

CODIFIED ORDINANCES OF PATASKALA

PART ONE - ADMINISTRATIVE CODE

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CODIFIED ORDINANCES OF PASTASKALA

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions
 Chap. 101. Codified Ordinances.
 Chap. 103. Wards and Boundaries.
 Chap. 105. City Property.

CHAPTER 101
Codified Ordinances

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CROSS REFERENCES

See sectional histories for similar State law
 Statute of limitations on prosecutions - see Ohio R.C.
 718.06; GEN. OFF. 501.06
 Codification in book form - see Ohio R.C. 731.23
 Imprisonment until fine and costs are paid - see Ohio R.C.
 1905.30, 2947.14
 Citation issuance for minor misdemeanors - see Ohio R.C.
 2935.26 et seq.
 Ordinances and resolutions - see ADM. Ch. 115
 Rules of construction for offenses and penalties - see
 GEN. OFF. 501.04

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Pataskala, Ohio, 2000 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 Licking 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 Pataskala, Ohio.
- (I) "Oath" includes affirmation and "swear" includes affirm. (ORC 1.59(B))
- (j) "Owner", when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
- (k) "Person" includes an individual, corporation, business trust, estate, trust, partnership and association. (ORC 1.59(C))
- (l) "Premises", as applied to property, includes land and buildings.
- (m) "Property" means real and personal property. (ORC 1.59(E))
"Personal property" includes all property except real.
"Real property" includes lands, tenements and hereditaments.
- (n) "Public authority" includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.

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

101.03 RULES OF CONSTRUCTION.

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

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

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

(c) Calendar; Computation of Time.

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

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

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

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

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

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

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

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

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

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

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

101.05 CONSTRUCTION OF SECTION REFERENCES.

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

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

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

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

101.06 CONFLICTING PROVISIONS.

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

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

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

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

(d) If there is a conflict between any provision contained in the Codified Ordinances and any provision of the City Charter, the Charter provision shall prevail and govern.

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
Wards and Boundaries

103.01 Wards.

CROSS REFERENCES

Name and boundary - see CHTR. 1.01

Wards and boundaries - see CHTR. 3.03

Annexation and detachment - see Ohio R.C. Ch. 709

103.01 WARDS.

The City of Pataskala shall hereinafter be divided into four wards, as set forth in exhibit A to Ordinance 2011-4045 and as shown on the enclosed map.

CHAPTER 105
City Property

105.01 Acceptance of gifts and donations.

105.02 Determination of value.

105.03 Evaluation of appropriateness.

CROSS REFERENCES

Unauthorized use - see GEN. OFF. 545.06, 545.08

105.01 ACCEPTANCE OF GIFTS AND DONATIONS.

(a) Council hereby authorizes the City Administrator to accept gifts donated to the City, other than real estate, to be used for municipal purposes, the estimated value of which does not exceed two thousand five hundred dollars (\$2,500.00).

(b) Gifts to the City exceeding two thousand five hundred dollars (\$2,500.00) in estimated value shall be accepted by Council by Motion or by Resolution.

(c) Gifts and donations of real estate must receive the approval of Council.

(d) The City Administrator must approve any and all gifts donated to employees or officers for the personal benefit of City employees or officers.

(e) Council hereby authorizes and directs the Finance Director to establish and maintain such separate accounts as may be necessary for the acceptance and use of gifts donated to the City.

(f) The Finance Director shall report in writing to Council, on an annual basis, or at any time upon the request of Council, as to gifts made to the City.

(g) Nothing herein shall require the City Administrator or Council to accept any gift, of whatever kind or value, offered to the City.

(h) The City shall comply with appropriate IRS regulations and publications as amended from time to time, such as Publication 1771 - Charitable Contributions - Substantiation and Disclosure Requirements, regarding the acceptance of such gifts. The City's Finance Department shall provide the donor with a contemporaneous, written acknowledgment shall be provided which acknowledges receipt of the donation.
(Ord. 2013-4135. Passed 4-15-13.)

105.02 DETERMINATION OF VALUE.

The City, whether by the Administrator or Finance Director may request such documentation as may be determined to be appropriate to establish the value of any gift offered to the City prior to the acceptance of such gift.
(Ord. 2013-4135. Passed 4-15-13.)

105.03 EVALUATION OF APPROPRIATENESS.

(a) As to any gift offered to the City within the parameters contemplated by Section 105.01(a) of this Chapter, the City Administrator is authorized to determine whether a proposed gift is an appropriate item for the City to accept and, where applicable, to determine the location where such item is to be located and/or displayed.

(b) As to any gift offered to the City within the parameters contemplated by Section 105.01(b) of this Chapter, Council reserves the right to determine whether a proposed gift is an appropriate item for the City to accept and, where applicable, to determine the location where such item is to be located and/or displayed.
(Ord. 2013-4135. Passed 4-15-13.)

TITLE THREE - Legislative

Chap. 113. Council.

Chap. 115. Legislation.

CHAPTER 113

Council

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

CROSS REFERENCES

Powers of Council - see CHTR. 3.01

Composition, term, qualifications - see CHTR. 3.02

Wards and boundaries - see CHTR. 3.03

Clerk of Council - see CHTR. 3.04

Council meetings - see CHTR. 3.05

Organization and rules - see CHTR. 3.06

Salaries of elected officials - see CHTR. 3.07

Council vacancies - see CHTR. 3.08

Elections - see CHTR. 9.01 to 9.04

Removal of officials - see CHTR. 11.01

Conflicts of interest, ethics, campaign financing - see
CHTR. 11.02

Oath of office - see CHTR. 11.08

CHAPTER 115

Legislation

EDITOR'S NOTE: There are no sections in Chapter 115. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Form of action by Council - see CHTR. 4.01
Introduction of Ordinances and Resolutions - see CHTR. 4.02
Form of Ordinances and Resolutions - see CHTR. 4.03
Reading Ordinances and Resolutions - see CHTR. 4.04
Vote required for passage - see CHTR. 4.05
Content of emergency legislation - see CHTR. 4.06
Effective date of legislation - see CHTR. 4.07
Authentication - see CHTR. 4.08
Recording legislation - see CHTR. 4.09
Amendment - see CHTR. 4.10
Zoning measures - see CHTR. 4.11
Adoption of technical codes - see CHTR. 4.12
Codification - see CHTR. 4.13
Publications of Ordinances and Resolutions - see CHTR. 4.14
Initiative and referendum - see CHTR. 10.01

TITLE FIVE - Administrative

- Chap. 121. Mayor.
- Chap. 123. City Administrator.
- Chap. 125. Department of Law.
- Chap. 127. Department of Finance.
- Chap. 129. Department of Police Services.
- Chap. 131. Department of Utility Services.
- Chap. 133. Department of Public Services.
- Chap. 141. Personnel Board of Review.
- Chap. 143. Planning and Zoning Commission.
- Chap. 145. Board of Zoning Appeals.
- Chap. 147. Park and Recreation Board.
- Chap. 149. City Records Commission.
- Chap. 163. Employment Provisions.

CHAPTER 121

Mayor

EDITOR'S NOTE: There are no sections in Chapter 121. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

- Charter provisions -See CHTR. 5.01
- Powers of Mayor - see CHTR. 5.02
- Elections - see CHTR. 9.01 - 9.04
- Removal of officials - see CHTR. 11.01
- Conflict of interest, ethics, campaign financing -
see CHTR. 11.02
- Oath of office - see CHTR. 11.08

CHAPTER 123
City Administrator

123.01 Assistant to City Administrator.

123.02 Disposition of unneeded or obsolete property.

123.03 Use of propertyroom.com.

CROSS REFERENCES

Charter provisions - see CHTR. 5.03

Powers of City Administrator - see CHTR. 5.04

Contracting powers and procedures - see CHTR. 8.02

123.01 ASSISTANT TO CITY ADMINISTRATOR.

(a) The position of Assistant to the City Administrator is hereby created within the City.

(b) The City Administrator shall appoint the Assistant to the City Administrator.

(c) Said position shall be an unclassified position and shall receive compensation within the prescribed range of pay grades commencing at PS 11-2 annually. (Ord. 2007-3774. Passed 6-4-07.)

(d) Editor's Note: Ordinance 2009-3898 changed the job title of the Assistant to the City Administrator/Director of Public Services to Director of Public Services.

123.02 DISPOSITION OF UNNEEDED OR OBSOLETE PROPERTY.

The City Administrator is authorized and directed to provide for the sale of surplus equipment and supplies, including motor vehicles, in the following manner:

(a) At such time as equipment, including motor vehicles, and supplies of the Municipality serve no useful municipal purpose, the City Administrator shall provide for the sale of such equipment or supplies as provided in this section. Such determinations shall be made not less than once during each calendar year.

(b) Sale of surplus equipment, as determined under subsection (a) hereof, shall be sold by the City Administrator by one or more of the following methods:

(1) By the acceptance of sealed bids, after advertising not less than one time in a newspaper of general circulation in the Municipality.

(2) By public auction, after advertisement for not less than one time in a newspaper of general circulation in the Municipality.

(3) If to other governmental units or political subdivisions within the State of Ohio, at fair market value determined by the City Administrator as evidenced by sufficient documentation to establish reasonable inquiry and investigation to determine such value under the facts and circumstances present at the time such determinations are to be made.

- (c) The proceeds for the sale of surplus property shall be deposited in the Municipal Treasury to the credit of the division having jurisdiction and control over such property.
- (d) The City Administrator shall keep full and accurate records of the sale of such property.
- (e) The City Administrator shall estimate the value of equipment or supplies to be sold under the provisions of this section. The sale of equipment or supplies having an estimated value in excess of one thousand dollars (\$1,000) shall be authorized by Council before sale as provided in subsection (b) hereof. The authorization shall be made by motion entered upon the minutes of Council.
- (f) For items determined to have a fair market value of less than two hundred fifty dollars (\$250.00) by disposition by the City Administrator under such terms and conditions as the City Administrator determines to be appropriate after consultation with and the concurrence of Council.
(Ord. 2008-3837. Passed 1-7-08.)
- (g) The Utilities Department is hereby authorized to dispose of all excess scrap metal upon passage of this subsection. Thereafter, the time frame set forth herein shall be continued or Section 123.02 shall be amended to permanently incorporate this or other similar process for property disposal.
(Res. 2011-041. Passed 9-6-11.)

123.03 USE OF PROPERTYROOM.COM.

The Division of Police Services is hereby authorized to utilize the services of propertyroom.com for the disposal of current and future unneeded or obsolete items. The Division of Police Services shall provide periodic reports to the City Administrator and the Mayor of the items processed through propertyroom.com.
(Ord. 2011-4033. Passed 6-20-11.)

CHAPTER 125
Department of Law

EDITOR'S NOTE: There are no sections in Chapter 125. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Director of Law - see CHTR. 6.01

Transitional provisions - see CHTR. 12.03

CHAPTER 127
Department of Finance

EDITOR'S NOTE: There are no sections in Chapter 127. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Director of Finance - see CHTR. 6.02
Finance, taxation and debt - see CHTR. 8.01
Contracting powers and procedures - see CHTR. 8.02
City Treasurer, City Auditor - see CHTR. 12.03

CHAPTER 129
Department of Police Services

129.01 Auxiliary Police.

CROSS REFERENCES

Department established - see CHTR. 6.03

General duties - see Ohio R.C. Ch. 737

Auxiliary police - see Ohio R.C. 737.051

129.01 AUXILIARY POLICE.

(a) Definitions.

- (1) "Auxiliary policeman" means a person appointed to the Auxiliary Police Force of the City, who has successfully completed the course of instruction and has been certified by the Ohio Peace Officers Training Council and who volunteers a specified amount of time to the City.
- (2) "Sidearm" means a firearm that is approved by the Pataskala Division of Police to be carried by the Auxiliary Policeman.
- (3) "Uniform" means the required clothing and equipment that is either issued or supplied by the officer that is approved by the Division of Police.

(b) Auxiliary Police Force. There is hereby created an Auxiliary Police Force as hereinafter set forth. All members of the Pataskala Auxiliary Police Force shall be appointed by the Chief of Police to serve at his pleasure, and such members shall be classified as Auxiliary Police Officers.

(c) Appointment. Every person appointed to the Auxiliary Police Force shall have met the requirements of subsection (d) hereof, and then shall have been recommended for appointment and appointed by the Chief of Police to the Auxiliary Police Force.

In time of emergency the Mayor may appoint any person to the Auxiliary Police Force who has not completed the application process but who is certified by the Ohio Peace Officers Training Council; however the appointment is only valid for 72 hours unless terminated sooner by the Mayor.

Upon appointment the certificate of appointment shall be prepared and copies shall be given to the Clerk of Council, the officer appointed and the officer's personnel file. All appointments awarded will fall under the parameters of and will serve at the pleasure of the Chief of Police.

(d) Application. Persons desirous of being appointed as a member of the Auxiliary Police Force shall complete the required application form and recruitment process as prescribed by the regulations covering the regular Police Division. The applicant must indicate that he/she is willing to follow all the Rules and Regulations set forth in the Pataskala Division of Police Operational and Procedural Orders and that they are willing to work no less than 16 hours a month. All applicants must pass all stages of the recruitment process before being appointed.

Upon appointment to the Pataskala Division of Police Auxiliary Subdivision the officer will take an oath and will meet all other requirements as set forth by the City of Pataskala ordinances. All Auxiliary Officers will be covered under the State of Ohio Workers' Compensation Laws.

(e) Uniform. Any person appointed to the Auxiliary Police Force of the City shall furnish their own uniform. The uniform to be purchased will be the same uniform used by the full time personnel. All rules, regulations and procedures for the uniform will be the same as for the Police Subdivision. The following is a list of equipment that will be issued from the Police Division:

- 1 - Breast shield
- 1 - Hat badge
- 2 - Patches per shirt
- 2 - Patches per coat/jacket
- 1 - Set of keys for access into building
- 1 - Police identification card.

These items will be issued at the time of appointment and remain the property of the Pataskala Division of Police and shall be returned when departing from the Division.

(f) Sidearm. The person appointed shall furnish their own sidearm to be used while on duty. Sidearms that are authorized are: .9mm, .40 cal., and .45 cal. If the officer purchases a .9mm or .45 cal. sidearm the division will supply the ammunition for duty and qualifications. If the person carries a .40 cal. sidearm they must purchase their own ammunition and that ammunition must be authorized by the Division.

(g) Salary. In order that the members of the Auxiliary Police Force may be included on the records of the Finance Director as employees of the City, each member of the Auxiliary Police Force shall be paid an annual salary of one dollar (\$1.00) which sum shall be in addition to any other monies paid to such members as compensation for hours worked.

(NOTE: The next printed page is page 29.)

CHAPTER 131
Department of Utility Services

EDITOR'S NOTE: There are no sections in Chapter 131. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Department established - see CHTR. 6.03
Acting Department and Division heads - see CHTR. 6.04
Sewer regulations - see S.U. & P.S. Ch. 921
Water regulations - see S.U. & P.S. Ch. 925
Sewer and water rates and charges - see S.U. & P.S. Ch. 929

CHAPTER 133
Department of Public Services

EDITOR'S NOTE: There are no sections in Chapter 133. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Department established - see CHTR. 6.03
Acting Department and Division heads - see CHTR. 6.04
Excavations - see S.U. & P.S. Ch. 905
Trees - see S.U. & P.S. Ch. 909

CHAPTER 141
Personnel Board of Review

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

CROSS REFERENCES

Merit system - see CHTR. 7.01

Organization, vacancies - see CHTR. 7.06

CHAPTER 143
Planning and Zoning Commission

EDITOR'S NOTE: There are no sections in Chapter 143. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Creation, members, powers and duties - see CHTR. 7.02
Organization, vacancies - see CHTR. 7.06

CHAPTER 145
Board of Zoning Appeals

EDITOR'S NOTE: There are no sections in Chapter 145. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Creation, members, powers and duties - see CHTR. 7.03
Organization, vacancies - see CHTR. 7.06

CHAPTER 147
Park and Recreation Board

EDITOR'S NOTE: There are no sections in Chapter 147. This chapter has been established to provide a place for cross references and future legislation.

CROSS REFERENCES

Creation, members, powers and duties - see CHTR. 7.04
Organization, vacancies - see CHTR. 7.06

CHAPTER 149
City Records Commission

149.01 Creation; members.
149.02 Functions.

149.03 Disposal of public records.

CROSS REFERENCES
Records commission - see Ohio R.C. 149.39

149.01 CREATION; MEMBERS.

There is hereby created a City Records Commission ("Commission") composed of the Mayor, as chairman, Finance Director, City Law Director, and two citizens appointed by the Mayor. Each respective officer may designate an assistant or deputy to represent them on the Commission. The Commission shall appoint a secretary, who may or may not be a member of the Commission to keep a record of all proceedings. The Commission shall meet at least once every six (6) months and upon call of the chairman. (Ord. 2013-4177. Passed 1-6-14.)

149.02 FUNCTIONS.

The functions of the Commission shall include providing rules for retention and disposal of records of the City and reviewing applications for one-time records disposal and schedules of records retention and disposition submitted by city offices. The Commission may at any time review any schedule it has previously approved and, for good cause shown, revise that schedule. (Ord. 2013-4177. Passed 1-6-14.)

149.03 DISPOSAL OF PUBLIC RECORDS.

When City records have been approved for disposal, a list of such records shall be sent to the Ohio Historical Society. Before public records are disposed of, the Ohio Historical Society shall be informed and given the opportunity for a period of fifteen (15) days to select for its custody such public records as it considers being of continuing historical value. (Ord. 2013-4177. Passed 1-6-14.)

CHAPTER 163
Employment Provisions

EDITOR'S NOTE: By Ordinance 2006-3671, as amended, the City adopted an employee handbook for the employees of the City which supersedes the legislation formerly codified under Chapter 163.

TITLE SEVEN - Taxation

Chap. 171. Income Tax.
Chap. 181. Motor Vehicle License Tax.
Chap. 191. Hotel Tax.

**CHAPTER 171
Income Tax**

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| 171.01 Purpose. | 171.14 Interest and penalties. |
| 171.02 Definitions. | 171.15 Exceptions. |
| 171.03 Imposition of tax. | 171.16 Collection of unpaid taxes and refunds of overpayments. |
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| 171.06 Consolidated returns. | 171.19 Savings clause. |
| 171.07 Effective period. | 171.20 Prohibited violations. |
| 171.08 Return and payment of tax. | 171.21 Mandatory registration. |
| 171.09 Amended returns. | 171.22 Exclusions. |
| 171.10 Collection at source. | 171.23 Rules and regulations. |
| 171.11 Declarations. | 171.24 Tax information confidential. |
| 171.12 Duties of the Tax Administrator. | 171.99 Penalty. |
| 171.13 Investigative powers of the Tax Administrator; penalty for divulging information. | |

CROSS REFERENCES

Power to levy income tax -see Ohio Const., Art. XVIII, Sec. 3
Municipal Income Taxes -see Ohio R.C. Ch. 718

171.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the Municipality there is hereby levied a tax on qualifying wages, commissions and other compensation, and on net profits and other taxable income as hereinafter provided. (Ord. 2010-3986. Passed 7-20-10.)

171.02 DEFINITIONS.

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

(a) "Adjusted Federal Taxable Income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- (1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
- (2) Add an amount equal to five percent (5%) of intangible income deducted under division (a)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
- (3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
- (4) A. Except as provided in division (a)(4)B. of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
B. Division (a)(4)A. of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (6) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (7) If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
 - A. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
 - B. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

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

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

- (b) "Association" means a partnership, limited partnership, S Corporation or any other form of unincorporated enterprise owned by one or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided for in Section 171.17.
- (d) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real personal or mixed.
- (e) "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.
- (f) "Domicile" means the permanent legal residence of a taxpayer. A taxpayer has only one domicile even though he may have more than one residence.
- (g) "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.
- (h) "Employer" means an individual, partnership, association, corporation, governmental 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 compensation basis.
- (i) "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.
- (j) "Generic Form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.
- (k) "Gross receipts" means total income of taxpayers from whatever source derived.
- (l) "Income from a Pass-through Entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other passthrough entities.
- (m) "Intangible Income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (n) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (o) "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical sub-network known as the world wide web.
- (p) "Limited Liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (q) "Municipality" means the Municipality of Pataskala, Ohio.

- (r) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than the amounts described in Section 171.03, required to be reported on schedule C, schedule E or Schedule F.
- (s) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121 (v)(2)(C) of the Internal Revenue Code.
- (t) "Nonresident" means an individual domiciled outside the Municipality.
- (u) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
- (v) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
- (w) "Other Payer" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual.
- (x) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
- (y) "Owner's Proportionate Share" with respect to each owner of a pass-through entity, means the ratio of:
 - (1) The owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to
 - (2) The total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
- (z) "Pass-through Entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (aa) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association shall include the partners or members thereof, and as applied to corporations, the officers thereof.
- (bb) "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 employees regularly in attendance.
- (cc) "Principal Place of Business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
- (dd) "Qualified Plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.
- (ee) "Qualifying Wages" means wages, as defined in Section 3121 (a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.
- (ff) "Resident" means domiciled in the Municipality.
- (gg) "Resident Incorporated Business Entity" means an incorporated business entity whose office, place of operations or business situs is within the Municipality.

- (hh) "Resident Unincorporated Business Entity" means an unincorporated business entity whose office, place of operations or business situs is within the Municipality.
- (ii) "Return Preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
- (jj) "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (kk) "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (ll) "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (mm) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (nn) "Tax year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (oo) "Tax Administrator" means the Tax Administrator of the Municipality or the person executing the duties of the aforesaid Tax Administrator.
- (pp) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity of qualifying subchapter S subsidiary. Taxpayer constitutes a person(s) of any age which may have taxable income, including person(s) less than eighteen (18) years of age.
- (qq) "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Chapter.
- (rr) "Taxing Municipality" means a Municipality levying a tax on income earned by nonresidents working with such Municipality or on income earned by its residents.
(Ord. 2010-3986. Passed 7-20-10.)

171.03 IMPOSITION OF TAX.

Subject to the provisions of Section 171.19, an annual tax for the purpose specified herein is hereby levied beginning July 1, 2010 at a rate of one percent (1.0%) per year on the following:

- (a) On all qualifying wages, commissions, other compensation and other taxable income earned or received by residents of the Municipality during the effective period of this chapter.
- (b) On all qualifying wages, commissions, other compensation and other taxable income earned by non-residents for work done or service performed or rendered in the Municipality during the effective period of this chapter.
- (c) On the portion attributable to the Municipality of the net profits earned during the effective period of this chapter, of all resident unincorporated businesses, pass through entities, professions or other activities, derived from sales made, work done, services performed or rendered or business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or passthrough entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.

- (d) On the portion attributable to the Municipality of the net profits, earned during the effective period of this chapter, by all nonresident unincorporated businesses, pass-through entities, professions or other activities derived from sales made, work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such incorporated business entity or pass-through entity.
- (e) On the portion attributable to the Municipality of the net profits earned during the effective period of this chapter by all corporations that are not pass-through entities derived from sales made, work done or services performed or rendered, and business or other activities conducted in the Municipality whether or not such corporations have an office of place of business in the Municipality.
- (f) On all income received by residents as lottery, gambling or sports winnings, games of chance and prizes and/or awards. No deductions against this income are permitted. (Ord. 2010-3986. Passed 7-20-10.)

171.04 ALLOCATION OF NET PROFITS.

(a) This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

- (1) Except as otherwise provided in Section 171.05 of this Chapter, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such a municipal corporation for the purposes of municipal income taxation in the same proportion as the average ratio of the following:

- A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

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

- B. Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code.

- C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- If the foregoing apportionment formula does not produce an equitable result, another basis may be substituted, under uniform regulations, so as to produce an equitable result.
- (2) As used in division (a)(1) of this section, "sales made in a municipal corporation" mean:
- A. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation.
- B. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
- C. All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (3) Except as otherwise provided in division (a)(4) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.
- (4) This section does not apply to individuals who are residents of the municipal corporation and, except as otherwise provided in Section 171.22, a municipal corporation may impose a tax on all income earned by residents of the municipal corporation to the extent allowed by the United States Constitution. (Ord. 2010-3986. Passed 7-20-10.)

171.05 OPERATING LOSS CARRY FORWARD.

(a) The portion of new operating loss sustained in any taxable year, beginning on July 1, 2010 allocable to the Municipality, may not be carried forward and applied to any portion of profit in succeeding tax years. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of a net operating loss sustained shall be allocated to the Municipality in the same manner as provided herein for allocating net profits to the Municipality.

(c) The Tax Administrator shall provide by rules and regulations the manner in which such net operating loss carry forward shall be determined.
(Ord. 2010-3986. Passed 7-20-10.)

171.06 CONSOLIDATED RETURNS.

A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal Income Tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
(Ord. 2010-3986. Passed 7-20-10.)

171.07 EFFECTIVE PERIOD.

The tax imposed by this chapter shall be levied, collected and paid with respect to all income and net profits subject to the tax earned on or beginning after July 1, 2010. (Ord. 2010-3986. Passed 7-20-10.)

171.08 RETURN AND PAYMENT OF TAX.

(a) Each person who engaged in business, or whose qualifying wage, commissions, other compensation, and other taxable income are subject to the tax imposed by this chapter, shall, whether or not a tax is due thereon, make and file on or before April 15 in each year, a return with the Tax Administrator and on or before April 15 of each year thereafter.

A taxpayer on a fiscal year accounting basis for Federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period of this chapter, file his return within four (4) months from the end of such fiscal year or period.

The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions or other compensation of an employee and paid by him or them to the Tax Administrator, shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.

(b) The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request for the Tax Administrator setting forth:

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

(c) The return may be filed on a generic form, if the generic form, when completed and filed, contains all the information required to be submitted with the Municipality's prescribed returns, and if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

- (d) (1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a municipal income tax return by filing a copy of the taxpayer's federal extension request with the Municipal Tax Division. Any taxpayer not required to file a federal income tax return may request an extension for filing a municipal income tax return in writing.

The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

- (2) The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:
- A. Fails to timely file the request; or
 - B. Fails to file a copy of the federal extension request, (if applicable); or
 - C. Owes the Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
 - D. Failed to file any required income tax return, report, or other related document for a prior tax period.
- (3) The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 171.14. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met.
- Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled, however, if upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled; penalty and interest may be assessed in full and in the same manner as though no extension had been granted.
- (e) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source, pursuant to the provisions of this chapter, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 171.11, credit for the amount so paid 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 such return.
- (2) A taxpayer, who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this chapter, may have such overpayment applied against any subsequent liability hereunder or, at their election indicated on the return, such overpayment or part thereof shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.
(Ord. 2010-3986. Passed 7-20-10.)

171.09 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 and limitations contained in Section 171.16. Such amended returns shall be on a form obtainable on request from the Tax Administrator or on a generic form. A taxpayer may not change the method of accounting or apportionment of the net profits, nor the method of filing (i.e., single or consolidated after the due date for filing the original return).

(b) Within three (3) months from the final determination of any Federal tax liability affecting the taxpayer's municipal tax liability, such taxpayer shall make and file an amended municipal return showing income subject to the Municipality tax based upon such final determination of Federal tax liability, and shall pay any additional tax shown due thereon or make claim for refund of any overpayment.

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

(Ord. 2010-3986. Passed 7-20-10.)

171.10 COLLECTION AT SOURCE.

(a) Each employer within, or doing business within the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct at the time of the payment of such salaries, wages, commissions or other compensation, beginning July 1, 2010 tax levied at a rate of one percent (1.0%) per year of the qualifying wages due by such employer to each such employee and shall before the last day specified below make a return and pay to the Tax Administrator the amount of taxes so deducted.

Employers with withholding of less than three hundred dollars (\$300.00) per month shall make returns on a quarterly basis, the due dates being the last day of April, July, October, and January.

Employers with withholding of more than three hundred dollars (\$300.00) per month must make returns on a monthly basis, the due date being the fifteenth (15 th) day of the following month; any other withholding schedule shall have prior approval of or by the Tax Administrator in withheld.

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

(c) The officer(s) or the employee(s) having control or supervision of, or charged with the responsibility for withholding the tax, and/or filing the report and making payment is personally liable, jointly and severally with the employer, for failure to file the report or pay the tax due as required by this section. The dissolution of the employer does not discharge an officer's or employee's liability for a prior failure of the employer to file returns or pay the tax due.

(d) On or before February 28 of each year, each employer shall file a withholding tax reconciliation on a form or forms prescribed by and obtainable from the Tax Administrator or a generic form, setting forth the sum total of all compensation paid all employees, the portion of which, (if any), was not subject to withholding along with an explanation for the same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee.

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

(f) No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation and other taxable income paid to domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for the filing and paying their own returns and taxes.
(Ord. 2010-3986. Passed 7-20-10.)

171.11 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 171.10, or who engages in any business, profession, enterprise or activity shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any.

- (b) (1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or on or before the fifteenth (15th) day of the fourth (4th) month following date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

- (c) (1) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or a generic form.
- (2) Except as hereinafter specified, a declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-fourth of the estimated tax for taxes withheld or paid to another municipality and at least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th), and thirteenth (13th) months after the beginning of the tax year.
- (3) A declaration may be amended at any time; provided however, that in case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (4) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

(d) An amended declaration must be filed on or before January 31 of any year, or in the case of a tax payer on a fiscal year accounting basis, on or before the date fixed by regulation of the Tax Commissioner, if it appears that the original declaration made for such year underestimated the taxpayer's income by thirty percent (30%) or more. At such time a payment which, together with prior payments, is sufficient to pay the taxpayer's entire estimated liability shall be made. If, upon the filing of the return on or before January 31 or the date fixed by regulation, whichever is applicable, the difference between seventy percent (70%) of the taxpayer's tax liability and the amount of estimated tax he actually paid on or before January 31 or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section 171.14.

(e) On or before the fifteenth (15th) day of the fourth (4th) month of the calendar or fiscal year following that for which the declaration was filed, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 171.08. (Ord. 2010-3986. Passed 7-20-10.)

171.12 DUTIES OF THE TAX ADMINISTRATOR.

- (a) (1) The Finance Director shall have the power to appoint a delegate to assist in the administration of this chapter, and such Administrator shall be responsible to the Finance Director.
- (2) The Tax Administrator shall collect and receive the tax imposed by this chapter in the manner prescribed herein, shall keep an accurate record thereof and shall report all moneys so received.
- (3) The Tax Administrator shall enforce payment of all income taxes owing the Municipality, shall keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and shall show the dates and amounts of payments thereof.
- (b) The Tax Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations authorized or required by this chapter, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.
- (c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may determine the amount of tax appearing to be due the Municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- (d) Subject to the consent of a majority of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Administrator shall have the power to compromise any liability imposed by this chapter.
- (e) Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter.
- (f) The Municipality shall have the election to contract with a third-party the administration, collection, and enforcement of levying an income tax and designating a third-party Tax Administrator. (Ord. 2010-3986. Passed 7-20-10.)

**171.13 INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR;
PENALTY
FOR DIVULGING INFORMATION.**

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

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

(c) The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized herein shall be deemed a violation of this chapter punishable as provided in Sections 171.20 and 171.99.

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

(e) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, and no disclosure thereof shall be made except to municipal, County, State or Federal taxing agencies, or except for official purposes or except in accordance with proper judicial order. Any person divulging such information in violation of this section shall be fined and/or imprisoned as provided in Section 171.99. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
(Ord. 2010-3986. Passed 7-20-10.)

171.14 INTEREST AND PENALTIES.

(a) All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this chapter, remaining unpaid after they become due, shall bear interest at the rate of one percent (1 %) per month.

(b) In addition to interest as provided in subsection (a) herein, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this chapter are hereby imposed as follows:

- (1) For failure to pay taxes, including estimated payments, when due, other than taxes withheld, one percent (1 %) per month or fraction of a month, with a minimum penalty of not less than twenty-five dollars (\$25.00).
- (2) For failure to remit taxes withheld from employees, ten percent (10%) per month or fraction of a month, with a minimum penalty of two hundred fifty dollars (\$250.00).
- (3) For failure to file the tax return when due, and if the taxpayer is not otherwise exempt from the filing requirement, the Tax Administrator may impose a penalty of fifty dollars (\$50.00) for each offense, in addition to any other penalties which may otherwise be imposed.
(Ord. 2010-3986. Passed 7-20-10.)

171.15 EXCEPTIONS.

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

(b) Upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.

(Ord. 2010-3986. Passed 7-20-10.)

171.16 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

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

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

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

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

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

(e) Amounts of less than five dollars (\$5.00) shall not be collected or refunded.
(Ord. 2010-3986. Passed 7-20-10.)

171.17 BOARD OF REVIEW.

(a) A Board of Review consisting of three (3) persons appointed by the Mayor, with the consent of Council, is hereby created. Board members shall receive such compensation as Council may determine and can be removed by a majority of Council without cause. All members must have general knowledge or be sufficiently versed on municipal income tax related issues. In the event that applicants applying for an open position do not have general knowledge or are sufficiently versed on municipal income tax related issues, the Mayor shall appoint the most qualified applicant with the consent of Council contingent upon the applicant's ability and willingness to obtain sufficient knowledge.

(b) 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. All hearings by the Board shall be conducted privately unless the taxpayer requests a public hearing and the provisions of Section 171.13 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.

(c) Each Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

(d) The Board shall keep its office at the City of Pataskala Municipal Offices.

(e) The Board shall adhere to the following purposes and duties:

- (1) Whenever a Tax Administrator issues a decision regarding a City of Pataskala income tax obligation that is subject to appeal as provided in this section or in an ordinance or regulation of the City of Pataskala, the Tax Administrator must inform the taxpayer of their right to appeal the decision and of the manner in which the taxpayer may appeal the decision.
- (2) Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the City of Pataskala or third-party administrator the required returns or other documents pertaining to the City of Pataskala income tax obligation may appeal the decision to the Board created pursuant to this section, by filing a request with the Board. The request shall be in writing, shall state with specificity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the Tax Administrator issues the decision complained of.

- (3) The Board shall schedule a hearing within forty-five days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may represent himself, or be represented by an attorney at law, certified public accountant, or other representative only after written authorization from the taxpayer.
- (4) The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a written decision on the appeal within ninety days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen days after issuing the decision pursuant to Section 5717.011 of the Ohio Revised Code.
- (5) The Board will not waive late filing penalty and interest charges unless it can be determined that a financial hardship or unforeseen circumstances can be determined by the Board. (Ord. 2010-3986. Passed 7-20-10.)

171.18 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited in the General Fund and such funds shall be disbursed in the following order:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions hereof.
- (b) All remaining moneys collected under the provisions of this chapter shall be used for general municipal operations, maintenance, equipment and capital improvements as Council shall annually determine.
(Ord. 2010-3986. Passed 7-20-10.)

171.19 SAVINGS CLAUSE.

This chapter shall not apply to any person, firm or corporation, or to any property as to whom or which is beyond the power of Council to impose the tax herein provided for. If any sentence, clause, section or part of this chapter or any tax against or exception granted any individual or any of the several groups of persons or forms of income specified herein, is found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentences, section of 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 or part thereof not been included therein.
(Ord. 2010-3986. Passed 7-20-10.)

171.20 PROHIBITED VIOLATIONS.

No person shall:

- (a) Fail, neglect or refuse to make any return, declaration or registration required by this chapter; or
- (b) File an incomplete, false, or fraudulent return; or
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (d) Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Administrator; or
- (e) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers and Federal income tax returns; or

- (f) Fail to appear before the Tax Administrator and to produce his or his employer's books, records, papers of Federal income tax returns upon order or subpoena of the Commissioner; or
- (g) Refuse to disclose to the Tax Administrator any information with respect to such person's or such person's employer's income or net profits; or
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (i) Fail, neglect or refuse to make any payment on the estimated tax for any year as required by Section 171.11; or
- (j) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter. All criminal prosecutions under this section and all civil actions shall be commenced within the time specified in Ohio R.C. 178.06. The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him for filing any information, return or declaration, from filing such form or from paying the tax.

"Person" as used in this section, shall in addition to the meaning prescribed in Section 171.02, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.
(Ord. 2010-3986. Passed 7-20-10.)

171.21 MANDATORY REGISTRATION.

(a) Each new resident of the Municipality shall register with the Tax Administrator of the Municipality to become subject to the Municipal income tax within thirty (30) days of residence in the Municipality.

(b) All employers, contractors or subcontractors who do work in the Municipality shall register with the Tax Administrator and shall present a list of all employees, subcontractors, contractors or others who may do work for them whose profits, wages, or earnings are not presently subject to withholding of the Municipal income tax.

(c) On July 15, 2010, and then by December 31 of every year thereafter, all landlords who rent property in the Municipality shall submit an up-to-date list of their tenants to the Tax Administrator. This list is not required if the tenants are responsible for their own utility payments. (Ord. 2010-3986. Passed 7-20-10.)

171.22 EXCLUSIONS.

The provisions of this Chapter shall not be construed as levying a tax upon the following:

- (a) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
- (b) Proceeds of insurance, annuities, Worker's Compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
- (c) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

- (d) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (e) Alimony.
- (f) Compensation for damage to property by way of insurance or otherwise.
- (g) Interest and dividends from intangible property.
- (h) Military payor allowances of members of the Armed Forces of The United States and members of their reserve components, including the Ohio National Guard (Ohio Revised Code 718.01).
- (i) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.0 I to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (j) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
- (k) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
- (l) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal tax income.
- (m) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.
- (n) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
- (o) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
- (p) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one (1) of the following applies:
 - (1) The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

- (2) The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonable defined by the Municipality.
 - (q) The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:
 - (1) The income of an electric company or combined company;
 - (2) The income of a telephone company.
- As used throughout this chapter, "combined company", "electric company" and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.
- (r) Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.
 - (s) Income of the mentally retarded or developmentally disabled while working in a government funded workshop for less than minimum wage is not taxable. An exemption certificate must be filed. (Ord. 2010-3986. Passed 7-20-10.)

171.23 RULES AND REGULATIONS.

The Municipality hereby adopts the Regional Income Tax Agency (R.I.T.A.) Rules and Regulations, including amendments that may be made from time to time, for use as the Municipality's Income Tax Rules and Regulations. (Ord. 2010-3986. Passed 7-20-10.)

171.24 TAX INFORMATION CONFIDENTIAL.

Any information gained as a result of any returns, investigations, hearing or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order, or except as hereinafter provided. The Tax Administrator or his/her delegate may furnish the Internal Revenue Service, Treasury Department of the United States, the Tax Commissioner of Ohio, and the duly authorized income tax administrator of any other municipality or state with copies of the returns filed. The Tax Administrator or his/her delegate is also authorized to enter into agreements for the exchange of any information with any of the foregoing Federal, State or municipal officials. Any person divulging such information, except as hereinbefore authorized, shall be deemed guilty of a misdemeanor of the third degree and shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisoned for not more than sixty (60) days, or both. Each disclosure shall constitute a separate offense.

(Ord. 2010-3986. Passed 7-20-10.)

171.99 PENALTY.

(a) Whoever violates any of the provisions of Section 171.20 and/or violates any provision of this chapter for which no other penalty is provided, shall be guilty of a first-degree misdemeanor and fined not more than one thousand dollars (\$1,000) or imprisoned not more than six (6) months, or both, for each offense. (Ord. 2010-3986. Passed 7-20-10.)

CHAPTER 181
Motor Vehicle License Tax

181.01 Tax levied.

181.03 Supplemental tax.

181.02 Additional tax.

CROSS REFERENCES

Authority to levy - see Ohio R.C. 4504.17, 4504.171

181.01 TAX LEVIED.

(a) There is hereby levied an annual license tax, in addition to the tax levied by Sections 4503.02, 4503.07 and 4503.18 of the Ohio Revised Code, upon the operation of motor vehicles on the public roads or highways of the City.

(b) The tax hereby shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles the district of registration of which, as defined in Section 4503.10 of the Ohio Revised Code, is in the municipal corporation of the City, and shall be in addition to the taxes at the rates specified in Sections 4502.04 and 4502.16 of the Ohio Revised Code, and subject to the reductions in the manner provided in Section 4502.011 and the exemptions provided in Sections 4502.16, 4502.17, 4502.171, 4503.41 and 4503.43 of the Ohio Revised Code.
(Ord. 2000-3326. Passed 5-15-00.)

181.02 ADDITIONAL TAX.

(a) There is hereby levied an annual license tax, in addition to the tax levied by Sections 4503.02, 4503.07 and 4503.18 of the Ohio Revised Code, upon the operation of motor vehicles on the public roads or highways of the City.

(b) The tax hereby shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles the district of registration of which, as defined in Section 4503.10 of the Ohio Revised Code, is in the municipal corporation of the City, and shall be in addition to the taxes at the rates specified in Sections 4502.04 and 4502.16 of the Ohio Revised Code, and subject to the reductions in the manner provided in Section 4502.011 and the exemptions provided in Sections 4502.16, 4502.17, 4502.171, 4503.41 and 4503.43 of the Ohio Revised Code.
(Ord. 2000-3327. Passed 5-15-00.)

181.03 SUPPLEMENTAL TAX.

(a) There is hereby levied an annual license tax, in addition to the tax levied by Sections 4503.02, 4503.07 and 4503.18 of the Ohio Revised Code, upon the operation of motor vehicles on the public roads or highways of the City of Pataskala.

(b) The tax hereby shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles the district of registration of which, as defined in Section 4503.10 of the Ohio Revised Code, is in the municipal corporation of the City of Pataskala, and shall be in addition to the taxes at the rates specified in Sections 4502.04 and 4502.16 of the Ohio Revised Code, and subject to the reductions in the manner provided in Section 4502.011 and the exemptions provided in Sections 4502.16, 4502.17, 4502.171, 4503.41, and 4503.43 of the Ohio Revised Code.

(Ord. 2002-3461. Passed 12-16-02.)

CHAPTER 191
Hotel Tax

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|---------------|---|---------------|--|
| 191.01 | Definitions. | 191.08 | Penalties and interest. |
| 191.02 | Tax levied and rate. | 191.09 | Failure to collect and report tax, assessment of tax by Finance Director. |
| 191.03 | Transient guest to pay tax. | 191.10 | Refunds. |
| 191.04 | Tax exemptions. | 191.11 | Collection of unpaid tax. |
| 191.05 | Tax to be separately stated and charged. | 191.12 | Separability. |
| 191.06 | Records and inspection. | 191.99 | Penalty. |
| 191.07 | Returns required. | | |

191.01 DEFINITIONS.

As used in this chapter:

- (a) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for a consideration to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (b) "Transient guest" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.
- (c) "Hotel operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, mortgage in possession, licensee or any other capacity and who furnishes the lodging.
- (d) "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or space or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.
- (e) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction.
- (f) "Finance Director" means the Finance Director for the City of Pataskala. (Ord. 2008-3876. Passed 10-20-08.)

191.02 TAX LEVIED AND RATE.

For the purpose of providing revenue with which to meet the needs of the City, there is hereby levied a tax of three percent on all transactions by which lodging by a hotel is or is to be furnished to transient guests. (Ord. 2008-3876. Passed 10-20-08.)

191.03 TRANSIENT GUEST TO PAY TAX

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

(b) If the transaction is claimed to be exempt, the transient guest must furnish to the hotel operator, and the hotel operator must obtain from the transient guest, written proof of exempt status as set forth in Section 191.04 of this chapter. If no such proof of exempt status is obtained, it shall be presumed the tax applies.

(c) No transient guest shall refuse to pay the full and exact tax as required by this chapter or present to the hotel operator false evidence indicating that the lodging as furnished is not subject to the tax. (Ord. 2008-3876. Passed 10-20-08.)

191.04 TAX EXEMPTIONS.

No tax shall be imposed under this chapter to lodging furnished to the State of Ohio, or any of its political subdivisions. (Ord. 2008-3876. Passed 10-20-08.)

191.05 TAX TO BE SEPARATELY STATED AND CHARGED.

(a) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record, at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill or statement or charge made for such occupancy issued or delivered by the hotel operator, and the tax shall be paid by the transient guest to the hotel operator as trustee for and on account of the City, and the hotel operator shall be liable for the collection and for the tax.

(b) No hotel operator shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the hotel operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner provided in this chapter. (Ord. 2008-3876. Passed 10-20-08.)

191.06 RECORDS AND INSPECTION.

Each hotel operator shall keep complete and accurate records of lodging furnished, together with a record of the tax collected, which shall be the amount due under this chapter and shall keep all invoices and such other pertinent documents. If the hotel operator furnishes lodging not subject to the tax the hotel operator's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours to inspection by the Finance Director, and shall be preserved for a period of four years, unless the Finance Director, in writing, consents to their destruction within that period, or by order requires that they be kept longer. (Ord. 2008-3876. Passed 10-20-08.)

191.07 RETURNS REQUIRED.

(a) Each hotel operator shall, on or before the twentieth day of each month, make and file a return for the preceding month, showing the receipts from lodging furnished, the amount of tax due from the hotel operator to the city for the period covered by the return and such other information as the Finance Director deems necessary for the proper administration of the hotel tax. The return shall be signed by the hotel operator or an authorized agent. Returns shall be filed by mailing to the Finance Director, together with payment to the City of Pataskala in the amount of tax shown to be due. Failure to timely file and pay shall result in the assessment of a penalty as set forth in section 191.08 of this chapter.

(b) The Finance Director may extend the time for making and filing returns. Additionally, the Finance Director, if it is deemed necessary in order to ensure the payment of the tax imposed by this chapter, may require returns and payment to be made for other than monthly periods. The Finance Director may authorize hotel operators whose tax liability is not such as to merit monthly returns, as determined by the Finance Director upon the basis of administrative costs to the city, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed. (Ord. 2008-3876. Passed 10-20-08.)

191.08 PENALTIES AND INTEREST.

(a) Original Delinquency. A hotel operator who fails to remit any tax imposed by this chapter within the time required shall pay a penalty equal to ten percent of the amount of the tax, in addition to the tax.

(b) Continued Delinquency. A hotel operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty equal to ten percent of the amount of the tax and previous penalty in addition to the tax and the ten percent penalty first imposed. An additional penalty equal to ten percent of the total tax and penalty of the previous thirty day period shall be added for each successive thirty-day period that the occupant remains delinquent.

(c) Fraud. If the Finance Director determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (a) and (b) hereof.

(d) Interest. In addition to the previous penalties imposed, a hotel operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Penalties During Pendency of Hearing. No penalty provided under the terms of this chapter shall be imposed during the pendency of any hearing provided for in Section 191.09. (Ord. 2008-3876. Passed 10-20-08.)

191.09 FAILURE TO COLLECT AND REPORT TAX, ASSESSMENT OF TAX BY FINANCE DIRECTOR

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

(b) Unless the hotel operator or transient guest, to whom a notice of assessment of tax is directed, files within thirty days after service, either personally or by registered or certified mail a petition in writing, verified under oath by the hotel operator, transient guest, or his authorized agent, having knowledge of the facts, setting forth with particularity the items of the tax assessment objected to, together with the reasons for such objections, said assessment shall become conclusive and the amount shall be due and payable, from the hotel operator of transient guests so assessed, to the City of Pataskala.

(c) When a petition for reassessment of tax is filed, the Finance Director shall assign a time and place for the hearing and shall notify the petitioner thereof, by registered or certified mail, but the Finance Director may continue the hearings from time to time if necessary.

(d) A penalty of fifteen percent (15%) shall be added to the amount of every assessment of tax made under this section. The Finance Director may adopt and promulgate rules and regulations providing for the remission of penalties added to such tax assessments made under this section.

(e) When any hotel operator or transient guest files a petition for reassessment of tax as provided in this chapter, the tax assessment made by the Finance Director, together with penalties, shall become due and payable within three days after notice of the finding made at the hearing has been served, either personally or by certified mail, upon the party assessed. (Ord. 2008-3876. Passed 10-20-08.)

191.10 REFUNDS.

(a) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the City under this chapter, it may be refunded as provided in subsections (b) and (c) of this section, provided a claim in writing stating under oath the specific grounds upon which the claim is founded, is filed with the Finance Director within three years of the date of payment.

(b) A hotel operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Finance Director that the person from whom the tax has been collected was not a transient guest. However, neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient guest or credited to rent subsequently payable by the transient to the hotel operator.

(c) A transient guest may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the City by filing of a claim, but only when the tax was paid by the transient guest directly to the Finance Director or when the transient guest having paid the tax to the hotel operator, establishes to the satisfaction of the Finance Director that the transient guest has been unable to obtain a refund from the hotel operator who collected the tax.

(d) No refund shall be paid under the provisions of this section unless the claimant establishes his right by written records showing entitlement to a refund.
(Ord. 2008-3876. Passed 10-20-08.)

191.11 COLLECTION OF UNPAID TAX.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties by the City.

(b) The Finance Director is authorized to institute civil lawsuits to collect delinquent taxes due and owing the City by virtue of the provisions of this chapter.

(c) The Finance Director is authorized to waive penalties and compromise tax liability under the provisions of this chapter. (Ord. 2008-3876. Passed 10-20-08.)

191.12 SEPARABILITY.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or any part thereof is for any reason held unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter or any part thereof. Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentence, clause or phrase be declared unconstitutional.
(Ord. 2008-3876. Passed 10-20-08.)

191.99 PENALTY.

Whoever violates any section of this chapter shall be guilty of a minor misdemeanor and shall be fined not more than five-hundred dollars or imprisoned not more than six months, or both.
(Ord. 2008-3876. Passed 10-20-08.)

