(c) The Property Maintenance Officer shall have knowledge and practical experience in conducting exterior property maintenance inspections or hold a valid Certificate of Competency as an electrical safety inspector, residential plumbing inspector, or residential building inspector.

(Ord. 08-66. Passed 1-19-09.)

133.07 ADMINISTRATOR OF COMMUNITY DEVELOPMENT.

(a) There is hereby established in the Division of Building the position of Administrator of Community Development to be filled by appointment of the Mayor to serve at the pleasure of the Mayor.

(b) The duties of the Administrator of Community Development shall be as directed and prescribed by the Director of Public Service and Development and the Building Commissioner or as may be required by ordinance of Council. In addition thereto, the Administrator of Community Development shall develop and promote plans, programs and recommendations to assure economic and community development, redevelopment and improvement in a properly balanced and orderly manner and for such purposes shall:

- (1) Prepare and administratively process applications for Federal, State, private or other financial grants and assistance in connection with programs and projects the purpose of which are to foster and promote economic and community development, redevelopment and improvement within the City, and the administration of such programs and projects for the City;
- (2) Assemble, analyze and disseminate information, data and other materials which may be helpful to persons, business, industry and the City, including the commercial, educational, cultural, recreational and other advantages, assets and attractions of the City;
- (3) Develop and implement policies, programs and strategies for the retention, expansion and relocation of existing business and industry and for the attraction of new business and industry;
- (4) Coordinate, monitor and evaluate all municipal programs and procedures relating to economic and community development, redevelopment and improvement; and
- (5) Serve as liaison for the City to and between persons, business, industry and other public and private agencies, institutions, organizations and associations related to the economic and community development, redevelopment and improvement of the City, including providing technical assistance to business, industry, persons and neighborhood organizations.

(c) The Mayor may designate the Building Commissioner, or the Assistant Building Commissioner, or both, to discharge the duties of the Administrator of Community Development. (Ord. 87-46. Passed 4-4-88.)

133.08 ANNUAL REPORT.

The Building Commissioner shall prepare or cause to be prepared an annual report detailing the programs and activities of the Division of Building, providing an evaluation thereof and making such recommendations therefor as may be deemed necessary. The annual report shall be submitted to Council on or before March 1 of each year.

(Ord. 87-46. Passed 4-4-88.)

CHAPTER 135
Parks and Recreation Commission

135.01 Powers and duties.**135.02 Limitation of other powers and duties.**

CROSS REFERENCES

Charter provisions - see CHTR. Art. VII, Sec. 3
 Power to regulate speed in parks - see Ohio R.C. 4511.07(E)
 Park land regulations - see GEN. OFF. 541.09
 Parks - see S.U. & P.S. Ch. 921
 Recreation facilities - see S.U. & P.S. Ch. 923

135.01 POWERS AND DUTIES.

The Parks and Recreation Commission established in accordance with Article VII, Section 3 of the City Charter shall have the following powers and duties:

- (a) To initiate and make periodic recommendations to the Administration as to dedicated parks, other parks, parkways, playgrounds and public recreation areas, improved or unimproved, whether owned or under the control of the City, covering their nature, function, use, utilization, maintenance, beautification, control, regulation, acquisition, sale or other alienation, or their rental or lease;
- (b) To provide for its own organization;
- (c) To select its own chair and all other necessary officers;
- (d) To adopt rules and regulations for the conduct of all business within its jurisdiction;
- (e) To hold at least ten regularly scheduled meetings each year at a designated time and place, and may hold such additional meetings as may be called by the chair or upon the request of at least two members of the Commission or as provided in the Charter;
- (f) To advise the Director of Recreation with respect to the planning, organizing and establishing of policies to provide, within the limitations of available funds, year-round recreation and leisure time activities and programs for the residents of all ages of the City, which promote the health, welfare, and physical and mental well-being of all residents, and provides an opportunity for wholesome utilization of leisure time, not only to accommodate present needs, but also to provide for expansion of such activities and programs to serve the future;

- (g) To recommend to the Director reasonable fees and charges for participation in the various recreation and leisure time activities and programs;
- (h) To act as advisors to the Board of Education, Mayor, Council and the Director with regard to the short and long-range planning and implementation of acquiring, developing, equipping, maintaining and improving existing physical park and recreation equipment, facilities and properties including playgrounds, playfields, gymnasiums, swimming pools and indoor and outdoor recreation centers;
(Ord. 89-85. Passed 4-2-90.)
- (i) To assist the Director in the preparation of a proposed budget for recreation and leisure time activities and programs prior to the submission of same to the Mayor and Council. To the extent that any such budget so prepared appropriates revenues derived from any tax levied for recreation purposes or revenues derived from fees and charges imposed for participation in recreation and leisure time activities and programs, such budget may be amended, changed or modified only after review and recommendation by the Commission and, after such review and recommendation by the Commission, approval by the majority of Council. Any action or recommendation of the Commission relating to the amendment, change or modification of a proposed or adopted budget shall be jointly submitted to both the Mayor and Council.
(Ord. 91-80. Passed 8-19-91.)
- (j) To assist in the coordination of all recreation and leisure time activities and programs under the auspices of the Board of Education with the Board and the City;
- (k) To assist volunteer organizations and groups conducting recreation and leisure time activities and programs in the preparation and implementation of their activities and programs;
(Ord. 89-85. Passed 4-2-90.)
- (l) To approve the appointment of the Director by the Mayor and to recommend to the Director and Mayor the employment or removal of persons as play leaders, supervisors, superintendents or employees for recreation purposes provided that any such recommendation shall not be considered as binding upon the Director or Mayor nor shall any such recommendation to the Director or Mayor be considered as a prerequisite to such employment or removal;
- (m) To review any ordinance or resolution concerning the nature, function, use, utilization, maintenance, beautification, control, sale or other alienation, or the rental or lease in excess of one year of dedicated parks, other parks, parkways, playgrounds or public recreation areas, or any part of any such dedicated park or other public place, whether improved or unimproved, and whether owned by the City or controlled by the City, and to make a recommendation thereon; and
(Ord. 90-108. Passed 2-4-91.)

- (n) To review and make recommendations regarding all ordinances and resolutions proposing changes and improvements to park and recreation facilities.
(Ord. 89-85. Passed 4-2-90.)

135.02 LIMITATION OF OTHER POWERS AND DUTIES.

No provision of Section 135.01 shall be construed or interpreted to abrogate, diminish or impair the legislative powers and duties of Council or of any member thereof or the executive powers and duties of the Mayor or of the Director of Public Service and Development pertaining to and regarding park and recreation facilities and properties.
(Ord. 89-85. Passed 4-2-90.)

- (e) To make the Mayor and Council such recommendations as deemed necessary or appropriate concerning the development of year-round recreation and leisure time activities and programs for residents of all ages of the City;
- (f) To recommend to the Mayor, the Director of Finance and Council, on or before the fifteenth day of February each year, a proposed line item Recreation budget, together with a projected recreation and leisure time program, for the ensuing year;
- (g) To assist volunteer organizations and groups conducting recreation and leisure time activities and programs in the preparation and implementation thereof;
- (h) To meet and consult with the Parks and Recreation Commission and to provide information thereto;
- (i) To prepare and submit on or before March 1 of each year, an annual report for the Parks and Recreation Commission, the Mayor and Council, which report shall include an evaluation of existing recreation and leisure time activities and programs as well as anticipated future goals, plans and needs of the Department;
- (j) To establish all fees and charges for participation in the various activities and programs within the operational jurisdiction of the Department, subject to approval by the Mayor;
- (k) To enter into cooperative agreements, subject to the approval of the Mayor and Council, between the City and the cities of Bay Village, North Olmsted, Olmsted Falls, Rocky River and Westlake or with the appropriate boards or commissions thereof as are deemed necessary and appropriate to provide recreation and leisure time activities and programs for residents of all ages of the City;
- (l) To advise the Mayor and Council relating to the acquisition, development, planning, equipping and operation of park and recreation facilities and properties; (Ord. 90-109. Passed 12-3-90.)
- (m) To cooperate and coordinate with the Director of Public Service and Development regarding the improvement, repair and maintenance of dedicated parks, other parks, playgrounds, playfields, gymnasiums, swimming pools and indoor and outdoor recreation centers; (Ord. 91-82. Passed 6-17-91.)
- (n) To publicly solicit and utilize the services of volunteers to the maximum extent possible in all recreation and leisure time activities and programs;
- (o) To establish and maintain a Recreation office within the City, subject to the approval of the Mayor and Council. The hours of the Recreation office shall be as determined by the Director; and
- (p) To perform such other duties, consistent with his office, as may be required by the Charter, by ordinance of Council, or as directed by the Mayor. (Ord. 90-109. Passed 12-3-90.)

136.03 SECRETARY-PROGRAM COORDINATOR.

There is hereby created and established the position of Secretary-Program Coordinator of the Recreation Department whose salary shall be fixed by Council, which position shall be filled by an appointment of the Mayor to serve at the pleasure of the Mayor and under the day to day authority and direction of the Director of Recreation. The Program Coordinator shall have the following specific duties and powers:

- (a) To prepare and maintain such records as required by the Director in a manner prescribed by the Director;
 - (b) To devise and promote booklets and materials pertaining to recreation and leisure time activities and programs as required by the Director;
 - (c) To assist the Director in the preparation of the proposed line item budget, the annual report and the development of year-round recreation and leisure time activities and programs for residents of all ages of the City;
 - (d) To serve as Secretary to the Parks and Recreation Commission; and
 - (e) To perform such office and other duties as may be required by the Director.
- (Ord. 89-86. Passed 4-2-90.)

136.04 APPROPRIATION OF FUNDS.

Council shall appropriate such funds as it deems necessary and appropriate to carry out the functions and duties of the Department of Recreation. Any tax revenues levied for recreational purposes shall be used solely and exclusively for those purposes and shall be appropriated in accordance with Section 135.01.

(Ord. 91-80. Passed 8-19-91.)

CHAPTER 137
Planning and Design Commission

137.01 Powers and duties.
137.02 Notice of Commission meetings.

137.03 Quorum and vote.

CROSS REFERENCES

Charter provisions - see CHTR. Art. VII, Sec. 2
Commission review of all building permits - see P. & Z. 1149.05
Designation of landmarks - see P. & Z. Ch. 1155
Commission review of proposed zoning amendments - see P. & Z. 1157.02
Commission review of subdivision plans - see P. & Z. 1187.01, 1191.01

137.01 POWERS AND DUTIES.

In addition to the powers and duties conferred on the Planning and Design Commission by Section 2, Article VII of the City Charter, the Commission shall have such further powers and duties as now or hereafter may be imposed upon planning commissions by the Constitution or the general laws of the State, and especially as provided in Ohio R.C. 713.02.
(Ord. 94-64. Passed 7-5-94.)

137.02 NOTICE OF COMMISSION MEETINGS.

The Secretary of the Planning and Design Commission is hereby directed to send notification by regular U.S. mail of the date, time, place and subject matter of Commission meetings and of the fact that the detailed plan or amendment thereto to be considered is on file in the Division of Building and available for inspection to any person, firm or corporation owning premises located within 300 feet of the lot line of the premises which are the subject matter of any Commission meeting at least seven days, but not more than fourteen days before the date of such meeting, and to publish such notification at least three days prior thereto in a newspaper of general circulation in the City. Such 300 feet shall be measured from the lot line nearest the affected person, firm or corporation as their interest appears in the current real estate records located in the Division of Building.
(Ord. 94-64. Passed 7-5-94.)

137.03 QUORUM AND VOTE.

(a) A quorum of the Planning and Design Commission shall consist of four members, and the concurring vote of four members of the Commission shall be required for approval of any matter referred to it for consideration.

(b) A member of the Commission shall not be qualified to vote if such member has not attended the public meeting at which such matter was considered or if a member has a direct or indirect interest in the matter. The Commission shall establish a procedure in its rules for the replacement of the registered architect or of the person skilled in or engaged in the business of landscape architecture who has a direct or indirect interest in the matter with the alternate therefore.

(Ord. 94-64. Passed 7-5-94.)

CHAPTER 141
Civil Service Commission

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| <p>141.01 Secretary.</p> <p>141.02 Division into unclassified and classified service.</p> <p>141.03 Retention of classified service classification.</p> | <p>141.04 Examination application fee.</p> <p>141.05 Examinations adopted and approved by Commission.</p> |
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CROSS REFERENCES

Civil service - see Ohio Const., Art. XV, Sec. 10
 Members and duties - see CHTR. Art. VI
 Civil Service Law - see Ohio R.C. Ch. 124
 Civil Service Commission - see Ohio R.C. 124.40
 Applicability to police and fire personnel - see
 Ohio R.C. 737.051, 737.10, 737.11

141.01 SECRETARY.

The position of secretary of the Civil Service Commission is hereby established. The secretary shall act as ex-officio chief examiner and shall have such other duties as the Commission may direct.

141.02 DIVISION INTO UNCLASSIFIED AND CLASSIFIED SERVICE.

The civil service of the City is hereby divided into the unclassified service and the classified service:

- (a) Unclassified Service. The unclassified service shall include the following positions, which positions shall be exempt from all examination requirements:
- (1) All officers elected by popular vote or persons appointed to fill vacancies in such offices;
 - (2) The members of all boards and commissions appointed by the Mayor or Council;
 - (3) All directors, commissioners and heads of departments and divisions and their assistants, except the Police Division and the Fire Division;
 - (4) All secretarial and clerical positions;
 - (5) All assistants to the Director of Law;
 - (6) Any office or position requiring peculiar or exceptional qualification;

- (7) The Clerk of Council and all other employees of Council as are engaged in legislative duties;
 - (8) Any recording secretary or clerk for all boards and commissions;
 - (9) School crossing watchmen;
 - (10) Members of the auxiliary police unit;
 - (11) Temporary, part-time and/or seasonal employees; and
 - (12) The unskilled labor class which shall include ordinary unskilled laborers
- (b) Classified Service.
- (1) The classified service shall include the regular members of the Police Department, except members of the auxiliary police unit and the school crossing watchmen as provided in subsection (a) hereof; the regular members of the Fire Department, except volunteer firemen; and any employees not specifically included in the unclassified service.
 - (2) The competitive class shall include all positions for which it is practicable to determine the merit and fitness of applicants by competitive examination. Appointments shall be made to all positions in the competitive class that are not filled by promotion, reinstatement, transfer or reduction.
(Ord. 81-116. Passed 1-4-82.)

141.03 RETENTION OF CLASSIFIED SERVICE CLASSIFICATION.

Any employee who is promoted from a position in the classified service to a position in the unclassified service shall, for a period of five years, retain his rights to the position in the classified service. (Ord. 81-116. Passed 1-4-82.)

141.04 EXAMINATION APPLICATION FEE.

Due to the rising costs of administration, it is in the best interests of the City to establish an application fee chargeable to applicants for civil service examinations for positions with the Police and Fire Departments. Such fee shall be in an amount determined by the Civil Service Commission, payable at the time an application is submitted by an applicant for admissions to the civil service examinations for positions on the Police and Fire Departments.
(Ord. 81-116. Passed 1-4-82)

141.05 EXAMINATIONS ADOPTED AND APPROVED BY COMMISSION.

(a) The Civil Service Commission is hereby authorized to adopt and approve entrance level and promotional examinations consisting of one or more tests in any combination of written, oral and/or physical tests, demonstrations of skill and/or an evaluation of training and experience, designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position to which such person has made application or to which such person seeks to be promoted.

(b) Subsection (a) hereof is specifically intended to supersede State code limitations on the design and content of civil service entrance and promotional examinations.
(Ord. 95-12. Passed 4-3-95.)

CHAPTER 143
Employment Provisions

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| 143.01 | Definitions. | 143.25 | Funeral leave. |
| 143.02 | Employees covered. | 143.26 | Military leave. |
| 143.03 | Objectives. | 143.27 | Jury leave. |
| 143.04 | Compensation of classification plan. | 143.28 | Personal leave of absence. |
| 143.05 | Class specifications. | 143.29 | Unauthorized leave. |
| 143.06 | Use of the plan. | 143.30 | Payment upon separation. |
| 143.07 | Maintenance of the plan. | 143.31 | Training. |
| 143.08 | Amendments to position classification plan. | 143.32 | Physical examination. |
| 143.09 | Allocation appeals. | 143.33 | Transfer of benefits. |
| 143.10 | Development and maintenance of compensation ranges. | 143.34 | Surety bonds. |
| 143.11 | Appointment rate. | 143.35 | Bi-weekly compensation payment. |
| 143.12 | Within-range increase. | 143.36 | Voluntary deferred compensation plan. |
| 143.13 | Pay rates and transfer, promotion or demotion. | 143.37 | Incentive compensation. |
| 143.14 | Part-time employees. | 143.38 | Pick-up of employee contributions to PERS by salaried employees and administrators. |
| 143.15 | Permitting overrun or underrun on salaries as required for computer payroll methods; deductions from pay. | 143.39 | Pick-up of employee contributions to PERS and PFDPF by service employees, policemen and firemen. |
| 143.16 | Hours of work. | | |
| 143.17 | Overtime defined; overtime premiums. | | |
| 143.18 | Longevity premium. | | |
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| 143.21 | Insurance premium payments. | | |
| 143.22 | Sick leave. | | |
| 143.23 | Vacation leave. | | |
| 143.24 | Holiday leave. | | |

CROSS REFERENCES

Workers' compensation - see Ohio Const., Art. II, Sec. 35;
Ohio R.C. Ch. 4115

Deductions for dues and savings - see Ohio R.C. 9.41, 9.43

Public Employees Retirement System - see Ohio R.C. Ch. 145

Expenses for attendance at conference or convention - see
Ohio R.C. 733.79

143.01 DEFINITIONS.

For purposes of this chapter:

- (a) "Director" means the Director of the Administrative Department to which an employee is assigned, or the Mayor with respect to an employee assigned to the administrative control of the Mayor and members of boards and commissions, or the President of Council with respect to an employee of Council, including the Clerk of Council.
- (b) "Position" means a group of currently assigned duties and responsibilities whether occupied or vacant requiring the full or part-time employment of one person.
- (c) "Class" means a group of positions (or one position) that:
 - (1) Has similar duties or responsibilities;
 - (2) Requires like qualifications; and
 - (3) Can be equitably compensated in the same salary range.
- (d) "Class title" means the official designation or name of the class as stated in the class specification. It shall be used on personnel records and actions. Working or office titles may be used for purposes of internal administration.
- (e) "Employee" means any incumbent of a position.
- (f) "Regular full-time" employee means an employee who is employed on a regular and continuing basis and for whom there is a reasonable expectancy that such employment will continue in excess of six (6) months and excluding overtime is in employment two thousand eighty (2080) or more hours per calendar year or an average of forty (40) or more hours a week. The phrase "regular full-time" employee does not include elected officials, members of any board or commission, the Director of Law, attorneys in the Department of Law, and any person providing services pursuant to contract, except as otherwise provided in this chapter.
- (g) "Regular part-time" employee means an employee who is employed on a regular and continuing basis and for whom there is a reasonable expectancy that such employment will continue in excess of six (6) months and excluding overtime is in employment less than two thousand eighty (2080) hours per calendar year and averages less than forty (40) hours per week.
- (h) "Temporary full-time" employee means an employee who is employed on a regular and continuous basis and for whom there is no reasonable expectancy of regular and continuous employment with the City for a period in excess of six (6) months and who averages forty (40) or more hours per week excluding overtime.
- (i) "Temporary part-time" employee means an employee for whom there is no reasonable expectancy of regular and continuous employment with the City for a period in excess of six (6) months and excluding overtime is in employment less than two thousand eighty (2080) hours per calendar year and averages less than forty (40) hours per week.
- (j) "Active employment" means the actual doing of the work which is a part of the employee's position description and shall include the time periods which the employee is on paid vacation leave, holiday leave, jury service and leave for training. Active employment shall not include any time period during which an employee is on sick leave, military leave, leave without pay, authorized leave, receiving disability pay or under suspension.

- (k) "Salary" means the rate of compensation per year.
- (l) "Hourly" means the rate of compensation per hour.
- (m) "Regular work day" means the number of hours in an employee's work day as established pursuant to this chapter.
- (n) "Regular work week" means the number of hours in an employee's work week as established pursuant to this chapter.
- (o) "Overtime" means work in addition to the established schedule of hours of work in the regular work day or regular work week.
- (p) "Retirement" means disability or service retirement under any State or Municipal retirement system in this State.
(Ord. 89-10. Passed 6-17-91.)

143.02 EMPLOYEES COVERED.

The provisions of this chapter shall be applicable to all non-elected employees of the City who are not beneficiaries of collective bargaining agreements executed by the City and the various employee organizations, and who are regular full-time, regular part-time, temporary full-time or temporary part-time employees of the City as defined in Section 143.01.

All beneficiaries of collective bargaining agreements are specifically excluded from the operation of the provisions of this chapter with the exception of Sections 143.15, 143.20, 143.21(b), 143.31, 143.32, 143.34, 143.35, 143.36, 143.37, 143.38 and 143.39.
(Ord. 89-10. Passed 6-17-91.)

143.03 OBJECTIVES.

The employee classification plan shall include the classification schedule and a complete inventory of all positions in the City Service, and accurate descriptions and specifications for each class of employment. No person shall be appointed to or employed in a position in the City under a title not included in the employee classification plan. In the plan, position titles shall be standardized and each of them shall have the same meanings throughout the City Service.
(Ord. 89-10. Passed 6-17-91.)

143.04 COMPENSATION OF CLASSIFICATION PLAN.

The classification plan shall consist of all of the following:

- (a) A grouping into classes of similar positions which are approximately equal in difficulty and responsibility, which call for the same general qualifications and which can be compensated equitably within the same range of pay under similar working conditions.
- (b) Class titles, descriptive of the work of the class, will identify each class, which may be designated by a numerical class code.
- (c) Written specifications for each class of positions containing a description of the nature of work and relative responsibility of the positions in the class: illustrative examples of work performed in the class; requirements in terms of knowledges, abilities and skills necessary in performance of the work; and a statement of the type of experiences and training generally providing these knowledges, abilities and skills.
- (d) A list showing the class to which each position in the City service is allocated.
(Ord. 89-10. Passed 6-17-91.)

143.05 CLASS SPECIFICATIONS.

The specifications of the classes of positions in the employee classification plan and their various parts shall be used as a guide in the classification of positions and have the following force and effect:

- (a) The specifications are descriptive and not restrictive. They are intended to indicate the kinds of positions that are allocated to the several classes as determined by their duties and responsibilities and shall not be construed as declaring to any extent or in any way what the minimum or maximum duties or responsibilities of any position shall be or as limiting or in any way modifying the power of any appointing authority or administrative officer to assign, direct and control the work of employees under his/her supervision. The use of a particular expression or illustration shall not be held to exclude others not mentioned that are of a similar kind or quality.
- (b) In determining the class to which any position should be allocated, the specifications of each class shall be considered as a whole. Consideration shall be given to the duties, specific tasks, responsibilities, qualification requirements and relationships to other classes as together affording a statement of the employment that the class is intended to embrace.
(Ord. 89-10. Passed 6-17-91.)

143.06 USE OF THE PLAN.

The employee classification plan shall be used:

- (a) In preparing public announcements of vacancies.
- (b) As a guide in preparing examinations which may be used to appraise the qualifications of applicants in specific classes.
- (c) In determining promotional sequence and developing employee training programs.
- (d) In determining compensation to be paid for various types of work and establishing and maintaining an equitable compensation plan.
- (e) In determining personnel service items in the budgets for the various organizational units of the City government.
- (f) In providing uniform job terminology.
- (g) In setting up appropriate employment lists from which personnel may be certified to fill vacancies.
(Ord. 89-10. Passed 6-17-91.)

143.07 MAINTENANCE OF THE PLAN.

The directors of the various administrative departments, together with the Mayor, and in the case of the Clerk of Council and other employees of Council, the President of Council, shall be responsible for the proper maintenance of the Employee Classification Plan so that it will reflect continuously the duties currently being performed by each employee in the City in the class to which each person is allocated. Each director of an administrative department shall propose to the Mayor necessary amendments to the Employee Classification Plan, including the addition of new classes, revision of existing classes, deletion of obsolete classes, and changes in class specifications as follows:

- (a) The director of an administrative department shall, within sixty (60) days of the creation of a new position in the department, complete or approve a written position description of the duties and responsibilities of such position to be forwarded to the office of the Mayor. The Mayor shall allocate the position to one of the classes in the Classification Plan. If a suitable class does not exist, he shall establish a new class and allocate the position to it.
- (b) Changes in the duties and responsibilities of a position involving the addition, reduction, modification of assignments shall be reported to the Mayor by the director of the administrative department concerned. If the changes are determined to be permanent and are sufficiently significant to justify re-allocation to a different classification, the Mayor shall assign the position to the class which is appropriate under the modified circumstances.
- (c) The director of each administrative department shall periodically review or cause to be reviewed the classification of positions and shall audit duties and responsibilities of each change in the class specifications as required and shall recommend to the Mayor such changes as are necessary to keep the Employee Classification Plan current.
- (d) The Mayor may require administrative departments or employees to submit position descriptions on a periodic basis or anytime he has reason to believe there has been a change in the duties and responsibilities of any position. The Mayor shall direct the grading and classifying of all positions of the City's service at least once every five (5) years on a cyclical basis.
- (e) Any employee may request in writing a classification review of his/her position at any time providing the position has not been reviewed within the previous twelve (12) months. The director of the administrative department shall forward the request to the Mayor within ten (10) days of receipt. The Mayor shall act on any request involving an individual position within sixty (60) days and on any request involving several positions, as promptly as possible after receipt of such request. Changes in duty assignments must be more than temporary in nature and the incumbent must be performing the duties for the duration of not less than one month to warrant investigation.
- (f) The assignment of duties to a position whether the duties are temporary or permanent, incidental or essential, the location of work, the type of equipment and tools to be used and the scheduling of shift assignments shall be wholly the responsibility of the Director, the Police or Fire Chief in the case of those Departments, and the President of Council with respect to employees of Council, including the Clerk of Council. The classification plan shall in no way operate or be construed to operate, to limit or interfere with his/her responsibility for the assignment of duties.
- (g) With reference to employees of Council, including the Clerk of Council, the President of Council shall discharge the duties and obligations imposed upon directors of administrative departments by subsections (a) through (e) hereof and the Council shall discharge the duties and obligations imposed upon the Mayor in such subsections.
(Ord. 89-10. Passed 6-17-91.)

143.08 AMENDMENTS TO POSITION CLASSIFICATION PLAN.

The establishment of a new class of positions or the abolishment of a current class of positions shall be made by amendment to the Classification Plan. When a filled position is re-allocated, the action shall be administered as though the original position was abolished and a new position with a different classification established.

(Ord. 89-10. Passed 6-17-91.)

143.09 ALLOCATION APPEALS.

If an administrative employee believes his/her position has been improperly allocated or re-allocated to a class, the employee may appeal to the Civil Service Commission. The procedure for such appeals shall be as follows:

- (a) A written appeal shall be prepared and filed with the Secretary of the Civil Service Commission within thirty (30) days of the date upon which the employee was notified of this class allocation or re-allocation.
- (b) The appeal shall set forth the reasons therefore.
- (c) The Civil Service Commission shall consider all appeals and shall provide reasonable opportunity for the appellant and appellee to be heard.
- (d) The Civil Service Commission shall notify the appellant and appellee in writing of its decision which shall be final. Any decision of the Civil Service Commission under this provision which allocates a position of an employee to a different class in the Employee Classification Plan shall be retroactive to the date the appeal was filed unless otherwise ordered by the Civil Service Commission.

(Ord. 89-10. Passed 6-17-91.)

143.10 DEVELOPMENT AND MAINTENANCE OF COMPENSATION RANGES.

The compensation range for each position shall be determined by Council with due regard for ranges of pay of other position classes, relative difficulty and responsibility of each position in each class, availability of employees in particular occupational categories, prevailing rates of similar employment in private establishments in the Fairview Park area and the municipal service of other public jurisdictions in the general area, cost of living factors, the financial policies of the City and other economic considerations.

The Mayor shall make comparative studies of factors affecting the level of salary ranges as often as necessary and shall submit his/her recommendations to Council for its action.

(Ord. 89-10. Passed 6-17-91.)

143.11 APPOINTMENT RATE.

The minimum rate established for a class shall be paid upon appointment except that appointment rates above or below the minimum rate may be authorized by the Mayor upon the written request of a Director of a Department, or in the case of an employee of Council, including the Clerk of Council, may be authorized by action of Council.

- (a) Appointments above the minimum rate.
Approval for appointments above the minimum rate shall be based upon exceptional qualifications of the appointee or inability to employ eligible candidates at the minimum rate.

- (b) Appointments below the minimum rate.
Approval for appointments below the minimum rate may be made where the candidate possesses less than the minimum acceptable qualifications for a classification. Such appointments shall be made on a trainee basis. When it is determined by the Mayor, the director of the employing administrative department or the President of Council that the trainee is able to function on a full performance basis, he/she may be advanced to the regular minimum rate.
(Ord. 89-10. Passed 6-17-91.)

143.12 WITHIN-RANGE INCREASE.

Salary adjustments within an established range shall not be automatic but shall be dependent upon formal recommendation of the director of the employing administrative department to the Mayor, or in the case of an employee of Council, the Council. Any employee whose job performance is satisfactory shall be advanced within the steps in his/her assigned pay range and shall be based on the performance rating given pursuant to standards of performance established by the Mayor for administrative department employees and the President of Council for employees of Council, including the Clerk of Council. The employee shall be informed of the reasons for withholding an increase and the improvement in performance required to obtain a satisfactory rating. General increases or decreases resulting from the adjustment of the basic compensation schedules shall not prevent within-range increases in accordance with this section.
(Ord. 89-10. Passed 6-17-91.)

143.13 PAY RATES AND TRANSFER, PROMOTION OR DEMOTION.

If an employee is transferred, promoted or demoted upon the recommendation of the director of the employing administrative department and approval by the Mayor, or, in the case of an employee of Council, including the Clerk of Council, upon the recommendation of the President of Council and approval of Council, the employee's pay for the new position shall be determined as follows:

- (a) If the rate of pay in the former class is less than the minimum rate established for the class of the new position, the rate of pay shall be advanced to the minimum for the class.
- (b) If the rate of pay in the former class is more than the maximum rate established for the new class, the pay shall be reduced to the maximum rate or an intermediate rate of the new range.
- (c) If the rate of pay in the former class falls within the new rate of pay, the salary rate shall remain the same in the case of transfer and shall be increased in the case of a promotion and shall remain the same or adjusted to a lower step in case of a demotion.
(Ord. 89-10. Passed 6-17-91.)

143.14 PART-TIME EMPLOYEES.

(a) Employees of the City, except as provided in subsection (b) hereof, who were hired on a part-time basis, shall be paid only such part of the rate of full-time employees in the same position class as is proportionate to the amount of time actually worked by such employee during any pay period to the amount of time regularly worked by a full-time employee in the same position class during a regular pay period. Part-time employees may be paid on an hourly or salary basis as shall be determined by the director of the department in which such employee is hired. The hourly rate of a part-time employee shall be determined by the director of the department in which such person is employed by dividing the regular number of work week hours for full-time employees in the appropriate classification into the weekly equivalent for the annual salary of such full-time position.

(b) As to employees assigned to their respective control, the President of Council, and the director of any administrative department with the approval of the Mayor, or the Mayor may determine that an employee does not fit any existing position classification for full-time employment in which case the President of Council or the Mayor may recommend to Council that a separate position classification be established for such part-time work together with a specific rate of pay schedule which position schedule classification shall be designated as part-time. For a separate position classification for which a rate of pay is established for a specific part-time position, the provisions of subsection (a) hereof shall not apply.
(Ord. 89-10. Passed 6-17-91.)

143.15 PERMITTING OVERRUN OR UNDERRUN ON SALARIES AS REQUIRED FOR COMPUTER PAYROLL METHODS; DEDUCTIONS FROM PAY.

(a) In order to facilitate the handling of entries for computer payroll methods and to eliminate the necessity for adjustments for overruns and underruns which may occur through this method and to take care of overruns and underruns resulting in bi-weekly pay periods, the Director of Finance is authorized to adjust and pay overruns and underruns not to exceed one dollar (\$1.00) per employee per year.

(b) The Director of Finance is authorized to deduct or withhold from an employee's wages or salary such sums of money as specifically authorized in writing by such employee, and apply or remit such funds, so withheld in accordance with such employee's written instructions.
(Ord. 89-10. Passed 6-17-91.)

143.16 HOURS OF WORK.

Other than the Clerk of Council whose schedule is established by the Council or its Presiding Officer, the regularly-assigned work week and the regularly assigned work-day for all employees of the City who are amenable to the provisions of this chapter shall be established by the directors of the various departments and approved by the Mayor. Each employee shall be advised, in writing, as to what constitutes a regular work week and a regular work day for such employee.

(Ord. 89-10. Passed 6-17-91.)

143.17 OVERTIME DEFINED; OVERTIME PREMIUMS.

(a) Any work in excess of the regular work week and the regular work day shall be compensated at the overtime premium as set forth herein. For the purpose of calculating overtime, all leave with pay granted elsewhere in this chapter, with the exception of sick leave and jury leave, shall be included as work actually physically performed.

(b) Overtime work may be authorized in cases of emergency absolutely necessitating such overtime work and, in such event, may be authorized by an administrative director, subject to the approval of the Mayor, or by the President of Council as to employees of Council.

(c) The directors of departments, the Secretary to the Mayor, secretaries to the directors of departments, secretaries to boards and commissions, Clerk of Council and attorneys in the Department of Law shall not be entitled to compensation in money or time off for hours worked on a holiday, or each hour worked in excess of eight (8) hours per day or for each hour worked in excess of forty (40) hours during any work week.

(d) Any employee of the City not engaged in fire protection or law enforcement activities and exempt from the overtime provisions of the Fair Labor Standards Act of 1938, as amended, may receive at the discretion of the Director of the employee's Department, or the appointing authority of those employees not in a Department administered by a Director:

- (1) Compensation in money at a rate not to exceed one and one-half (1.5) times the rate of hourly pay established for such employee for all hours worked on a holiday and for each hour worked in excess of eight (8) hours per day or in excess of forty (40) hours in any work week; or
- (2) Time off from the performance of duty during regular hours of work at a rate not to exceed one hour for each hour worked on a holiday and for each hour worked in excess of eight (8) hours per day or in excess of forty (40) hours during any work week. The time off shall be used within thirty (30) days after it was earned or it shall be forfeited. The director of the employee's department or the appointing authority of those employees not in a department administered by a director shall determine when an employee may use such time off.

(e) An employee of the City not exempt from the overtime provisions of the Fair Labor Standards Act of 1938, as amended, shall be entitled to overtime compensation of a rate of one and one-half (1.5) his/her regular hourly rate times the hours worked in excess of eight (8) hours per day or in excess of forty (40) hours per week or for all hours worked on a holiday either in money or time off in accordance with the Fair Labor Standards Act of 1938, as amended. Accrued time off for such employees shall not be forfeited at any time.

(f) The Chief of Police and the Fire Chief shall not be entitled to compensation in money or time off for hours worked on a holiday, for each hour worked in excess of eight (8) hours per day or for each hour worked in excess of forty (40) hours during any work week.

(g) The employees of the City engaged in fire protection or law enforcement activities, employed in a bona fide executive, administrative or professional capacity, other than the Chief of Police and Fire Chief, and not covered by a collective bargaining agreement with an employee organization representing employees may receive overtime compensation in accordance with subsection (d) hereof.
(Ord. 89-10. Passed 6-17-91.)

143.18 LONGEVITY PREMIUM.

(a) Effective January 1, 2003, all non-elected full-time employees shall receive an additional compensation for length of full-time, continuous service with the City according to the following schedule:

One hundred dollars (\$100.00) for each year of consecutive full-time service with this City commencing on the employee's fifth anniversary date of such service with the City. At that time the employee will become entitled to a sum of five hundred dollars (\$500.00), which will be paid in a lump sum in the first pay period of December of that year. Employees with more than five (5) years of consecutive full-time service with the City shall be entitled to one hundred dollars (\$100.00) per year of service up to a maximum of twenty-five hundred dollars (\$2,500). Longevity will continue to be awarded on the employee's successive anniversary dates of consecutive full-time service to the City according to the procedure hereinbefore provided.

(b) All sums payable to any employee by virtue of this section shall be prorated in the year of separation to the date of such separation.

(c) Elected officials, attorneys in the Department of Law, the City Engineer, members of any board or commission, any person providing services pursuant to contract and seasonal employees shall not be eligible for longevity compensation hereunder.

(d) No individual employed by the City in more than one capacity shall be entitled to the benefits of this section other than the primary Department of such employee.

(e) Except as provided in subsection (b) and subsection (f), termination of employment, for any reason, either voluntary or involuntary, shall terminate all rights and accrued benefits and eligibility under this section. Any employee who retires and is re-hired full-time by another Department of the City shall accrue benefits hereunder as if the employee were a new employee and prior service with the City shall not be counted.

(f) In the event an employee leaves the employment of the City under the disability provisions of a pension program or dies while still on the active payroll of such department, then the longevity benefits payable under this section shall be prorated for such period of time. Such prorated longevity benefits shall be payable in a lump sum within thirty (30) days after disability commences or death of such employee and shall be paid to such member or surviving wife or husband, dependent children or heirs designated in the estate of the employee, in the order hereinbefore named.

(g) In each calendar year the anniversary date of the employment shall be the first day of the month in which the employee commenced his continuous full-time employment with the City. In calculating length of an employee's continuous employment, full-time service in all Departments of the City shall be included.
(Ord. 03-46. Passed 12-1-03.)

143.19 UNIFORM ALLOWANCE.

(a) For those employees required to wear special uniforms in carrying out their duties, the City will pay an annual allowance, as and for a uniform purchase, maintenance and repair allowance according to the following schedule:

- (1) To the Foreman, the Assistant Foreman and the Traffic Signal Technician of the Department of Public Service and Development, the same sum as is paid to other employees of such Department.
- (2) To the Chief and Assistant Chief of the Fire Department, the same sum as is paid to other employees of the Fire Department.
- (3) To the Chief and Captain of the Police Department, the same sum as is paid to other employees of the Police Department.

(b) The aforesaid allowances shall be paid on a semi-annual basis. Any uniform required to be worn by any of the aforementioned employees, or any portion thereof, which may be damaged or destroyed in the line of duty, ordinary wear and tear excepted, shall be replaced by the City.

(c) The aforesaid mentioned uniform allowances shall be prorated to the date of resignation or retirement of such employee. If such uniform allowance account is overdrawn, the overdrawn amount shall be prorated and deducted from the final salary payment of such employee. If an employee is due a uniform allowance payment at the time of termination of employment, the amount so due shall be paid on a prorated basis based upon the applicable annual allowance and shall be added to the final payment.
(Ord. 89-10. Passed 6-17-91.)

143.20 TRAVEL EXPENSES AND MILEAGE ALLOWANCE.

(a) The travel expenses of any City official or employee attending meetings, conferences or conventions relating to municipal affairs outside the City or while engaged in any official business, including travel, lodging, meals, fees, tips and gratuities, and other business related expenses shall be paid by the City or such person shall be properly reimbursed for the expense so incurred if the travel is first authorized by the Mayor and the director of the department to which the employee is assigned or in the case of a member of Council by the President of Council and if the Director of Finance certifies that funds are appropriated and available for such purposes. The maximum reimbursement for meals shall be twenty dollars (\$20.00) per day proportioned as follows - breakfast, five dollars (\$5.00), lunch, six dollars (\$6.00) and dinner, nine dollars (\$9.00).

(b) Any City official or employee required to travel outside the City in the performance of their duties or on official business on behalf of the City shall be compensated for the use of such personal automobile at the maximum rate as permitted by Internal Revenue Service Regulation.

(c) An application for payment of travel expenses and mileage allowance pursuant to this section shall be accompanied by a detailed expense account and shall be promptly submitted after the expense has been incurred.
(Ord. 89-10. Passed 6-17-91.)

143.21 INSURANCE PREMIUM PAYMENTS.

Insurance premium payments shall be provided for employees as follows:

- (a) Hospitalization and/or Health Plan Insurance. Each regular full-time employee of the City may elect to participate in one of the following plans:
- (1) A group policy or contract, approved by the Board of Control, providing health, medical, hospital, surgical benefits or any combination thereof covering employees for which the City shall provide full premium payments; or
 - (2) A contract or contracts approved by the Board of Control providing health care services with a health maintenance organization, organized under the Ohio Revised Code, for which the City shall pay up to, but not exceed, the sum the City would otherwise pay for the insurance contract(s) available to the employee under subsection (a)(1) hereof with the balance to be paid by the employee through payroll deduction.
No amounts hereunder shall be paid directly to any employee which shall be credited against the cost to the employee of such insurance coverage. No employee shall receive the benefit of this provision in more than one employment capacity with the City. An election to participate in the group shall be made only at such times as permitted by the insurance carrier or health maintenance organization.
 - (3) In lieu of the provisions of subsections (a)(1) and (a)(2) hereof, the City may self-fund health, medical, hospital and surgical benefits and acquire umbrella or stop-loss insurance for such benefits if approved by ordinance of Council.

- (b) The City shall provide full premium payment for the group liability insurance contract applicable to employees as may specifically be designated by the Board of Control.
(Ord. 89-10. Passed 6-17-91.)

143.22 SICK LEAVE.

All regular full-time employees of the City shall receive sick leave according to the following terms and conditions:

- (a) Sick leave is defined as an absence from duty with pay necessitated by:
 - (1) Illness or injury to an employee claiming such sick leave.
 - (2) Exposure by an employee claiming sick leave to a contiguous disease communicable to other employees.
 - (3) The maternity confinement of an employee or spouse of an employee or for illness or injury to a person related to an employee in the first degree by consanguinity or affinity.
- (b) All employees shall earn sick leave at the rate of four and six-tenths (4.6) hours per weekly pay period during which the employee actually worked or was absent by reason of leave granted elsewhere in this chapter with the exception of leave without pay. (Ord. 89-10. Passed 6-17-91.)
- (c) Administrative and nonbargaining unit employees may accumulate sick leave to an unlimited amount and shall use such leave in segments of not less than one hour. Upon the retirement or death of any such employee who has not less than ten years of continuous employment with the City and who has qualified for retirement benefits from a State of Ohio Public Employee Retirement System, such employee shall be entitled to receive a cash payment equal to the employee's hourly rate of pay at the time of retirement multiplied by one-half the total number of accumulated but unused sick hours earned by such employee, provided, however, that such resulting number of sick hours to be paid shall not exceed 1307 hours. In the case of a deceased employee, accumulated sick leave is payable as provided in Section 143.30. (Ord. 95-120. Passed 2-20-96; Ord. 08-38. Passed 6-2-08.)
- (d) There will be no reduction of sick leave time when an employee is absent due to a job related injury or disease if such employee shall authorize the Industrial Commission of Ohio and/or the Bureau of Workers' Compensation to mail his/her warrants for compensation in care of the City in order that the City may be reimbursed to the extent of the advancements made to the employee or any portion thereof. Attendance and credit records shall be maintained by the Director of the employing department and submitted to the Department of Finance with each pay period.
- (e) An employee, who, without resigning or retiring, transfers from one Department of the City to another Department of the City shall be credited with the unused balance of the employee's accumulated sick leave.
- (f) The director of the employing department may require an employee to furnish a satisfactory written, signed statement to justify the use of sick leave. If medical attention is required, a certificate stating the nature of the illness from a licensed physician may be required to justify the use of sick leave. Falsification of either a written, signed statement or a physician's certificate shall be grounds for disciplinary action, including dismissal. No sick leave shall be granted an employee upon or after retirement or termination of employment.

- (g) An employee from the State or any of its political subdivisions to the City shall be credited with the unused balance of accumulated sick leave up to the maximum permitted in this section provided proof of such sick leave credit is furnished in writing by the employee's former employer and further provided that there shall be no cash payment for such sick leave credit transferred upon termination of employment.
- (h) Employees laid off for more than one (1) year will receive accumulated sick leave based upon the last day worked and paid in accordance to the provisions of this section after lapse of one (1) year if not recalled.
- (i) Employees who are discharged for cause forfeit all rights to payment under this subsection.
- (j) The department head shall require the employee to furnish a satisfactory written statement to the effect that the absence was caused by illness or injury.
- (k) Employees who have been absent for three (3) days or more, due to illness or injury, shall be required to present a statement from a physician validating that they are physically able to resume their regular duties on a regular basis.
When an employee has been absent for less than three (3) days, the department head, at his/her discretion, may request a statement from the employee from his/her physician before the employee may return to work.
- (l) In the event any employee has been off duty for a serious injury or disease or any employee has suffered loss of limb or sight or physical or mental disability or if any such employee is unable to perform the duties performed prior to disability, the director or Mayor, or the President of Council in the case of employees of Council, may deem it necessary to have the employee approved by the City physician before such employee returns to work.
- (m) Sick leave shall not be used for retirement purposes, as for example, an early retirement.
(Ord. 89-10. Passed 6-17-91.)

143.23 VACATION LEAVE.

Each regular full-time employee is entitled to annual vacation leave with pay according to the following schedule:

- (a) After one year full-time service, two weeks (ten work days);
After five years full-time service, three weeks (fifteen work days);
After ten years full-time service, four weeks (twenty work days);
After fifteen years full-time service, five weeks (twenty-five work days);
After twenty-three years full time service, six weeks (thirty work days).

- (b) An employee shall become eligible for leave on or after the employee's anniversary date and vacation leave shall be taken by the employee within twelve months thereafter, except that no more than one year's vacation may be taken in any calendar year, provided however, that the Mayor as to an employee of an Administrative Department or the President of Council as to an employee of Council shall have the authority to permit an employee to use vacation hours during the first two months of the following year due to staffing or other unforeseen circumstances which prevent the employee from otherwise using the vacation leave as provided herein.

For the purpose of calculating vacation leave, only such time as the employee has in continuous service with the City shall be utilized and, except as provided in Ohio R.C. 9.44, no credit for previous employment other than with the City shall be given provided, however, that any part-time service with the City shall be credited toward vacation leave on a pro-rata basis.

- (c) The Director of each Department shall designate the time when each employee may take vacation leave.
- (d) Except as provided in subsection (b) every employee shall use the employee's full vacation allowances each year. Vacation time is not cumulative from one year to another. No employee shall be paid salary in lieu of vacation.
- (e) No officer or employee of the City shall receive the benefit of the provisions of this section in more than one employment capacity with the City. The period of vacation for Clerk of Council shall be designated by its Presiding Officer.
- (f) If an employee is terminated, voluntarily or involuntarily, prior to taking his/her vacation, he/she shall receive the prorated portion of any fully earned but unused vacation leave at the time of separation.

If a recognized holiday falls within an employee's vacation leave, the employee shall receive an additional paid holiday vacation day in lieu of the holiday either at the beginning or at the end of the vacation leave.

- (g) In the last calendar year of any person's employment with the City, the vacation pay to which the employee will be entitled in addition to any unused vacation leave will depend of the amount of time worked since the last anniversary date of employment of the employee. The number of days elapsing between the last anniversary date and the end of the last day of employment, divided by the number of days in the calendar year multiplied by the number of normal vacation days for that person will determine the number of vacation days for which the employee is paid. A terminal fraction of five-tenths (.5) or more will be raised to a full day and a terminal fraction of less than five-tenths (.5) will be dropped.
(Ord. 03-46. Passed 12-1-03.)

143.24 HOLIDAY LEAVE.

- (a) Each regular full-time and regular part-time employee shall receive holiday pay at regular compensation on the following work days:

New Years Day
Memorial Day
Independence Day
Labor Day
Thanksgiving Day
Christmas Day
Employee's birthday

Four floating holidays as approved by the director of the administrative department or the President of Council for employees of Council, including the Clerk of Council.

(b) Should holiday leave granted herein occur on a Sunday, the following Monday shall be observed as the holiday. Should holiday leave granted herein occur on a Saturday, the preceding Friday shall be the holiday. Should an employee be regularly scheduled for work on a day defined hereinbefore as holiday leave, such employee shall be entitled to take such holiday leave at another time as may be approved by the director of the employing department. Refusal on the part of an employee to work on a holiday when requested to do so shall constitute a forfeiture of all benefits of holiday pay under this section. Failure of an employee to work on a scheduled work day preceding and the scheduled work day succeeding the holiday, unless excused by the Mayor or department or division head or President of Council, or unless on vacation shall constitute a forfeiture of all benefits of holiday pay under this section.

(c) Holiday pay shall not apply to temporary, seasonal or per diem personnel.

(d) No employee shall receive the benefit of this section in more than one (1) employment capacity with the City.
(Ord. 89-10. Passed 6-17-91.)

143.25 FUNERAL LEAVE.

All regular full-time and regular part-time employees shall be granted funeral leave according to the following schedule:

In the event of the death of spouse, mother, father, child, brother, sister, grandparents, grandchild, parents-in-law, son-in-law, daughter-in-law, sister and brother-in-law or person who has been in loco parentis to the employee, a maximum of three (3) work days which shall not be deducted from sick leave. In a death in the immediate family as hereinbefore occurs while the employee is on duty, the employee shall be excused for the remainder of the work day and such time shall not be charged to leave of any kind.

(Ord. 89-10. Passed 6-17-91.)

143.26 MILITARY LEAVE.

(a) All employees who are members of the Ohio National Guard, the Ohio Military Reserve, the Ohio Naval Militia, or other reserve components of the Armed Forces of the United States of America, shall be entitled to military leave from their respective duties for such times as they are on field training or active duty for a cumulative period not to exceed thirty-one (31) days in any calendar year. Application for military leave shall be submitted to the director of the employing department at least thirty (30) days in advance of the proposed leave.

(b) If compensation by any military authority given during the period of leave is less than the regular compensation which would have been given by the City for such period, the employee shall be paid by the City the difference in cash money between the regular pay and the military pay. Should the military compensation exceed the regular compensation from the City, the employee shall not be required to reimburse the City with such differential in cash money. Reimbursed expenses, travel and subsistence pay and all other similar allowances shall not be considered in determining the amount of pay received for such service, training, or active duty. The provisions of this section shall not apply if such military service, field training or other active duty is less than seventy-two (72) consecutive hours or longer than thirty-one (31) consecutive days. Any City employee, at the election of the employee, may credit all or any portion of such military leave against the employee's regular annual vacation and for such period so charged the employee shall receive regular vacation pay without deduction for pay received for such service, training or active duty.
(Ord. 89-10. Passed 6-17-91.)

143.27 JURY LEAVE.

(a) All City employees shall receive their regular wages for time lost from their work with the City while serving as a member of a Municipal, Common Pleas or Federal Court jury panel, without deduction for any amount as they may receive from the court for such service.

(b) In order to qualify for such pay, the employee shall notify the director of the employing department of such service in advance and upon completion of such service present proof satisfactory to the Finance Director from the court as to the time spent in such service.

(c) No time spent in such service shall be counted or used for purposes of determining eligibility for overtime pay or compensatory time off.
(Ord. 89-10. Passed 6-17-91.)

143.28 PERSONAL LEAVE OF ABSENCE.

(a) The President of Council with the approval of Council as to an employee of Council, including the Clerk of Council, and the Mayor as to an administrative employee in the classified or unclassified service may grant a leave of absence on account of sickness, disability, educational development or other reasons found to be in the mutual interest of the City and the employee. An employee shall request, in writing, all leaves of absences without pay. The request shall state reasons for taking a leave of absence and dates for which such leave is being requested. A personal leave of absence is subject to the following provisions:

- (1) Length of leave. Personal leaves of absence may be granted for a maximum duration of six (6) months.
- (2) Abuse of leave. If it is found that a leave of absence is not actually being used for the purpose for which it was granted, the Mayor, or the President of Council, may cancel the leave and direct the employee to report for work by giving written notice to the employee.

- (3) Failure to return. An employee who fails to return to work within three (3) working days of the completion of, or the valid cancellation of a leave of absence without pay, may be removed from his or her position in accordance with the Ohio Revised Code if a classified employee, or at the discretion of the Mayor if an unclassified employee, or Council, if an employee of Council, including the Clerk of Council. An employee who timely fails to return from a leave of absence without pay and is subsequently removed from his or her position is deemed to have a termination date corresponding to the starting date of the leave of absence without pay.
- (4) Return to service. Upon completion of a leave of absence without pay, the employee shall be returned to the same or similar position with the employee's former classification. If the employee's former classification no longer exists, the employee shall, with the approval of the Mayor, or the President of Council with the approval of Council as to employees of Council, including the Clerk of Council, be assigned to a position in a classification similar to that formerly occupied. The employee may be returned to active pay status prior to the original scheduled expiration of the leave if such earlier return is agreed to by both the employee and the Mayor or the President of Council.
- (5) Civil service examinations. A provisional employee who is on leave of absence without pay is responsible for obtaining information about and participation in any test for the employee's classification during such leave and may be replaced from an eligibility list.
- (6) Service credit. Authorized leaves of absence, without pay, shall not count as service credit for annual step increases, layoff purposes, and for computing the amount of vacation leave.
- (7) Reporting leaves. The Mayor shall report to the Civil Service Commission the name of the classified employee who is on any leave of absence without pay which extends for one (1) pay period or longer and the subsequent return from such leave. Any leave of absence without pay shall be reported for an employee serving a probationary period.
- (8) Probationary period of an employee on a leave of absence without pay. The period during which an employee is on a leave of absence without pay shall not be counted towards an employee's original or promotional probationary period.
- (9) An employee on a leave of absence without pay shall not be entitled to earn credits toward sick time, vacation time and/or holidays.

(b) Pregnancy, Childbirth and Related Medical Conditions and Disabling Illness, Injury or Condition Not Covered by the Workers' Compensation Laws of the State of Ohio. Upon written request to the Mayor by an administrative employee or upon written request to the President of Council by an employee of Council including the Clerk of Council, a pregnant employee or a disabled employee with an illness, injury or condition not governed by the Workers' Compensation Laws of the State of Ohio shall be granted a leave of absence without pay subject to the following provisions:

- (1) Length of leave. Leaves of absence shall be limited to the period of time that the pregnant or disabled employee is unable to perform the substantial and material duties of the employee's position but not to exceed six (6) months. This period may include predelivery, delivery and recovery time for the pregnant employee and recovery time for the disabled employee, as certified by a physician, which shall not in any case exceed six (6) months.
- (2) Physicians certificate. A pregnant or disabled employee requesting a leave of absence without pay must present, at the time the request is made, a certificate stating that the probable period for which the employee will be unable to perform the substantial and material duties of the employee's position due to pregnancy, childbirth and related medical conditions or due to such disabling illness, injury or condition.
- (3) Sick leave usage. Upon request, a pregnant or disabled employee shall be permitted to use any or all of the employee's accumulated sick leave credit for the period of time that the employee is unable to work as a result of pregnancy, childbirth or related medical conditions or as a result of such disabling illness, injury or condition.
- (4) Vacation leave usage. Upon request, a pregnant or disabled employee shall be permitted to use any and all of the employees accumulated vacation leave at any reasonable time prior to or following childbirth or for the recovery time of the disabled employee.
- (5) All of the terms, conditions and provisions of subsections (a)(2) through (a)(9) hereof shall apply to a pregnant or disabled employee in the classified service and all of the terms, conditions and provisions of such subsection (a) except subsections (a)(5) and (a)(7) hereof shall apply to a pregnant or disabled employee in the unclassified service.

(c) Medical Coverage. If requested by the employee, in writing, before the leave of absence is started, the City shall continue in effect any medical coverage for an employee during the period of a leave of absence permitted hereunder. However, an employee on a personal leave of absence shall reimburse the City for all medical coverage premiums paid for by the City during the leave of absence period permitted hereunder. An employee who is on a leave of absence as a result of a job related injury or illness and who is receiving Workers' Compensation temporary total disability benefits shall continue to receive medical coverage for a period not to exceed six (6) months.

(Ord. 89-10. Passed 6-17-91.)

143.29 UNAUTHORIZED LEAVE.

Employees absent from work without authorization shall be considered on unauthorized leave. An unauthorized leave for a period of three (3) or more assigned working days shall be considered as an automatic resignation from service with the City.
(Ord. 89-10. Passed 6-17-91.)

143.30 PAYMENT UPON SEPARATION.

Upon the separation of an employee from service, all sums earned and accrued and pursuant to this chapter, together with those sums resulting from pro-rations to the date of such separations shall be paid to:

- (a) The employee;
 - (b) The next of kin of the deceased employee;
 - (c) Beneficiaries designated by an employee; or
 - (d) The estate of such employee.
- (Ord. 89-10. Passed 6-17-91.)

143.31 TRAINING.

The City may pay directly or by reimbursement to an employee the direct or indirect cost for additional training as follows:

- (a) Classes, seminars, training sessions or other learning experiences related to job performance, job efficiency or improved abilities of a City employee to perform his work which are authorized by the Mayor on recommendation of the director of the employing department or in the case of an employee of Council, including the Clerk of Council, which are authorized by the President of Council.
- (b) Reimbursement shall include the cost of all tuition, books, study aids, and other required and necessary items pertaining to the class, seminar, training session or other learning experience shall be paid in full by the City upon presentation of a documented voucher indicating requirement of such expenditure.
(Ord. 89-10. Passed 6-17-91.)

143.32 PHYSICAL EXAMINATION.

(a) Every new employee of the City shall submit to a physical examination when required by division or department rule or regulation to determine fitness for the position.

(b) The Mayor shall designate the person who is to perform such physical examinations and the expenditure of the City funds from the correct account is hereby authorized.
(Ord. 89-10. Passed 6-17-91.)

143.33 TRANSFER OF BENEFITS.

Except for the credit allowed for the unused balance of accumulated sick leave provided for by Section 143.22 and the credit allowed for vacation leave provided in Section 143.23, no other benefits earned by a City employee while working for the State of Ohio or any of its political subdivisions can be transferred with such employee.
(Ord. 89-10. Passed 6-17-91.)

143.34 SURETY BONDS.

The official surety bond of the Finance Director and the Assistant Director of Finance is fixed at ten thousand dollars (\$10,000) separately which is ordered procured and the premium therefor shall be paid by the City. A blanket surety bond is also ordered to protect the City in case of default by any other City employee, such bond being in the amount of twenty-five thousand dollars (\$25,000) and the premium for which shall be paid for the City.
(Ord. 89-10. Passed 6-17-91.)

143.35 BI-WEEKLY COMPENSATION PAYMENT.

All salaries, wages and compensation of all employees, officials and members of boards and commissions and employees thereof shall be payable on a bi-weekly basis.
(Ord. 89-10. Passed 6-17-91.)

143.36 VOLUNTARY DEFERRED COMPENSATION PLAN.

Council hereby authorizes the Mayor and Finance Director to enter into a deferred compensation plan in substantially the form marked Exhibit "A" and attached to Ordinance 99-46 and made a part thereof as if fully rewritten therein. (Ord. 99-46. Passed 5-17-99.)

143.37 INCENTIVE COMPENSATION.

(a) The Director of Finance shall establish and institute an incentive compensation program for the purpose of encouraging the submission by all salaried officers, employees and regular hourly employees other than Directors, Commissioners and heads of the various departments, divisions and offices, and the assistants of the various Directors, Commissioners and heads of the various departments, divisions and offices of such suggestions as relate to the operations of the department, division or office to which an officer or employee is assigned which will reduce the cost of, without a reduction in the quality of, such City operations, or which will improve the quality of such City operations.

(b) Incentive compensation paid to a City employee shall be based upon the demonstrated cost savings for the twelve month period following the implementation of such suggestion. The Director shall provide, in writing, all information to the Board of Control which demonstrates the cost savings. The Board shall determine the amount, if any, of such incentive compensation which will be paid, provided that the amount, if any, of such incentive compensation to be paid for such suggestion shall not exceed twenty percent (20%) of the demonstrated cost savings, or two hundred fifty dollars (\$250.00), whichever is less. The determination of the Board is final and not appealable.

(c) Incentive compensation shall be paid in one lump sum and shall be in addition to all other compensation paid to a City employee. The amount of incentive compensation as determined by the Board pursuant to subsection (b) hereof, shall be divided share and share alike for any suggestions submitted by two or more City employees either jointly or severally, but dated and submitted to the Director prior to the implementation thereof.
(Ord. 86-29. Passed 11-17-86.)

143.38 PICK-UP OF EMPLOYEE CONTRIBUTIONS TO PERS BY SALARIED EMPLOYEES AND ADMINISTRATORS.

(a) The City's method of payment of salary and the provision of fringe benefits to the classes of employees who are salaried employees or administrators and participants in the Ohio State Public Employees Retirement System ("PERS") are hereby modified as follows, in order to provide for a salary reduction pick-up of employee contributions to PERS.

(b) The total annual salary and salary per pay period for each such employee shall be the salary otherwise payable under the applicable contracts and applicable City policies. Such total annual salary and salary per pay period of each employee shall be payable by the City in two parts: (1) deferred salary and (2) cash salary. An employee's deferred salary shall be equal to that percentage of such employee's total annual salary or salary per pay period which is required from time to time by PERS to be paid as an employee and shall be paid by the City to PERS on behalf of such employee as a pick-up and in lieu of the PERS employee contribution otherwise payable by such employee. An employee's cash salary shall be equal to such employee's total annual salary or salary per pay period less the amount of the pick-up for such employee and shall be payable, subject to applicable payroll deductions, to such employee. The City shall compute and remit its employer contributions to PERS based upon an employee's total annual salary or salary per pay period, including the aforesaid pick-up. The City's total combined expenditures for such employees' total salaries otherwise payable under their contracts and applicable City policies (including pick-up amounts) and its employer contributions to PERS shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

(c) The pick-up shall be included in the employee's total annual salary for the purpose of computing daily rate of pay, for determining paid salary adjustments to be made due to absence, or for any similar purpose.

(d) Any pick-up by the City of an employee's contributions to PERS shall be mandatory for all of the employees previously described who are members of the PERS. No such member shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the City to PERS.

(e) The City shall fulfill its income tax reporting and withholding responsibilities for each employee in such manner as is required by applicable Federal, State and local laws and regulations as they may exist at the time of such reporting and withholding, it being the City's understanding that Federal and Ohio income tax laws and regulations presently require it to report as an employee's gross income his total annual salary less the amount of the pick-up while applicable municipal income tax laws require it to report as an employee's gross income his total annual salary including the amount of the pick-up.

(f) The Mayor, or his designee, is hereby directed to take all acts necessary and appropriate to initiate implementation of the provisions of this section, including but not limited to making applications to the board administering the PERS program to determine the requirements of that board in connection with such pick-up plan.

(g) The pick-up plan shall apply to all eligible employees who qualify under this section and the plan shall commence once the Internal Revenue Service has ruled that the City's plan meets the qualifications of Section 414(h)(2) of the Internal Revenue Code and Revenue Regulations 81-35 and 81-36.
(Ord. 86-39. Passed 7-14-86.)

**143.39 PICK-UP OF EMPLOYEE CONTRIBUTIONS TO PERS AND
PFDPF BY SERVICE EMPLOYEES, POLICEMEN AND FIREMEN.**

- (a) The City's method of payment of salary and the provisions of fringe benefits to all employees who are:
- (1) Employed in the Department of Public Service and Development of the City and are members of PERS; and
 - (2) Employed as policemen or firemen and are members of PFDPF or PERS are hereby modified as follows, in order to provide for a salary reduction pick-up of employees contributions to PERS or PFDPF.

(b) The total annual salary and salary per pay period for each such employee shall be the salary otherwise payable under the applicable contracts and applicable City policies. Such total annual salary and salary per pay period of each employee shall be payable by the City in two parts: (1) deferred salary and (2) cash salary. An employee's deferred salary shall be equal to that percentage of such employee's total annual salary or salary per pay period which is required from time to time by PERS or PFDPF to be paid as an employee and shall be paid by the City to PERS or PFDPF on behalf of such employee as a pick-up and in lieu of the PERS or PFDPF employee contribution otherwise payable by such employee. An employee's cash salary shall be equal to such employee's total annual salary or salary per pay period less the amount of the pick-up for such employee and shall be payable, subject to applicable payroll deductions, to such employee. The City shall compute and remit its employer contributions to PERS or PFDPF based upon an employee's total annual salary or salary per pay period, including the aforesaid pick-up. The City's total combined expenditures for such employees' total salaries otherwise payable under their contracts and applicable City policies (including pick-up amounts) and its employer contributions to PERS or PFDPF shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

(c) The pick-up shall be included in the employee's total annual salary for the purpose of computing daily rate of pay, for determining paid salary adjustments to be made due to absence, or for any similar purpose.

(d) Any pick-up by the City of an employee's contributions to PERS or PFDPF shall be mandatory for all of the employees previously described who are members of the PERS or PFDPF. No such member shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the City to PERS or PFDPF.

(e) The City shall fulfill its income tax reporting and withholding responsibilities for each employee in such manner as is required by applicable Federal, State and local laws and regulations as they may exist at the time of such reporting and withholding, it being the City's understanding that federal and Ohio income tax laws and regulations presently require it to report as an employee's gross income his total annual salary less the amount of the pick-up while applicable municipal income tax laws require it to report as an employee's gross income his total annual salary including the amount of the pick-up.

(f) The Mayor, or his designee, is hereby directed to take all acts necessary and appropriate to initiate implementation of the provisions of this resolution, including but not limited to making applications to the Internal Revenue Service and the Board administering the PERS or PFDPF programs to determine the requirements of the boards in connection with such pick-up plan.

(g) The pick-up plan shall apply to all eligible employees who qualify under this section and the plan shall commence with the first pay period following the passage and approval of this section.

(Ord. 88-53. Passed 11-7-88.)

CHAPTER 147
Senior Life Office

147.01 Director.

147.02 Advisory council.

147.03 Rules and regulations.

147.04 Reports to Council.

CROSS REFERENCES

Senior Life Director - see Chtr. Art. 5, §5A

Meals at cost for elderly - see Ohio R.C. 3313.81

Medical assistance program - see Ohio R.C. 5101.51

Federal supplements to aid - see Ohio R.C. 5101.53

Senior Citizen Housing District - see P. & Z. Ch. 1139

147.01 DIRECTOR.

A Director of the Fairview Park Senior Life Office shall be appointed by the Mayor. The Director shall have executive authority over the programs and activities. Under the authority and direction of the Mayor and Council, the Director shall:

- (a) Be responsible for the development and adoption of all policies and rules governing the operation of the Senior Life Office and its services, provided that these do not conflict with provisions herein stated;
- (b) Evaluate, initiate and co-ordinate City programs, services and activities for senior citizens;
- (c) Determine the needs of senior citizens and actively pursue the fulfillment and satisfaction of those needs by responsible levels of government within the community;
- (d) Determine that services and facilities provided, operated, contracted for or supported by the City for senior citizens are being operated in conformity with the rules and regulations established by the City;
- (e) Disseminate information concerning senior citizens and establish and maintain a central clearinghouse of information at all levels of government that would be of interest or benefit to senior citizens;
- (f) Preside over all meetings, including those of the advisory council provided for in Section 147.02. The Director shall schedule and preside at a general meeting open to the general public not less than once a month. Such meeting shall be for the purpose of discussing the activities, programs, requirements and needs of senior citizens;

- (g) Encourage, promote and aid in the establishment of programs and services on a local level for the betterment of the living conditions of senior citizens by making it possible for them to enjoy and participate in family and community life; and
- (h) Encourage senior citizens to maintain adequate physical, social and emotional regimens so that they can live dignified and independent lives.
(Ord. 80-32. Passed 6-16-80.)

147.02 ADVISORY COUNCIL.

There is hereby created a senior citizens advisory council to consist of seven members to be appointed by the Mayor for the following terms: two for a term expiring December 31, 1981; two for a term expiring December 31, 1982; and three for a term expiring December 31, 1983. Subsequent appointments to the council shall be for terms of three years each. Vacancies shall be filled for the remainder of an unexpired term in the same manner as the original appointments. The members of the council shall include representation of each duly-organized and existing senior organization in the City provided such member is a resident. All members of the council shall meet regularly with the Director of the Senior Life Office, who shall preside at all such meetings and have an active voice and vote in all matters that come before it. The advisory council shall make recommendations and proposals for programs, services and similar activities for the Senior Life Office. (Ord. 80-32. Passed 6-16-80.)

147.03 RULES AND REGULATIONS.

Council hereby establishes the following rules and regulations of the Senior Life Office:

- (a) All programs and services offered or provided by the Senior Life Office shall be open and available to all residents, who are fifty-five years of age or older, except where legal requirements of a service or program mandate other age limits.
- (b) No person shall be denied participation in or use of the facilities or services of any program authorized and approved by the Director of the Senior Life Office.
- (c) No membership, affiliation or association shall be a prerequisite or condition precedent to participate in programs or facilities.
- (d) All funds, including but not limited to program or activity receipts, gifts, income or donating received, delivered or paid to the Director shall be subject to the authority of the Director of Finance and shall be accounted for in a manner provided by law. (Ord. 80-32. Passed 6-16-80.)
- (e) The Senior Life Office shall be open weekdays at such times as may be determined by the Director with the approval of the Mayor.
(Ord. 95-83. Passed 9-18-95.)

147.04 REPORTS TO COUNCIL.

The Director of the Senior Life Office shall report to Council twice annually, once in June and once in December, concerning the programs and activities of the Senior Life Office and provide an evaluation thereof and make such recommendations as deemed necessary therefore. (Ord. 80-32. Passed 6-16-80.)

CHAPTER 149
Fairview Park Youth Commission

149.01 Establishment.
149.02 Powers and duties.
149.03 Rules and regulations.

149.04 Reports.

149.01 ESTABLISHMENT.

There is hereby established a Fairview Commission on Youth Development which shall consist of six members, all residents of the City, to be appointed by the Mayor with the advice and consent of Council. Such members shall consist of three men and three women who shall serve for a term of two years, except that for original appointments implementing this section, three members shall serve for two-year terms and three members shall serve for one-year terms. Any vacancy shall be filled in the same manner as for an original appointment. Further, the Mayor shall designate the Juvenile Officer to serve as Advisory Officer who shall serve as personal representative of the Mayor. The Advisory Officer shall have no vote on the Commission except to break a tie vote, if necessary. All members of the Commission shall serve without compensation. (Ord. 84-69. Passed 5-6-85.)

149.02 POWERS AND DUTIES.

The Fairview Park Youth Commission shall meet as necessary, at least once a month, for the purpose of hearing and determining cases referred to it by the Police Department consistent with rules and regulations of the Commission. It shall advise the Police Chief of any action regarding cases which it deems appropriate by majority vote of the members. The meetings of the Commission shall not be subject to the provisions of Chapter 110 nor shall the records of the Commission be subject to public disclosure. (Ord. 84-69. Passed 5-6-85.)

149.03 RULES AND REGULATIONS.

The Fairview Park Youth Commission shall adopt rules and regulations with respect to the conducting of meetings which shall be consistent with the purpose and intent of the powers and duties set forth in this chapter. The rules and regulations and any change therein shall not be effective unless and until approved by Council. The parents, guardian or person in local parentis of the minor and the minor must consent to the alternative procedure. Notification to and cooperation of the victim of the offense shall be secured by the Police Department. A president, recording secretary and public relations person of the Commission shall be elected by a majority of the members provided for at the first meeting of each calendar year.
(Ord. 84-69. Passed 5-6-85.)

149.04 REPORTS.

The Fairview Park Youth Commission shall file a written annual report with the Mayor and Council no later than the fifteenth day of January of each and every year, setting forth such details as Council and the Mayor may require of its activities for the previous year.
(Ord. 84-69. Passed 5-6-85.)

CHAPTER 150
Shade Tree Advisory Committee

150.01 Creation, composition, terms and vacancy.

150.02 Powers and duties.

CROSS REFERENCES

Tree injury - see GEN. OFF. 547.01
Tree nuisances - see GEN. OFF. 547.02
Planting trees - see GEN. OFF. 547.03
Dutch elm disease - see GEN. OFF. 547.07
Tree regulations - see S.U. & P.S. Ch. 905

150.01 CREATION, COMPOSITION, TERMS AND VACANCY.

(a) The Fairview Park Shade Tree Advisory Committee is hereby established. It shall consist of six resident members who hold no other public office or appointment. Three members shall be appointed by Council and three members shall be appointed by the Mayor. These members shall serve uncompensated. The City Arborist shall also serve as a full fledged member of the Committee with voting rights. The Committee shall meet at least once a year or as required by Council or the Administration. (Ord. 01-34. Passed 6-25-01.)

(b) The terms of the first appointed members shall be of such length and so arranged that the term of one member shall expire each year, and the members thereafter shall be appointed and shall hold office for terms of five years. Any vacancy occurring other than by expiration of term shall be filled for the unexpired portion of the term in the same manner as provided for original appointment.
(Ord. 91-20. Passed 4-15-91.)

150.02 POWERS AND DUTIES.

The Shade Tree Advisory Committee shall:

- (a) Formulate and recommend to Council a Master Shade Tree Program for all major thoroughfares;
- (b) Encourage the placement of specific trees according to their relation to nearby buildings and roads;

- (c) Review and make recommendations to Council and the Administration regarding the situation of trees in each of the municipal properties;
 - (d) Promote and encourage the planting of trees throughout the City;
 - (e) Create and implement activities to increase the residents' awareness of the importance of trees for the community;
 - (f) Make recommendations to Council and the Administration regarding the preservation of existing trees; and
 - (g) Make recommendations consistent with the City's annual appropriations.
- (Ord. 91-20. Passed 4-15-91.)

CHAPTER 151
Residential Child Day Care Services Resource Registry

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| <p>151.01 Residential Child Day Care Services Resource Registry established.</p> <p>151.02 Minimum provider requirements.</p> <p>151.03 Provider - child ratio.</p> <p>151.04 Safety provisions.</p> <p>151.05 Emergency preparedness.</p> <p>151.06 Program plan of the provider.</p> | <p>151.07 References.</p> <p>151.08 Contract.</p> <p>151.09 Compliance with Zoning Code requirements.</p> <p>151.10 Application.</p> |
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CROSS REFERENCES

Zoning Code requirements - see P. & Z. 1149.18

151.01 RESIDENTIAL CHILD DAY CARE SERVICES RESOURCE REGISTRY ESTABLISHED.

(a) There is hereby established a Residential Child Day Care Services Resource Registry in and for the City which shall include therein the names, addresses and telephone numbers of persons that offer child day care service from a residential premises in the City provided the minimum standards and requirements set forth in this chapter are met. The provider of the child day care service may also include in the Registry any valid credentials or certifications possessed by the provider.

(b) The Residential Child Day Care Services Resource Registry shall be maintained in such locations at City Hall as shall be determined by the Mayor and shall be available for inspection by any person during business hours of the City. The Registry shall be maintained and updated by such administrative employee as is designated by the Mayor.

(c) Inclusion of any provider in the Residential Child Day Care Services Resource Registry shall not constitute, directly or indirectly, certification, approval, recommendation as to suitability, evaluation of adequacy or suitability, or assumption of responsibility for compliance, regulation or education of any day care provider, nor for any loss, injury or damages which may arise out of or relate to the placement of any child with a day care provider, by the City, its officials, officers, employees or its agents.
 (Ord. 89-98. Passed 10-1-90.)

151.02 MINIMUM PROVIDER REQUIREMENTS.

(a) "Provider" shall have the same meaning as set forth in Section 1149.18 of the Codified Ordinances.

(b) The provider shall be at least eighteen years of age with a minimum of six months experience in caring for children fourteen years of age or younger. Such experience may be obtained either as a parent, from employment, day care center observation, volunteer service, eighteen hours of in-service training or from some other similar activity.

(c) The provider shall have available for review by parents, guardians or person in loco parentis a letter dated and signed by a licensed physician attesting that the provider is in good physical and mental health and is able, from the perspective of the physician to care for children. The letter shall also indicate that the provider is free from all communicable diseases. Any other person eighteen years of age or older who will have regular contact with the children shall also make available a physician's letter providing the same information as that required of the provider. The medical letters required by this subsection shall be updated at least once every three years, unless medical conditions then existing require closer monitoring.

(d) The provider or other member of the premises present where children are being cared for shall attest that they have never been convicted of a felony, child abuse, child neglect, child endangerment or found by a court to be the cause of a child needing protective custody, and shall also consent to a record check by the Division of Police.

(e) The provider shall attest that the provider and any other persons visiting, assisting or residing on the premises shall not ingest alcohol or medicine while providing child day care service in anyway that impairs the ability to provide child day care service. The provider shall also attest that neither the provider or any person residing on the premises has an alcohol or drug of abuse addiction.

(f) The provider shall not practice any form of discrimination against families or children on account of race, creed, national origin, religion or sex.
(Ord. 89-98. Passed 10-1-90.)

151.03 PROVIDER - CHILD RATIO.

The provider shall agree to care for no more children than the number permitted by Section 1149.18 of the Codified Ordinances.
(Ord. 89-98. Passed 10-1-90.)

151.04 SAFETY PROVISIONS.

(a) The provider shall permit parents, guardians or other person in loco parentis to inspect the home for safety precautions. The provider shall remove or correct any safety hazard from both indoor and outdoor areas of the premises accessible to children including, but not limited to, placing all toxic, poisonous and dangerous substances and materials out of reach, removing sharp or dangerous objects, surfaces and hazards, repairing loose flooring or floor boards, and removing peeling and/or accessible lead paint.

(b) The provider shall have operable smoke and fire detectors, cover all electrical outlets, provide operable fire extinguishers in the kitchen and other appropriate areas, provide flashlights or other emergency lighting, and an emergency evacuation plan with alternative routes.

(c) Outdoor play areas shall be protected from traffic and other hazards including glass, construction materials, dangerous or sharp objects or equipment, standing water, animals and insects, and shall be enclosed in accordance with Section 1149.18 of the Codified Ordinances. All play equipment shall be kept safe.

(d) The home of the provider shall be maintained in compliance with the Exterior Property Maintenance, Housing and Fire Prevention Codes.
(Ord. 89-98. Passed 10-1-90.)

151.05 EMERGENCY PREPAREDNESS.

The provider shall obtain from each family, for each child, all of the following:

- (a) A medical release, signed by a parent, guardian or person in loco parentis, to permit emergency medical care;
- (b) The name and phone number of the physician and dentist of the child and, if necessary, permission to dispense any required medication;
- (c) The phone numbers where parents, guardians or other person in loco parentis can be reached;
- (d) The names and phone numbers of at least two other persons authorized by the parents, guardians or other person in loco parentis to care for the child in the event of an emergency or illness;
- (e) Verification from a licensed physician that the child has had the immunizations required by the Ohio Department of Health and that the child is free from all communicable disease. The licensed physician shall also state what allergies the child has, if any;
- (f) The provider shall maintain at least one operable telephone on the premises posting next to the telephone the fire, police, paramedic and poison control numbers as well as 9-1-1;
- (g) The provider shall maintain a written emergency plan for substitute care in the event of a provider emergency and shall advise the parents, guardians or person in loco parentis of this plan. The emergency plan required by this subsection shall include the name, address and telephone number of at least two persons eighteen years of age or older who have previously agreed to provide emergency care and who can be contacted immediately and who can arrive at the premises within a limited period of time if needed;
- (h) At no time shall the provider leave any child unattended or in the care of a minor. The provider shall arrange to notify all parents, guardians or person in loco parentis of any change in day care arrangements or substitute provider;
- (i) The provider shall be trained in basic first aid, communicable disease, child abuse, early childhood training and shall have first aid supplies on the premises.
(Ord. 89-98. Passed 10-1-90.)

151.06 PROGRAM PLAN OF THE PROVIDER.

(a) The activities and the environment provided shall be conducive to the physical, social, emotional, creative and intellectual (including language development) well-being and development of the children in care. The provider shall advise the parents, guardians or person in loco parentis of the program of activities for the children.

(b) Where parents, guardians or other person in loco parentis does not provide meal(s), the provider shall serve nutritious, balanced meals appropriate quantitatively to each respective child at intervals appropriate to the length of stay. The provider shall advise the parents, guardians or other person in loco parentis of the meal menu.

(c) The provider shall not use physical punishment or harsh discipline in handling behavior problems but rather shall discuss any problems or occurrences with the parents, guardians or person in loco parentis as soon as practicable.

(d) Parents, guardians or other person in loco parentis shall have unlimited access to all areas of the premises used for child day care service and shall be permitted by the provider to contact their children on the premises.
(Ord. 89-98. Passed 10-1-90.)

151.07 REFERENCES.

The provider shall have available for review by parents, guardians or other person in loco parentis at least two letters of recommendation from persons unrelated to the provider who know the provider or who have had the opportunity to observe the provider.
(Ord. 89-98. Passed 10-1-90.)

151.08 CONTRACT.

The provider shall utilize a written document specifying therein the responsibilities of the provider, the fees and payment schedule for the child day care service, and a checklist of required information provided to and by both the provider and the parents, guardians or other person in loco parentis.
(Ord. 89-98. Passed 10-1-90.)

151.09 COMPLIANCE WITH ZONING CODE REQUIREMENTS.

The provider shall comply with each and every requirement of Section 1149.18 of the Codified Ordinances, including, but not limited to, the number of children on the premises at any one time, the hours of operation, enclosure of outdoor play areas and the inspections of the Building Commissioner and the Chief of the Fire Prevention Bureau.
(Ord. 89-98. Passed 10-1-90.)

151.10 APPLICATION.

Any provider desiring to include their name, address and telephone number as well as any valid credentials or certifications in the Residential Child Day Care Services Resource Registry shall complete an application on a form prescribed by the Director of Law containing all of the information and verification required by this chapter attested to by the provider. Upon the Director ascertaining that the form contains the information, verification and attestation required and that the Police Department has ascertained that the provider has not been convicted of a felony, child abuse, child neglect, child endangerment or the cause of a child needing protective custody, the name, address and telephone number as well as any valid credentials or certifications of the provider shall be included in the Residential Child Day Care Services Resource Registry. Should the application not contain all the information, verification and attestation required by this chapter or should the Police Department ascertain that the provider has been convicted of a felony, child abuse, child neglect, child endangerment or the cause of a child needing protective custody, the provider shall not be included in the Resource Registry. Any false, misleading or deceptive statement contained in the application or should there be failure to comply with any provision of this chapter by the provider or should there be a conviction of the provider of a felony, child abuse, child neglect, child endangerment or if the provider is found by a court to be the cause of a child needing protective custody shall result in the provider being deleted from the Resource Registry.

(Ord. 89-98. Passed 10-1-90.)

CHAPTER 153
Airport Environmental Commission

153.01 Establishment; composition; vacancy.

153.02 Powers and duties.

153.01 ESTABLISHMENT; COMPOSITION; VACANCY.

There is hereby established an Airport Environmental Commission which shall consist of five members, two to be appointed by the Mayor and three to be appointed by Council. Each member shall be appointed for a term of two years, except that one of the members first appointed by the Mayor and one of the members first appointed by Council shall be appointed for a term of one year. Any vacancy shall be filled in the same manner as the original appointment. All members of the Commission shall serve without compensation. No person appointed to the Commission shall hold other municipal office or employment.
(Ord. 89-84. Passed 12-4-89.)

153.02 POWERS AND DUTIES.

The Airport Environmental Commission shall have the following powers and duties:

- (a) Elect from their number a chair and such other officers as they may determine;
- (b) Adopt, and thereafter amend, bylaws for the regulation and conduct of its affairs;
- (c) Review, advise and make recommendations to the Mayor and Council on all applications, plans, proposals and policies of Cleveland Hopkins International Airport relating to the development, redevelopment, construction, reconstruction, improvement, runway usage, operational changes or flight reorientation thereat as may affect the health, safety or welfare of the residents of the City, its institutions or its schools and to assist the Mayor and Council in the formulation of any response thereto;
- (d) Assist the Mayor and Council in developing plans and proposals for presentation to the operator of Cleveland Hopkins International Airport to reduce the noise related to airport and aircraft operations over the City;

- (e) Assist the Mayor and Council in informing the residents of the City on all applications, plans, proposals and policies of Cleveland Hopkins International Airport relating to the development, redevelopment, construction, reconstruction, improvement, runway usage, operational changes or flight reorientation thereat as may affect the health, safety and welfare of the residents of the City, its institutions or its schools; and
- (f) Evaluate plans or programs which may be submitted by residents concerning the reduction of noise related to airport and aircraft operations over the City.
(Ord. 89-84. Passed 12-4-89.)

TITLE SEVEN - Taxation

- Chap. 171. Admissions Tax.
 Chap. 173. Income Tax.
 Chap. 175. Motor Vehicle License Tax.

**CHAPTER 171
 Admissions Tax**

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| <p>171.01 Definitions.</p> <p>171.02 Levy of tax; amount.</p> <p>171.03 Exemptions.</p> <p>171.04 Collection and remittance of tax; returns.</p> <p>171.05 Inspection of books, records and accounts.</p> <p>171.06 Interest for nonpayment on due date.</p> | <p>171.07 Certificate of registration.</p> <p>171.08 Temporary or transitory amusement.</p> <p>171.09 Rules and regulations; compliance required.</p> <p>171.99 Penalty.</p> |
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171.01 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

- (a) "Admission charge", in addition to its usual and ordinary meaning, includes a charge made for season tickets or subscriptions; a cover charge or a charge made for use of seats and tables, reserved or otherwise, and similar accommodations; a charge made for food and refreshments in any place where any free entertainment, recreation or amusement is provided; a charge made for rental or use of equipment or facilities for purposes of recreation or amusement and, where the rental or use of equipment or facilities is necessary to the enjoyment of the privileges for which a general admission is charged, the combined charge shall be considered as the admission charge; a charge made for vehicle parking where the amount of the charge is determined according to the number of passengers in the vehicle; and a charge made and collected for the use or operation of a mechanical or electrically operated amusement device, whether by the payment of a fee or other things of value, or by the insertion of a coin, plate, disc, slug, key or token which thereby causes any person or operator to secure amusement, enjoyment or relaxation by its use or operation.

- (b) "Finance Director" means the Finance Director of the City.
- (c) "Place" includes, but is not restricted to, theaters, dance halls, amphitheaters, auditoriums, stadiums, athletic pavilions and fields, baseball and athletic parks, circuses, side shows, swimming pools, outdoor amusement parks and such attractions as merry-go-rounds, Ferris wheels, dodge-ems, roller coasters and observation towers and any place of business which displays for public patronage or keeps for operation by the public a mechanical or electrically operated amusement device.
- (d) "Person" means any individual, receiver, assignee, firm, co-partnership, joint venture, company, joint stock company, association, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise. (Ord. 81-80. Passed 6-29-81.)

171.02 LEVY OF TAX; AMOUNT.

There is hereby levied and imposed upon every person who pays an admission charge to any place, including a tax on persons who are admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations:

- (a) A tax of three percent on the amounts received for admission to any public or private place, including admission by season ticket, subscription or membership dues;
- (b) A tax of three percent on the excess of the amounts received for tickets or cards of admission to theaters, operas and other places of amusement, sold at newsstands, hotels and places of amusement other than the ticket offices of such theaters, operas or other places of amusement, over and above the amounts representing the established price therefor at such ticket offices, such tax to be returned and paid in the manner provided in Section 171.04 by the persons selling the ticket;
- (c) A tax of three percent on the amount received for admission to any public performance for profit at any roof garden, cabaret or other similar entertainment, in case the charge for admission is in the form of a service charge, cover charge or other similar charge;
- (d) A tax of three percent on the amount received as annual membership dues by every club or organization maintaining a golf course, and a tax of three percent on greens fees collected by golf courses, either under club or private ownership; and
- (e) A tax of three percent (3%) on the amount received for the operation or use of a mechanical or electrically operated amusement device, at whatever place located. (Ord. 78-6. Passed 3-20-78; Ord. 81-79. Passed 6-29-81.)

171.03 EXEMPTIONS.

- (a) No tax shall be levied under this chapter with respect to any admission, all the proceeds of which inure:
 - (1) Exclusively to the benefit of religious, educational or charitable institutions, societies or organizations, if no part of the net earnings thereof inure to the benefit of any private stockholder or individual;

- (2) Exclusively to the benefit of persons in the military or naval forces of the United States, or of National Guard organizations, reserve officer associations or posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized in the State and if no part of their net earnings inure to the benefit of any private stockholder or individual;
- (3) Exclusively to the benefit of persons who serve in the military or naval forces of the United States and are in need;
- (4) Exclusively to the benefit of members of the police or fire departments of any municipal corporation, or the dependents or heirs of such members;
- (5) Exclusively to the benefit of the general revenue fund of any municipal corporation or exclusively to the benefit of any fund of any municipal corporation under the control of a recreation commission. This exemption from the tax, however, shall not be allowed in cases wherein the admission price is forty-one cents (41¢) or more.

(b) The exemption from tax provided by this section shall, however, not be allowed in case of admissions to wrestling matches, prize fights or boxing, sparring or other pugilistic matches or exhibitions, nor in the case of admissions to any athletic game or exhibition, the proceeds of which inure wholly or partly to the benefit of any high school, academy, preparatory or other school, in cases wherein the admission price is forty-one cents (41¢) or more, or wholly or partly to the benefit of any college or university.

(c) The exemption from tax provided in this section shall not be allowed to any institution, society or organization which does not control the sale of admissions to the event for which the exemption is requested, nor shall any exemption be allowed where talent, services or other items are compensated for on a percentage basis if such percentage results in a payment in excess of the flat rate ordinarily charged for the same talent, services or other items.

(d) Immediately after the event for which an exemption from admission tax has been allowed, the treasurer of the institution, society or organization for whose benefit such event was held shall file an itemized statement with the Finance Director, setting forth the amount of money actually received by such treasurer, together with the expenses of promoting and conducting such event. Such statement shall be used as a basis of subsequent requests for exemption from admissions tax for the benefit of such institution, society or organization, and if such statement shows a disproportionate expenditure for promoting and conducting such event, in relation to the profits, if any, no such exemption shall thereafter be allowed to such institution, society or organization. (1954 Code §3-3)

171.04 COLLECTION AND REMITTANCE OF TAX; RETURNS.

(a) Every person receiving any payment on which a tax is levied under this chapter shall collect the amount of the tax imposed from the person making the admission payment. The tax required to be collected under this chapter shall be deemed to be held in trust by the person required to collect the same until paid to the Finance Director as herein provided.

(b) Any person required to collect the tax imposed under this chapter who fails to collect the same, or having collected the same, fails to remit the same to the Finance Director in the manner prescribed by this chapter, whether such failure is the result of his own act or the result of acts or conditions beyond his control, shall nevertheless be personally liable to the City for the amount of such tax and shall, unless the remittance is made as herein required, be guilty of a violation of this chapter.

(c) The tax imposed hereunder shall be collected at the time the admission charge is paid by the person seeking admission to any place and shall be reported and remitted by the person receiving the tax to the Finance Director in monthly installments on or before the tenth day of the month next succeeding the end of the monthly period in which the tax is collected or received. Payment or remittance of the tax collected may be made by check, unless payment or remittance is otherwise required by the Finance Director, but payment by check shall not relieve the person collecting the tax from liability for payment and remittance of the tax to the Finance Director unless the check is honored and is in the full and correct amount.

(d) The person receiving any payment for admission shall make out a return upon such forms and setting forth such information as the Finance Director may require, showing the amount of the tax upon admissions for which he is liable for the preceding monthly period, and shall sign and transmit the same to the Finance Director with a remittance for such amount.

(e) The Finance Director may, in his discretion, require verified annual returns from any person receiving admission payments, setting forth such additional information as he may deem necessary to determine correctly the amount of tax collected and payable.

(f) Whenever any theater, circus, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature, of which the Finance Director shall be the judge, the Finance Director may require the report and remittance of the admission tax immediately upon the collection of the same, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions, or at such other times as the Finance Director shall determine.

(g) Failure to comply with any requirement of the Finance Director as to report and remittance of the tax as required shall be a violation of this chapter.
(1954 Code §3-4)

171.05 INSPECTION OF BOOKS, RECORDS AND ACCOUNTS.

The books, records and accounts of any person collecting a tax herein levied shall, as to admission charges and tax collections, be at all reasonable times subject to examination and audit by the Finance Director. (1954 Code §3-5)

171.06 INTEREST FOR NONPAYMENT ON DUE DATE.

If the tax imposed by this chapter is not paid when due, there shall be added, as part of the tax, interest at the rate of one percent per month from the time when the tax became due until paid. (1954 Code §3-6)

171.07 CERTIFICATE OF REGISTRATION.

Any person conducting or operating any place for entrance to which an admission charge is made shall, on a form prescribed by the Finance Director, make application to and procure from the Finance Director a certificate of registration, the fee for which shall be one dollar (\$1.00), which certificate shall continue valid until December 31 of the year in which issued. Such certificate of registration, or duplicate original copies thereof to be issued by the Finance Director without additional charge, shall be posted in a conspicuous place in each ticket or box office where tickets of admission are sold.
(1954 Code §3-7)

171.08 TEMPORARY OR TRANSITORY AMUSEMENT.

(a) Whenever a certificate of registration is obtained for the purpose of operating or conducting a temporary or transitory amusement, entertainment or exhibition by persons who are not the owners, lessees or custodians of the building, lot or place where the amusement is to be conducted, the tax imposed by this chapter shall be reported and remitted as provided in Section 171.04 by the owner, lessee or custodian, unless paid by the person conducting the amusement.

(b) The applicant for a certificate of registration for such purpose shall furnish with the application therefor the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and such owner, lessee or custodian shall be notified by the Finance Director of the issuance of such certificate and the joint liability for collection and remittance of such tax.
(1954 Code §3-8)

171.09 RULES AND REGULATIONS; COMPLIANCE REQUIRED.

(a) The Finance Director shall have the power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied. A copy of such rules and regulations shall be published by posting the same for fifteen days in City Hall as designated by Charter Article IV, Section 11, for the posting of ordinances and resolutions.

(b) Failure or refusal to comply with any such rules and regulations shall be deemed a violation of this chapter.

(c) Until such time as rules and regulations are promulgated under this section, the rules and regulations of the Department of Taxation of the State, relating to admission taxes in effect on August 31, 1947, except as such may conflict with the provisions of this chapter, shall be deemed to be the rules and regulations hereunder.
(1954 Code §3-9)

171.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each day's continued violation shall constitute a separate offense.

CHAPTER 173
Income Tax

	<u>Purpose</u>		<u>Exemptions</u>
173.0101	Purpose for the tax levy.	173.0901	Sources of income not taxed.
173.0102	Additional purposes.		
	<u>Definitions</u>		<u>Returns</u>
173.0301	Definitions generally.	173.1101	When return required to be made.
173.0302	Director of Finance.	173.1102	Form and content of return.
173.0303	Association.	173.1103	Extension of time for filing returns.
173.0304	Board of Review.	173.1104	Consolidated returns.
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173.0306	Corporation.		
173.0307	Employee.		<u>Payment of Tax</u>
173.0308	Employer.	173.1301	Payment of tax on filing of returns.
173.0309	Fiscal year.	173.1302	Collection at source.
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173.0311	Net profits.	173.1304	Filing of declaration.
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173.0705	Operating loss-carry forward.	173.1902	Tax credit.

	<u>Disbursement of Receipts of Tax Collection</u>		<u>Board of Review</u>
173.2101	Disbursement of funds collected.	173.2501	Board of Review established.
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	<u>Duties and Authority of Director of Finance</u>		<u>Other Provisions</u>
173.2301	Duty to receive tax imposed.	173.2701	Separability.
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173.2303	Authority to make and enforce regulations.		
173.2304	Authority to arrange installment payments.		
173.2305	Authority to determine amount of tax due.		
173.2306	Authority to make investigations.		
173.2307	Authority compel production of records.		
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173.2309	Confidential nature of information obtained; penalty.		
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173.2311	Authority to contract for central collection facilities.		
173.2312	Delegation of authority.		

CROSS REFERENCES

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

PURPOSE

173.0101 PURPOSE FOR THE TAX LEVY.

To provide funds for the purpose of general Municipal operations, procurement of fixed assets or permanent improvements, payment of debt charges and for all other lawful purposes of the City there is levied a tax on all salaries, wages, commissions and other compensation and on net profits as hereinafter provided.

(Ord. 89-21. Approved by Electors 5-2-89.)

173.0102 ADDITIONAL PURPOSES.

To provide funds for the purpose of acquiring, constructing, operating, maintaining and otherwise improving permanent improvements and their sites, including recreational facilities as an integral part of a cooperative project with the Fairview Park City School District, and paying debt charges related thereto. (Ord. 04-54. Passed 3-21-05.)

DEFINITIONS

173.0301 DEFINITIONS GENERALLY.

For purposes of this chapter certain terms, phrases, words and their derivatives have the meanings designated in Section 173.0302 through 173.0320. The singular includes the plural and the masculine includes the feminine and the neuter.

(Ord. 66-67. Passed 12-19-66.)

173.0302 DIRECTOR OF FINANCE.

"Director of Finance" means the individual designated to administer and enforce the provisions of the City Income Tax.

(Ord. 66-67. Passed 12-19-66.)

173.0303 ASSOCIATION.

"Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.

(Ord. 66-67. Passed 12-19-66.)

173.0304 BOARD OF REVIEW.

"Board of Review" means the Board created by and constituted as provided in Section 173.2501. (Ord. 66-67. Passed 12-19-66.)

173.0305 BUSINESS.

"Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding however, all nonprofit corporations which are exempt from the payment of Federal income tax.

(Ord. 66-67. Passed 12-19-66.)

173.0306 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.

(Ord. 66-67. Passed 12-19-66.)

173.0307 EMPLOYEE.

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

(Ord. 66-67. Passed 12-19-66.)

173.0308 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 a salary, wage, commission or other basis of compensation.

(Ord. 66-67. Passed 12-19-66.)

173.0309 FISCAL YEAR.

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31. (Ord. 66-67. Passed 12-19-66.)

173.0310 GROSS RECEIPTS.

"Gross receipts" means the total income from any source whatever. (Ord. 66-67. Passed 12-19-66.)

173.0311 NET PROFITS.

"Net profits" means a gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes 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. (Ord. 66-67. Passed 12-19-66.)

173.0312 NONRESIDENT.

"Nonresident" means an individual domiciled outside the City. (Ord. 66-67. Passed 12-19-66.)

173.0313 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City. (Ord. 66-67. Passed 12-19-66.)

173.0314 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, means the partners or members thereof, and as applied to corporations, the officers thereof. (Ord. 66-67. Passed 12-19-66.)

173.0315 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. 66-67. Passed 12-19-66.)

173.0316 RESIDENT.

"Resident" means an individual domiciled in the City. (Ord. 66-67. Passed 12-19-66.)

173.0317 RESIDENT UNINCORPORATED BUSINESS ENTITY.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City. (Ord. 66-67. Passed 12-19-66.)

173.0318 TAXABLE INCOME.

"Taxable income" means wages, salaries, and other compensation paid by an employer or employers before any deduction and/or net profits from the operation of a business, profession or other enterprise or activity, including income from gaming, wagering and lottery winnings in excess of one thousand dollars (\$1,000) adjusted in accordance with the provisions of this chapter. Lottery winnings shall include but not be limited to the Ohio State Lottery (including all Ohio State Lottery games); and other state and multi-state lotteries.
(Ord. 04-11. Passed 2-17-04.)

173.0319 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 return for a fractional part of a year, the period for which such return is required to be made.
(Ord. 66-67. Passed 12-19-66.)

173.0320 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. 66-67. Passed 12-19-66.)

173.0321 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 this chapter.
(Ord. 84-70. Passed 4-15-85.)

173.0322 FUNDAMENTAL CHANGE.

"Fundamental change" means any substantial alteration by an employer including liquidation, dissolution, bankruptcy and reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization.
(Ord. 84-70. Passed 4-15-85.)

IMPOSITION OF INCOME TAX**173.0501 RATE AND INCOME TAXABLE.**

An annual tax for the purposes specified in Sections 173.0101 and 173.0102 shall be imposed on and after January 1, 2006, at the rate of two percent (2%) per annum until December 31, 2013, on which date the tax rate shall revert back to one and three-quarters percent (1.75%) upon the following: (Ord. 05-31. Passed 6-6-05.)

- (a) On all salaries, wages, commissions and other compensation earned on or after July 1, 1989, by residents of the City;
- (b) On all salaries, wages, commissions and other compensation earned on or after July 1, 1989, by nonresidents of the City for work done or services performed or rendered within the City;

- (c)
 - (1) On the portion attributable to the City on the net profits earned on and after July 1, 1989, 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 on and after July 1, 1989, 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;
- (d)
 - (1) On the portion attributable to the City of the net profits earned on or after July 1, 1989, 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 on or after July 1, 1989, 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) On the portion attributable to the City of the net profits earned on or after July 1, 1989, 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.
- (f) On the portion attributable to the City pursuant to the terms of this chapter and including:
 - (1) "Royalty income" means income earned by a taxpayer from a royalty interest in the production of an oil or gas well whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer.
Where the gross income received by a taxpayer from a royalty interest in the production of an oil or gas well in a taxable year exceeds three thousand dollars (\$3,000), it shall be prima facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.
 - (2) The employer's income derived from finance and carrying charges associated with their consumer's accounts receivable.
(Ord. 04-54. Passed 3-21-05.)

173.0502 EFFECTIVE PERIOD.

The income tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1967.
(Ord. 66-67. Passed 12-19-66.)

DETERMINATION OF ALLOCATION OF TAX

173.0701 METHOD OF DETERMINATION.

In the taxation of income which is subject to the City income tax, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City, then only that portion shall be considered as having a taxable situs in the City for the purposes of Municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City, in the absence of actual records thereof, shall be determined as follows:

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

- (a) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average net book value 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 subsection (a) hereof, "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;
- (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 above allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.
(Ord. 66-67. Passed 12-19-66.)

173.0702 SALES MADE IN THE CITY DEFINED.

As used in subsection (c) of Section 173.0701 "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. 66-67. Passed 12-19-66.)

173.0703 TOTAL ALLOCATION.

Add together the percentages determined in accordance with subsections (a), (b) and (c) of Section 173.0701 or such of the percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in Section 173.0701.

A factor is applicable even though it may be allocable entirely in or outside the City.
(Ord. 66-67. Passed 12-19-66.)

173.0704 RENTALS.

(a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under subsections (c) through (e) of Section 173.0501, only if and to the extent that the rental ownership, management or operation of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(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 the taxpayer, and the net income of such rental property shall be subject to tax; provided that 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; and provided further that a 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. 72-10. Passed 4-17-72.)

173.0705 OPERATING LOSS-CARRY FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 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 Director of Finance shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.
(Ord. 66-67. Passed 12-19-66.)

EXEMPTIONS**173.0901 SOURCES OF INCOME NOT TAXED.**

The City income tax shall not be levied on the following:

- (a) Pay or allowance of active members of the Armed Forces of the United States or income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities;
- (b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, state or Federal governments or charitable, religious or educational organizations;
- (c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived;
- (d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations;
- (e) Alimony received;
- (f) Personal earnings of any natural person under eighteen years of age;
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise;
- (h) Interest, dividends and other revenue from intangible property;
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State 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;
- (j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce;

- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes. (Ord. 66-67. Passed 12-19-66.)

RETURNS

173.1101 WHEN RETURN REQUIRED TO BE MADE.

Each taxpayer, shall, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following the effective date of this section and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of the fiscal year or period.

Any person who has no taxable income need not file an annual return. Any person who has exempt income must file a return and declare to the Director of Finance the nature of his exemption. Any person who has taxable income must file a tax return with the Director of Finance. (Ord. 84-72. Passed 4-15-85.)

173.1102 FORM AND CONTENT OF RETURN.

The return shall be filed with the Director of Finance on a form furnished by or obtainable upon request from the Director setting forth:

- (a) The aggregate amount of salaries, wages, commissions and other compensation earned and gross income 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 this 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 Director may require.
- (Ord. 66-67. Passed 12-19-66.)

173.1103 EXTENSION OF TIME FOR FILING RETURNS.

The Director of Finance may extend the time for filing of an 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 returns. The Director may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. (Ord. 66-67. Passed 12-19-66.)

173.1104 CONSOLIDATED RETURNS.

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

(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 Director shall require such additional information as he may believe necessary to ascertain whether net profits are properly allocated to the City. If the Director 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 believes appropriate to produce a fair and proper allocation of net profits to the City.
(Ord. 66-67. Passed 12-19-66.)

173.1105 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 173.1701, 173.1702, 173.1703 and 173.1902. The amended return shall be on a form obtainable on request from the Director of Finance. A taxpayer may not change the method of accounting or apportionment of net profits 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. 66-67. Passed 12-19-66.)

PAYMENT OF TAX**173.1301 PAYMENT OF TAX ON FILING OF RETURNS.**

(a) The taxpayer making a return shall, at the time of filing, pay to the Director of Finance 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 173.1302; or
- (2) Where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 173.1303; 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 173.1902, 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 one dollar (\$1.00) 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 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. 84-73. Passed 4-15-85.)

173.1302 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Director of Finance, each employer within or doing business within the City shall deduct at the time of the payment of such salary, wages, commissions or other compensation, the tax of one and one-quarter percent (1-1/4%) (unless a different tax rate is imposed in Section 173.0501) per year of the gross salaries, wages, commissions or other compensation due by the employer to the employee, and shall, on or before the last day of each month, make a return and pay to the Director the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), 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) Returns shall be on a form or forms prescribed or acceptable to the Director and shall be subject to the rules and regulations prescribed by the Director. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.

(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 tax 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 the City in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to the City for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to the City, whether or not the employer actually remits the tax to the City, 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 managers' failure to remit funds held in trust, to file a tax return or to pay taxes.
(Ord. 84-74. Passed 4-15-85.)

173.1303 DECLARATION OF INCOME.

Except as provided in this chapter, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon, less tax withheld within the City, less the tax credit allowed in Section 173.1902 hereof, unless such taxpayer anticipates that such tax will be fully withheld within the City, and any income earned outside of the City will be fully taxed at the same or higher rate of tax in another municipality. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than ten dollars (\$10.00), no declaration or payment of estimated tax is required. (Ord. 73-81. Passed 11-19-73.)

173.1304 FILING OF DECLARATION.

(a) The declaration required by Section 173.1303 shall be filed on or before April 30 of each year during the effective period set forth in Section 173.0502 or within four months of the date the taxpayer becomes subject to the tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
(Ord. 66-67. Passed 12-19-66.)

173.1305 FORM OF DECLARATION.

(a) The declaration required by Section 173.1303 shall be filed upon a form furnished by or obtainable from the Director of Finance. As provided in Section 173.1303, credit shall be taken for the City of Fairview Park 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 173.1902.

(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. 71-54. Passed 12-6-71.)

173.1306 PAYMENT TO ACCOMPANY DECLARATION.

The declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the 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, 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 date. (Ord. 73-81. Passed 11-19-73.)

173.1307 ANNUAL RETURN.

On or before the last 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 the City shall be paid therewith in accordance with the provisions of Section 173.1301. However, any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time, in lieu of filing a declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax. (Ord. 71-54. Passed 12-6-71.)

INTEREST AND PENALTIES**173.1501 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 six percent (6%) per year. (Ord. 71-54. Passed 12-6-71.)

173.1502 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 173.1501, 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: ten percent (10%) per year, 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 thereof, but accumulated penalty shall not exceed fifty percent (50%) of any unpaid amount and shall not be less than fifty dollars (\$50.00) for the first offense and one hundred dollars (\$100.00) for each offense thereafter.
(Ord. 84-75. Passed 4-15-85.)

173.1503 EXCEPTIONS.

A penalty shall not be assessed on any additional tax assessment against a taxpayer made by the Director of Finance when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Director. 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. 66-67. Passed 13-19-66.)

173.1504 ABATEMENT OF INTEREST AND PENALTY.

Upon recommendation of the Director of Finance, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Director to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown. (Ord. 66-67. Passed 12-19-66.)

173.1505 VIOLATIONS AND PENALTY.

Any person who shall:

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

- (i) Give to any employer false information as to his true name, correct social security number and residence address or fails to promptly notify an employer of any change in residence address and date thereof;
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld, or knowingly gives the Director false information; or
- (k) Attempt to do anything 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 misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.
(Ord. 84-76. Passed 4-15-85.)

173.1506 LIMITATION ON PROSECUTION.

All prosecutions under this chapter shall be commenced within the time prescribed by Ohio R.C. 718.06.

173.1507 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, return or declaration, from filing such form or from paying the tax.
(Ord. 66-67. Passed 12-19-66.)

**COLLECTION OF UNPAID TAXES AND
REFUNDS OF OVERPAYMENTS**

173.1701 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. Except in the case of fraud, of omission of a substantial portion of income subject to this tax, or of failure to file a return, an additional assessment shall not be made after three years from the time the return was 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 Director of Finance shall be one year from the time of the final determination of the Federal tax liability.
(Ord. 66-67. Passed 12-19-66.)

173.1702 REFUNDS OF TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time prescribed by Ohio R.C. 718.06.

173.1703 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 66-67. Passed 12-19-66.)

TAX RELIEF AND RECIPROCITY

173.1902 TAX CREDIT.

(a) Effective July 1, 1989, when the taxable income of a resident of the City of Fairview Park 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 the other municipality, equal to seventy-five percent (75%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the City of Fairview Park 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 and one-quarter percent (1.25%) of the taxable income earned or attributable to the municipality of employment or business activity. For the purposes of this section, "taxable income" includes 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 Director of Finance may by regulation provide. In the event such City resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Director, 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. 89-25. Passed 5-1-89.)

DISBURSEMENT OF RECEIPTS OF TAX COLLECTION

173.2101 DISBURSEMENT OF FUNDS COLLECTED.

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

- (a) First, such part of the funds as is necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
- (b) After payment of the expenses referred to in subsection (a) hereof, one hundred percent (100%) of the proceeds of the one and one-quarter percent (1.25%) income tax levy shall provide funds for the purpose of Section 173.0101. Until December 31, 2005, one hundred percent (100%) of the proceeds from the one-quarter percent (.25%) income tax levy shall be deposited in a special fund to be used primarily to pay the costs of the resurfacing and rehabilitation of City streets as determined by the City Engineer, the balance remaining in the special fund may be used for motor vehicle and equipment acquisitions, and to pay principal of and interest on general obligation bonds and bond anticipation notes issued by the City to pay the costs of permanent improvements. One hundred percent (100%) of the proceeds of the one-half percent (.50%) income tax levy shall provide funds for the purpose of Section 173.0102.
- (c) Funds reserved for the streets purposes as set forth in subsection (b) hereof shall not include any cost associated with or attributable to the compensation, salary, wages, benefits and all other terms, conditions and privileges of employment of any municipal employee.
(Ord. 04-54. Passed 3-21-05.)

DUTIES AND AUTHORITY OF DIRECTOR OF FINANCE**173.2301 DUTY TO RECEIVE TAX IMPOSED.**

It shall be the duty of the Director of Finance to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep accurate records thereof and to report all moneys so received. (Ord. 66-67. Passed 12-19-66.)

173.2302 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Director of Finance to enforce payment of all taxes owing to the City; to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld; and to show the dates and amounts of payments thereof. (Ord. 66-67. Passed 12-19-66.)

173.2303 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

The Director of Finance 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. (Ord. 66-67. Passed 12-19-66.)

173.2304 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

The Director of Finance is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Director that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until 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 173.1701 and 173.1505 of this chapter shall apply. (Ord. 66-67. Passed 12-19-66.)

173.2305 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

(a) Preparation of Return by Director of Finance. If any taxpayer fails to file a tax return which is required by City ordinance within the time prescribed therefor but consents to disclose all information necessary to the preparation thereof, then the Director of Finance may prepare such return which, after being signed by such person, may be received by the Director of Finance as the return of such person.

(b) Execution of Return by Director of Finance. If any taxpayer fails to file a tax return which is required by City ordinances within the time prescribed therefore, or makes, willfully or otherwise, a false or fraudulent return, then the Director of Finance 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) Assessment of a Taxpayer by Director of Finance. The Director of Finance may calculate and assess any taxpayer for the amount of tax, penalty and interest which is imposed by City ordinance and which is due and owing. Such assessment shall be made by the Director of Finance issuing summary records to the last known address of the taxpayer of the assessment. This summary shall include the identification of the taxpayer, the character of the liability assessed, the taxation period and the amount of the assessment.

(d) Status of Executed Returns and Assessments. Any return executed by or any assessment made by the Director of Finance pursuant to City ordinances shall be prima-facie good and sufficient for all legal purposes. The Director of Finance may execute supplemental tax returns and may issue supplemental assessments whenever the Director of Finance has knowledge derived from any source including the taxpayer's financial data that any executed tax return or assessment is imperfect or incomplete in any material respect.

(e) Limitation of Prosecutions. Neither the Director of Finance's execution of a return nor the Director of Finance's assessment of a taxpayer shall start the running of the period of limitations on prosecutions set forth elsewhere in City ordinances.
(Ord. 84-77. Passed 4-15-85.)

173.2306 AUTHORITY TO MAKE INVESTIGATIONS.

The Director of Finance, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Director believes is subject to the provisions of this chapter, or the purpose of verifying the accuracy of any return made, or if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request by the Director or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.
(Ord. 66-67. Passed 12-19-66.)

173.2307 AUTHORITY TO COMPEL PRODUCTION OF RECORDS.

The Director of Finance 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 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 the inquiry.
(Ord. 66-67. Passed 12-19-66.)

173.2308 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or 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 Director of Finance authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 173.1505.
(Ord. 66-67. Passed 12-19-66.)

173.2309 CONFIDENTIAL NATURE OF INFORMATION OBTAINED; PENALTY.

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential except for official purposes or 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 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 any provision of this section relative to the disclosure of confidential information shall be immediately dismissed.
(Ord. 66-67. Passed 12-19-66.)

173.2310 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed or the withholding taxes are paid.
(Ord. 66-67. Passed 12-19-66.)

173.2311 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The City, having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance 71-34, which Council has organized a municipal tax collection agency known as the "Regional Income Tax Agency, " the Board of Trustees of the Regional Income Tax Agency is authorized to administer and enforce the provisions of this chapter as the agent of the City, and the duties and authority of the Director of Finance hereunder may be performed by the Board of Trustees of the Agency through the Administrator of such Agency. However, the Administrator of the Agency shall have no authority to abate penalties or interest provided for in Section 173.1501 and 173.1502.
(Ord. 71-54. Passed 12-6-71.)

173.2312 DELEGATION OF AUTHORITY.

In order to facilitate the administration of this chapter, the Director of Finance, with the approval of the Mayor, may delegate or assign to a central collection facility any part or all of his duties as set forth in this chapter.
(Ord. 66-67. Passed 12-19-66.)

BOARD OF REVIEW

173.2501 BOARD OF REVIEW ESTABLISHED.

A Board of Review, consisting of the Mayor or his designee, the Director of Law or his Assistant designee and a member of Council to be elected by that body, is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 173.2309 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. 66-67. Passed 12-19-66.)

173.2502 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.

All rules and regulations and amendments or changes thereto, which are adopted by the Director of Finance under the authority conferred by this chapter, must be approved by the Board of Review before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Director, and, at the request of the taxpayer or Director, is empowered to substitute alternate methods of allocation.
(Ord. 66-67. Passed 12-19-66.)

173.2503 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Director of Finance which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Director, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof. (Ord. 66-67. Passed 12-19-66.)

OTHER PROVISIONS

173.2701 SEPARABILITY.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 66-67. Passed 12-19-66.)

173.2702 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of the income tax is concerned until repealed and insofar as the collection of tax 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 the taxes levied in such period are fully paid and any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 173.1701, 173.1702, 173.1703, 173.1505, 173.1506 and 173.1507.

(b) Annual returns due for all or part of the last effective year of this chapter shall be due on the date provided in Sections 173.1101 and 173.1302 of this chapter as though the tax levied in this chapter was continuing.
(Ord. 66-67. Passed 12-19-66.)

CHAPTER 175
Motor Vehicle License Tax

175.01 Levy; purpose.
175.02 Rate.
175.03 Applicability.

175.04 Purpose.
175.05 Chapter certified.

CROSS REFERENCES

Authority to collect - see Ohio R.C. 4504.06

175.01 LEVY; PURPOSE.

There is hereby levied an annual license tax upon those vehicles registered in the City district of registration and upon the operation on the public roads and highways, pursuant to Ohio R.C. 4504.172, for the purposes of planning, constructing, improving, maintaining and repairing public roadways, highways and streets; for paying the costs and expenses of enforcing and administering the tax provided for in this section; to provide additional revenue for the purposes as set forth in Ohio R.C. 4504.06; and to supplement revenue already available for such purposes. (Ord. 88-14. Passed 5-2-88.)

175.02 RATE.

Such tax shall be levied at the rate of five dollars (\$5.00) per motor vehicle for each and every motor vehicle, as such term is defined in Ohio R.C. 4501.01 and 4505.01, the district of registration of which vehicles, as defined in Ohio R.C. 4503.10, is in the City of Fairview Park, Ohio. (Ord. 88-14. Passed 5-2-88.)

175.03 APPLICABILITY.

The tax imposed by this chapter shall apply to and be in effect during each registration year thereafter until repealed. (Ord. 88-14. Passed 5-2-88.)

175.04 PURPOSE.

The moneys derived from the tax imposed by this chapter shall be used by the City for the purposes as set forth in Ohio R.C. 4504.06.
(Ord. 88-14. Passed 5-2-88.)

175.05 CHAPTER CERTIFIED.

The Mayor and the Finance Director are authorized and directed to complete any and all documents necessary to ensure that this chapter is certified to the Bureau of Motor Vehicles on or before September 30, 1988.
(Ord. 88-14. Passed 5-2-88.)