CODIFIED ORDINANCES OF FAIRPORT HARBOR

PART ONE - ADMINISTRATIVE CODE

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CODIFIED ORDINANCES OF FAIRPORT HARBOR

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions
Chap. 101. Codified Ordinances.
Chap. 103. Official Standards.
Chap. 105. Public Records Policy.

CHAPTER 101
Codified Ordinances

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

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. 123
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 Fairport Harbor, Ohio, 1986, 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 Lake 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 "Village" means the Village of Fairport Harbor, 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) "Rules" 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)

101.07 DETERMINATION OF LEGISLATIVE INTENT.

(a) In enacting an ordinance, it is presumed that:

(1) Compliance with the constitutions of the State and of the United States is intended;

(2) The entire ordinance is intended to be effective;

(3) A just and reasonable result is intended;

(4) A result feasible of execution is intended. (ORC 1.47)

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

(c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:

(1) The object sought to be attained;

(2) The circumstances under which the ordinance was enacted;

(3) The legislative history;

(4) The common law or former legislative provisions, including laws upon the same or similar subjects;

(5) The consequences of a particular construction;

(6) The administrative construction of the ordinance. (ORC 1.49)

101.08 SEVERABILITY.

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

101.99 GENERAL PENALTY.

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

CHAPTER 103
Official Standards

103.01 Grade elevation bench mark.

CROSS REFERENCES

State standard of time - see Ohio R.C. 1.04
State legal holidays - see Ohio R.C. 1.14, 5.20 et seq., 1303.45
Calendar; computation of time - see ADM. 101.03(c)

103.01 GRADE ELEVATION BENCH MARK.

For all elevations or grades to be established in the Village, the plane of reference or principal bench mark shall be the top of the foundation stone on the east side of the Light House Tower, which is indicated by a cross cut, the assumed elevation of which is one hundred feet. (1899 Code Sec. 48)

CHAPTER 105
Public Records Policy

105.01 Public records.
105.02 Record requests.
105.03 Costs for public records.
105.04 E-mail.

105.01 PUBLIC RECORDS.

(a) In accordance with the Ohio Revised Code and applicable judicial decisions, records are defined as any item that:

(1) Contains information stored on a fixed medium (such as paper, electronic, including but not limited to email, and other formats);

(2) Is created or received by, or sent under the jurisdiction of a public office and

(3) Documents the organization, functions, policies, decisions, procedures, operations or other activities of the office.

(b) Public records are to be open to the public at all reasonable times with exceptions only as provided for in the law.

(1) As required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying within a reasonable period of time during regular business hours. Record retention schedules are to be updated regularly.
(Res. 2007-112. Passed 10-2-07.)

105.02 RECORD REQUESTS.

Each request for public records should be evaluated for a response using the following guidelines:

(a) Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve and review the records. If it is not clear what records are being sought, the records custodian may contact the requester for clarification, and should let the requestor revise the request by informing the requestor of the manner in which the office keeps its records.

(b) The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is this office's general policy that if this information is requested upon disclosure that the requester may decline to give the information.

(c) Public records that are requested are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested.

(d) Each request should be evaluated for an estimated length of time required to gather the records.

(e) Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

(Res. 2007-112. Passed 10-2-07.)

105.03 COSTS FOR PUBLIC RECORDS.

Those seeking public records will be charged only the actual cost of making copies.

(a) There will be a charge for copies.

(b) The charge for downloaded computer files to a compact disc is one dollar ($1.00) per disc.

(c) There is no charge for documents e-mailed.

(d) Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

(Res. 2007-112. Passed 10-2-07.)

105.04 E-MAIL.

(a) Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of this office are instructed to retain their e-mails that relate to public business (see 105.01 Public Records) and to copy them to their business e-mail accounts and/or to the office's records custodian.

(b) The records custodian is to treat the e-mails from private accounts as records of the public office, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Public Records Act. (Res. 2007-112. Passed 10-2-07.)

TITLE THREE - Legislative

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

CHAPTER 121
Council

121.01 Regular meetings scheduled.
121.02 Disturbing Council.
121.02.1 Meetings of Council; proper conduct.
121.03 Sale of surplus personal property.
121.99 Penalty.

CROSS REFERENCES

Release of Treasurer's liability for loss of funds - see Ohio R.C. 131.18 et seq.
General powers - see Ohio R.C. 715.03, 731.47
Sidewalk construction and repair - see Ohio R.C. 729.07, 729.10
Composition and term - see Ohio R.C. 731.09
President pro tempore - see Ohio R.C. 731.10 et seq., 733.25
Qualifications - see Ohio R.C. 731.12, 731.44
Powers as to salaries and bonds - see Ohio R.C. 731.13, 731.49 et seq.
Vacancy - see Ohio R.C. 731.43
Meetings - see Ohio R.C. 731.44, 731.46
Rules and journal - see Ohio R.C. 731.45
Mayor to be President - see Ohio R.C. 733.24
Hearings against delinquent officers - see Ohio R.C. 733.35 et seq.
Removal or suspension of Fire Chief or firemen - see Ohio R.C. 733.35 et seq., 737.22
Misconduct - see Ohio R.C. 733.72 et seq.
Power to establish auxiliary police unit - see Ohio R.C. 737.161
Removal or suspension of Marshal or policemen - see Ohio R.C. 737.171

121.01 REGULAR MEETINGS SCHEDULED.

Unless otherwise determined and scheduled by a majority of Council, the regular meetings of Council shall be held semimonthly on the first and third Tuesdays of each month and shall begin at 6:30 p.m.
(Ord. 2006-06. Passed 1-24-06.)

121.02 DISTURBING COUNCIL.

No person shall willfully disturb by disorderly conduct or obscene language, or unlawfully interfere with a Council meeting while addressing Council by using obscene language toward any person or member of Council.

121.02.1 MEETINGS OF COUNCIL; PROPER CONDUCT.

The following rules of conduct shall be in full force and effect immediately prior to, during, and immediately following the time of any meeting of the Council of the Village, any board, commission, panel, or agency of the Village or any of their respective committees:

(a) With the exception of members of Village Council, and other Village Commissions, Boards and/or Committees, the Mayor, Fiscal Officer, Administrator, Solicitor, Engineer, Chief of Police and Chief of Fire, no person shall be permitted to bring any water, coffee, soft drink or other beverage into Council Chambers or such other room, office, auditorium, center, hall or other gathering place utilized for any meeting of such Council, Commission, Board and/or Committee.

(b) No person shall be permitted to bring any food into Council Chambers or such other room, office, auditorium, center, hall or other gathering place utilized for any meeting of such Council, Commission, Board and/or Committee.

(c) No person shall be permitted to speak during any such Council, Commission, Board and/or Committee meeting unless they are first recognized by the Chair or other person presiding at such meeting.

(d) With the exception of members of Village Council, and other Village Commissions, Boards, and/or Committees, the Mayor, Fiscal Officer, Administrator, Solicitor, Engineer, Chief of Police and Chief of Fire, no person shall be permitted to bring cell phones, pagers, or other communication devices into Council Chambers or such other room, office, auditorium, center, hall or other gathering place utilized for any meeting of such Council, Commission, Board and/or Committee.

(e) During the "public portion" of meetings of the Council of the Village or any other Village Commissions, Boards and/or Committees, any person wishing to speak from the audience must abide by the following:

(1) Said person shall stand, state his or her name and address, and shall be permitted to present his or her opinion, commentary, question or concern to Council in a time period not to exceed two (2) minutes.

(2) Said individual shall then be prohibited from speaking further until all other members of the audience have had an opportunity to present their commentary, opinions, questions or concerns to Council.

(3) After the close of the above noted "public portion" then and only then shall any comments or replies relating to issues raised by members of the audience be given by Council, the Mayor or other officials of any such Commissions, Boards, or Committees and/or employees of the Village. No further public debate or discussion shall be permitted.

(f) No member of the audience shall be permitted to speak while others are speaking; this applies to members of Council and other Village officials, as well as all members of the audience.

(g) Any member of the audience that fails to abide by a direction of the Chair or other person presiding at such meeting or violates these rules shall be removed by the Chief of Police or such other person as may be designated as Sergeant-at-Arms. (Ord. 2004-128. Passed 3-8-05.)

121.03 SALE OF SURPLUS PERSONAL PROPERTY.

(a) A Department Head who wishes to sell property which is not needed for municipal or public use must seek the approval of the Mayor and Council who will determine the manner by which said property shall be sold, based upon its insurance valuation.

(b) The Mayor and Council may authorize the appropriate Department Head to sell at public bid to the highest bidder any property with an insurance valuation of more than one hundred dollars ($100.00), which is not needed for Municipal or public use.

(c) The Mayor and Council may authorize the appropriate Department Head to sell outright any property with an insurance valuation of less than one hundred dollars ($100.00) which is not needed for Municipal or public use. (Ord. 1996-111. Passed 12-17-96.)

121.99 PENALTY.

Whoever violates any provision of Section 121.02 shall be guilty of a minor misdemeanor.

CHAPTER 123
Ordinances and Resolutions

123.01 Posting places.

CROSS REFERENCES

Ordinance newspaper publication - see Ohio R.C. 7.12, 701.04, 731.21 et seq.
Adoption and style - see Ohio R.C. 715.03, 731.17 et seq.
Subject and amendment - see Ohio R.C. 731.19
Authentication - see Ohio R.C. 731.20
Publication in book form - see Ohio R.C. 731.23
Adoption of technical codes - see Ohio R.C. 731.231
Certification as to publication - see Ohio R.C. 731.24 et seq.
Posting - see Ohio R.C. 731.25
Initiative and referendum - see Ohio R.C. 731.30
Emergency measures - see Ohio R.C. 731.28 et seq.
As evidence - see Ohio R.C. 731.42

123.01 POSTING PLACES.

The following locations are hereby designated as the official locations for the posting of all ordinances, resolutions, measures and notices of the Village:

(a) The Fairport Harbor Village Hall;
(b) The Fairport Public Library, 335 Vine Street;
(c) Fairport Family Restaurant, 212 High Street;
(d) Fairport Harbor Senior Citizen Center; and
(e) Vasko's Supermarket, 328 Seventh Street.

(Ord. 2013-068. Passed 7-2-13.)

TITLE FIVE - Administrative

Chap. 131. Mayor.
Chap. 133. Fiscal Officer.
Chap. 137. Solicitor.
Chap. 139. Village Administrator.
Chap. 141. Director of Utilities and Public Services.
Chap. 143. Police Department.
Chap. 145. Fire Department.
Chap. 147. Engineer.
Chap. 149. Recreation Council.
Chap. 151. Port Authority.
Chap. 153. Mardi Gras Improvement Development Board.
Chap. 155. Planning Commission.
Chap. 157. General Employment Provisions.

CHAPTER 131
Mayor

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

CROSS REFERENCES

Removal from office - see Ohio R.C. 3.07 et seq.
Acting Mayor - see Ohio R.C. 731.10 et seq., 733.25
To be Council President - see Ohio R.C. 733.24
Election, term, qualifications and powers - see Ohio R.C. 733.24
Vacancy - see Ohio R.C. 733.25
General duties - see Ohio R.C. 733.30 et seq.
Reports to Council - see Ohio R.C. 733.32, 733.41
Protests of excessive expenditures - see Ohio R.C. 733.33
Charges against delinquent officers - see Ohio R.C. 733.34 et seq.
Disposition of fines and other moneys - see Ohio R.C. 733.40
Salary - see Ohio R.C. 1905.21
Member of Mardi Gras Improvement Development Board - see ADM. 153.01
Special permit for overweight vehicles - see TRAF. 339.01

CHAPTER 133
Fiscal Officer

133.01 Office established; duties.
133.02 Fiscal Office Assistant.
133.03 Authority to execute checks.
133.04 Charges for emergency medical service.
133.05 Identity theft policy.

CROSS REFERENCES

Loss of funds; release of liability - see Ohio R.C. 131.18 et seq
Uniform Bond Law - see Ohio R.C. Ch. 133
Uniform Depository Act - see Ohio R.C. Ch. 135
Treasury investment account - see Ohio R.C. 731.56 et seq.
Auditing accounts - see Ohio R.C. 733.12 et seq.
Election and term - see Ohio R.C. 733.26
Powers and duties - see Ohio R.C. 733.27, 733.44
Books and accounts - see Ohio R.C. 733.28, 733.43, 733.45 et seq.
Appropriation and expenditure - see Ohio R.C. 5705.41
As Clerk of Board of Zoning Appeals - see P. & Z. 1121.21

133.01 OFFICE ESTABLISHED; DUTIES.

(a) In lieu of having the elected office of Village Clerk-Treasurer, Council hereby combines the duties of the Clerk and Treasurer into one appointed office which shall be known as the Village Fiscal Officer pursuant to the authority granted to Council by Ohio R.C. 733.262.

(b) The Village Fiscal Officer shall be appointed by the Mayor, but that appointment does not become effective until it is approved by a majority vote of Council. The Village Fiscal Officer that is appointed shall perform the duties provided by law for the Village Clerk and Treasurer and any other duties consistent with the nature of the office that are provided for by Village ordinance.
(Ord. 2007-84. Passed 7-19-07.)

133.02 FISCAL OFFICE ASSISTANT.

The position of Fiscal Office Assistant is hereby created. The duties for this position shall be assigned by the Fiscal Officer and/or by Council.
(Ord. 2008-41. Passed 4-15-08.)

133.03 AUTHORITY TO EXECUTE CHECKS.

(a) During such periods of time as the Fiscal Officer of the Village may be absent from the Village or when the Fiscal Officer of the Village is unable for any cause to discharge his/her duties, then, in said event, the Mayor of the Village is, authorized and directed to execute those checks drawn on the Village's legal depository for the payment of lawful obligations of the Village that are necessary to the prudent, reasonable and proper management of the financial affairs of the Village by the actual affixing of his/her signature upon said checks.

(b) The Fiscal Officer is hereby authorized and directed to furnish to the legal depository of the Village such specimens of his/her signature and the Mayor's signature provided for in subsection (a) hereof, as the legal depository may require.

(c) The legal depository of the Village, upon receipt of the aforesaid specimens and/or signature cards as said depository shall require, and a certified copy of this section, is hereby authorized and directed to honor and pay checks of the Village executed by the aforesaid Mayor or Fiscal Officer, to disburse funds required in connection therewith on behalf of the Mayor or Fiscal Officer of the Village, and to charge such disbursement to the fund of the Village in its custody against which such checks may be drawn.

(d) In recognition of the additional responsibilities imposed herein upon the Mayor by this section a bond (if necessary) shall be established and purchased in the amount of twenty-five thousand dollars ($25,000); and the premium, therefore, shall be paid by the Village, and funds sufficient to pay the premium required for such bond are hereby appropriated from the General Fund of the Village.
(Ord. 2003-46. Passed 4-8-03.)

133.04 CHARGES FOR EMERGENCY MEDICAL SERVICE.

(a) (1) The Fiscal Officer is hereby authorized to institute a charge for emergency medical service in the amount of five hundred dollars ($500.00) for basic emergency medical service provided and seven hundred fifty dollars ($750.00) for advanced emergency medical service provided.

(2) The Fiscal Officer is hereby authorized to institute a charge for Mileage and Mileage shall be charged at the rate of fourteen dollars ($14.00) per loadable mile for all EMS runs.
(Ord. 2011-083. Passed 9-20-11.)

(b) Ambulance service shall be provided to the closest accepting medical facility.

(c) The Fiscal Officer is hereby authorized to issue statements of charges for emergency medical services, and all funds realized from the payment of such charges shall be placed in the General Fund under the EMS line item.
(Ord. 2010-074. Passed 9-21-10.)

133.05 IDENTITY THEFT POLICY.

(EDITOR'S NOTE: Pursuant to Resolution 2009-059, the Village has enacted an Identity Theft Policy.)

CHAPTER 137
Solicitor

EDITOR'S NOTE: There are no sections in Chapter 137. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Conflict of interest - see Ohio R.C. 120.39
Legal counsel - see Ohio R.C. 733.48
Preparation of bonds - see Ohio R.C. 733.70

CHAPTER 139
Village Administrator

139.01 Established.
139.02 Appointment and tenure.
139.03 Powers and duties.
139.04 Board of Trustees abolished.
139.05 Acting Administrator.
139.06 Service recovery fees.

CROSS REFERENCES

Appointment, removal - see Ohio R.C. 735.271
Power to contract - see Ohio R.C. 731.141
Board of trustees of public affairs abolished - see Ohio R.C. 735.272
Powers and duties - see Ohio R.C. 735.271, 735.273

139.01 ESTABLISHED.

Pursuant to Ohio R.C. 735.27.1, the position of Village Administrator is hereby established. (Ord. 1994-46. Passed 5-2-94.)

139.02 APPOINTMENT AND TENURE.

(a) The Administrator shall serve at the pleasure of the Mayor and Council. The Village Administrator shall serve as a probationary employee for the first six months of his or her appointment. He or she may be removed, without cause, by the Mayor upon the approval of the Council by a majority vote of its members, or a vote of at least five members of Council without the consent of the Mayor.

(b) The Council shall establish the compensation of the Administrator from time to time; including the granting of termination pay, if the Council determines it to be appropriate in its discretion.

(c) The person appointed as Administrator need not be a resident of the Village, but shall be a resident within a reasonable time, determined by the Council, after his or her appointment, unless the Council shall waive the residency requirement by a vote of a majority of its members.

(d) The person appointed as Administrator shall be qualified by training and/or experience in the public or private sector. He or she shall not hold any other elective public office or other public or private employment unless the other public or private employment is approved by a majority vote of the Council. He or she shall not serve as the Law Director, Chief of Police or Chief of Fire. (Ord. 1996-37. Passed 5-7-96.)

139.03 POWERS AND DUTIES.

The Village Administrator shall be responsible for the following duties:

(a) Except for the Departments of Fire, Law and Police, the Administrator shall be the Village's chief administrative officer. He or she shall be under the direction and control of the Council with respect to matters within the control of Council. The Administrator shall be under the direction and supervision of the Mayor with respect to administrative matters. He or she shall assist the Mayor with respect to the Mayor's administration of the Police Department, Fire Department and Law Department.

(b) In addition to the provisions of subsection (a) hereof, the Administrator shall have the following powers and shall perform the following duties:

(1) Appoint, promote and, when he or she deems it necessary for the good of the service, suspend or remove or otherwise discipline all municipal employees and appointive administrative officers, except those within the Departments of Police, Fire and Law, the Mayor's office and the Council and as otherwise provided for by or under this chapter, subject to the provisions of the Village pertaining to the Village's merit system or Village tenure statutes.

(2) Direct or supervise the administration of all department, offices, and agencies of the Village, except Fire, Law and Police.

(3) Attend all Council meetings and shall have the right to take part in discussions, but may not vote.

(4) See that all laws, ordinances and resolutions of the Council, subject to enforcement by the Mayor, the Administrator or by officers subject to their direction and supervision, are faithfully executed.

(5) Prepare and submit the annual budget, request, and capital program to the Council.

(6) Submit to Council and make available to the public a complete report on the administrative activities of the Village as of the end of each fiscal year.

(7) Make such other reports as the Council or Mayor may require concerning the operations of municipal departments, offices, boards, commissions and agencies subject to his or her direction and supervision.

(8) Keep the Council fully advised as to the operating condition and future operating and capital needs of the Village and make such recommendations to the Council concerning the affairs of the Village.

(9) Require reports and information of subordinate officers and employees of the Village as he or she deems necessary in the orderly operation of the Village, or when requested to do so by Council, the Mayor, or any board or commission of the Village.

(10) Execute on behalf of the Village all contracts and agreements, except Fire, Law and Police.

(11) Make recommendations to the Mayor and Council of any grants or funds, private, federal or State and apply for same after approval from the Mayor and Council, as applicable. (Ord. 1996-37. Passed 5-7-96.)

(12) A. All powers, duties, and authorizations as are provided for, and set forth in Section 731.141 of the Ohio Revised Code, including, but not limited to, the making of contracts, purchase of supplies and materials, and the providing of labor for any work under said Administrator's supervision involving not more than fifteen thousand dollars ($15,000). During an emergency, the spending authority of the Administrator under this section is increased to the sum of twenty-five thousand dollars ($25,000). (Ord. 2006-52. Passed 5-16-06.)

B. In accordance with the policies and procedures prescribed by Council, direct, administer, manage and control the central purchasing for all offices, departments, divisions, boards, and commissions of the Village.
(Ord. 2001-113. Passed 9-18-01.)

(13) Perform such other powers, duties and functions as are conferred by any ordinance or resolution of the Council, or by the laws of the State of Ohio. (Ord. 1996-37. Passed 5-7-96.)

139.04 BOARD OF TRUSTEES ABOLISHED.

Pursuant to the provisions of Ohio R.C. 735.27.2, the Board of Trustees of Public Affairs heretofore elected pursuant to Ohio R.C. 735.28, shall be abolished and the term of office of members of such Board shall terminate.
(Ord. 1994-46. Passed 5-2-94.)

139.05 ACTING ADMINISTRATOR.

(a) The Mayor may designate, by letter filed with the Fiscal Officer, any qualified administrative officer of the Village to perform the Administrator's powers, duties and functions during his or her temporary absence from the Village during his or her disability. The Acting Administrator so designated shall exercise all powers, duties and functions of the Administrator during the temporary absence from the Village or disability of the Administrator.

(b) In the event of a vacancy in the office of Administrator, the Mayor may designate a person as Acting Administrator, who shall exercise all power, duties and functions of the Administrator until an Administrator is appointed, by the Mayor and Council.
(Ord. 1996-37. Passed 5-7-96.)

139.06 SERVICE RECOVERY FEES.

(a) Each person driving or owning a vehicle involved in an accident to which the Police Department or Fire Department responds, who is found by the Police to be responsible for the accident, shall be responsible for the costs incurred by the Village for the response, including personnel, supplies, equipment and any other costs associated with Police or Fire response to a particular accident.

(b) The Chief of Police is authorized to establish reasonable charges to recover the usual and customary costs incurred by the Police Department and the Chief of Fire is authorized to establish reasonable charges to recover the usual and customary costs incurred by the Fire Department in responding to vehicle accidents, and the Chiefs may pursue collection actions to recover such costs as the Chiefs determine is reasonable. The rate of the service fees shall be that which is the usual, customary and reasonable costs (UCR), which includes any services, personnel, supplies and equipment and may vary based on the actual costs of the individual accident.

(c) The charges established by the Chief of Police and the Chief of Fire pursuant to this section shall be submitted to the motor vehicle insurance carrier or carriers of any person involved in an accident who is found by the Police to be responsible for the accident, the insurers of the owner of any vehicle involved in an accident whose driver is found to be responsible for the accident, and the insurers of any person who may be responsible for any damage or injury resulting from the accident, as an additional cost to any claim for damages or injuries to persons or property.

(d) The Village Administrator and/or Village Fiscal Officer may make rules or regulations, and from time-to-time may amend, revoke or add rules and regulations, relating to this section as they may deem necessary or expedient in respect to billing for these fees or the collection thereof.

(e) All amounts collected as a result of this section shall be placed into a fund as established by the Fiscal Officer to be used exclusively for personnel, supplies and equipment for the Safety Services Departments.
(Ord. 2008-136. Passed 12-2-08.)

CHAPTER 141
Director of Utilities and Public Services

141.01 Appointment.
141.02 Proration of salary from various funds.
141.03 Supervision of employees; duties.
141.04 Records; equipment and purchases.

CROSS REFERENCES
Supervision of public land excavations - see S. U. & P. S. 901.04 et seq.
Duties as to care of trees - see S. U. & P. S. Ch. 931

141.01 APPOINTMENT.
The Mayor is hereby authorized to hire a Director of Utilities and Public Services subject to the approval of Council. The duties of the Director of Utilities and Public Services shall be determined by the Mayor with the approval of Council.
(Ord. 1985-69. Passed 7-15-85.)

141.02 PRORATION OF SALARY FROM VARIOUS FUNDS.
The Director of Utilities and Public Services shall be paid a yearly salary from the Water Rental Fund and Sewer Rental Fund as recommended by the Board of Trustees of Public Affairs and approved by Council. The Public Services salary shall be paid from the General Fund and Street Repair Fund as approved by Council.
(Ord. 1985-69. Passed 7-15-85.)

141.03 SUPERVISION OF EMPLOYEES; DUTIES.
(a) The Director of Utilities and Public Services shall supervise the Village employees, including the Street Department employees, utility men at the Village Hall and the employees of the Water Department.

(b) The Director shall be responsible for the maintenance of all public buildings, for the maintenance and care of public parks and playgrounds, sewers, streets and any and all other duties that require the attention of the Village employees.
(Ord. 1985-69. Passed 7-15-85.)

141.04 RECORDS; EQUIPMENT AND PURCHASES.
(a) The Director of Utilities and Public Services shall maintain a record of labor costs on the various projects in the Village and make monthly reports thereon to Council and the Board of Trustees of Public Affairs. He shall be responsible for all the Village equipment used by Village employees and shall take a yearly inventory of such equipment.

(b) He shall maintain and operate a Department of Purchase, Construction and Repair and purchase all materials, supplies, tools, machinery and equipment, and shall supervise all construction, alterations and repairs in each of the departments. (Ord. 1985-69. Passed 7-15-85.)

(c) The Mayor, the Police Chief and the Fire Chief of the Village, are each hereby authorized to expend the sum of not more than two thousand dollars ($2,000) in the necessary, fair and proper exercise of the duties, responsibilities and obligations of said offices or positions. (Ord. 2003-121. Passed 10-14-03.)

CHAPTER 143
Police Department

143.01 Copies of reports; charges.
143.02 Medical examination required prior to appointment.
143.03 Parking Enforcement Unit.
143.04 Auxiliary Police Unit.

CROSS REFERENCES

Assistance of State Criminal Bureau - see Ohio R.C. 109.51 et seq.
Forwarding fingerprints and data to State Criminal Bureau - see Ohio R.C. 109.58 et seq.
Composition - see Ohio R.C. 715.05, 737.16
Police Relief and Pension Fund - see Ohio R.C. 737.051, 737.14, 741.31 et seq.
General powers and duties - see Ohio R.C. 737.11, 737.18
Auxiliary police unit - see Ohio R.C. 737.161
Probationary period; final appointment - see Ohio R.C. 737.17
Removal and appeal - see Ohio R.C. 737.171
Report on sale of secondhand bicycles - see TRAF. 375.06
Police escort for moving buildings - see BLDG. 1309.02

143.01 COPIES OF REPORTS; CHARGES.

The Police Department is authorized to make duplicate copies of accident reports and other proper police materials for the use of insurance companies, attorneys or other proper persons. They shall charge one dollar ($1.00) per reproduction for such service, the proceeds from such service to be credited to the General Fund. (Ord. 63-70. Passed 12-30-63.)

143.02 MEDICAL EXAMINATION REQUIRED PRIOR TO APPOINTMENT.

Before any appointment shall be made to the Police Department, each person applying for an appointment shall submit to a complete physical examination by a medical doctor to be selected and named by the Mayor. The medical doctor shall then file with Council his written report of the findings in making the physical examination. The cost of such physical examination shall be paid by the Village out of the Safety Fund. Council shall then review the doctor's written medical report before determining whether any appointment shall be made. (Res. 2037. Passed 10-6-49.)

143.03 PARKING ENFORCEMENT UNIT.

(a) A Parking Enforcement Unit is hereby established within the Village of Fairport Harbor, Ohio, Police Department pursuant to Ohio R.C. 737.161.

(b) The Parking Enforcement Unit shall be composed of not more than five members excluding any Auxiliary Police Officers appointed to said Unit, to be appointed by the Mayor, upon consultation and advice of the Chief of Police.

(c) The Parking Enforcement Unit shall be subject to the following provisions and regulations:

(1) Parking Enforcement Officers shall have the power to enforce only those ordinances related to the parking of vehicles contained in Chapter 351 and 353 of the Codified Ordinances of the Village of Fairport Harbor, Ohio.

(2) Parking Enforcement Officers are authorized to exercise their powers only when actually on duty.

(3) Parking Enforcement Officers are subject to all rules and regulations, standards of conduct and policies and procedures of the Police Department as they are applicable to their positions.

(4) While performing Parking Enforcement functions, Parking Enforcement Officers shall wear a complete and full uniform as designed by the Chief of Police, unless otherwise authorized by the Chief of Police.

(d) The Mayor shall prescribe additional rules and regulations for organization, training, administration, control and conduct of the Parking Enforcement Units as are not inconsistent with Section 3 herein.

(e) Parking Enforcement Officers shall be compensated at an hourly rate to be determined by Council for services actually rendered and for attendance at court, except that Parking Enforcement Officers who are also members of the Auxiliary Police Unit may volunteer their time upon the execution of a wavier of compensation.

(f) The Chief of Police shall have exclusive control of the scheduling of Parking Enforcement Officers subject to the rules and regulations as are prescribed by the Mayor. (Ord. 2000-98. Passed 8-8-00.)

143.04 AUXILIARY POLICE UNIT.

(a) An Auxiliary Police Unit is hereby established within the Village of Fairport Harbor, Ohio, Police Department pursuant to the provisions of Ohio R.C. 737.161.

(b) The Auxiliary Police Unit shall be composed of not more than twenty officers, to be appointed by the Mayor, upon consultation and advice of the Chief of Police.

(c) There is hereby created two classifications within said Auxiliary Police Unit as follows:

(1) Class A: Auxiliary Police Officers who have satisfactorily completed a requisite, certified Police Officer Basic Training Program within the time prescribed by law shall be known as Class A Auxiliary Police Officers and shall have all police powers generally available to certified peace officers, in the State of Ohio, including the power to enforce the law, but shall perform only such police duties as assigned by the Chief of Police and shall act only when in the prescribed uniform.

(2) Class B: Auxiliary Police Officers who have not satisfactorily completed a requisite, certified Police Officer Basic Training Program within the time prescribed by law shall be known as Class B Auxiliary Police Officers and shall not have police officers generally available to certified police officers, but shall, however, perform those duties as assigned by the Chief of Police and shall perform said duties only when in the prescribed uniform.

(d) The members of the aforesaid Auxiliary Police Unit shall be subject to the following provisions and regulations:

(1) Auxiliary Police Officers shall work a minimum number of hours as established by the Mayor upon the recommendation of the Chief of Police.

(2) Auxiliary Police Officers are subject to all rules and regulations, standards of conduct and policies and procedures of the Fairport Harbor Village Police Department as they are applicable to their position.

(3) Only Class A Auxiliary Police Officers shall carry a firearm and then only as prescribed by the aforesaid policies and procedures.

(4) While performing police functions, Auxiliary Police Officers shall wear a complete and full uniform as designated by the Chief of Police unless otherwise authorized by the Chief of Police.

(e) Recognizing that Auxiliary Police Officers are volunteers and generally shall not be compensated for their time, as their time is considered to be volunteer, education and training time, however, the Mayor may from time to time establish or designate certain details for which Auxiliary Police Officers may be compensated. When completing such details an Auxiliary Police Officer will be paid as provided for by Section 157 of the Codified Ordinances of Fairport Harbor.

(f) The Mayor may prescribe rules and regulations for the organization, training and administration, control and conduct of the Auxiliary Police Unit as are not inconsistent with subsection (d) hereof.

(g) The Chief of Police shall have exclusive control of the stationing and transferring of all Auxiliary Police Officers subject to such rules and regulations as are prescribed by the Mayor. (Ord. 2000-99. Passed 8-8-00.)

CHAPTER 145
Fire Department

EDITOR'S NOTE: Pursuant to Resolution 1995-87, passed October 3, 1995, the Village has adopted Rules and Regulations for the government of the Volunteer Fire Department. Copies are on file with the Fiscal Officer.

145.01 Volunteer Firemen's Dependents Fund Board created.
145.02 Residency required.
145.03 Rescue Unit.

CROSS REFERENCES

Volunteer Firemen's Dependents Fund - see Ohio R.C. Ch. 146
Fire protection contracts - see Ohio R.C. 307.05, 505.44, 717.02
Composition - see Ohio R.C. 715.05, 737.21 et seq.
Schooling, buildings and equipment - see Ohio R.C. 715.05, 737.23 et seq.
Removal of Fire Chief and firemen - see Ohio R.C. 733.35 et seq., 737.22
General duties - see Ohio R.C. 737.11
Regulations and hours - see Ohio R.C. 737.21
Appointment of Fire Chief and firemen - see Ohio R.C. 737.22

145.01 VOLUNTEER FIREMEN'S DEPENDENTS FUND BOARD CREATED.

Pursuant to the provisions of Ohio R.C. 146.02(A), there is hereby established a Volunteer Firemen's Dependents Fund Board which shall be composed and governed by the provisions of the general laws of Ohio.
(Res. 2608. Passed 11-4-57.)

145.02 RESIDENCY REQUIRED.

(a) Firefighters appointed to the Fairport Harbor Fire Department may reside outside of the geographic limits of the Village, provided that the motor vehicle driving time from the residence of said non-resident firefighter to the Village shall not exceed twenty minutes under normal driving conditions, obeying all traffic laws or exceed a time period of between twenty to thirty minutes under normal driving conditions, obeying all traffic laws, provided that no more than five (5) firefighters may be hired by the Village who live within the above described twenty to thirty minutes drive time distance.

(b) A non-resident firefighter of the Fire Department shall have the same rights, duties and obligations as a resident firefighter of the Fire Department.
(Ord. 2014-044. Passed 5-6-14.)

145.03 RESCUE UNIT.

(a) There is hereby established a Rescue Unit within the Volunteer Fire Department. (Ord. 86-66. Passed 6-2-86.)

(b) With the exception of the motor vehicle operator, the Rescue Unit shall be manned exclusively by Emergency Medical Technicians on all rescue calls. (Ord. 1992-67. Passed 7-6-92.)

(c) The Rescue Unit may include Emergency Medical Technicians-Ambulance, Emergency Medical Technicians-Advanced and Emergency Medical Technicians-Paramedic. (Ord. 1994-37. Passed 4-18-94.)

(d) The Chief of the Fire Department is hereby designated as the person responsible for the operation of the Rescue Units and the personnel of such Units.

(e) The Volunteer Fire Department employees who answer rescue calls are to be paid as provided by Council from time to time. (Ord. 86-66. Passed 6-2-86.)

(f) The Rescue Unit may also include all Police Department personnel who are also licensed Emergency Medical Technicians (EMT's) upon proof of the appropriate State of Ohio certification. Police Department personnel may be requested to respond to emergency rescue calls while on duty if requested to do so by the Fire Chief and such request does not conflict with any current job assignment. Any Police Department personnel so engaged in rescue operations or any other operations as an Emergency Medical Technician shall come under the direction and control of the Fire Chief. Any Police Department Personnel so engaged shall not receive any additional compensation for responding to any requested rescue calls. (Ord. 1994-37. Passed 4-18-94.)

CHAPTER 147
Engineer

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

CROSS REFERENCES

To approve plats; inspection of streets and acceptance - see Ohio R.C. 711.08, 711.091
To devise and form plan of sewerage - see Ohio R.C. 729.31 et seq.
Civil engineer - see Ohio R.C. 733.80
General duties - see Ohio R.C. 735.32
Assistants - see Ohio R.C. 735.33

CHAPTER 149
Recreation Council

149.01 Establishment.
149.02 Composition.
149.03 Term.
149.04 Duties.
149.05 Recreation Director.

CROSS REFERENCES

Bonds for recreational facilities - see Ohio R.C. 133.032, 755.17
Power to construct recreation centers - see Ohio R.C. 717.01

149.01 ESTABLISHMENT.

A Recreation Council to be known as the Fairport Harbor Recreation Council is hereby created and established.
(Res. 2048. Passed 12-13-49.)

149.02 COMPOSITION.

The Fairport Harbor Recreation Council shall consist of five members to be appointed by the Mayor. Each member of the Council shall be a resident of the Village of Fairport Harbor, Ohio. Two members of the Fairport Harbor Recreation Council shall be appointed by the Mayor upon the recommendation of the Council of the Village, two members shall be appointed by the Mayor upon the recommendation of the Board of Education of the Fairport Harbor Exempted Village School District and one member shall be appointed by the Mayor upon the recommendation of a majority of those members appointed upon the recommendation of the Council of the Village and the Board of Education.
(Ord. 1993-68. Passed 6-21-93.)

149.03 TERM.

Each member of the Fairport Harbor Recreation Council shall serve for a period of two years from the date of his or her appointment or until his or her replacement is appointed and qualified. Provided, however, that the first appointees under this section shall serve until March 31, 1995, and each subsequent appointee shall serve a full two year term from April 1 to March 31, two years after appointment.
(Ord. 1993-68. Passed 6-21-93.)

149.04 DUTIES.

The duties of the Recreation Council shall be to correlate, supervise, oversee, counsel and advise on all recreation activities in the Village and, from time to time, make recommendations to Council.
(Res 2048. Passed 12-13-49.)

149.05 RECREATION DIRECTOR.

The position of Recreation Director, responsible to the Recreation Council, is hereby established. (Ord. 76-34. Passed 4-5-76.)

CHAPTER 151
Port Authority

151.01 Creation; authority.
151.02 Jurisdiction.
151.03 Composition and term.
151.04 Powers and duties generally.
151.05 Duties and compensation of employees.
151.06 Power over port facilities.
151.07 Power to improve watercourses.
151.08 Power to acquire and dispose of property.
151.09 Power to issue notes and bonds.
151.10 Power to issue revenue bonds.
151.11 Power to establish foreign trade zones.
151.12 Power of eminent domain.
151.13 Powers of lease.
151.14 Power to maintain funds.
151.15 Power to make surveys.
151.16 Power to sell, lease or grant easements.
151.17 Power to promote port interests.
151.18 Compliance with State law.

CROSS REFERENCES
See sectional histories for similar State law
Watercraft regulations - see TRAF. Chs. 381, 383
Beach regulations - see S. U. & P. S. Ch. 935

151.01 CREATION; AUTHORITY.
A Port Authority is hereby created by Council under and by virtue of the authority of Ohio R.C. 4582.02. (Ord. 2469. Passed 2-21-56.)

151.02 JURISDICTION.
The jurisdiction of the Port Authority shall include all of the territory within the Village. (Ord. 2469. Passed 2-21-56.)

151.03 COMPOSITION AND TERM.
(a) The Port Authority shall be governed by a Board of Directors consisting of five members to be appointed by the Mayor with the advice and consent of Council and serving terms as follows:
(1) Two members to serve terms of one year each.
(2) Two members to serve terms of two years each.
(3) One member to serve a term of four years.

(b) Persons subsequently appointed to the Board to successive terms shall serve for terms of four years, except those persons appointed to fill vacancies who shall be appointed to only the unexpired term. Any Director shall be eligible for reappointment. Each Director appointed hereunder shall have been a qualified elector of the Village for a period of at least three years next preceding his appointment as provided in Ohio R.C. 4582.03.
(Ord. 2469. Passed 2-21-56.)

151.04 POWERS AND DUTIES GENERALLY.

The Port Authority shall have the powers and duties enumerated in the following sections of this chapter and authorized by Ohio R.C. 4582.03, 4582.04 and 4582.06.
(Ord. 2469. Passed 2-21-56.)

151.05 DUTIES AND COMPENSATION OF EMPLOYEES.

The Port Authority shall employ and fix the qualifications, duties and compensations of the employees and professional help as it may require to conduct the business of the port and may appoint an advisory board, which shall serve without compensation. The Port Authority may suspend or dismiss employees and professional help at its discretion.
(Ord. 2469. Passed 2-21-56.)

151.06 POWER OVER PORT FACILITIES.

The Port Authority shall have the authority to purchase, construct, sell, lease and operate docks, wharfs, warehouses, piers and other port, terminal or transportation facilities within its jurisdiction consistent with the purposes of the Port Authority, and to make charges for the use thereof subject to Ohio R.C. 4582.06(A).
(Ord. 2469. Passed 2-21-56.)

151.07 POWER TO IMPROVE WATERCOURSES.

The Port Authority shall be empowered to straighten, deepen and improve any canal, channel, river, stream or other watercourse or waterway which may be necessary or proper in the development of the facilities of such port.
(Ord. 2469. Passed 2-21-56.)

151.08 POWER TO ACQUIRE AND DISPOSE OF PROPERTY.

The Port Authority shall be empowered to acquire, own, hold, sell, lease or operate real or personal property for the authorized purposes of the Port Authority.
(Ord. 2469. Passed 2-21-56.)

151.09 POWER TO ISSUE NOTES AND BONDS.

The Port Authority shall be empowered to issue bonds or notes for the acquisition or construction of permanent improvements subject to compliance with Ohio R.C. 133.01 to 133.46, inclusive, subject to the vote of the electors residing within the territory of the Port Authority and subject to the further limitations and restrictions as are set forth in Ohio R.C. 4582.06(D). (Ord. 2469. Passed 2-21-56.)

151.10 POWER TO ISSUE REVENUE BONDS.

The Port Authority shall be empowered to issue revenue bonds beyond the limit of bonded indebtedness prescribed by law but subject to the restrictions and conditions of Ohio R.C. 4582.06(E) and Ohio R.C. 133.01 to 133.48, inclusive.
(Ord. 2469. Passed 2-21-56.)

151.11 POWER TO ESTABLISH FOREIGN TRADE ZONES.

The Port Authority shall be empowered to apply to the proper authorities of the United States for the right to establish, operate and maintain foreign trade zones within the limits of port authorities, as provided for in Ohio R.C. 4582.06(F).
(Ord. 2469. Passed 2-21-56.)

151.12 POWER OF EMINENT DOMAIN.
The Port Authority may exercise the right of eminent domain subject to the restrictions, conditions and limitations set forth in Ohio R.C. 4582.06(G).
(Ord. 2469. Passed 2-21-56.)

151.13 POWERS OF LEASE.
The Port Authority may enjoy and possess the same rights, privileges and powers granted municipal corporations under Ohio R.C. 721.04 to 721.11, inclusive, but subject to the limitations and conditions set forth in Ohio R.C. 4582.06(H).
(Ord. 2469. Passed 2-21-56.)

151.14 POWER TO MAINTAIN FUNDS.
The Port Authority shall be empowered to maintain such funds as it deems necessary.
(Ord. 2469. Passed 2-21-56.)

151.15 POWER TO MAKE SURVEYS.
The Port Authority may direct its agents and employees to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction works for the purposes of the Port Authority, subject to the limitations, restrictions and conditions of Ohio R.C. 4582.06(J).
(Ord. 2469. Passed 2-21-56.)

151.16 POWER TO SELL, LEASE OR GRANT EASEMENTS.
The Port Authority may sell or lease real and personal property not needed for the operation of the Port Authority and grant easements or rights of way over property of the Port Authority. (Ord. 2469. Passed 2-21-56.)

151.17 POWER TO PROMOTE PORT INTERESTS.
The Port Authority shall be empowered to promote, advertise and publicize the port and its facilities, provide traffic information and rate information to shippers and shipping interests and to appear before rate making authorities to represent and promote the interests of the port.
(Ord. 2469. Passed 2-21-56.)

151.18 COMPLIANCE WITH STATE LAW.
The Port Authority shall have all the powers, duties, rights and obligations, and be subject to the conditions, limitations and restrictions enumerated in Ohio R.C. Chapter 4582.
(Ord. 2469. Passed 2-21-56.)

CHAPTER 153
Mardi Gras Improvement Development Board

153.01 Appointment and composition.

153.01 APPOINTMENT AND COMPOSITION.

The Mayor is hereby authorized to appoint three members from the Village Council to serve, with the Mayor, upon a Board known as the Mardi Gras Improvement Development Board. The Council members shall consist of the Public Grounds Committee.
(Res 58-35. Passed 6-16-58.)

CHAPTER 155
Planning Commission

155.01 Creation; composition and term.
155.02 Duties of the Planning Commission.
155.03 Powers of the Planning Commission.
155.04 Planning Commission rules, minutes, meetings and records.

CROSS REFERENCES

Establishment of the Planning Commission ORC 713.01
Duties and Powers of the Planning Commission ORC 713.02 - 713.10, 713.12
Planning Commission to approve subdivision ORC 711.09
Duties of the Platting Commission ORC 735.17-26
Amendments - See P&Z Ch. 1145

155.01 CREATION; COMPOSITION AND TERM.

(a) Council establishes a Planning Commission of five members, consisting of the Mayor, one member of Council to be elected thereby for the remainder of his term as such member of the legislative authority, and three citizens of the Village to be appointed by the Mayor. Said members shall serve without compensation.

(b) The Mayor shall serve as chair of the Planning Commission. The members of the Planning Commission may elect a vice chair from the other members of the Planning Commission.

(c) The term for each member appointed by the Mayor shall be six years each.

(d) The Mayor shall fill any vacancies on the Planning Commission for Mayoral appointments.

(e) Quorum shall be three members.
(Ord. 2010-098. Passed 12-7-10.)

155.02 DUTIES OF THE PLANNING COMMISSION.

(a) Carry on a continuous review of the effectiveness and appropriateness of this Code and recommend such changes or amendments, to Council, as it feels would be appropriate.

(b) Hold public hearings as required by this Code, notice of which shall be given in accordance with Ohio R.C. 713.12.

(c) Initiate advisable Official Zoning District Map changes, or changes in the text of the Zoning Ordinance where same will promote the best interest of the public in general through recommendation to Council as per Section 1145.01.

(d) Review proposed zoning amendments as filed by a property owner, providing recommendation to Council.

(e) Conduct Site Plan Review for projects requiring such approval.

(f) Review and approve/disapprove Conditional Use applications in accordance with Chapter 1138.

(g) Review and update the Fairport Harbor Comprehensive Plan.

(h) Approves subdivisions per Ohio R.C. 711.09.

(i) The Planning Commission shall also act as the Platting Commission per Ohio R.C. 713.03. Said duties of the Platting Commission are listed in Ohio R.C. 735.17-26. (Ord. 2010-098. Passed 12-7-10.)

155.03 POWERS OF THE PLANNING COMMISSION.

(a) The Planning Commission may receive funds, grants, services from the Federal, State or local departments and agencies.

(b) May hire architects, engineers or other professionals to fulfill their duties described in 1140.02 within amount appropriated from Council.

(c) The Planning Commission may also exercise any other duty or power that is conferred on it by the Ohio Revised Code or by the ordinances of the Village. (Ord. 2010-098. Passed 12-7-10.)

155.04 PLANNING COMMISSION RULES, MINUTES, MEETINGS AND RECORDS.

(a) The Planning Commission shall organize and adopt rules in accordance with the provisions of the Zoning Ordinance.

(b) The Planning Commission shall set a meeting schedule for the year at the first meeting of the year. All meetings of the Planning Commission shall be open to the public. Special Meeting may be called the discretion of the chair or upon the request of the Mayor or Village Administrator. Proper notice will be given of all meetings.

(c) The Planning Commission shall keep minutes of its meetings, public hearings and other proceedings. Said minutes shall be filed in the office of Council and shall be a public record. (Ord. 2010-098. Passed 12-7-10.)

CHAPTER 157
General Employment Provisions

EDITOR'S NOTE: Pursuant to Ordinance 102-2005, the Village has adopted a Personnel Policies and Procedures Manual. Copies are on file at the Village Hall.

157.01 Usual compensation defined.
157.02 Bonds.
157.03 Compensation.
157.04 Additional compensation for years of service.
157.05 Additional compensation for employees with certain licenses or certifications.
157.06 Basic employment requirements.
157.07 Drug-free workplace policy.

CROSS REFERENCES

Worker's compensation - see Ohio Const., Art. II, Sec. 35; Ohio R.C. Ch. 4123
Wages and hours on public works - see Ohio Const., Art. II, Sec. 37; Ohio R.C. Ch. 4115
All officers must take oath - see Ohio Const., Art. XV, Sec. 7; Ohio R.C. 3.22, 733.68
Blanket bonds - see Ohio R.C. 3.06
Deductions for municipal income tax - see Ohio R.C. 9.42
Public Employees Retirement System - see Ohio R.C. Ch. 145
Council to fix salaries and bonds - see Ohio R.C. 731.13, 731.49 et seq.
Expenses for attendance at conference or convention - see Ohio R.C. 733.79

157.01 USUAL COMPENSATION DEFINED

As used in this chapter, "usual compensation" means:

(a) All compensation will be within the FLSA Guidelines as they are applied to the various job classifications.

(b) As used in this chapter, "appropriate department head" means Village Administrator, Chief of Police or Fire Chief.

(Ord. 2005-067. Passed 6-14-05.)

157.02 BONDS.

(a) The following officers and employees of the Village shall give bond for the faithful performance of their duties in an amount not less than ten thousand dollars ($10,000) each:

Director of Utilities	Fire Chief
Fire Lieutenant	Assistant Fire Chief
Fire Captain	Firefighter
Chief of Police	Police Lieutenant
Police Sergeant	Police Officer
Special Police	Police Clerk
Customer Service Clerk	Adm. Asst. -- Police Dept.
Zoning Inspector	Assistant Zoning Inspector
Senior Center Director	Office Assistant
Customer Service/Utilities Specialist	PT Office Assistant

(Ord. 2005-067. Passed 6-14-05.)

(b) The following officers and employees of the Village shall give bond for the faithful performance of their duties in an amount not less than twenty-five thousand dollars ($25,000):

(1) The Administrative Assistant in the Fiscal Officer's Office;
(2) The Fiscal Officer;
(3) The Mayor;
(4) The Village Administrator; and
(5) Fiscal Office Assistant.

(Ord. 2009-010. Passed 2-3-09.)

157.03 COMPENSATION.

Compensation to be paid Village officers, officials and employees shall be fixed by Ordinance or Resolution of Council, by agreement approved by Council, or by the general laws of the State of Ohio.

(Ord. 2005-067. Passed 6-14-05.)

157.04 ADDITIONAL COMPENSATION FOR YEARS OF SERVICE.

In addition to his regular compensation, each classified full and part-time employee shall be paid additional sums of money based upon his years of continuous service as an employee of the Village in accordance with the following schedule:

CONTINUOUS YEARS OF SERVICE	ADDITIONAL COMPENSATION PER MONTH
5 Years	$ 5.00
10 Years	$10.00
15 Years	$15.00
20 Years	$20.00
25 Years	$25.00
30 Years	$30.00
35 Years	$35.00
40 Years	$40.00
45 Years	$45.00

(Ord. 2005-067. Passed 6-14-05.)

157.05 ADDITIONAL COMPENSATION FOR EMPLOYEES WITH CERTAIN LICENSES OR CERTIFICATIONS.

(a) Water Department employees shall be compensated according to the following schedule in addition to their basic hourly rate upon receipt of the appropriate certification from the State of Ohio:

Operator Trainee	No certification required	
Operator C	Interim Laboratory Certification	$.20
Operator B	Interim Laboratory Certification	$.20
	Operational Laboratory Certification	$.20
	Full Laboratory Certification	$.20
Operator A	Interim Laboratory Certification	$.20
	Operational Laboratory Certification	$.20
	Full Laboratory Certification	$.20

Additional compensation shall be paid for each additional water treatment certification received as follows:

Class I Water Treatment Certification	$.50
Class 2 Water Treatment Certification	$.40
Class 3 Water Treatment Certification	$.60

(b) The appropriate department head shall authorize reimbursement to the employees for renewal or recertification of licenses or certifications required to maintain proficiency as determined by their job description. Failure for any employee to maintain the appropriate license or certification, as determined by his job description, shall be just and sufficient grounds for dismissal.

(c) Fairport Harbor Police Department employees who are appointed to the K-9 Unit shall receive additional hourly compensation for maintaining their assigned canine during off hours. This compensation will be provided if the employee is in actual possession of a department canine and the employee maintains or is training to receive K-9 certification through either the Ohio Peace Officer Training Council or the North American Police Work Dog Association.

Police Department Certification $0.75

(Ord. 2005-067. Passed 6-14-05.)

157.06 BASIC EMPLOYMENT REQUIREMENTS.

Each Department head shall file with the Administrator's office a description of the Basic Employment Requirements of each of the various positions of employment within their respective departments. (Ord. 2005-067. Passed 6-14-05.)

157.07 DRUG-FREE WORKPLACE POLICY.

Council hereby establishes and adopts the six page document entitled "Drug-Free Workplace Policy" that is attached to Ordinance 101-2005, as Exhibit A and made a part hereof.

(Ord. 2005-101. Passed 10-11-05.)

(NOTE: The next printed page is page 51.)

CHAPTER 161
Mayor's Court

161.01 Computer Fund.
161.02 Magistrate.
161.03 Clerk.

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

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

(a) Does not waive his right to trial by jury in a serious offense case for which the penalty established by laws includes confinement for more than six months, or

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

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

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

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

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

CROSS REFERENCES

Disposition of fines and costs - see Ohio R.C. 733.40
Mayor's powers and duties - see Ohio R.C. 1905.20 et seq.
Trial - see Ohio R.C. Ch. 2938
Notification to Director of liquor law convictions - see Ohio R.C. 4301.991
Record of traffic violations - see Ohio R.C. 4513.37

161.01 COMPUTER FUND.

(a) There is hereby created a Fairport Harbor Mayor’s Court Computer Fund into which shall be deposited cash or proceeds from cases heard in the Village of Fairport Harbor Mayor’s Court.

(b) Proceeds received hereunder are designated by Council to be used only for payment for the court computer and any updates or maintenance required or such other expenditures that the court shall deem appropriate.

(Ord. 2002-67. Passed 5-28-02.)

161.02 MAGISTRATE.

The position of a part-time Magistrate for the Fairport Harbor Mayor's Court is hereby created. The duties for this position shall be those duties assigned by the Mayor, by the Ohio Revised Code, and by the Ohio Supreme Court. Further, the person who holds this position shall be an attorney who is licensed to practice law in the State of Ohio.
(Ord. 141-2006. Passed 12-5-06.)

161.03 CLERK.

The position of Mayor's Court Clerk is hereby created. The duties for this position shall be assigned by the Mayor and/or by Council.
(Ord. 2006-112. Passed 9-5-06.)

TITLE NINE - Taxation
Chap. 171. Income Tax.

CHAPTER 171
Income Tax

171.01 Purpose of levy of tax.
171.02 Definitions.
171.03 Imposition of income tax.
171.04 Determination of allocation of tax.
171.05 Exemptions; sources of income not taxed.
171.06 Returns.
171.07 Payment of tax.
171.08 Interest and penalties.
171.09 Collection of unpaid taxes and refunds of overpayments.
171.10 Credit for tax paid to another Municipality.
171.11 Disbursement of receipts of tax collection.
171.12 Duties and authority of the Administrator.
171.13 Board of Review.
171.14 Other provisions.

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

171.01 PURPOSE OF LEVY OF TAX.

To provide funds for the purposes of general municipal functions, maintenance, new equipment, extension and enlargement and improvement of municipal services and facilities and capital improvements of the Village, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensations, and all net profits as hereinafter provided.
(Ord. 74-72. Passed 9-3-74.)

171.02 DEFINITIONS.

For the purposes of this chapter the terms, phrases, words and their derivatives shall have the meanings given in the next succeeding sections. The singular shall include the plural, and the masculine shall include the feminine and the neuter, as follows:

(a) "Administrator" means the individual designated to be appointed by the Mayor subject to confirmation by a majority of the members of Council, to administer and enforce the provisions of the Village income tax.

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

(c) "Board of Review" means the Board created by and constituted as provided in Section 171.13(a).

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

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

(g) "Employer" means an individual, partnership, association, corporation, government body, unit or agency, or other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation.

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

(i) "Gross receipts" means the total income from any source whatever.

(j) “Manager” means any of the employer’s officers, responsible persons, employees having control or supervision and employees charged with the responsibility of filing the return, paying taxes, and otherwise complying with this chapter.

(k) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners.

(l) "Nonresident" means an individual domiciled outside the Village.

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

(n) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

(o) "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his regular employees regularly in attendance.

(p) "Resident" means an individual domiciled in the Village.

(q) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.

(r) “Taxable income” means wages, salaries, commissions, other compensation paid by an employer before any deduction, net profits from the operation of a business or profession or other enterprise or activity, adjusted in accordance with the provisions of this chapter, and other compensation, including, but not limited to, income derived from gaming, wagering, lotteries or schemes of chance.

(s) "Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

(t) "Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax. (Ord. 2009-063. Passed 8-18-09.)

171.03 IMPOSITION OF INCOME TAX.

(a) Rate and Income Taxable. An annual tax for the purposes specified in Section 171.01 hereof shall be imposed on and after January 1, 1997 at the rate of two percent (2%) per annum upon the following:

(1) On all salaries, wages, commissions and other compensation earned on and after January 1, 1997, by residents of the Village.

(2) On all salaries, wages, commissions and other compensation earned on and after January 1, 1997, by nonresidents of the Village for work done or services performed or rendered within the Village.

(3) A. On the portion attributable to the Village on the net profits earned on and after January 1, 1997, of all resident unincorporated business entities or professional or other activities, derived from sales, made, work done, services performed or rendered and business or other activities conducted in the Village.

B. On the portion of the distributive share of the net profits earned on and after January 1, 1997, of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.

(4) A. On the portion attributable to the Village of the net profits earned on or after January 1, 1997, of all nonresident unincorporated business entities, professional or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village, whether or not such unincorporated business entity has an office or place of business in the Village.

B. On the portion of the distributive share of the net profits earned on or after January 1, 1997, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.

(5) On the portion attributable to the Village of the net profits earned on and after January 1, 1997, of all corporations derived from the sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village

(b) Effective Period. The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professional or other activities earned on and after January 1, 1997.
(Ord. 1996-64. Passed 7-16-96.)

171.04 DETERMINATION OF ALLOCATION OF TAX.

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

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

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

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

(2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.

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

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

(b) Sales Made in the Village. As used in Section 171.04(a)(3) hereof, "sales made in the Village" means:

(1) All sales of tangible personal property which is delivered within the Village regardless of where title passes if shipped or delivered from a stock of goods within the Village.

(2) All sales of tangible personal property which is delivered within the Village regardless of where title passes even though transported from a point outside the Village if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village and the sales result from such solicitation or promotion.

(3) All sales of tangible personal property which is shipped from a place within the Village to purchasers outside the Village 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.

(c) Total Allocation. Add together the percentages determined in accordance with Sections 171.04(a)(1), (2) and (3), or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentages referred to in Section 171.04(a).

A factor is applicable even though it may be allocable entirely in or outside the Village.

(d) Rentals. Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 171.03(a)(3) to (a)(5) hereof, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred twenty-five dollars ($125.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred twenty-five dollars ($125.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds the one hundred twenty-five dollars ($125.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars ($125.00) per month.

(e) Operating Loss-Carry Forward.

(1) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1975, allocable to the Village may be applied against the portion of the profit of succeeding tax years allocable to the Village until exhausted but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(3) The Administrator shall provide by the rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(f) Rental List Required.

(1) It shall be mandatory for every taxpayer subject to this section and to Chapter 171, personally or through a management agent, to submit a list to the Administrator of names and addresses of all tenants. The required list shall be prepared and submitted on or before January 31, 2010 and at such other times as the Administrator may prescribe.

(2) Beginning on February 1, 2010 and thereafter, and subject to subsection (f)(4) below, within thirty days after a new tenant occupies residential rental property of any kind within the Village, the property owner of rental or leased residential property shall file with the Administrator a report showing the name, social security number and address of each tenant who occupies a residential premises within the corporate limits of the Village.

(3) Beginning on February 1, 2010 and thereafter, within thirty days after a tenant vacates residential rental property of any kind within the Village, the property owner of rental or leased residential property shall file with the Administrator a report identifying a vacating tenant and stating the date of vacating from the rental or leased residential property.

(4) Any tenant whose social security number is required to be reported by the landlord to the Administrator, pursuant to the subsections above, may report such social security number directly to the Administrator when the tenant desires, for any reason whatsoever, not to reveal his or her social security number to the landlord. The tenant shall provide the social security number or other required information within the time required above.

(5) The owner of rental or leased residential property whose tenant and/or lessee elects the procedure set forth in subsection (f)(4) is exempted from the requirement of reporting the tenant's social security number to the Village. (Ord. 2009-070. Passed 10-6-09.)

171.05 EXEMPTIONS; SOURCES OF INCOME NOT TAXED.

The tax provided for herein shall not be levied on the following:

(a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

(b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.

(c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

(d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.

(e) Alimony received.

(f) Personal earnings of any natural person under eighteen years of age.

(g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.

(h) Interest, dividends and other revenue from tangible property.

(i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State from which the Village is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except such income from the operation of a business.

(j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the States or their political subdivision to impose net income taxes on income derived from interstate commerce.

(k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the Village to impose net income taxes.

(Ord. 74-72. Passed 9-3-74.)

171.06 RETURNS.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 15 of each year. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth day of the fourth month following the end of such fiscal year or period. Any person who has no income need not file an annual return. Any person who has exempt income must file a return and declare to the Administrator the nature of his or her exemption. Any person who has taxable income must file a tax return with the Administrator.

If a taxpayer's entire income is exempt from taxation by the Village, the taxpayer, in lieu of filing a return, shall file a one-time individual declaration of exemption stating the reasons the taxpayer is exempt. If at any time thereafter the taxpayer once again earns and/or receives income taxable to the Village, the Taxpayer must reactivate his Village tax account by informing the Administrator and/or the Fiscal Officer within thirty days after earning or receiving such income. (Ord. 2009-105. Passed 12-1-09.)

(b) Form and Content of Return. The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, setting forth:

(1) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;

(2) The amount of the tax imposed by this chapter on such earnings and profits; and

(3) Such other pertinent statements, information, returns or other information as the Administrator may require.

(c) Extension of Time for Filing Returns. The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. The Administrator may require a tentative return accompanied by payment of the amount of tax shown to be due thereon, by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(d) Consolidated Returns.

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

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Administrator finds that net profits are not properly allocated to the Village by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Village. (Ord. 74-72. Passed 9-3-74.)

(e) Amended Returns.

(1) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Sections 171.09(a), (b) and (c) and Section 171.10 hereof. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return. (Ord. 1984-09. Passed 1-3-84.)

(2) Within three months from the final determination of any Federal liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment. (Ord. 74-72. Passed 9-3-74.)

171.07 PAYMENT OF TAX.

(a) Payment of Tax on Filing of Return.

(1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon. However, where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of subsection (b) hereof, or where any portion of the tax shall have been paid by the taxpayer pursuant to the provisions of subsection (c) hereof, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 171.10(a) or (b) hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(2) A taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar ($1.00) shall be collected or refunded.
(Ord. 74-72. Passed 9-3-74.)

(b) Collection at Source.

(1) In accordance with the rules and regulations prescribed by the Administrator, each employer within or doing business with the Village shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of two percent (2%) per annum of the gross salaries, wages, commissions or other compensation, due by the employer to the employee and shall, on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted, subject to the provisions of paragraphs (3), (4), and (5) hereof. The returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have been withheld.

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

(3) An employer who deducts the tax in an amount of two hundred fifty dollars ($250.00) or more in the first or second month of a calendar quarter shall, on or before the twentieth day of the following month, pay to the Administrator the amount of taxes so deducted.

(4) An employer who makes such payments on a monthly basis for the first two months of a calendar quarter shall pay such tax deducted for the third month of a calendar quarter at the regular time for filing the employer's quarterly return of income tax withheld.

(5) Payments shall be on a form or forms furnished by or obtainable upon request from the Administrator, setting forth the amount of tax deducted for the month. A receipted copy of such form shall be returned to the employer to be attached to and filed with the employer's quarterly return of income tax withheld.

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

(7) Manager's obligations.

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

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

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

(Ord. 2009-063. Passed 8-18-09.)

(c) Declarations of Income Not Collected at Source. Every person who anticipates any taxable income which is not subject to Section 171.07(b) hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 171.03 hereof, 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. However, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village in accordance with Section 171.07(b) hereof, such person need not file a declaration.

(d) Filing of Declaration.

(1) The declaration required by Section 171.07(c) shall be filed on or before April 30 of each year during the effective period set forth in Section 171.03(b) or within four months of the date the taxpayer becomes subject to the tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(e) Form of Declaration.

(1) The declaration required by Section 171.07(c) shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, credit shall be taken for the Village tax to be withheld from any portion of such income. In accordance with the provisions of Sections 171.10(a) or (b) hereof, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

(2) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(f) Payment to Accompany Declaration. The declaration of estimated tax to be paid to the Village shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth months after the beginning of the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(g) Annual Return. On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of Section 171.07(a) hereof.

(h) Extensions. The Administrator may extend the time of filing any return required, of making any payment or performing any other act required by this section for a period not to exceed six months beyond the original required date.
(Ord. 74-72. Passed 9-3-74.)

171.08 INTEREST AND PENALTIES.

(a) Interest on Unpaid Tax. All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1-1/2%) per month or fraction thereof. (Ord. 1984-09. Passed 1-3-84.)

(b) Penalties on Unpaid Tax. In addition to interest as provided in Section 171.08(a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due other than taxes withheld; one-half of one percent per month or fraction thereof.

(2) For failure to remit taxes withheld from employees; three percent per month or fraction thereof.

(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 twenty-five dollars ($25.00) for each offense, in addition to any other penalties which may otherwise be imposed. (Ord. 2010-083. Passed 11-2-10.)

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and 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, provided that an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

(d) Abatement of Interest and Penalty. Upon recommendation of the Administrator, the Board of Review may abate the penalty or interest, or both; or, upon an appeal from the refusal of the Administrator to recommend abatement of the penalty and/or interest, the Board may nevertheless abate the penalty or interest, or both. (Ord. 1984-09. Passed 1-3-84.)

(1) For good reason shown, Council may abate penalty and interest on the late payment of the Village income tax for non-resident contractors for whom there is no proof that they were notified of the existence of the tax, and who, upon being notified of the nonpayment of Village income tax, submit their payment in full within ninety days of notification. (Ord. 1995-53. Passed 6-6-95.)

(e) Violations. Whoever:

(1) Fails, neglects or refuses to make any return or declaration required by this chapter; or

(2) Makes any incomplete, false or fraudulent return; or

(3) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or

(4) Fails, neglects or refuses to withhold the tax from his employees or remit such withholding to the Administrator; or

(5) Refuses to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or

(6) Fails to appear before the Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or

(7) Refuses to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or

(8) Fails to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or

(9) Gives to an employer false information as to his true name, correct social security number and residence address, or fails to promptly notify an employer of any change in residence address and date thereof; or

(10) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Village tax withheld, or to knowingly give the Administrator false information; or

(11) Attempts to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter; shall be fined not more than five hundred dollars ($500.00) or imprisoned not more than six months or both, for each offense.

(Ord. 74-72. Passed 9-3-74.)

(f) Limitation on Prosecution. All prosecutions under this section must be commenced within three years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed.
(Ord. 1984-09. Passed 1-3-84.)

(g) Failure to Procure Forms Not Excuse. Failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax. (Ord. 74-72. Passed 9-3-74.)

171.09 COLLECTION OF UNPAID TAXES AND REFUNDS OR OVERPAYMENTS.

(a) Unpaid Taxes Recoverable as Other Debts. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, of omission of a substantial portion of income subject to this tax, or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.

(b) Refunds of Taxes Erroneously Paid. Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time prescribed in Ohio R.C. 718.06.

(c) Amounts of Less than One Dollar. Amounts of less than one dollar ($1.00) shall not be collected or refunded.
(Ord. 74-72. Passed 9-3-74.)

171.10 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

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

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

(c) A claim for refund or credit under this section shall be in such manner as the Administrator may by regulations provide.
(Ord. 1984-09. Passed 1-3-84.)

171.11 DISBURSEMENT OF RECEIPTS OF TAX COLLECTION.

(a) Allocation of Funds. The funds collected under the provisions of this chapter shall be disbursed in the following manner:

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

(2) The balance remaining after payment of the expenses referred to in paragraph (1) above, shall be deposited in the General Fund for municipal purposes.
(Ord. 74-72. Passed 9-3-74.)

171.12 DUTIES AND AUTHORITY OF THE ADMINISTRATOR.

(a) Duty to Receive Tax Imposed. The Administrator shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; keep an accurate record thereof; and report all moneys so received.

(b) Duty to Enforce Collection. The Administrator shall enforce payment of all taxes owing to the Village, keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and show the dates and amounts of payments thereof.

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

(d) Authority to Arrange Installment Payments. The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 171.08(e) and 171.09(a) of this chapter shall apply.

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

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

(g) Authority to Compel Productions of Records. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal 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.

(h) Refusal to Produce Records. The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this section, punishable as provided in Section 171.08(e).

(i) Confidential Nature of Information Obtained. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section, shall be fined not more than five hundred dollars ($500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

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

(j) Taxpayer Required to Retain Records. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.

(k) Authority to Contract for Central Collection Facilities. The Administrator may and is authorized to enter into an agreement, subject to agreement of Council, on behalf of the Village, with any other municipal corporation to permit such other municipal corporation to act as agent for the Village for the purpose of administering the income tax laws of the Village and of providing a central collection facility for the collection of the income tax on behalf of the Village.

(l) Assignment of Duties and Authority. In the event the Administrator, on behalf of the Village, enters into an agreement with any other municipal corporation to act as agent of the Village for the purpose of administering the income tax laws of the Village and of providing a central facility for the collection of the income tax, as provided in Section 171.12(k) hereof, then all or part of the duties and authority of the Administrator may be assigned by such agreement to such municipal corporation.
(Ord. 74-72. Passed 9-3-74.)

(m) Deputy Tax Administrator. There is hereby established the position of Deputy Tax Administrator and such Deputy Tax Administrator shall have all of those duties and authority given the Administrator under this chapter. The Deputy Tax Administrator shall be appointed by the Mayor subject to the confirmation by a majority of the members of Council. The Deputy Tax Administrator shall be designated a part-time position and shall work that number of hours as the Mayor shall from time to time determine and the person filling such position shall be paid at the rate of five dollars ($5.00) per hour. (Ord. 80-47. Passed 7-21-80.)

171.13 BOARD OF REVIEW.

(a) Board of Review Established. A Board of Review consisting of the Mayor, the president of Council and one resident of the Village to be appointed by the Mayor, subject to confirmation by a majority of members of Council, is hereby created.

The term of office shall be for a period of one year or through December 31, 1975, whichever date occurs last and thereafter for a one year term. The Board shall select, each year, for a one year term, one of its members to serve

as chairman and one to serve as secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and provisions of Section 171.12(i) hereof with reference to the confidential information to be required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) Duty to Approve Regulations and to Hear Appeals. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter must be approved by the Board of Review before they become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) Right of Appeal. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.
(Ord. 74-72. Passed 9-3-74.)

171.14 OTHER PROVISIONS.

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

(b) Collection of Tax After Termination of Chapter.

(1) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 171.08(e) through (g) and 171.09(a) through (c).

(2) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 171.06(a) and 171.07(b) of this chapter as though the same were continuing.
(Ord. 74-72. Passed 9-3-74.)