

CODIFIED ORDINANCES OF SHEFFIELD VILLAGE

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Chap. 101. Codified Ordinances.

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CHAPTER 101
Codified Ordinances

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

See sectional histories for similar State law

Statute of limitations on prosecutions - see Ohio R.C. 718.06; GEN. OFF. 501.06

Codification in book form - see Ohio R.C. 731.23

Imprisonment until fine and costs are paid - see Ohio R.C. 1905.30, 2947.14

Citation issuance for minor misdemeanors - see Ohio R.C. 2935.26 et seq.

Ordinances and resolutions - see ADM. Ch. 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 Sheffield Village, Ohio, 1999, 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 Lorain 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 Municipality of Sheffield Village, Ohio.
- (i) "Oath" includes affirmation and "swear" includes affirm. (ORC 1.59(B))
- (j) "Owner", when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
- (k) "Person" includes an individual, corporation, business trust, estate, trust, partnership and association. (ORC 1.59(C))
- (l) "Premises", as applied to property, includes land and buildings.
- (m) "Property" means real and personal property. (ORC 1.59(E))
"Personal property" includes all property except real.
"Real property" includes lands, tenements and hereditaments.
- (n) "Public authority" includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.

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

101.03 RULES OF CONSTRUCTION.

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

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

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

(ORC 1.43)

(c) Calendar; Computation of Time.

- (1) Definitions.
 - A. "Week" means seven consecutive days.
 - B. "Year" means twelve consecutive months.

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

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

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

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

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

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

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

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

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

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

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

101.05 CONSTRUCTION OF SECTION REFERENCES.

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

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

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

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

101.06 CONFLICTING PROVISIONS.

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

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

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

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

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 105
Public Meetings

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| <p>105.01 Adoption of rules.</p> <p>105.02 Definitions.</p> <p>105.03 Notice of regular and organizational meetings.</p> <p>105.04 Notice of special meetings.</p> <p>105.05 Notice to news media of special meetings.</p> | <p>105.06 Notification of the consideration of specific types of public business.</p> <p>105.07 Responsibilities of Clerk-Treasurer.</p> |
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CROSS REFERENCES

- Public meetings - see Ohio R.C. 121.22; ADM. 119.01(Rule 4)
- Council meetings - see Ohio R.C. 731.44, 731.46; ADM. 119.01(Rule 1 et seq.)
- Meeting of Council committees - see ADM. 119.01(Rule 12)
- Disturbing a lawful meeting - see GEN. OFF. 509.04

105.01 ADOPTION OF RULES.

The following rules are hereby adopted pursuant to Ohio R.C. 121.22(F) for notification of the public and news media of the time and place of meetings of Council, boards and other Municipal bodies. (Ord. 714. Passed 2-9-76.)

105.02 DEFINITIONS.

As used in this chapter:

- (a) "Clerk-Treasurer" means the elected, qualified and acting Clerk-Treasurer of the Village.
- (b) "Day" means a calendar day.
- (c) "Meeting" means any prearranged discussion of the public business of a Municipal body by a majority of the members of that body.
- (d) "Municipal body" means any of the following:
 - (1) Council (the legislative authority);
 - (2) The Planning Commission;
 - (3) The Board of Zoning Appeals;
 - (4) An Assessment Equalization Board;
 - (5) Records Commission;
 - (6) Committees of the Whole;
 - (7) Committees where a majority of the members of the parent group are present and taking part in the determination to be made by the committee;
 - (8) Any other committee which may be appointed to make a determination on a public issue, or any other board of the Municipality not specifically mentioned herein, provided that such committees or boards are comprised of a majority of the members of the parent body or are decision making bodies.

- (e) "Oral notification" means notification given orally, either in person or by telephone, directly to the person for whom such notification is intended, or by leaving an oral message for such person at the address, or, if by telephone, at the telephone number of such person as filed with the Clerk-Treasurer under authority of this chapter.
- (f) "Post" means to place for view in an area accessible to the public during business hours at the office of the Clerk-Treasurer and at the locations designated in Section 121.01
A notice identifying the locations at which notifications will be posted shall be published in the legal notice section of the Lorain Journal by the Clerk-Treasurer within fifteen days after the adoption of this chapter.
- (g) "Special meeting" means a meeting which is neither a regular meeting nor an adjourned meeting of a regular or special meeting, which is called or held to consider items specifically stated on the original agenda of the regular or adjourned meeting.
- (h) "Written notification" means a notification in writing mailed, telegraphed or delivered to the address of the person for whom such notification is intended, as shown on the records filed with the Clerk-Treasurer, or in any other way delivered to such person. Mailed notices shall be by first class mail deposited in a U.S. Postal mailbox not later than the second day preceding the day of the meeting to which such notification refers, provided that at least one regular mail delivery day falls between the day of mailing and the day of such meeting.
(Ord. 714. Passed 2-9-76.)

105.03 NOTICE OF REGULAR AND ORGANIZATIONAL MEETINGS.

(a) The Clerk-Treasurer shall post a statement of the time and place of regular meetings of each Municipal body for each calendar year not later than the second day preceding the date of the first regular meeting of that Municipal body. If the time or place of the regular meeting is changed during the year, that fact shall be posted in the same manner as the original posting was.

(b) The Clerk-Treasurer shall post a statement of the time and place of any organizational meeting of a Municipal body at least twenty-four hours before the time of such meeting. (Ord. 714. Passed 2-9-76.)

105.04 NOTICE OF SPECIAL MEETINGS.

(a) Except in the case of a special meeting referred to in Section 105.05(d), the Clerk-Treasurer shall, not later than twenty-four hours before the time of the special meeting of a Municipal body, post a statement of the time, place and purposes of such special meeting.

(b) The statement under this section, and the notifications under Section 105.05, shall state such specific or general purpose then known to the Clerk-Treasurer to be the subject of consideration at such special meeting, and may state, as an additional general purpose, that any other business as may arise before such Municipal body may be considered and acted upon.
(Ord. 714. Passed 2-9-76.)

105.05 NOTICE TO NEWS MEDIA OF SPECIAL MEETINGS.

(a) Any news medium organization that desires to be given advance notification of special meetings of a Municipal body shall file with the Clerk-Treasurer a written statement requesting such notice. Except in the event of an emergency requiring immediate official action as referred to in subsection (d) hereof, a special meeting shall not be held unless at least twenty-four hours advance notice of the time, place and purposes of the meeting is given to the news media that have made requests for such advance notification in accordance with this section.

(b) News media requests for such advance notification of special meetings shall specify the Municipal body that is the subject of the request, the name of the medium, the name, address and telephone number of the person to whom notice is to be given, or to whom notices can be mailed, telegraphed or delivered, and, in the case where telephone messages may be used, the name of at least two persons to either of whom oral notifications may be given for the medium. Any such request shall be effective for a period of one year from the date of filing with the Clerk-Treasurer or until the Clerk-Treasurer receives written notice from such medium cancelling or modifying such request, whichever is earlier. A request shall be deemed not properly made unless it is complete in all respects and unless the information in such request can be conclusively relied upon by the Village, the Municipal body to which addressed and the Clerk-Treasurer.

(c) The Clerk-Treasurer shall give either oral or written notification, or both, as the Clerk-Treasurer determines, to the news media making a request for notification in accordance with subsection (b) hereof, of the time, place and purposes of the special meeting, this to be done at least twenty-four hours before the time of the special meeting.

(d) In the event of an emergency situation which requires immediate official action, a special meeting may be called without giving the twenty-four hours notification thereof to the requesting news media, provided, however, that either the person responsible for calling the meeting or the Clerk-Treasurer, shall immediately give oral notification to the news media which has on file a request for notification, or written notice if the person so elects, of the time, place and subject of the meeting, and the nature of the emergency situation which necessitates such meeting and action. (Ord. 714. Passed 2-9-76.)

105.06 NOTIFICATION OF THE CONSIDERATION OF SPECIFIC TYPES OF PUBLIC BUSINESS.

Any person, upon written request as provided for herein, may obtain advance notification of all meetings at which a specific type of public business will be considered by the public body. A person desiring such advance notification shall file a written request with the Clerk-Treasurer specifying his or her address, telephone number, place at which he or she may be reached during and outside of business hours, the specific type of business of which he or she is requesting advance notification, the Municipal body which is the subject of the request and the number of calendar months, not to exceed six, for which the request is made. Such request may be cancelled in writing. Each such request shall be accompanied by stamped addressed envelopes in the number to cover the regular meetings during the time period covered by the request, and an estimated number of special meetings. The Clerk-Treasurer shall enter on a record to be kept by him or her for that purpose the number of envelopes furnished and the number and dates of notifications for which the envelopes were used. A request shall not be deemed to have been made unless it is in all respects in conformity with the requirements of this chapter. The contents of the notification may be a copy of the agenda of the meeting. (Ord. 714. Passed 2-9-76.)

105.07 RESPONSIBILITIES OF CLERK-TREASURER.

(a) Any person may visit or telephone the office of the Clerk-Treasurer during that office's regular office hours to determine, based on information on file at that office at the time, the time and place of regular meetings, special meetings if any have been called, the subject for consideration at the meeting, and whether or not any specific type of public business, identified by such person, is to be considered at such meeting.

(b) Any notification or information provided herein to be given by the Clerk-Treasurer may be given by any other person acting on behalf of or under the authority of the Clerk-Treasurer.

(c) A reasonable attempt at notification of the person requesting it shall constitute compliance with this chapter.

(d) In order to insure compliance with this chapter, it shall be the duty of the chairman or secretary or other person calling a meeting of a Municipal body to timely advise the Clerk-Treasurer of all those matters which must be included in the notification which he or she must take. (Ord. 714. Passed 2-9-76.)

CHAPTER 109
General Fee Schedule

109.01 Fees in the Administration Code.	109.04 Fees in the Building Code.
109.02 Fees in the Business Regulation Code.	109.05 Fees in the Fire Prevention Code.
109.03 Fees in the Streets, Utilities and Public Services Code.	109.06 Rental rate for use of the Municipal Complex Council Chambers.

109.01 FEES IN THE ADMINISTRATION CODE.

(a) Codified Ordinances and Component Code Booklets.

- (1) The price of Codes is \$100.00 each.
- (2) The price for Building and Housing Code booklets and Planning and Zoning Code booklets is \$20.00 each.
(Ord. 1753. Passed 2-14-00.)

(b) (EDITOR'S NOTE: Former subsection (b) was repealed by Ordinance 1757, passed February 28, 2000.)

(c) Records. The fee for obtaining copies of all public records shall be five cents (5¢) per single sided page for requests exceeding six pages. If copies are to be mailed, the requestor shall provide a self-addressed envelope with proper postage affixed, in addition to the fee for copies, if any.
(Ord. 1753. Passed 2-14-00.)

109.02 FEES IN THE BUSINESS REGULATION AND TAXATION CODE.

(a) Display of Mechanical Amusement or Musical Devices. The fee for a license to display mechanical amusement or musical devices is \$50.00 per year.

(b) Peddlers. The fee for a license to peddle in the Village is \$75.00 for a license effective for 12 months; \$35.00 for a license effective for 6 months; and \$20.00 for a license effective for 2 weeks.

(c) Vendors. The fee for a permit to vend goods and wares from a roadside stand is \$25.00 per year.

109.03 FEES IN THE STREETS, UTILITIES AND PUBLIC SERVICES CODE.

(a) Street Excavations. The deposit required incident to an application to make an opening in any street in the Village is \$250.00 in cash, or more if, in the Village Administrator's opinion, more than that sum will be required to close the opening and to restore the street to its original condition.

(b) Driveway and Culvert Pipe. The cost to a property owner for a 12-inch pipe for driveway drainage is \$12.00 per running foot of tile installed. For larger pipe, the cost will be added to the \$12.00 per running foot cost.
(Ord. 1427. Passed 10-9-95.)

(c) Water Rates. Effective July 1, 2011, the rates will be per quarter:

Minimum charge for up to 7,000 gallons	\$26.10
Next 8,000 gallons	3.95 per 1,000 gallons
Next 15,000 gallons	3.30 per 1,000 gallons
Next 30,000 gallons	2.85 per 1,000 gallons
Next 40,000 gallons	2.60 per 1,000 gallons
Over 100,000 gallons	2.50 per 1,000 gallons

(Ord. 2286. Passed 7-11-11.)

(d) Delinquency in Payment of Water Bills. The penalty for failure to pay a water bill by the fifteenth day of the month in which such bill becomes due is 10% of the actual outstanding balance.

(e) Restoration of Water Service. The fee for restoring water service after a cut-off for delinquency is \$5.00 for the first restoration and \$15.00 for any subsequent restoration.

(f) Water Tap-In Charges.

- (1) The tap-in charge for connections to service residents of the Village is hereby established as follows:
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| 1 inch meter and tap | \$900.00 |
| 3/4 inch meter and tap | 850.00 |
| 3/4 inch meter only | 200.00 |
| All other meters, costs plus 10% | |
| All taps larger than 1 inch at cost plus 10% | |
| 3/4 sprinkler meter & pit | 500.00 |
| Sewer tap for single family residence | 2,700.00 |
- (2) The charge for tapping into a Village water line which was constructed and paid for by the levy of a special assessment on lots and lands determined to be benefited thereby, for a lot which was not assessable under the provisions of the statute at that time, or for which only a partial assessment was paid by the owner or his or her successors in title or predecessors in title, is hereby established as nine hundred dollars (\$900.00) per tap-in. Such tap-in fee shall be paid into the Water Fund.
(Ord. 1823. Passed 3-12-01.)

(g) Sewer Charges. The following schedule of sewer user charges is hereby adopted for the use by residents and others of local sewers and/or the interceptor sewers and disposal plant of the French Creek Waste Water Treatment Plant Facility:

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| (1) <u>Base charge.</u> | \$ 1.62 per month |
| (2) <u>Volume charge.</u> | |
| A. Domestic class | 3.00 per 1000 gallons of water used |
| B. Commercial class | 3.00 per 1000 gallons of water used |
| C. Industrial class | 3.00 per 1000 gallons of water used |
| (3) <u>Strength surcharge.</u> | |
| A. Biochemical oxygen | 40.65 per 100 pounds |
| B. Suspended solids | 6.00 per 100 pounds |
| C. Phosphorus | 160.17 per 100 pounds |
| (4) <u>Annual industrial waste Surveillance charge.</u> | \$1,200.00 |
| (5) <u>Administrative charge - Village.</u> | 0.50 per month |
- (Ord. 1776. Passed 7-10-00.)

(h) Use of Interceptor Sewer. Fees for permits to use the interceptor sewer are:

- (1) Three hundred dollars (\$300.00) as a readiness to serve fee which is to be levied by and paid to the Village; and
- (2) One thousand four hundred dollars (\$1,400.00) as a fee to be levied by the City of North Ridgeville and paid to the Village as agent for the City, to be remitted to the City; and
- (3) Fifty cents (\$0.50) per linear foot of sewer pipe inspection by a video camera as a fee to be levied by the Village and paid into the Village Sewer Fund. (Ord. 1807. Passed 10-23-00.)

(i) Use of Interceptor Sewer by Multiple and Individual Users.

- (1) The fee for a tap into the interceptor sewer when such tap will be used by multiple users is \$2,050.

- (2) The fee for all other residences or units using the tap thereafter shall be \$650.00, as provided in paragraphs (h)(2) and (3) hereof.
(Ord. 1354. Passed 10-24-94.)

(j) Connections to the French Creek Sewer.

- (1) Tap-in charge: See subsection (f) hereof.
 (2) Connection charge for property not specially assessed:
 Number of acres in the parcel x \$738.00, plus
 Number of feet of parcel fronting on a street x \$19.67.
 (3) Exclusions: An applicant may, in writing, request that the Clerk-Treasurer exclude from the calculation of the charge imposed on any portion of the acreage or frontage which cannot be used because of State or Federal environmental restrictions, or which has existing service from a sanitary sewer of the Village.
 (4) In the case of any parcel, the frontage of which is more than twenty-five percent greater than the width of the lot at the midpoint of its depth, the frontage of the parcel shall be deemed to be one-half of the sum of its frontage and its width at the midpoint of its depth.
 (5) The changes, as determined pursuant to paragraph (j)(2) hereof, shall be increased by an amount equal to four percent of the initial charge on January 1, 1997, and on January 1 of each year thereafter.
 (Ord. 1433. Passed 11-13-95.)

(k) Burials. The charges for opening and closing any and all graves in the Village shall be the actual cost to the Village, computed in accordance with the Burial Costs Fee Schedule, a copy of which shall be kept on file with the Village Clerk-Treasurer, and which may be updated and/or modified from time to time based on (i) applicable changes in Ohio standards for charges in connection with the use of a backhoe and/or truck or other equipment and (ii) legislative action by the Village Council that changes the rate of pay for Village employees working as a driver, operator or laborer in connection with a burial. The Burial Costs Fee Schedule shall be in the following form:

(i) Equipment:

- | | | |
|-----|-----------------|-------------|
| (1) | Use of Backhoe: | \$____/hour |
| (2) | Use of truck: | \$____/hour |

(ii) Personnel:

Weekdays

- | | | |
|-----|--------------------|-------------|
| (1) | Wages of driver: | \$____/hour |
| (2) | Wages of operator: | \$____/hour |
| (3) | Wages of laborer | \$____/hour |

Saturday and Sunday

- | | | |
|-----|--------------------|-------------|
| (1) | Wages of driver: | \$____/hour |
| (2) | Wages of operator: | \$____/hour |
| (3) | Wages of laborer | \$____/hour |

(Ord. 2080. Passed 10-23-06.)

(l) Lots in Garfield Cemetery. Lots in Garfield Cemetery shall be sold according to the following schedule of prices:

- | | |
|-----|-----------------------------------|
| (1) | Village residents: \$250.00 each; |
| (2) | Nonresidents: \$300.00 each. |

(m) Lot Title Transfers. The fee for changing and transferring the title of a cemetery lot is \$10.00.

(n) Resale of Cemetery Lots. The Village shall pay one-half of the purchase price of a cemetery lot paid by the purchaser thereof upon resale of such lot to the Village, or the original price of the lot, whichever is lower. (Ord. 1354. Passed 10-24-94.)

109.04 FEES IN THE BUILDING CODE.

PLATS, PLANS AND ASSESSMENTS

(a) At the time of filing a plat, plan, or application pursuant to the provisions of the Planning and Zoning Code, the developer-subdivider shall deposit with the Clerk-Treasurer the amounts specified in Schedule 109.04(a) below. Such funds shall be used to defray the costs incurred by the Village in reviewing the plat, for engineering services and for other services and expenditures required by the provisions of these Subdivision Regulations. The fees so deposited shall be used to pay the Village Engineer for his or her services in reviewing the plans pursuant to the charges contained in his or her contract with the Village and other costs. In the event that the amount of the deposit is less than the amount incurred, by the Village, then the developer-subdivider shall pay to the Clerk-Treasurer the excess of the charge over the amount deposited, when billed, and in any event before the final plat is approved.

SCHEDULE 109.04(a)

Deposits of Funds for Residential Plat or Plan Review

Document for Review	Amount
(1) Preliminary plat	\$750.00 plus \$10.00 per lot
(2) Final plat/Construction plans ^(a)	\$1,300.00 plus \$50.00 per lot
NOTES TO SCHEDULE 109.04(a) ^(a) Includes streets, subdivision grading, storm drainage facilities, water supply facilities, and sanitary sewage facilities.	

(b) For non-residential developments, the fees specified in Schedule 109.04(b) shall be deposited with the Clerk-Treasurer. Such funds shall be used to defray the costs incurred by the Village in reviewing the plans, for engineering services and for other services and expenditures required by the provisions of these Subdivision Regulations. The fees so deposited shall be used to pay the Village Engineer for his or her services in reviewing the plans pursuant to the charges contained in his or her contract with the Village and other costs. In the event that the amount of the deposit is less than the amount incurred, by the Village, then the developer shall pay to the Clerk-Treasurer the excess of the charge over the amount deposited, when billed, and in any event before the final plans are approved.

SCHEDULE 109.04(b)
Deposits of Funds for Non-Residential Development Plan Review

Document for Review	Base Amount
(1) Site plan	\$1,000.00
(2) Construction plans ^(a)	\$1,500.00
NOTES TO SCHEDULE 109.04(b) ^(a) Includes streets, subdivision grading, storm drainage facilities, water supply facilities, and sanitary sewage facilities.	

(c) SCHEDULE 109.04. Deposits of Funds for Review of Assessment Petitions.

At the time of filing an application for a residential building permit pursuant to the provisions of the Building and Housing Code, the builder/property owner shall deposit with the Clerk-Treasurer six hundred dollars (\$600.00) for the purpose of defraying the costs incurred by the Village in reviewing the residential plot plan, for engineering services and for other services and expenditures required by the provisions of these Building and Housing Regulations. The fees so deposited shall be used to pay the Village Engineer for his or her services in reviewing the plan or plans pursuant to the charges contained in his or her contract with the Village and other costs. In the event that the amount of the deposit is less than the amount incurred, by the Village, then the builder/property owner shall pay to the Clerk-Treasurer the excess of the charge over the amount deposited, when billed, and in any event before the occupancy permit is issued.

(Ord. 1985. Passed 10-25-04.)

BUILDING

The amount of money to be paid for building permits shall be determined by the Building Inspector under the terms of this chapter and shall be noted on the application when approved for the issuance of the permit. The fees shall be paid to the Building Inspector who shall give a receipt therefor and the permit shall be issued to the applicant. The moneys so collected shall be paid to the Clerk-Treasurer daily, and the Clerk-Treasurer shall issue to the Building Inspector the Village receipt for the same, and such moneys shall be credited to the Building Department Fund. The fees to be paid shall be as follows:

(a) <u>Residential.</u>		
(1) <u>New structures.</u>		
A.	House/attached garage	\$150.00 plus 10.00 per 100 square foot or fractional part thereof
B.	Electric	125.00 plus 1.50 per 100 square foot
C.	Plumbing	100.00 plus 1.50 per 100 square foot
D.	Heating	75.00
E.	Air conditioning	50.00
F.	Occupancy	25.00
(2) <u>Alterations and/or additions.</u>		
A.	Building	50.00 plus 10.00 per 100 square foot or fractional part thereof
B.	Electric	75.00 plus 1.50 per 100 square foot or fractional part thereof
C.	Plumbing	75.00 plus 1.50 per 100 square foot or fractional part thereof
D.	Heating (additional)	50.00
E.	Air conditioning (additional)	50.00
F.	Mechanical system alt. (extension of ducting)	50.00
(3) <u>Miscellaneous.</u>		
A.	Re-inspection each time (to be paid before occupancy)	35.00
B.	Outbuildings (garages, pole buildings)	100.00 for the first 400 square feet plus 5.00 per 100 square feet over 400 square feet or fractional part thereof
C.	Decks and sheds	25.00
D.	Fences	25.00
E.	Swimming pools	
1.	Above ground (includes electrical)	75.00
2.	In ground (includes electrical)	150.00

F.	Siding/roofing/windows (each with discretion) gutters/aluminum/vinyl trim	\$ 25.00
G.	Electrical service upgrade	75.00
H.	Drives	25.00
I.	Demolition	
	1. Applied for	50.00
	2. Citation	100.00
J.	Foundation/waterproof/tile	
	1. Wall one or more, fee per wall	35.00
	2. Connection at foundation	50.00
K.	Inspection of property grade and drainage	150.00

(b) Commercial/Industrial.(1) New, alterations and/or additions.

A.	Application fee (to be applied if permit issued)	50.00
B.	Plans	
	1. New/addition/alteration	150.00 plus 5.00 per 100 square feet or fractional part thereof
	2. Sprinkler	150.00 plus 2.00 per 100 square feet or fractional part thereof
	3. Hood	100.00
	4. Hood suppression	100.00
C.	Building	
	1. New	300.00 plus 10.00 per 100 square feet or fractional part thereof
	2. Alteration	100.00 plus 10.00 per 100 square feet or fractional part thereof
	3. Addition	150.00 plus 10.00 per 100 square feet or fractional part thereof

D.	Electrical (new/alteration/addition)	\$ 150.00 plus 1.50 per 100 square feet or fractional part thereof
1.	Temporary service	25.00
2.	Fire alarm	75.00 plus 1.00 per 100 square feet or fractional part thereof
3.	Security alarm	75.00 plus 1.00 per 100 square feet or fractional part thereof
E.	Plumbing (new/alteration/addition)	150.00 plus 1.50 per 100 square feet or fractional part thereof
F.	Heating (new/alteration/addition)	per unit 75.00
G.	Air conditioning (new/alteration/addition)	per unit 75.00
H.	Mechanical system alteration	75.00
1.	New	200.00 plus 1.50 per 100 square feet or fractional part thereof
2.	Alteration/addition	100.00 plus 1.50 per 100 square feet or fractional part thereof
(2)	<u>Miscellaneous.</u>	
A.	Re-plans examination	150.00
B.	Re-inspection	75.00 each time (to be paid before occupancy)
C.	Greenhouses/farm buildings	50.00
D.	Site plans (grading/parking/ drainage/drives/drive pipes)	200.00
E.	Furnace/air conditioning/ water tank replacement	per unit 75.00
F.	Re-roof	50.00
G.	Fence	35.00
H.	Demolition	
1.	Applied for	50.00
2.	Citation	100.00
I.	Electric service charge	75.00
J.	Fireplace	
1.	Masonry construction	50.00
2.	Manufactured type	35.00
K.	Commercial Exhaust Hood/Fans	each 175.00
L.	Replace hood/fan/duct	each 75.00
M.	Walk-in Refrigeration Coolers	each 75.00

(c) Other.

- (1) There shall be a twenty-five dollar (\$25.00) fee paid to the Village for inspections made with less than twenty-four hours notice.
- (2) There shall be a one-hundred-twenty-five dollar (\$125.00) registration fee for general contractors and a fifty dollar (\$50.00) registration fee for subcontractors. (Ord. 1728. Passed 7-26-99.)

(d) Board of Zoning Appeals Hearing Fee. The BZA is hereby authorized to require a fee for all requests for variances or appeals in the following amounts:

- (1) Five hundred dollars (\$500.00) for individual residential lot appeals or variance requests;
- (2) One thousand dollars (\$1,000) for all other requests for variance or appeals (see Ordinance No. 2542).
(Ord. 2542. Passed 9-26-16.)

PARK

There shall be established the following park fees for all residential, commercial and industrial zones to generate additional green space and for maintenance of such:

- (a) Residential - for each individual lot, a \$100.00 park fee will be paid into the Park Revenue Fund.
- (b) Residential subdivision - for each residential subdivision development, a \$200.00 per lot park fee will be paid into the Park Revenue Fund.
- (c) Commercial - for each commercial development, a \$1,000.00 per acre, or part thereof, fee will be paid into the Park Revenue Fund. (Sites totaling less than one acre will pay \$750.00).
- (d) Industrial - for each industrial development, a \$1,000.00 per acre, or part thereof, fee will be paid into the Park Revenue Fund. (Sites totaling less than one acre will pay \$750.00).

Fees paid into the Park Revenue Fund are to be paid, in full, prior to beginning work on site. Monies must be receipted-in, on or before receiving any building permits.
(Ord. 1618. Passed 12-22-97.)

PLAN INSPECTION

(a) Where existing ordinances require it, or where the provisions of the Ohio Basic Building Code, as adopted in Section 1301.01, are applicable, there shall be charged a fee for the inspection and processing of plans by the Village Plan Examiner as set forth in Section 1335.10(b)(1)B.
(Adopting Ordinance)

(b) The fee for preliminary plan evaluations, or for the special evaluation of products and materials for the purpose of determining conditions of acceptability for compliance with these Codified Ordinances and the Ohio Basic Building Code, shall be forty dollars (\$40.00) per hour.

(c) The fee for each special inspection of the Village Plan Examiner, other than those required in subsection (a) hereof, shall be eighty dollars (\$80.00 per inspection. Requests for special inspections shall be in writing and delivered to the Village Plan Examiner, and the fee shall be paid prior to the inspection.
(Ord. 1061. Passed 12-12-88.)

REGISTRATION OF CONTRACTORS

(a) A certificate of registration shall be issued to an applicant upon payment of a one hundred twenty-five dollar (\$125.00) registration fee and proof of passage by the individual of an examination, to test his or her fitness as a contractor in his or her particular trade, administered by either the City of Lorain or the City of Elyria, or a comparable city, or upon passage of a test administered by the Village. Such certificate of registration and fee incident thereto shall be for a period of one calendar year from January 1 to December 31. It will be necessary on January 1 of each year to obtain a new certificate of registration and to pay a fee of one hundred twenty-five dollars (\$125.00) therefor.

(b) A certificate of registration shall be issued to an applicant for a subcontractor permit in accordance with the following schedule upon the payment of a fee of fifty dollars (\$50.00):

- (1) Drywall contractor
- (2) Plastering contractor
- (3) Concrete
- (4) Masonry
- (5) Excavation and sidewalk
- (6) Insulation
- (7) Siding installation
- (8) Others
- (9) Plumbing
- (10) Heating and ventilating
- (11) Electrical

Such certificate of registration and the fee incident thereto shall be for a period of one year from January 1 to December 31. It will be necessary on January 1 of each year to obtain a new certificate of registration and to pay a fee of fifty dollars (\$50.00) therefor.

(c) The Building Inspector is hereby designated the administrative officer who shall collect the fee, issue the certificate, conduct the test or receive proof of passage of a test as aforesaid and enforce the provisions of this chapter.

CONSTRUCTION OFFICE AND STORAGE TRAILERS

(a) A license shall be issued by the Mayor for a period of sixty days for an on-site construction office or storage trailer. Applicants for such a license shall pay a fee of ninety dollars (\$90.00) for the first sixty days and one dollar (\$1.00) per day during the construction period.

(b) Every such construction office and trailer shall be removed within thirty days after completion of the building.
(Ord. 1088. Passed 6-26-89.)

SIGNS

(a) Nonelectric signs or illuminated signs, not including electric signs, twenty-five dollars (\$25.00) per sign plus one dollar (\$1.00) per square foot for each side on which a sign is displayed, with a minimum fee of twenty-five dollars (\$25.00).

(b) Electric signs, fifty dollars (\$50.00) per sign plus five dollars (\$5.00) per square foot for each side on which a sign is displayed, with a minimum fee of fifty dollars (\$50.00).
(Ord. 1754. Passed 12-13-99.)

FEEES FOR BOARD OF BUILDING AND ZONING APPEALS (“BZA”)

A. DEPOSIT OF FUNDS FOR INDIVIDUAL RESIDENTIAL LOT APPEALS AND REQUESTS FOR VARIANCES.

At the time of filing a request for a variance or an appeal with the BZA for an individual residential lot, property owner shall deposit with the Clerk-Treasurer the sum of five hundred dollars (\$500.00) for the purpose of defraying the costs incurred by the Village for engineering and legal services and for other services and expenditures and the Village Engineer and Law Director are hereby authorized to provide said services. The fees so deposited shall be used to pay the Village Engineer and Law Director for his or her services pursuant to the charges contained in his or her contract with the Village and other costs. In the event that the amount of the deposit is less than the amount incurred by the Village, then the property owner shall pay to the Clerk-Treasurer the excess of the charge over the amount deposited, when billed, and in any event before decision on the appeal or variance is issued and becomes official.

B. DEPOSIT OF FUNDS FOR ANY APPEAL OR REQUEST FOR A VARIANCE OTHER THAN FOR “INDIVIDUAL RESIDENTIAL LOTS” (A. ABOVE).

At the time of filing an application for a permit for an appeal or request for appeal or request for variance with the BZA other than for an individual residential lot [see Section A.], the property owner shall deposit with the Clerk-Treasurer the sum of one thousand dollars (\$1,000) for the purpose of defraying the costs incurred by the Village for engineering and legal services and for other services and expenditures and the Village Engineer and Law Director are hereby authorized to provide said services. The fees so deposited shall be used to pay the Village Engineer and Law Director for his or her services pursuant to the charges contained in his or her contract with the Village and other costs. In the event that the amount of the deposit is less than the amount incurred by the Village, then the property owner shall pay to the Clerk-Treasurer the excess of the charge over the amount deposited, when billed, and in any event before decision on the appeal or variance is issued and becomes official.
(Ord. 2542. Passed 9-26-16.)

109.05 FEES IN THE FIRE PREVENTION CODE.

Fees for permits required by the Fire Prevention Code are as follows:

(a)	Permits for fire protection and alarm systems	\$ 25.00
(b)	Permits required by the Ohio Fire Code	25.00
(c)	Miscellaneous permits required by the Fire Prevention Code	25.00
(d)	Installation of underground tanks, as follows:	
(1)	One tank up to 10,000 gallons capacity:	25.00
(2)	One tank up to 20,000 gallons capacity:	50.00
(3)	Any combination of tanks up to 25,000 gallons capacity:	60.00
(4)	Any combination of tanks up to 50,000 gallons capacity:	75.00

109.06 RENTAL RATE FOR USE OF THE MUNICIPAL COMPLEX COUNCIL CHAMBERS.

The Village shall charge a fee of fifty dollars (\$50.00) for the rental of its Municipal Complex Council Chambers, which amount shall be remitted to the Village Clerk/Treasurer by the party renting the premises prior to the date of rental.
(Ord. 2056. Passed 2-27-06.)

TITLE THREE - Legislative

Chap. 119. Council.

Chap. 121. Ordinances and Resolutions.

**CHAPTER 119
Council**

119.01 Rules of Council.

**119.02 Rental rate for use of the
Municipal Complex Council
Chambers.**

CROSS REFERENCES

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.

Notification of Public Meetings – see ADM. Ch. 105

119.01 RULES OF COUNCIL

Rule 1. Regular Meetings. The regular meetings of Council shall be held on the second and fourth Mondays of each month in the Council Chambers, 4340 Colorado Ave., Sheffield, Ohio at 7:00 p.m.

No member of Council need remain in the Council Chambers for more than fifteen minutes awaiting a quorum to be present. If there is a quorum present, the regular meeting shall be conducted and the members shall remain throughout the entire meeting, unless excused by the other members of Council.

Rule 2. Special Meetings. A special meeting of Council may be called by the Mayor, on his or her motion, or upon request in writing signed by at least three members of Council, upon at least twelve hours notice to each member, served personally or left at his or her usual place of residence. The person or persons calling the special meeting may give to the Mayor/Clerk-Treasurer the original call in writing, and the Mayor Clerk-Treasurer shall reproduce it, and cause it to be served on all members of Council provided for above.

No business shall be transacted at a special meeting of Council, except those items of business set forth in the official call of the meeting, which call shall state the purpose of the special meeting.

Rule 3. Opening Procedure. The Mayor, or President Pro Tempore of Council, shall call the meeting to order at 7:00 p.m. in the case of a regular meeting or at the time specified in the call in the case of a special meeting, or at the time to which Council adjourned in the case of an adjourned meeting. If the Mayor is not present, the President Pro Tempore shall preside at the Council meeting. If neither the Mayor nor the President Pro Tempore is present at the time for the meeting to begin, the Clerk-Treasurer or the Clerk Treasurer's designee shall call the meeting to order, after which the roll shall be called and a temporary Chairperson appointed by Council to conduct the meeting until the arrival of either the Mayor or the President Pro Tempore. A temporary Chairperson shall retain all voting privileges.

Rule 4. Public Meetings. All meetings of Council and its committees shall be public and shall be conducted in compliance with Ohio R.C. 121.33. Minutes and other records of the proceedings of Council shall be open to public inspection at all reasonable times.

Rule 5. Quorum. A majority of all members elected to Council shall constitute a quorum to conduct business, but a lesser number may adjourn from day to day. Any member present who refuses to vote may be censured according to provisions of law. Any member who will be absent from a meeting of Council shall inform the Mayor/Clerk-Treasurer's Office of that fact before 3:00 p.m. on the day of the meeting, if known at that time, or as soon thereafter as practicable.

Rule 6. Council Records. The Clerk-Treasurer or designee shall keep the records of Council. Such person shall prepare and keep the Journal of the proceedings of Council, shall keep a proper file of all records, documents; ordinances and resolutions, and shall make such records available for public inspection at all reasonable times. All Council meetings shall be tape recorded, and such tapes shall be maintained/transcribed until Council formally approves the written minutes, at which time the tapes may be destroyed/reused.

Rule 7. Voting. Every member present shall vote on all questions upon the call of the roll, unless excused from voting by consent of a majority of the remaining members of Council present, except that no member shall vote on any question or measure in which he or she has a financial or other personal interest or a relative or family member involved. Any member present who refuses to vote may be censured according to the provisions of law. When the President Pro Tempore presides at a Council meeting at a time when the Mayor is out of the Village and not performing his or her duties as Mayor, or when the Mayor is incapacitated or unable to perform his or her duties while within the Village, then the President Pro Tempore is the Acting Mayor and may vote only on those matters for which the Mayor would be authorized to vote. When the Mayor is in fact acting as Mayor, but absent from a meeting, then the President Pro Tempore shall preside at the meeting. Said person shall retain all voting rights.

Rule 8. Speaking. Each member shall be allowed to speak from his or her seat at the Council table on all issues before Council, except in the instance of a conflict of interest. He or she shall not speak for a time longer than ten minutes on any one issue without the permission of the Presiding Officer, nor shall he or she speak more than one time on any issue until all members of Council who desire to speak have spoken. No official or department head shall speak longer than fifteen minutes on any issue without the consent of Council.

Rule 9. Right of the Floor. When a member wishes to address Council, he or she shall request recognition from the Presiding Officer, and, upon recognition, shall speak to the issue under debate, avoid reference to personalities and refrain from impugning the motives of any other member.

Rule 10. Right of Appeal. Any member may appeal the ruling of the Presiding Officer, and, upon the motion to appeal being seconded, the member making the motion may briefly state the reason therefor. The Presiding Officer may briefly explain his or her reason for the ruling, but there shall be no debate on the appeal or any other discussion. The Presiding Officer shall then put the question to the body: "Shall the decision of the chair be sustained?" If a majority of the members vote "yes," then the ruling of the chair shall be sustained and the body shall move on to the next item in the order of business.

Rule 11. Organization: Committees. During January of each even-numbered year, Council shall meet in the Council Chambers to organize, to appoint its officers, to appoint other officers or employees of Council and to review its rules.

All members of Council shall constitute a Committee or Committees which shall determine which committees shall be created and which shall choose the Chairperson and members of each committee. Each standing committee shall be composed of at least three members of Council and shall serve for a period of two years. The first person named shall chair the committee and the second named shall serve as Vice Chairperson. Council is empowered to act upon these matters at this meeting or as soon thereafter as possible.

The committees, and the subject matters to be referred to them, are as follows:

- (a) The Building and Lands Committee, to which may be referred all ordinances, resolutions and other matters relating to the construction, maintenance or acquisition of any building or land owned by the Village or proposed to be acquired by it, the lease or sale of buildings not needed for Municipal use, the Cemetery and improvements in the community, zoning, platting of subdivisions and building standards;
- (b) The Committee of Finance, Claims and Federal Programs, to which may be referred all ordinances, resolutions and other matters relating to finances, indebtedness, appropriations, budgets, the issuance of notes and bonds, payments of money not provided for by previous legislation, taxation, wages and salaries of Village officers and employees, matters relating to Federally funded projects, block grants, comprehensive employment training, urban renewal and all other matters involving programs of the Federal government, as well as the establishment and maintenance of systems of purchasing, the investment of funds and any matters pertaining to insurance;
- (c) The Committee on Parks and Recreation, to which may be referred all ordinances, resolutions and other matters pertaining to public parks, recreation, playgrounds and all other matters relating thereto;
- (d) The Committee on Safety, to which may be referred all ordinances, resolutions and other matters pertaining to the Police and Fire Departments, traffic regulations, nuisances, fire control measures and other matters pertaining to the inspection of existing buildings;
- (e) The Committee on Utilities, Streets and Drains, to which may be referred all ordinances, resolutions and other matters pertaining to cable television, telephones, gas, electricity, transportation, water, sanitary sewers, sewage disposal, storm sewers, ditches, watercourses, creeks and the repair, maintenance and improvement thereof, air, water and noise pollution, the construction, repair, maintenance and inspection of streets, alleys and sidewalks, street cleaning, street improvements, grades, assessments and vacation of streets and alleys;
- (f) The Committee of the Whole, to which may be referred any and all matters and legislation pertaining to the business of Sheffield Village (see Rule 15).

Rule 12. Committee Meetings. All committees shall meet in public meetings in compliance with all the laws of the State and the ordinances of the Village. A majority of the members of the committee shall constitute a quorum necessary for the transaction of business. Each committee shall hold its meetings at such time and place as is fixed by the Chairperson, but normally all meetings shall be held at the Municipal Complex, and each committee shall have the right to require the attendance of such administrative officers at its meetings as are needed to properly consider and dispose of the matter under consideration. In the event the Chairperson is absent, the Vice-Chairperson shall preside.

Rule 13. Reports of Department Heads, Officers and Village Administrator. Any matter may be referred by Council to a department head, officer or the Village Administrator having jurisdiction over the subject matter. Such matter shall be reported upon to Council within four weeks of its reference. If no report on the subject is made by such department head, officer or Village Administrator, the matter shall be brought to the attention of Council by the Mayor/Council President Pro Tempore or Clerk-Treasurer, and Council may take further action as it deems appropriate.

Rule 14. Reference to More Than One Committee. A matter may be referred to more than one committee or Committee of the Whole when, in the opinion of Council, the subject matter relates to the duties of several committees. Such committees shall consider the subject in joint session, if possible, with the Chairperson of the committee first named in the reference presiding, and each member of the joint committee shall have one vote for each committee of which he or she is a member, of those committees composing the joint committee. A majority of the members of the several committees shall constitute a quorum. Reports shall be made in the same manner as are the reports made by standing committees (see Rule 16).

Rule 15. Committee of the Whole. When Council decides to meet as a Committee of the Whole, the President Pro Tempore shall preside. The rules of Council, insofar as practicable, shall be observed in the conduct of the meeting, except that no limit shall be placed on the frequency of speaking. Yes and no votes shall not be taken, and a motion to rise and report progress shall always be in order and shall be decided without debate (see Rule 11).

Rule 16. Committee Reports. Each committee shall report its action on any matter referred to it within thirty days of reference. Such report shall be in writing, with the following information included: The name of the Committee/Council/Administration who attended and the subject matter of discussion. If it is not possible to report its action on a matter within thirty days, the Committee shall report this fact to Council and shall report again within thirty days. If a majority of Council want to vote on a Committee matter, a vote may be taken after such matter has been in Committee thirty days.

Rule 17. Order of Business. The business of all regular meetings of Council shall be transacted according to the following order:

- (a) Roll call;
- (b) Pledge of Allegiance to the Flag;
- (c) Approval of the previous Council meeting minutes (regular and special);
- (d) Reports and communications of the Mayor that require Council action;
(Administrative)
- (e) Reports and communications of the Mayor for informational purposes;
(Correspondence)

- (f) Reports of standing committees;
- (g) Reports of special committees;
- (h) Legislation:
 - (1) Ordinances (May be listed by reading or by numerical order); and
 - (2) Resolutions (May be listed by reading or by numerical order);
- (i) Miscellaneous business (Council reports and comments);
- (j) Reports and comments from department heads;
- (k) Audience comments and questions; and
- (l) Adjournment by motion.

Rule 18. Voting on Ordinances, Resolutions, Appointments and Other Measures. The vote on the passage of every ordinance, resolution or other measure, and on the appointment of every officer or other person, shall be taken by a yes or no vote and entered on the Journal. On other matters, any member may request (which request must be seconded by another member) that a roll call vote be taken and that it be entered on the Journal.

Rule 19. Precedence of Motions. When a question is before Council, no motion shall be considered, except the following:

- (a) To adjourn;
- (b) To fix an hour of adjournment;
- (c) For the previous question;
- (d) To lay on the table;
- (e) To postpone to a day certain;
- (f) To postpone indefinitely;
- (g) To refer to a committee; or
- (h) To amend.

Robert's Rules of Order shall control the business of Council in all other matters not provided for herein.

Rule 20. Reconsideration. After a vote on any questions, any member who voted with the prevailing side may move for a reconsideration of the vote at the same or the next succeeding meeting. A motion to reconsider shall require the same number of votes as is required to adopt the measure being reconsidered. After a motion to reconsider has been acted upon, no other motion to reconsider shall be in order without the unanimous consent of Council.

Rule 21. Motions: Withdrawals. After a motion is made and seconded, such motion shall be restated by the Presiding Officer before any debate is had thereon. A motion may be withdrawn by the maker, with the consent of the second, before it is amended or voted upon.

Rule 22. Introduction of Ordinances, Resolutions and Other Matters. All ordinances, resolutions and other measures to be voted upon at the next Council meeting shall be deposited with the Mayor/Clerk-Treasurer by the committee chairperson by 4:00 p.m. on the Thursday preceding a Monday night Council meeting, and such material shall be numbered and placed on the agenda of the meeting and an agenda of the meeting shall be distributed to all members of Council at least forty-eight hours before the time of the meeting.

Rule 23. Passage or Adoption of Ordinances, Resolutions, Etc. All ordinances, resolutions and Rules of Council shall require, for their passage or adoption, the concurrence of a majority of the members of Council, unless a greater number is required by law or these Rules of Council, and the vote on the matter shall be recorded in the Journal.

Rule 24. Violations. Any member who in any way violates any of these Rules shall be called to order by the Presiding Officer.

Rule 25. Confirmation of Appointments. All appointments sent to Council for confirmation shall be taken up for consideration at the meeting or at the next succeeding regular meeting, unless Council orders them referred to a committee. Confirmation shall require the votes of four elected members of Council.

Rule 25-A. Filling Vacancies. To fill a vacancy on Council, the remaining voting members of Council shall do so by a majority vote of such remaining members.

Rule 26. Minutes of Council Proceedings. The Clerk-Treasurer or designee shall furnish each member of Council with a copy of the minutes of the proceedings of Council at each meeting as soon thereafter as practicable.

Rule 27. Vacations. Council shall adjourn for vacation during the month of August of each year, provided, however, that special meetings may be called during that month.

Rule 28. Amendment to Rules. These Rules of Council may be amended at any meeting of Council by a majority of all members elected to Council on the report of the committee or committees to which the subject has previously been referred. All amendments shall be attached to and made a part of these Rules, with the date of adoption noted thereon.

Rule 29. Suspension of Rules. These Rules, or any part of them, may be temporarily suspended at any meeting of Council by a vote of a majority of all members elected to Council, except in a case where a greater number is required by law. The vote shall be entered on the Journal.

Rule 30. Agenda Roll Call. The roll call on the agenda for each Council meeting shall rotate from meeting to meeting by scrolling upward (special Council meetings included). This means the name listed on top of the roll call for one meeting would be placed on the bottom for the next meeting. (Ord. 2133. Passed 5-12-08.)

119.02 RENTAL RATE FOR USE OF THE MUNICIPAL COMPLEX COUNCIL CHAMBERS.

The Village shall charge a security deposit in the amount of one hundred dollars (\$100.00) and a fee of one hundred dollars (\$100.00) for the rental of its Municipal Complex Council Chambers, which amount shall be remitted to the Village Clerk-Treasurer by the party renting the premises prior to the date of the rental. (Ord. 2235. Passed 3-8-10.)

CHAPTER 121
Ordinances and Resolutions

121.01 Posting places.**121.02 Sale of Codified Ordinances and component code booklets.**

CROSS REFERENCES

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.; ADM.

119.01(Rules 18, 22, 23)

Authentication - see Ohio R.C. 731.20

Posting- see Ohio R.C. 731.25

Initiative and referendum - see Ohio R.C. 731.28 et seq.

Emergency measures - see Ohio R.C. 731.30

121.01 POSTING PLACES.

(a) The following places are hereby designated as places for the posting of ordinances, resolutions, summaries of ordinances and resolutions, reports, statements, orders, proclamations, or notices required by law to be published and/or passed by Council:

- (1) Sheffield Village Municipal Center, 4340 Colorado Avenue;
- (2) Sheffield Village Hall, 4820 Detroit Road;
- (3) Sheffield Village Service Department, 4480 Colorado Avenue;
- (4) Sheffield-Sheffield Lake School Board Administration Building, Harris Road;
- (5) Brookside High School, Harris Road.
(Ord. 1935. Passed 9-22-03.)

(b) All resolutions, ordinances, summaries of resolutions and ordinances, reports, notices, orders, proclamations or statements, required by law or ordinance to be posted, shall be posted at the above named places for a period of not less than fifteen days.
(Ord. 1764. Passed 4-10-00.)

121.02 SALE OF CODIFIED ORDINANCES AND COMPONENT CODE BOOKLETS.

(a) The following prices are hereby established for the sale of the Codified Ordinances of the Village:

- (1) For Codes, one hundred dollars (\$100.00) each;
- (2) For the Building and Housing Code and Zoning Code booklets only, twenty dollars (\$20.00) each.
(Ord. 1753. Passed 2-14-00.)

(b) A copy of the Codified Ordinances shall be distributed to the following Village officials without charge:

- (1) Council members;
- (2) Mayor;
- (3) Village Administrator;
- (4) Clerk-Treasurer;
- (5) Engineer;
- (6) Solicitor;
- (7) Building Inspector;
- (8) Zoning Administrator;
- (9) Chief of Police;
- (10) Fire Chief;
- (11) Planning Commission members; and
- (12) Board of Appeals members.

(c) It is the duty of the Clerk-Treasurer to have in his or her possession and for sale such Codified Ordinances.

(d) Upon termination of their service with the Village, the above named officers shall return their copies of the Codified Ordinances to the Clerk-Treasurer, or, in lieu thereof, pay to the Village the amount specified in subsection (a) hereof.
(Ord. 1359. Passed 10-24-94.)

TITLE FIVE - Administration

- Chap. 129. Mayor.
- Chap. 131. Village Administrator.
- Chap. 133. Fiscal Officer.
- Chap. 135. Solicitor.
- Chap. 137. Engineer.
- Chap. 141. Cemetery Superintendent.
- Chap. 143. Building Department.
- Chap. 145. Police Department.
- Chap. 147. Fire, Rescue and Emergency Medical Services Department.
- Chap. 151. Service Department.
- Chap. 159. Employees Generally.

**CHAPTER 129
Mayor**

129.01 Bond.

129.02 Secretary to the Mayor.

**129.03 Appointment of Special
Prosecutor.**

CROSS REFERENCES

Removal from office - see Ohio R.C. 3.07 et seq.

Election, term, qualifications and powers - see Ohio R.C. 733.24

To be President of Council - see Ohio R.C. 733.24

Vacancy- see Ohio R.C. 733.25

To appoint and remove auxiliary police - see Ohio R.C. 737.161

To be member of Planning and Zoning Commission - see ADM. 169.02

129.01 BOND.

The Mayor shall give bond in the sum of one hundred thousand dollars (\$100,000).
(Ord. 2114. Passed 1-14-08.)

129.02 SECRETARY TO THE MAYOR.

(a) There is hereby established the position of Secretary to the Mayor. The Secretary to the Mayor shall be hired by the Mayor with the consent of Council and shall serve during the pleasure and under the direction and supervision of the Mayor.

(b) The duties of the Mayor's Secretary shall be such clerical, typing, data entry, filing and other related work, including Building Department secretarial needs, assisting the Mayor with Council correspondence and fulfilling the duties of an administrative assistant in relation to the responsibilities set forth for the Office of Mayor in the Ohio Revised Code, and other related work, as may be designated by the Mayor.
(Ord. 1464. Passed 4-22-96.)

(c) The position created by subsection (a) hereof replaces the Secretarial position created for a "shared" employee between the Mayor and the Clerk-Treasurer.
(Ord. 2481. Passed 4-13-15.)

129.03 APPOINTMENT OF SPECIAL PROSECUTOR.

(a) In the event that the Prosecutor for the Village determines that he or she has a conflict of interest with respect to any given case or legal matter, or, in the event that the Prosecutor determines that his or her involvement in a given case would create an appearance of impropriety, the Prosecutor and the Mayor may appoint a Special Prosecutor to handle that particular case or legal matter.

(b) The Mayor shall have the authority to negotiate and approve the fee arrangement with any such Special Prosecutor.
(Ord. 1969. Passed 4-12-04.)

CHAPTER 131
Village Administrator

EDITOR'S NOTE: Compensation and expense allowances for the Village Administrator are provided for from time to time by ordinance of Council. Copies of the latest relevant legislation may be obtained, at cost, from the Clerk-Treasurer.

131.01 Establishment of position; sources of compensation.

131.02 Bond.

131.03 Appointments.

CROSS REFERENCES

Excepted from usual contract provisions - see Ohio R.C. 731.14

Powers of as to contracts - see Ohio R.C. 731.141 et seq.

Appointment and qualifications - see Ohio R.C. 735.271

Powers and duties - see Ohio R.C. 735.273

Reports of Village Administrator - see ADM. 119.01(Rule 13)

131.01 ESTABLISHMENT OF POSITION; SOURCES OF COMPENSATION.

The position of Village Administrator is hereby established.

(Ord. 473. Passed 5-22-67.)

131.02 BOND.

The bond of the Village Administrator is hereby established at one hundred thousand dollars (\$100,000). (Ord. 2114. Passed 1-14-08.)

131.03 APPOINTMENTS.

The Village Administrator shall appoint officers, employees, agents, clerks and assistants, provided that such positions are first authorized by Council, but such appointments shall be subject to approval by the Mayor. Such appointments and the Mayor's approval thereof shall be in writing and shall be filed with the Clerk-Treasurer.

CHAPTER 133
Fiscal Officer

<p>133.01 Duties of Clerk-Treasurer combined.</p> <p>133.02 Duties.</p> <p>133.03 Bond.</p> <p>133.04 Authority to pay without voucher.</p> <p>133.05 Purchasing procedure.</p> <p>133.055 Purchase and use of recycled material products.</p> <p>133.06 ODOT cooperative purchasing program.</p>	<p>133.07 Indigent Drivers Alcohol Treatment Fund.</p> <p>133.08 Enforcement and Education Fund.</p> <p>133.09 Administrative Assistant to the Fiscal Officer.</p> <p>133.10 Finance Assistant.</p> <p>133.11 Investment Policy.</p>
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EDITOR'S NOTE: Effective July 23, 2018 all references in the Codified Ordinances to the Village Clerk-Treasurer shall be construed to refer to the Village Fiscal Officer.

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.
 Authority for merger - see Ohio R.C. 733.261
 Powers and duties - see Ohio R.C. 733.27, 733.44
 Appropriation and expenditure - see Ohio R.C. 5705.41
 Posting notice of public meetings - see ADM. 105.07

133.01 DUTIES OF CLERK-TREASURER COMBINED.

Pursuant to Ohio R.C. 733.261, the duties of Village Clerk-Treasurer are hereby combined into one full-time appointed office to be known as the Village Fiscal Officer. (Ord. 2635. Passed 7-9-18.)

133.02 DUTIES.

Pursuant to Ohio R.C. 733.43, the following duties are prescribed for the Fiscal Officer:

(a) The Fiscal Officer shall maintain an office at the Village Hall, Detroit Road, and shall establish full-time hours, provided that the office hours established must be between 8:00 a.m. and 5:00 p.m. of each day at the discretion of the Mayor.

(b) The Fiscal Officer shall be the Secretary for the Planning Commission and shall keep all records incident to that office. The Fiscal Officer shall also perform the duties with respect to the Service Department formerly performed by the Clerk of the Board of Trustees of Public Affairs. (Ord. 2635. Passed 7-9-18.)

133.03 BOND.

The bond of the Fiscal Officer is hereby established at one hundred thousand dollars (\$100,000). (Ord. 2635. Passed 7-9-18.)

133.04 AUTHORITY TO PAY WITHOUT VOUCHER.

(a) The Fiscal Officer is hereby authorized and directed to pay his or her own salary as well as the salaries of the Chief of Police, the Fire Chief, the Superintendent of Cemeteries, the Mayor, and members of Council, when the various pay periods fall due and without the prior approval by voucher of the members of the Finance Committee and Council.

(b) The Fiscal Officer is hereby authorized and directed to pay the utility bills due, electric, gas, telephone and others of a like nature, when the same become due and without the prior approval by voucher of the members of the Finance Committee and Council.

(c) Subsections (a) and (b) hereof are subject only to the requirement that all of the salaries and expenditures referred to above have been regularly approved and provided for by salary ordinance and appropriation ordinance duly passed by Council. (Ord. 2635. Passed 7-9-18.)

133.05 PURCHASING PROCEDURE.

(a) All purchases made by any person for or on behalf of the Village shall be made only after first having been approved by the Fiscal Officer.

(b) Any person seeking to make a purchase for or on behalf of the Village shall submit a request on a purchase order to be made available by the Village setting forth the item to be purchased, the cost or estimated cost of the item, the section of the appropriation ordinance authorizing the purchase and the written approval of the department head or officer in charge.

(c) The Fiscal Officer may approve the item by affixing his or her signature to the purchase order certifying that an appropriation covering such item has been made by Council, and indicating that funds to be used for payment of the item are on hand or in the process of being collected, and indicating the fund to which the purchase is to be charged.

(d) The Purchasing Procedure Policy is hereby expanded allowing blanket purchase orders to be issued for purchases not to exceed the amount of fifty thousand dollars (\$50,000) provided that the blanket purchase orders cannot extend beyond the fiscal year-end, and further, that more than one blanket purchase order may not be outstanding for a particular line item or appropriation. (Ord. 2635. Passed 7-9-18.)

133.055 PURCHASE AND USE OF RECYCLED MATERIAL PRODUCTS.

(a) The Village, through its employees and agents, shall purchase and use products made from recycled materials whenever such purchase is possible and the price is comparable to other available products on the market.

(b) The parties responsible for purchasing products for the Village shall obtain price comparisons for recycled material products and nonrecycled material products and shall purchase the recycled material products when economically possible. (Ord. 2635. Passed 7-9-18.)

133.06 ODOT COOPERATIVE PURCHASING PROGRAM.

(a) The Mayor hereby requests authority, in the name of the Village, to participate in contracts of the Ohio Department of Transportation for the purchase of machinery, materials, supplies or other articles which the Department has entered into contracts to purchase pursuant to Ohio R.C. 5513.01(B).

(b) The Mayor is hereby authorized to agree, in the name of the Village, to be bound by all terms and conditions prescribed by the Director of Transportation.

(c) The Mayor is hereby authorized to agree, in the name of the Village, to directly pay the vendor under each such contract of the Ohio Department of Transportation in which the Village participates for items it receives pursuant to the contract.

(d) The Village agrees to hold the Director of Transportation and the Ohio Department of Transportation harmless for any claim or dispute arising out of participation in a contract pursuant to Ohio R.C. 5513.01(B).
(Ord. 2635. Passed 7-9-18.)

133.07 INDIGENT DRIVERS ALCOHOL TREATMENT FUND.

There is hereby established an Indigent Drivers Alcohol Treatment Fund pursuant to Ohio R.C. 4511.191(N). Funds are to be deposited to said Fund according to law, and said funds are to be used according to law.
(Ord. 2635. Passed 7-9-18.)

133.08 ENFORCEMENT AND EDUCATION FUND.

There is hereby established an Enforcement and Education Fund pursuant to Ohio R.C. 4511.99(A). Funds are to be deposited to said Fund according to law, and said funds are to be used according to law. (Ord. 2635. Passed 7-9-18.)

133.09 ADMINISTRATIVE ASSISTANT TO THE FISCAL OFFICER.

(a) There is hereby established the position of Administrative Assistant to the Fiscal Officer. Such Administrative Assistant shall be hired by the Fiscal Officer and Mayor with the consent of Council and shall serve during the pleasure and under the direction and supervision of the Fiscal Officer and the Mayor.

(b) The duties of the Administrative Assistant shall be such clerical, typing, data entry and other related work, including assisting the Mayor and Fiscal Officer with Council correspondence and packets, helping the Fiscal Officer with the responsibilities set forth in the Ohio Revised Code, maintaining the Ordinance Books, tracking requisitions and purchase orders, attending to the Fiscal Officer's secretarial needs, and other related work, as may be designated by the Mayor and the Fiscal Officer. (Ord. 2635. Passed 7-9-18.)

133.10 FINANCE ASSISTANT.

(a) There is hereby established the part-time position of Finance Assistant for the Fiscal Officer. Such Finance Assistant shall be hired by the Fiscal Officer and the Mayor, with the consent of Council, and shall serve at the pleasure and under the direction and supervision of the Mayor and the Fiscal Officer.

(b) The duties of the Finance Assistant shall be such as to assist the Fiscal Officer to produce the necessary reports to preserve and maintain the assets of the Village.
(Ord. 2635. Passed 7-9-18.)

133.11 INVESTMENT POLICY.

(a) Purpose. It is the policy of the Village to invest public funds in a manner which will provide the highest investment return with the maximum security, safety and preservation of principal while meeting the daily cash flow demands of the Village and conforming to all applicable statutes governing the investment of public funds by an Ohio municipality. The Fiscal Officer shall be the investment officer for the Village, charged with the responsibility for the purchase and sale of investments and the carrying out of this investment policy.

(b) Scope. This investment policy applies to all financial assets of the Village, including State and Federal funds held by it. The Fiscal Officer shall routinely monitor the contents of the Village's investment portfolio, the available markets and relative value of competing investments and will adjust the portfolio accordingly.

(c) Prudence. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The standard of prudence to be used by the Fiscal Officer shall be the "prudent person" standard and shall be applied in the context of managing the overall portfolio. Acting in accordance with this investment policy and exercising due diligence shall relieve the Fiscal Officer of personal responsibility for an individual security's credit risk or market price changes, provided that deviations from expectations are reported to Council in a timely fashion and appropriate action is taken to control adverse developments.

(d) Objectives. The primary objectives, in priority order, of the Village's investment activities, shall be:

- (1) Safety. Safety of principal is the foremost objective of the investment program. Investments of the Village shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.
- (2) Liquidity. The Village's investment portfolio will remain sufficiently liquid to enable it to meet all operating requirements which might be reasonably anticipated.
- (3) Return on investment. The Village's investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account this investment policy and the cash flow characteristics of the portfolio.

(e) Ethics and Conflicts of Interest. Persons involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Employees and investment consultants shall disclose to the Village any material financial interests in financial institutions that conduct business within the Village and any large personal financial or investment positions that could be related to, or affected by, the performance of the Village's portfolio. All employees and officers of, and investment consultants to, the Village shall subordinate their personal investment transactions to those of the Village, particularly with regard to the timing of purchases and sales.

(f) Authorized Financial Dealers and Institutions. The Fiscal Officer will maintain a list of financial institutions and approved security brokers/dealers selected by credit worthiness who or which are authorized to provide investment services and qualify under Ohio R.C. 135.14(M)(1). These may include "primary" dealers or regional dealers who or which qualify under Securities and Exchange Commission Rule 15c 3-1 and are registered with the Ohio Department of Commerce to do business in the State.

All financial institutions and brokers/dealers who or which desire to become qualified suppliers of investment transactions to the Village must provide the Fiscal Officer with audited annual financial statements, proof of good standing with the Comptroller of Currency or State banking regulators or National Association of Securities Dealers certification, proof of Ohio registration and biographical and regulatory information on the persons who are the primary contact with the entity. All financial institutions, brokers/dealers and consultants who or which desire to conduct investment business with the Village must sign this investment policy, certifying that they have read it, understand it and agree to abide by its contents.

(g) Authorized Investments. The Village is empowered by statute to invest in the following types of securities:

- (1) United States Treasury bills, notes, bonds or any other obligation or security issued by the United States Treasury or any other obligation guaranteed as to principal and interest by the United States;
- (2) Bonds, notes, debentures or other obligations or securities issued by any Federal government agency or instrumentality, including, but not limited to, the Federal National Mortgage Association, Federal Home Loan Bank, Federal Farm Credit Bank, Federal Home Loan Mortgage Corporation, Government National Mortgage Association and Student Loan Marketing Association. All such securities shall be direct issuances of Federal government agencies or instrumentalities.
- (3) Interim deposits in duly authorized depositories of the Village, provided that such deposits are properly insured or collateralized as required by law;
- (4) Bonds and other obligations of the State of Ohio;
- (5) No-load money market mutual funds consisting exclusively of securities as described in paragraphs (g)(1) and (2) hereof, and repurchase agreements secured by such obligations, provided that all such investments under this paragraph shall be made with a bank or savings and loan association eligible to be a depository for public funds of Ohio subdivisions, and provided further that any such fund meets the requirements of Ohio R.C. Chapter 135, including that such fund not include any investment in a "derivative";
- (6) Ohio Subdivision's Fund (STAROhio); and
- (7) Overnight or term (not exceeding thirty days) repurchase agreements meeting the requirements of Ohio R.C. 135.14(E), with a bank or savings and loan association eligible to be a depository for public funds of Ohio subdivisions or a member of the National Association of Securities Dealers.

(h) Diversification. The Village will diversify its investments by security, type and institution. With the exception of direct obligations of the U.S. Treasury and STAROhio, no more than forty percent of the Village's total investment portfolio will be invested in a single security type or with a single financial institution.

(i) Maximum Maturities. To the extent possible, the Village will attempt to match its investments with anticipated cash flow requirements. No investment shall be made unless the Fiscal Officer, at the time of making the investment, reasonably expects it can be held to its maturity. Unless matched to a specific obligation or debt of the Village, the Village will not directly invest in securities as set forth in paragraphs (g)(1) to (5) hereof maturing more than five years from the date of settlement, provided that such five years shall be two years in the case of securities which bear interest at a variable rate based on an index and are otherwise eligible for investment.

(j) Safekeeping and Custody. All security transactions, including collateral for repurchase agreements, entered into by the Village shall be conducted on a delivery-versus-payment basis. Securities will be held by a third party custodian designated by the Fiscal Officer and evidenced by safekeeping receipts. Securities shall be pledged at the Federal Reserve Bank to collateralize all repurchase agreements with financial institutions. Pledge collateral will be released by the Village only after verification that the principal and interest have been credited to the Village's account.

(k) Prohibited Investment Practices. In addition to any other prohibitions in the Ohio Revised Code, the Village shall not:

- (1) Contract to sell securities that have not yet been acquired on the speculation that prices will decline;
- (2) Make any investment in "derivatives" as defined in Ohio R.C. 135.14(C);
- (3) Invest in a fund established by another public body for the purpose of investing public money of other subdivisions unless the fund is either STAROhio or a fund created solely for the purpose of acquiring, constructing, owning, leasing or operating municipal utilities as authorized under Ohio R.C. 715.02 or Section 4 of Article XVIII of the Ohio Constitution;
- (4) Enter into reverse repurchase agreements;
- (5) Leverage current investments as collateral to purchase other assets; and
- (6) Invest in stripped principal or interest obligations of otherwise eligible obligations.

(l) Internal Controls. The Fiscal Officer shall develop and maintain procedures for the operation of the Village's investment program in accordance with this investment policy. These procedures shall be designed to prevent loss of the Village's funds due to fraud, error, misrepresentation, unanticipated market changes or imprudent actions.

(m) Reporting. The Fiscal Officer shall maintain a current inventory of all investments including:

- (1) A description of each security;
- (2) The cost;
- (3) Par value;
- (4) Dates (beginning, settlement and maturity);
- (5) Rates; and
- (6) The seller.

The Fiscal Officer shall also prepare and distribute quarterly (or more frequently, if requested by Council) a list of all investments and a report on investment activity and returns.

(n) Education. The Fiscal Officer shall participate in any beginning and/or continuing education training program sponsored by the State Treasurer or the State Auditor in which the Fiscal Officer is required to participate pursuant to Ohio R.C. 117.44, 135.22 and 733.27. Through participation in those programs, the Fiscal Officer will develop and maintain an enhanced background and working knowledge in investment, case management and ethics.

(o) Nonbinding Arbitration. The Fiscal Officer may enter into a written investment or deposit agreement that includes a provision under which the parties agree to submit to nonbinding arbitration (but not binding arbitration) to settle any controversy that may arise out of that agreement so long as such provision meets the requirements of the Ohio Revised Code and is specifically approved by Council.

(p) Investment Policy Adoption. This investment policy shall be adopted by Council and, upon adoption, filed in the office of the Auditor of State. The policy shall be reviewed on an annual basis by the Council or a committee designated by it and any modifications made thereto must be approved by the Council and, upon adoption, filed in the office of the Auditor of State. (Ord. 2635. Passed 7-9-18.)

CHAPTER 135
Solicitor

EDITOR'S NOTE: The Village provides by ordinance for the employment of a Solicitor. The duties and remuneration of the Solicitor are provided in such ordinances. Copies of the latest relevant legislation may be obtained, at cost, from the Clerk-Treasurer.

135.01 Temporary Prosecutor.

CROSS REFERENCES

Legal counsel - see Ohio R.C. 733.48

Duties as to injunctions - see Ohio R.C. 733.56

135.01 TEMPORARY PROSECUTOR.

(a) The Solicitor is hereby authorized to appoint a temporary Prosecutor to prosecute for the limited purposes of conflict of interest, illness or unavailability of the Prosecutor.

(b) Any said temporary Prosecutor shall be paid at the same rate of pay as the Village Prosecutor. (Ord. 1448. Passed 1-22-96.)

CHAPTER 137
Engineer

EDITOR'S NOTE: The Village provides by ordinance for the employment of an engineer or firm of engineers, designated the Village Engineer. The duties and remuneration of such person are provided in such ordinance. Copies of the latest relevant legislation may be obtained, at cost, from the Clerk-Treasurer.

CROSS REFERENCES

To approve plats; inspection of streets and acceptance - see Ohio R.C. 711.08, 711.191
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
Engineers and surveyors - see Ohio R.C. Ch. 4733

CHAPTER 141
Cemetery Superintendent

141.01 Establishment of position; duties; compensation. **141.02 Bond.**

CROSS REFERENCES

Power to fix bonds - see Ohio R.C. 731.13
 Burials may be prohibited - see Ohio R.C. 759.05
 Management and control of cemeteries - see Ohio R.C. 759.20
 Union cemeteries - see Ohio R.C. 759.27 et seq.
 Burial permits - see Ohio R.C. 3705.24 et seq.
 Burial of indigent persons - see Ohio R.C. 5101.521
 Cemeteries - see S.U. & P.S. Ch. 961

141.01 ESTABLISHMENT OF POSITION; DUTIES; COMPENSATION.

(a) There shall be appointed by the Mayor, with the approval of Council, a Cemetery Superintendent who shall be the administrative officer in charge of all work done in the Municipal cemeteries. He or she shall do or cause to be done the following:

- (1) Care for all cemetery grounds;
- (2) Selling plots and maintaining cemetery records;
- (3) Coordinate efforts with the Village Service Department and cause to be performed all labor within Municipal cemeteries for burials, removals, building of bases for monuments, headstones and markers, all necessary trimming and removal of trees, branches, bushes and shrubs and mowing of the grass;
- (4) Billing for burials within Municipal cemeteries; and
- (5) Maintain an inventory of all tools and equipment.

(b) The Cemetery Superintendent shall not be paid a salary, but shall be paid for all work performed at the current hourly pay rate set for the Clerk-Treasurer Assistant for overtime hours worked in excess of a normal work day or for hours worked on weekends and holidays. (Ord. 2145. Passed 6-23-08.)

141.02 BOND.

The Cemetery Superintendent shall give bond in the sum of fifty thousand dollars (\$50,000). (Ord. 2114. Passed 1-14-08.)

CHAPTER 143
Building Department

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| <p>143.01 Establishment; direction and administration.</p> <p>143.02 Appointment of Building Inspector and assistants.</p> <p>143.03 Bond of Building Inspector.</p> | <p>143.04 Conflicts of interest of Building Inspector.</p> <p>143.05 Duties of Building Inspector.</p> <p>143.06 Records and reports.</p> <p>143.07 Secretary to the Building Department.</p> |
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CROSS REFERENCES

- Power to regulate building erection - see Ohio R.C. 715.26, 715.29, 737.28, 737.37
- Compensatory time and overtime pay for Residential Building Inspector - see ADM. 159.18
- Ohio Basic Building Code adopted - see B. & H. Ch. 1301
- Inspections - see B. & H. Ch. 1323
- Permits and fees - see B. & H. Ch. 1335
- Unsafe buildings - see B. & H. Ch. 1349

143.01 ESTABLISHMENT; DIRECTION AND ADMINISTRATION.

There is hereby established a Building Department under the general direction and administration of a Building Inspector and deputy inspectors hereinafter provided for. (Ord. 341. Passed 6-25-62.)

143.02 APPOINTMENT OF BUILDING INSPECTOR AND ASSISTANTS.

The Mayor shall appoint a Building Inspector with the approval of Council. Such Building Inspector shall hold office until his or her successor is appointed and qualified. The Mayor shall also appoint such assistant or assistants to the Building Inspector as may be deemed necessary, with the approval of Council. (Ord. 341. Passed 6-25-62.)

143.03 BOND OF BUILDING INSPECTOR.

The Building Inspector shall give bond in the sum of fifty thousand dollars (\$50,000). (Ord. 2114. Passed 1-14-08.)

143.04 CONFLICTS OF INTEREST OF BUILDING INSPECTOR.

The Building Inspector shall give to the performance of his or her duties such time as is required. During the term of their employment, neither the Building Inspector nor his or her assistants shall issue a permit, perform an inspection or give any written or oral approval to any project in a case where he or she is the contractor, builder or owner, or an agent or employee of the contractor, builder or owner, or in any other manner is connected with any of the above named, when the permit or approval is sought for a building or project of that contractor, owner or builder, nor shall he or she perform an inspection on such project nor perform any other duty of the Building Inspector in connection with the project. In a case which comes under this prescription, the Building and Lands Committee, by a majority vote, is authorized to employ a duly qualified and acting Building Inspector, or assistant Building Inspector, of a municipal corporation within Lorain County, to act as Village Building Inspector in such a case. The Building Inspector may be removed by a recommendation of the Mayor and the approval of a majority of the members of Council. (Ord. 667. Passed 2-25-74.)

143.05 DUTIES OF BUILDING INSPECTOR.

The Building Inspector shall be charged with the examination and inspection of buildings and structures, with the enforcement of the Building and Housing Code and with all other laws and ordinances relating to the erection, construction, alteration, repair, addition to, raising or moving of, change in the nature of use or occupancy and safety of buildings, structures, elevators, heating apparatus, gas fittings, electric wiring, house drainage and plumbing, boilers, fire escapes, stairways, exits, fire protection construction and devices. He or she shall decide questions relating to the strength of buildings and structures and the quality of all structural material. He or she shall approve or cause to be approved all plans and specifications submitted before a permit for any construction purpose is issued, and when such plans and specifications comply with the requirements of the Building Code he or she shall issue the required permit. He or she shall cause the prosecution of any person violating any of the building regulations of the Village. (Ord. 341. Passed 6-25-62.)

143.06 RECORDS AND REPORTS.

The Building Inspector shall keep or cause to be kept, in a proper filing system, records of the location and character of every building operation for which a permit is issued, and shall keep a record of all inspections and reports made.

The Building Inspector shall submit to the Mayor a monthly report on or before the tenth day of each month, showing the character, number and fees of all permits issued during the preceding month.

The Building Inspector shall make an annual report to the Mayor and Council on or before January 21 of each year, showing the character, number and fees of all permits issued during the preceding calendar year. (Ord. 341. Passed 6-25-62.)

143.07 SECRETARY TO THE BUILDING DEPARTMENT.

(a) The Secretary to the Building Department shall be hired by the Mayor with the consent of Council and shall serve during the pleasure and under the direction and supervision of the Mayor. The duties of the Secretary shall be such clerical, typing, filing, data entry, reporting and other related clerical needs for the Building Inspectors, Zoning Administrator and Village Administrator. Other related work may be designated by the Mayor and/or Clerk-Treasurer.

(b) Additional duties of this position will be those related to the Utilities/Service Department and will aid the Secretary to the Water Department in his/her functions as assigned by the Village Administrator, Clerk-Treasurer, and/or Mayor. (Ord. 1768. Passed 3-27-00.)

CHAPTER 145
Police Department

EDITOR'S NOTE: Ordinance 903, passed January 10, 1983, adopted regulations for the Auxiliary Police Unit. Copies of such ordinance and regulations may be obtained, at coat, from the Clerk-Treasurer.

<p>145.01 Composition; duties; minimum hiring and testing practices.</p> <p>145.02 Auxiliary Police Unit.</p> <p>145.03 Bond of Chief.</p> <p>145.04 Acceptance of cash bonds from persons charged with offenses.</p>	<p>145.05 Mandatory retirement.</p> <p>145.06 Firing range.</p> <p>145.07 K-9 unit.</p> <p>145.08 Residency of Chief.</p> <p>145.09 Reserve unit.</p> <p>145.10 Volunteer Peace Officers' Dependents' Board.</p>
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CROSS REFERENCES

Composition - see Ohio R.C. 715.05, 737.16
 Appointment of marshal - see Ohio R.C. 737.15
 Powers and duties of marshal - see Ohio R.C. 737.161, 737.19
 Probationary period; final appointment - see Ohio R.C. 737.17
 Employment provisions - see ADM. Ch. 159
 Resisting a police officer - see GEN. OFF. 525.09
 Impersonating an officer - see GEN. OFF. 525.03
 Refusal to identify self - see GEN. OFF. 525.021

145.01 COMPOSITION; DUTIES; MINIMUM HIRING AND TESTING PRACTICES.

(a) There is hereby created the following positions in the Police Department, pursuant to R.C. 737.15 and 737.16:

- (1) Chief of Police;
- (2) Captain;
- (3) Lieutenant;
- (4) Sergeant; and
- (5) Patrol Officer.

(b) The duties of such officers shall be as provided in R.C. 737.18 and 737.19 and further as provided by ordinance.

(c) The minimum hiring and testing practices for said positions shall be as follows:

- (1) Patrol Officer: Will be required to complete the following:
 - A. Possess a State Certificate from Ohio Peace Officers Training Academy School.

- B. Local test, arrest.
 - C. Interview with Chief of Police, Mayor.
 - D. Initially appointed by Mayor and approved by Council.
 - E. Six months probation, final recommendation by Mayor, confirmed by Council.
 - F. Doctor's physical exam if not on file with this department.
 - G. Drug screen test if not on file with this department.
 - H. Psychological examination.
 - I. Truth verification.
- (2) Sergeant, Lieutenant, Captain: Will be required to complete the following:
- A. Local test, arrest.
 - B. Interview with Chief of Police, Mayor.
 - C. Initially appointed by Mayor and confirmed by Council.
 - D. Six months probation, final recommendation by Mayor, confirmed by Council.
 - E. Psychological examination.
 - F. Truth verification.
 - G. Drug screen test.
- (3) Chief of Police.
- A. Will be required to complete the following:
 - B. Interview with Mayor.
 - C. Initially appointed by Mayor and confirmed by Council
 - D. Local test.
 - E. Psychological examination.
 - F. Truth verification.

(d) The minimum hiring and testing practices for the positions of dispatchers shall be as follows:

Dispatcher: Will complete the following:

- A. General knowledge test conducted at local level.
- B. Interview with Chief of Police, Mayor.
- C. Drug screen test.
- D. Initially appointed by Mayor and confirmed by Council.

- (e) The Village Police Department shall be comprised of the following departments:
- (1) Commissioned Unit. The Commissioned Unit may consist of up to sixteen (16) full-time police officers and eight (8) part-time police officers, as follows:
- A. One (1) Chief of Police; and
 - B. Twenty-Four (24) Police Officers, who shall occupy the various positions set forth in subsection (a) hereof.
- (2) Reserve/Auxiliary Unit. The Reserve/Auxiliary Unit shall consist of volunteer, commissioned and non-commissioned individuals acting as a support unit and in a support capacity to the Village of Sheffield Police Department. The number of individuals comprising the Reserve/Auxiliary Unit may vary depending upon the needs of the Village of Sheffield Police Department, as determined by the Chief of Police and the Safety Director.
- (3) Dispatch/Communications Unit. The Dispatch/Communications Unit shall be comprised as follows:
- A. One (1) Full-time Dispatch Supervisor;
 - B. Three (3) Full-time dispatchers; and
 - C. Part-time dispatchers, as determined by the Chief of Police.
(Ord. 1980. Passed 8-9-04.)

145.02 AUXILIARY POLICE UNIT.

- (a) There is hereby established an Auxiliary Police Unit in the Village.
- (b) The Mayor shall be the executive head of the Auxiliary Police Unit and shall make all appointments and removals of auxiliary police officers.
- (c) The Mayor shall prescribe rules and regulations for the organization, training, administration, control and conduct of the Auxiliary Police Unit.
(Ord. 413. Passed 5-2-65; Ord. 519. Passed 4-14-69.)

145.03 BOND OF CHIEF.

- The Chief of Police shall give bond in the sum of fifty thousand dollars (\$50,000).
(Ord. 2114. Passed 1-14-08.)

145.04 ACCEPTANCE OF CASH BONDS FROM PERSONS CHARGED WITH OFFENSES.

- (a) The Police Department is hereby authorized to accept cash bonds from anyone charged by them, or any citizen, with the violation of any ordinance, regulation or statute of the Village, the State or other political subdivision.
- (b) The Mayor shall provide the Police Department with a schedule of the amounts of bonds to be posted for the various offenses.
- (c) Any member of the Police Department accepting the posting of a bond shall give the person posting such bond an official receipt in the amount of the bond posted.
- (d) The Police Department, through its Chief, shall account to the Mayor and pay over to him or her, on the day the Mayor convenes the Mayor's Court, all moneys collected by the Police Department since the previous meeting of the Mayor's Court.
(Ord. 362. Passed 2-11-63.)

145.05 MANDATORY RETIREMENT.

- (a) All members of the Police Department shall retire upon reaching the age of sixty-five.
- (b) The date of retirement shall be on the member's sixty-fifth birthday, or at such other time within three months thereof, as authorized by the Mayor, provided that such authorization is in writing. (Ord. 741. Passed 1-10-77.)

145.06 FIRING RANGE.

- (a) The Police Department is hereby granted the authority to maintain, use and operate a firing range in James Day Park in the Village, subject to rules and regulations promulgated by the Chief of Police and the Mayor.
- (b) Such range shall be used and operated only in accordance with the provisions of the rules and regulations referred to in subsection (a) hereof, as amended from time to time, and only when an authorized range officer is present and actively supervising the range and firing.
(Ord. 845. Passed 4-28-80.)

145.07 K-9 UNIT.

(a) There is hereby established a K-9 unit as part of the Village Police Department to operate under regulations established by the Mayor and Chief of Police.

(b) The Mayor and/or Clerk-Treasurer are hereby authorized to expend funds for the purchase of food for the two police dogs and for any necessary equipment for the K-9 patrol. (Ord. 924. Passed 6-27-83.)

145.08 RESIDENCY OF CHIEF.

The residency requirement of the Village Marshall, also designated as the Village Chief of Police is hereby terminated, as authorized by Ohio R.C. 737.15. (Ord. 1328. Passed 3-23-94.)

145.09 RESERVE UNIT.

(a) Creation. There is hereby created a Reserve Unit within the Department of Public Safety, Division of Police, the members of which shall be appointed by the Mayor with consent of Council. Each Reserve officer shall serve at the pleasure of the Mayor or until the resignation of such Reserve officer shall be accepted by the Mayor.

(b) Membership Selection Committee. A membership selection Committee composed of the Mayor and the Chief of Police, shall review all applications for membership and determine the suitability of each applicant. Appointment of not more than 20 applicants shall be by approval of the Mayor with consent of Council.

(c) Classification of Members. These members shall be as special police officers of the Village of Sheffield, shall be responsible to enforce the general laws of the State of Ohio and Ordinances of the Village of Sheffield, and may be empowered to carry firearms.

(d) Qualifications of Members. All members of the Reserve Unit shall be citizens of the United States, residents of the State of Ohio, not under 21 years of age at the time of appointment, in good health, and of good moral character. Additionally, Commissioned Reservists shall obtain a certificate from the Executive Director of the Ohio Peace Officers training Council attesting to his/her satisfactory completion of the prescribed basic course of training within in 1 year of appointment. All members shall also comply with all other requirements of the rules and regulations for the Reserve Unit.

(e) Control of Unit. The Chief of Police shall be the Commanding Officer of the Reserve Unit and shall be responsible for the assigning, training, stationing and direction of the work of such Unit. All Reserve unit members shall obey the chain of command of the Police Department.

(f) Rules and Regulations. The Mayor shall approve in writing the rules and regulations for the organization, administration, conduct and control of the reserve Unit, not in conflict with the provisions of the Ohio Revised Code or any sections of this chapter.

(g) Uniforms. The rules and regulations shall prescribe the type of uniforms which shall be worn by the members of the Reserve Unit and the time and place such uniforms shall be worn. The cost of such uniforms shall be paid by the Village and shall remain the property of the Village.

(h) Compensation. The Mayor is authorized to approve payment for members of the Reserve Unit for emergency duties. Said payment shall be reflected on the pay ordinance.

(i) Authority to Enter into Contract. The Mayor is hereby authorized to enter into a contract with the Industrial Commission of the State of Ohio, pursuant to Section 4123.03 of the Revised Code of Ohio, for the purpose of providing coverage for members of the Auxiliary/Reserve Unit under the Workmen's Compensation Law of the State of Ohio. (Ord. 1637. Passed 3-3-98.)

145.10 VOLUNTEER PEACE OFFICERS' DEPENDENTS' BOARD.

Pursuant to Ohio R.C. Chapter 143, there is hereby established in the Village of Sheffield a Volunteer Peace Officers' Dependents' Board.

- (a) The Board shall consist of the following Board members:
- (1) Two Board members elected by the Village of Sheffield Council;
 - (2) Two Board members elected by the volunteer peace officers of the Police Department of the Village of Sheffield;
 - (3) One Board member elected by the Board members elected pursuant to subsections (a)(1) and (2) hereof. The Board member must be an elector of the Village of Sheffield and cannot be a public employee, member of the legislative authority, or a peace officer of the Police Department of the Village of Sheffield.
- (b) The rules and regulations for the operation of the Board will be those established by the Ohio legislature from time to time as set forth in Ohio R.C. Chapter 143. (Ord. 2534. Passed 4-11-16.)

CHAPTER 147
Fire, Rescue and Emergency Medical Services Department

147.01	Composition.	147.12	Longevity compensation.
147.02	Salary computations.	147.13	Hospitalization.
147.03	Work week designations.	147.14	Life insurance.
147.04	Transitional work.	147.15	Reimbursement of expenses.
147.05	Fire Department employees ability to choose overtime pay compensation or compensation time off.	147.16	Mileage allowance.
147.06	Lorain County Hazardous Materials Team participation compensation.	147.17	Deferred compensation.
147.07	Vacation.	147.18	Fire Chief as Emergency Hazardous Materials Manager; environmental emergencies; costs.
147.08	Holidays.	147.19	Fire Chief's expense account.
147.09	Sick leave.	147.20	Drug testing policy.
147.10	Funeral leave.	147.21	Corrective behavior authority.
147.11	Jury duty compensation.	147.22	Fee for the use of the Sheffield Village Fire Department's Emergency Medical Services.
		147.23	Family and Medical Leave.
		147.24	Payment of insured fire loss claims; duties of Fire Chief.

CROSS REFERENCES

Composition - see Ohio R.C. 715.05, 737.21 et seq.
 Appointment and removal of fire chief and fire-fighters - see Ohio
 R.C. 733.35 et seq., 737.22
 Regulations and hours - see Ohio R.C. 737.21
 Employment provisions - see ADM. Ch. 159
 Following or parking near fire apparatus - see TRAF. 331.27
 Driving over fire hose - see TRAF. 331.28
 Misconduct at an emergency - see GEN. OFF. 509.05
 False fire alarm - see GEN. OFF. 509.07

147.01 COMPOSITION.

(a) There is hereby established a Fire Department in the Village with the following officers and personnel:

- (1) One (1) Full Time Fire Chief/Paramedic;
- (2) Maximum of fifteen (15) Full Time Firefighters/Paramedics;
- (3) Part-Time Firefighter/Paramedics;
- (4) Part-Time Firefighter/EMT-B/First Responder;
- (5) Part-Time Firefighters.

(b) The duties of such officers shall be as provided in Ohio R.C. 737.21 through 737.28, and further as provided by ordinance.

(c) The minimum hiring and testing practices for said positions shall be as follows:

(1) Part Time Firefighter/Paramedic.

- A. Shall possess and maintain an Ohio Firefighter II Certification. (Condition of continued employment.)
- B. Shall possess and maintain an Ohio Emergency Medical Technician-Paramedic Certification. (Consideration is permitted to a person who is currently attending Paramedic School.) (Condition of continued employment.)
- C. Shall possess and maintain an Ohio Driver's License with less than six (6) points. (Condition of continued employment.)
- D. Shall pass a written local examination.
- E. Shall present from an accredited teaching facility a Firefighter Agility Test Certificate, with a maximum time of four (4) minutes and thirty (30) seconds. The certificate must be obtained at the applicant's expense. The certificate must be valid at the time of appointment.
- F. Shall have a background check conducted by the Sheffield Village Police Department.
- G. Shall pass a physical examination designated by the Ohio Administrative Code, Chapter 4123:1:21-02 Personal protective clothing and equipment for structural firefighting, (O)(3) requiring an annual physical.
- H. Interview with the Captains.
- I. Interview with the Mayor and the Fire Chief.
- J. Initially appointed by the Mayor.
- K. Shall successfully serve a probationary period of one (1) year.
- L. Consideration by the Mayor for permanent appointment.
- M. Appointment by the Mayor, confirmed by Council for appointment.

(2) Full Time Firefighter/Paramedic. The process of selecting a full time employee of the Fire Department shall consist of a written examination available to the public who meet the listed criteria.

- A. Shall possess and maintain an Ohio Firefighter II Certification. (Condition of continued employment.)
- B. Shall possess and maintain an Ohio Emergency Medical Technician-Paramedic Certification. (Condition of continued employment.)
- C. Shall possess and maintain an Ohio Driver's License with less than six (6) points. (Condition of continued employment.)
- D. Shall take a written local examination.
- E. Shall present from an accredited teaching facility a Firefighter Agility Test Certificate, with a maximum time of four (4) minutes and thirty (30) seconds. The certificate must be obtained at the applicant's expense. The certificate must be valid at the time of appointment.

- F. Shall pass a background check conducted by the Sheffield Village Police Department. (If not conducted when hired as a part time employee.)
 - G. Shall pass a physical examination designated by the Ohio Revised Code 742.38 Pre-Employment Physical.
 - H. Interview with the Captains.
 - I. Interview with the Mayor and Fire Chief.
 - J. Initially appointed by the Mayor.
 - K. Shall successfully serve a probationary period of one (1) year.
 - L. Consideration by the Mayor for permanent appointment.
 - M. Appointment by the Mayor, confirmed by Council for appointment.
- (3) Full Time Lieutenants and Captains/Paramedics.
- A. Shall possess and maintain an Ohio Firefighter II Certification. (Condition of continued employment.)
 - B. Shall possess and maintain an Ohio Emergency Medical Technician-Paramedic Certification. (Condition of continued employment.)
 - C. Shall possess and maintain an Ohio Drivers License with less than six (6) points. (Condition of continued employment.)
 - D. Shall take a written local examination.
 - E. Interview with the Captains.
 - F. Interview with the Mayor and Fire Chief.
 - G. Initially appointed by the Mayor.
 - H. Shall successfully serve a probationary period of one (1) year.
 - I. Consideration by the Mayor for permanent appointment.
 - J. Appointment by the Mayor, confirmed by Council for appointment.
- (4) Full Time Fire Chief.
- A. Shall possess and maintain an Ohio Firefighter II Certification. (Condition of continued employment.)
 - B. Shall possess and maintain an Ohio Emergency Medical Technician-Paramedic Certification. (Condition of continued employment.)
 - C. Shall possess and maintain an Ohio Drivers License with less than six (6) points. (Condition of continued employment.)
 - D. Interview with the Mayor. The Mayor has the option of requesting additional testing for the candidate.
 - E. Initially appointed by the Mayor.
 - F. Shall successfully serve a probationary period of one (1) year.
 - G. Consideration by the Mayor for permanent appointment.
 - H. Appointment by the Mayor, confirmed by Council for appointment.
- (d) Time Limits of Applications and Examination Processes.
- (1) Applications are valid for one (1) year from the date received. (Agility Certificate must be current at appointment.)
 - (2) All testing processes for appointment are valid one (1) year. (Agility Certificate must be current at appointment.)

- (3) Promotional testing will only occur when an opportunity exists for promotion. Once said position(s) have been filled, the examination is invalid for further promotional consideration.
(Ord. 2160. Passed 12-8-08.)

147.02 SALARY COMPUTATIONS.

(a) Full time employee's hourly rate shall be calculated and converted into a salary that would be paid in 26 equal biweekly payments annually.

(b) Full time employee's hourly rate times 24 hours shall be the calculation for paid holidays. Except 40 hour employees who are awarded time off for the holiday.

(c) Full time employees who work more than 106 hours in a pay period shall be compensated at 1 ½ times their hourly rate of pay.
(Ord. 2160. Passed 12-8-08.)

147.03 WORK WEEK DESIGNATIONS.

(a) Full time Firefighters, Lieutenants, and Captains may be assigned by the Fire Chief to a work week that may range from 40 to 53 hours per week.

(b) Full time Firefighters, Lieutenants, and Captains that are assigned to a three shift system will work twenty-four (24) consecutive hours, followed by forty-eight (48) consecutive hours off.

(c) This work week consists of an average of working fifty-six (56) hours per week. To conform to the United States Fair Labor Act requirement that limits municipal firefighters to an average of a fifty-three (53) hour work week, each employee working the 24-48 schedules shall be given three (3) hours of paid time off for each week they work.

(d) On January 1 of each year employees due accumulated time off for that future one year shall be awarded the accumulated hours anticipated for that year for use in the full calendar year. The employee may request paid time off with those accumulated hours in any increment of time.

(e) The Fire Chief or his/her designee shall track the accumulated time off within the Department and must give approval for any use of accumulated time off before it is utilized by an employee. At no time may an employee's utilization of accumulated time off cause a shift to drop below its current operational level.

(f) The three (3) hours of accumulated time off may be banked by an employee to a maximum of 320 hours. Any accumulation of hours above 320 hour shall be assigned the employee as paid time off by the Fire Chief or his/her designee.

(g) An employee who may have accumulated time off (maximum of 320 hours) at the time of leaving the employ of Sheffield Village shall be entitled to a monetary settlement of those accumulated hours at the one and one half (1 ½) times the hourly wage figure of that employee at the time of leaving the Sheffield Village Fire Department.

(h) The Fire Chief shall be assigned to a forty hour work week and is exempt from overtime compensation for hours worked over 40 hours per week. The Fire Chief shall receive compensatory time at a rate of 1 ½ times per hour worked beyond the forty hour work week.

(i) Part time employees are assigned random hours as needed to a maximum of 53 hours per week. Part time employees shall be restricted to working no more than 1,500 hours per year.

(j) After-Hour Call-Out Defined. As used in this section, "after-hour call-out" means anytime that an employee of the Village is called to work, other than during his or her normal work hours, and in fact does such requested work. Such request to work must be made by the authorized Village department head.

(k) Full time employees are compensated three (3) hours for an emergency call back at their over time rate. Part time employees are compensated three (3) hours for a emergency call back at their straight pay rate, unless they exceed 106 hours in that pay period. Part time employees who exceed 106 hours in a pay period are compensated at one and one half (1 ½) times their hourly rate of pay. (Ord. 2160. Passed 12-8-08.)

147.04 TRANSITIONAL WORK.

(a) In the event that an employee suffers a work injury and, as the result of such injury, is not able to perform his/her normal job functions, the Village may assign such employee to perform Transitional Work upon receipt by the Village of a written request by such employee that details the nature of the injury, the current course of treatment and prognosis for recovery. Transitional Work is work that:

- (1) An injured employee can perform without the risk of further injury;
- (2) Is necessary;
- (3) Allows the employee to continue working while he/she makes the transition back to his/her regular work duties and/or normal work schedule.

(b) Transitional Work is offered at the discretion of the Village. The maximum aggregate duration of Transitional Work assignments during any given year shall be six months.

(c) Once an employee has been assigned to perform Transitional Work, such employee shall not be permitted to return to the performance of his/her regular work duties and/or normal work schedule until such employee provides the Village with a written note or report from a qualified physician indicating that the employee is able to perform his/her normal work duties and/or normal work schedule. (Ord. 2160. Passed 12-8-08.)

147.05 FIRE DEPARTMENT EMPLOYEES ABILITY TO CHOOSE OVERTIME PAY COMPENSATION OR COMPENSATION TIME OFF.

(a) An employee may opt to choose compensation time off in lieu of monetary compensation when overtime is incurred at 1 ½ times the number of hours, the same manner monetary overtime is calculated, with Department head concurrence.

(b) The employee will document that choice on their time card.

- (c) The compensation time off will be tracked by the Clerk/Treasurer's Office.
- (d) Compensation time off will be granted by the Fire Chief at the employees request and be granted if it does not cause operational or additional manpower costs to the Village.
- (e) Compensation time off can be carried over year to year. Unused compensation time off payments shall be made for the following reasons:
 - (1) Upon the death of an employee, the Estate may request and receive pay for one-fourth the value of accumulated but unused compensation time not to exceed 30 full day's pay (240 hours). Request must be made within six months of the death.
 - (2) For an employee who retires after 10 years of service with the Village, may, upon request, receive pay for one-half of the value of accumulated but unused compensation time off not to exceed 60 full day's pay (480 hours).
 - (3) Payments made to an employee shall be made within one year after the employees last day of regular employment. Such payments shall be made in one or more installments and shall not be less frequent than quarterly. Payments for accumulated compensation time shall not bear interest.
(Ord. 2160. Passed 12-8-08.)

147.06 LORAIN COUNTY HAZARDOUS MATERIALS TEAM PARTICIPATION COMPENSATION.

Any Fire Department employee that is designated by the Fire Chief as a member of the Lorain County Hazardous Materials Team will be paid three (3) times the Village's normal hourly rate of the employee when responding to any hazardous materials emergency, recognizing this as a potential reimbursable incident.
(Ord. 2160. Passed 12-8-08.)

147.07 VACATIONS.

- (a) Full time employees shall have the following paid vacation time:

(1)	Less than one year:	4.41 hours per month
(2)	After one year:	56 hours
(3)	After two years:	120 hours
(4)	After eight years:	168 hours
(5)	After fifteen years:	240 hours
(6)	After twenty years:	288 hours
- (b) Part time employee's years of service shall be calculated at two years of service equals one year of full time service as the time relates to vacation time.
- (c) Vacation must be utilized within each calendar year that it is earned.
- (d) All paid compensated time off shall be considered hours worked for overtime and sick time credit.
- (e) The basis of computing the compensation of an employee who works on an hourly rate of pay, for the period of his or her respective vacation, shall be at the normal straight time earnings of the particular employee working a full week at the hourly rate fixed for his or her employment in the particular Village department where employed.

(f) Each person having charge of a department of the Village wherein there are other employees under the supervision of such person shall arrange a schedule of vacation as nearly as possible to conform the proper functioning of the particular department, as well as to suit the convenience of the respective employees.

(g) Vacations may not be accumulated and shall be taken not later than the end of the subsequent year of service for which the vacation was earned, unless an extension is authorized by Council.

(h) An employee whose employment with the Village is terminated, or upon retirement, shall be paid for vacation time earned the previous year but not yet taken, and for vacation time earned but not yet taken in the year of termination or retirement. Compensation shall be calculated by dividing the employee's bi-weekly wage by the number of hours normally worked bi-weekly, times the unused hours of vacation, provided that the employee has twelve months or more continuous service.

(i) Vacation allowance calculated pursuant to subsection (h) hereof shall be paid to the next of kin or to the executor or administrator of the estate of a deceased employee.

(j) Any hours worked while on vacation shall be paid at one and one half times the normal hourly rate of pay in addition to the vacation pay.

(k) Vacation hours shall be counted as hours worked for overtime purposes, but shall not be counted for sick leave credits.
(Ord. 2160. Passed 12-8-08.)

147.08 HOLIDAYS.

(a) The following dates shall be observed as holidays by full time employees of the Fire Department.

New Year's Day
President's Day
Good Friday
Memorial Day
Independence Day
Labor Day
Thanksgiving Day
Friday after Thanksgiving
Christmas Eve
Christmas Day
Employee's Birthday (Full Time Only)

(Ord. 2389. Passed 5-13-13.)

(b) Employees assigned to 40 hour work weeks shall have holidays off with pay.

(c) Employees assigned to a work week that involves the 24-48 schedule shall be compensated with 24 hours of pay for each holiday at the straight time rate of pay.

(d) Part time employees shall be compensated at one and one half times (1 ½) their hourly rate for hours worked on a holiday with the exception of the employees birthday.

(e) The employee has to work his/her scheduled day before and after the holiday to be paid for the holiday.

(f) Any holiday falling on a Saturday shall be celebrated on the prior Friday. Any holiday falling on a Sunday shall be celebrated on the following Monday.
(Ord. 2160. Passed 12-8-08.)

147.09 SICK LEAVE.

See Section 159.08 of the Administrative Code.

147.10 FUNERAL LEAVE.

(a) Full-time employees, as defined in Section 159.01, shall be granted a paid three-day funeral leave for the death of an immediate family member upon meeting certain conditions as set forth below.

(b) For purposes of this section, "immediate family member" shall be defined as spouse, grandparents, grandparents-in-law, parents, parents-in-law, sibling, siblings-in-law, children and significant others.

(c) Funeral leave pay shall consist of payment at the full time employee's hourly rate, and shall count as hours worked for pay purposes and sick time accrual purposes.

(d) Any holiday falling within the three-day funeral leave shall not replace any of the funeral leave time and shall be calculated for hours worked purposes.

(e) Any employee requesting funeral leave shall, upon return to work and prior to being paid for said funeral leave, provide his/her supervisor with documentation of the death of said immediate family member, such as a clipping of the newspaper obituary notice or a copy of the death certificate.

(f) Any employee requiring extended travel time beyond the allowable funeral leave, shall be granted the necessary time, upon providing his/her supervisor with proof of travel arrangements and such extended time shall be without pay.

(g) Full time employees (24-48) shall be granted two (2) consecutive scheduled days off totaling forty eight (48) hours paid time off in the case of the death of the listed individuals.

(h) Paid time off for funeral leave is limited to no more than the day of the burial or final funeral service and funeral leave compensation is not available beyond that day.
(Ord. 2160. Passed 12-8-08.)

147.11 JURY DUTY COMPENSATION.

Full-time and scheduled part-time employees who are called for jury duty shall be compensated the difference between the jury fee they receive and the amount the employee would have earned from the Village on said day or days of jury duty. As used in this section, "scheduled part-time employees" mean those part-time employees whose hours are scheduled on a regular basis and verified through the Mayor's Office on a monthly calendar.
(Ord. 2160. Passed 12-8-08.)

147.12 LONGEVITY COMPENSATION.

(a) Each qualified full-time employee shall be entitled to a longevity payment for each year said employee has worked continuously part-time and/or full-time for the Village of Sheffield.

(b) Full-time and part-time employees are hereby defined as set forth in Section 159.01.

(c) "Qualified employee" means an employee that is a current, full-time employee for the Village between the dates of November 1st and November 20th who has worked continuously part-time and/or full-time for at least six years.

(d) The longevity payment shall be separate checks to qualified employees between the dates of November 1st and November 20th, but no later than November 20th of the qualifying year. (Ord. 2160. Passed 12-8-08.)

147.13 HOSPITALIZATION.

(a) All full time employees shall be entitled to have hospitalization insurance; the premiums shall be paid eighty-five percent (85%) by the Village and fifteen percent (15%) by the employee.

(b) All part-time employees shall be entitled to purchase personal or immediate family plan hospitalization insurance through the Village plan at the employee's expense. (Ord. 2160. Passed 12-8-08.)

147.14 LIFE INSURANCE.

The Village is authorized to obtain, and the Clerk-Treasurer is authorized to pay for, on behalf of the Village, life insurance coverage for those employees whom the Village is obligated to provide health insurance coverage for by ordinance. Said life insurance, if purchased, must be purchased in conjunction with the purchase of said required health insurance benefits. (Ord. 2160. Passed 12-8-08.)

147.15 REIMBURSEMENT OF EXPENSES.

(a) Any expenses reimbursed to the Mayor, a member of Council, the President Pro-Tem of Council, the Clerk-Treasurer or the Village Administrator, and all other Village officials and employees, shall be supported by receipts in accordance with the provisions of the Ohio Revised Code.

(b) All expenses that have been reimbursed prior to the effective date of this section shall not be deemed improper merely because of a lack of supported receipts. (Ord. 2160. Passed 12-8-08.)

147.16 MILEAGE ALLOWANCE.

Effective as of January 1, 2004, the Village of Sheffield, Ohio shall establish reimbursement for mileage expenses incurred on Village business, including seminars, meetings outside Village limits, and for actual mileage expenses incurred on Village business within the Village, at the rate per mile published by the IRS and in effect at the time such mileage expense was incurred. (Ord. 2160. Passed 12-8-08.)

147.17 DEFERRED COMPENSATION.

(a) Municipal employees are hereby authorized to participate in the Ohio Public Employees Deferred Compensation Program

(b) Municipal employees are hereby authorized to participate in the Equitable Life Assurance Society Deferred Compensation Program.
(Ord. 2160. Passed 12-8-08.)

147.18 FIRE CHIEF AS EMERGENCY HAZARDOUS MATERIALS MANAGER; ENVIRONMENTAL EMERGENCIES; COSTS.

(a) The Fire Chief is hereby designated as the Emergency Hazardous Materials Manager.

(b) It shall be the practice and policy of the Village, when an emergency action is required to protect the public health or safety or the environment, to charge any person responsible for causing or allowing an unauthorized spill, release or discharge of material into or upon the environment for the necessary and reasonable additional or extraordinary costs the Village incurs in investigating, mitigating, minimizing, removing or abating the spill, release or discharge in the course of an emergency action, provided that the criteria and methods prescribed under 40 C.F.R., 300, as amended, are used and complied with.

(c) The Village hereby adopts the cost recovery plan and training procedures adopted by the County Emergency Management Agency and declares the intention to implement the same.
(Ord. 2160. Passed 12-8-08.)

147.19 FIRE CHIEF'S EXPENSE ACCOUNT.

The Fire Chief is hereby entitled to reimbursement for Village related expenses up to \$600.00 per year. (Ord. 2160. Passed 12-8-08.)

147.20 DRUG TESTING POLICY.

There shall be a Village drug testing policy as follows:

- (a) Pre-employment drug-testing shall be required for all newly hired employees of the Fire Department.
- (b) There may also be random drug testing required for a Fire Department employee.
- (c) The Mayor shall determine the date of testing and who shall submit to a drug test for cause, upon recommendation of a department head or upon the Mayor's own initiative. Before ordering a drug test, the Mayor must have in his or her possession a written description of all the incidents that make up the cause for the test.
- (d) All positive test results shall result in:
 - (1) A suspension from work of a minimum of thirty days or a voluntary minimum thirty-day leave of absence if the person comes forth and admits to a drug problem.
 - (2) The time off shall be without pay.
 - (3) If a person is ordered to take a drug test, the Mayor may suspend such employee until he or she receives the results. If said employee tests negative and no illegal drugs are found in said person's system, then said employee shall be paid his or her normal wages for scheduled time lost from work.

- (4) A person who has previously tested positive must pass one drug test with the date picked by the Mayor before he or she may return to work. This test will be at his or her own expense. The Mayor may order random drug testing for such person for up to two years after the first negative test result.
 - (5) Any employee shall have the opportunity to challenge a positive analysis result by use of a legally competent test or tests.
- (e) As used in this chapter the following terms are defined as follows:
- (1) Employees are all nonelected personnel who are subject to Federal and/or State withholding tax.
 - (2) A drug of abuse is as defined in Section 513.01 of the General Offenses Code.
 - (3) A positive test is one which shows that the person has a legally prohibited substance or drug of abuse in his or her body.
 - (4) A negative test is one which shows that no illegal substance or drug of abuse is present in his or her body.
 - (5) Cause includes, but is not limited to the following:
 - A. Accidents on the job;
 - B. Unauthorized leave;
 - C. Excessive sick leave;
 - D. Repeated absence of two to four days (including days before and after days off);
 - E. Excessive tardiness, especially after a day or weekend off or when returning from lunch;
 - F. Leaving work early;
 - G. Peculiar and increasingly improbable excuses for absences;
 - H. Continued absences from work station (more than required);
 - I. Difficulty in concentration;
 - J. Alternate periods of very high and very low work standards;
 - K. Suspected theft;
 - L. Coming to or returning to work in an obvious altered state, i.e. slurred speech, unsteady gait;
 - M. Generally lowered job efficiency;
 - N. Use of poor judgment;
 - O. Making bad decisions;
 - P. Complaints received from the public regarding the employee;
 - Q. Offering of improbable excuses for poor work performance;
 - R. Inattentiveness, which results in mistakes;
 - S. Friction in employee relationships;
 - T. Overreaction to real or imagined criticism.(Ord. 2160. Passed 12-8-08.)

147.21 CORRECTIVE BEHAVIOR AUTHORITY.

- (a) The Fire Chief or his/her designee shall have the authority to utilize the following corrective behavior methods in any order deemed necessary by a given situation:
- (1) Verbal counseling.
 - (2) Written reprimand.
 - (3) Paid Administrative leave for up to 96 consecutive scheduled work hours.

(b) Subsection (a)(3) requires an immediate notification and a written report to the Mayor/Safety Director for further consideration.

(c) Nothing in the Corrective Behavior Authority shall prevent the Village of Sheffield from utilizing the provisions contained in Ohio Revised Code, Title 7.

(d) An employee subject to Corrective Behavior Authority provisions shall have the ability to address concerns with the Mayor and/or Council.
(Ord. 2160. Passed 12-8-08.)

147.22 FEE FOR THE USE OF THE SHEFFIELD VILLAGE FIRE DEPARTMENT'S EMERGENCY MEDICAL SERVICES.

Ordinance No. 1869 authorizes the Village of Sheffield to contract with a billing service which will bill and collect for the use of the Village of Sheffield's Emergency Medical Services.
(Ord. 2160. Passed 12-8-08.)

147.23 FAMILY AND MEDICAL LEAVE.

See Ordinance No. 2494, passed on 06/22/2015, and codified as the Village of Sheffield Codified Ordinance 159.27.
(Ord. 2493. Passed 6-22-15.)

147.24 PAYMENT OF INSURED FIRE LOSS CLAIMS; DUTIES OF FIRE CHIEF.

(a) The Village hereby authorizes the procedure described in Ohio R.C. 3929.86(C) and (D) to be implemented whereby no insurance company doing business in the Village shall pay a claim of a named insured for fire damage to a structure located within the Village unless the applicable provisions of Ohio R.C. 3929.86 are fully complied with.

(b) The Fire Chief is hereby designated as the officer authorized to carry out the duties of Ohio R.C. 3929.86.

(c) A certified copy of this section has been filed by the Clerk of Council with the State Superintendent of Insurance.
(Ord. 2461. Passed 11-10-14.)

CHAPTER 151
Service Department

151.01 Composition.	151.05 Commercial drivers license required.
151.02 Uniforms.	151.06 Shoe allowance.
151.03 Secretary.	
151.04 Inspection of subdivision utilities.	

CROSS REFERENCES

Street excavations - see S.U. & P.S. Ch. 919

Water - see S.U. & P.S. Ch. 939

Sewers - see S.U. & P.S. Ch. 941

151.01 COMPOSITION.

The full-time employee force of the Service Department shall consist of not more than one foreman and the number of laborers approved by Council. (Ord. 1221. Passed 10-26-92.)

151.02 UNIFORMS.

All employees of the Service Department shall be furnished with work uniforms. Rental costs shall be out of the appropriate funds. (Ord. 841. Passed 3-24-80.)

151.03 SECRETARY.

There is hereby established in the Service Department the position of Secretary, who shall be paid for his or her services from the funds of the Service Department. (Ord. 293. Passed 10-10-60.)

151.04 INSPECTION OF SUBDIVISION UTILITIES.

(a) Service Department Inspectors shall be compensated for their expertise and time spent observing and advising for the installation of subdivision utilities (including water lines, sewer lines, drainage systems) and streets and roads, at the rate of fifty dollars (\$50.00) per hour per person.

(b) The fee for the Service Department Inspectors shall be deposited into the street construction, water and/or sewer funds in the Service Department. (Ord. 1896. Passed 12-9-02.)

151.05 COMMERCIAL DRIVERS LICENSE REQUIRED.

(a) It shall be a condition of full-time employment by the Village Service Department that, prior to the commencement of full-time employment, any such employee shall have obtained a State of Ohio Commercial Driver's License.

(b) This section shall not apply to any Service Department employee hired before the adoption of this section. (Ord. 2065. Passed 3-13-06.)

151.06 SHOE ALLOWANCE.

The Village shall provide full-time Service Department employees with an annual allowance of one hundred fifty dollars (\$150.00) for the purchase of shoes and footwear that is appropriate for the performance of their duties to be paid prior to January 31. (Ord. 2064. Passed 3-13-06.)

CHAPTER 159
Employees Generally

EDITOR'S NOTE: Because of the frequency of change, provisions relating to regular compensation are not codified. Copies of the latest relevant legislation may be obtained, at cost, from the Clerk-Treasurer.

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| 159.01 Full-time and part-time defined. | 159.17 Deferred compensation. |
| 159.02 Jury duty compensation. | 159.18 Compensatory time and overtime pay for Fire Chief, Police Chief, Water and Street Superintendent and Residential Building Inspector. |
| 159.03 Mileage allowance. | |
| 159.04 Personal use of Village motor vehicles. | 159.19 Merit increases. |
| 159.05 Holidays. | 159.20 Compensation for extra services. |
| 159.06 Vacations. | 159.21 Longevity compensation. |
| 159.07 Hospitalization. | 159.22 Funeral leave. |
| 159.08 Sick leave. | 159.23 Transitional work. |
| 159.09 Drug testing policy. | 159.24 Corrective behavior authority |
| 159.10 Employment and appointment practices. | 159.25 Policy on employee use of Village-owned vehicles. |
| 159.11 Blanket bond. | 159.26 Voice and video taping. |
| 159.12 Life insurance. | 159.27 Family and Medical Leave. |
| 159.13 Payment of compensation for certain officials. | 159.28 Credit Card/Purchasing Card Policy. |
| 159.14 Reimbursement of expenses. | |
| 159.15 Expense accounts. | |
| 159.16 After-hour call-out pay. | |

CROSS REFERENCES

Workers' compensation - see Ohio Const., Art III, Sec. 35;
Ohio R.C. Ch. 4123

Public Employee's Retirement System - see Ohio R.C. Ch. 145

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

Leave for military training - see Ohio R.C. 5923.05

Obstructing officers and employees - see GEN. OFF. 525.07 et seq.

Unlawful interest in contracts - see GEN. OFF. 525.10

159.01 FULL-TIME AND PART-TIME DEFINED.

(a) A full-time employee of the Village is anyone who is specifically hired or promoted as a full-time employee to fill a designated full-time position. (Ord. 2161. Passed 12-8-08.)

(b) The designated full-time positions are:

- (1) Secretary to the Mayor.
- (2) Secretary/Clerk for the Utilities Department.
- (3) Administrative Assistant to the Fiscal Officer.
- (4) One (1) Chief of Police.
- (5) Fifteen (15) Police Officers.
- (6) Four (4) Police Dispatchers.
- (7) Twelve (12) Firefighter/Paramedics.
- (8) Service Department Personnel (not including temporary summer workers).
- (9) Village Administrator.
- (10) Secretary for the Building Department/Village Administrator.
- (11) Mayor's Court Clerk.
- (12) Mayor.
- (13) One (1) Chief of Fire Department.
- (14) Officer Worker A/B, Full-Time.
- (15) Fiscal Officer

(c) Any employee not specifically designated as a full time employee is to be considered a part-time employee. (Ord. 2635. Passed 7-9-18.)

159.02 JURY DUTY COMPENSATION.

Full-time and scheduled part-time employees who are called for jury duty shall be compensated the difference between the jury fee they receive and the amount the employee would have earned from the Village on said day or days of jury duty.

As used in this section, "scheduled part-time employees" means those part-time employees whose hours are scheduled on a regular basis and verified through the Mayor's Office on a monthly calendar. (Ord. 2161. Passed 12-8-08.)

159.03 MILEAGE ALLOWANCE.

Effective as of January 1, 2004, the Village of Sheffield, Ohio shall establish reimbursement for mileage expenses incurred on Village business, including seminars, meetings outside Village limits, and for actual mileage expenses incurred on Village business within the Village, at the rate per mile published by the IRS and in effect at the time such mileage expense was incurred. (Ord. 2161. Passed 12-8-08.)

159.04 PERSONAL USE OF VILLAGE MOTOR VEHICLES.

(a) Motor vehicles owned by the Village shall be used by Village employees only in the performance of their official duties.

(b) Except as set forth in subsection (c) hereof, Village employees shall not utilize Village-owned motor vehicles to commute to and from their residences, for transportation to their place of employment or for any other purpose outside of the actual performance of their duties as employees of the Village.

(c) The Mayor may authorize a Village employee to operate a Village-owned motor vehicle for transportation to and from his or her home, or to and from his or her place of employment outside the Village to his or her employment for the Village, when such use of the motor vehicle is beneficial to the performance of his or her duties as an employee of the Village.

(d) An employee authorized by the Mayor to utilize a Village-owned vehicle for transportation to and from his or her employment with the Village shall maintain a log and record all miles such vehicle is driven outside the actual scope of his or her duties as an employee of the Village. The employee shall file the log with the Clerk-Treasurer on a monthly basis.

(e) The Clerk-Treasurer is authorized and directed to maintain records of the use of the Village owned vehicles by Village employees for personal or commuting use and report the value of this use as compensation on the employees' W-2 Forms, as required by the Internal Revenue Code and the regulations of the Internal Revenue Service. (Ord. 2161. Passed 12-8-08.)

159.05 HOLIDAYS.

(a) All full-time employees of the Village shall be paid for thirteen (13) holidays each year, as follows:

- New Year's Day
- Martin Luther King Day
- Presidents Day
- Good Friday
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve Day
- Christmas Day
- Floating Holiday

(b) All holidays can be floating days off and shall be approved by the appropriate department head. You must notify the department head before the end of pay ending of the holiday, so payroll can be notified. All floating Holidays shall be used by year's end. Floating Holidays are not transferable to the next fiscal year.

(c) The employee has to work his or her scheduled day before and after the holiday to be paid for the holiday.

(d) Holiday pay shall consist of payment for eight (8) hours at said full-time employee's hourly rate, and shall count as hours worked for pay purposes, but not for sick leave accrual purposes.

(e) The IAFF union-represented employees will receive pay as determined by their Collective Bargaining Agreement dated October 11, 2010, and the new holidays (Martin Luther King Day and Veterans' Day) will become a part of their Collective Bargaining Agreement.

(f) The OBPA union-represented employees will receive pay as determined by their Collective Bargaining Agreement dated October 11, 2010, and the new holidays (Martin Luther King Day and Veterans' Day) will become a part of their Collective Bargaining Agreement.

(g) All hours actually worked on a holiday shall be paid at one and one-half times the hourly rate of the employee, in addition to the holiday pay. Part-time employees shall be paid at one and one-half times their hourly rate of the part-time employee for holidays worked.

(h) Any holiday falling on a Saturday shall be celebrated on the prior Friday. Any holiday falling on a Sunday shall be celebrated on the following Monday. (Ord. 2291. Passed 12-12-11.)

159.06 VACATIONS.

(a) All regular full-time employees of the Village who have been in the continuous employment of the Village for twelve months or more, preceding January 1, whether employed on a monthly salary basis or at a hourly rate of pay, shall be allowed an annual vacation with pay of one (1) normal work week (40 hours). All regular full-time employees who have been employed for less than twelve months preceding January 1 will receive three and a third (3.3) hours vacation pay for each month of employment during the previous year up to a maximum of one (1) week (40 hours). Part-time employees' years of service shall be calculated based upon the following formula: for every two (2) years of part-time service, (1) year of full-time service credit shall be granted as it relates to vacation time.

(Ord. 2161. Passed 12-8-08; Ord. 2174. Passed 1-12-09.)

(b) All full-time employees who have been in the employment of the Village for two (2) years or more of continuous service shall be granted two (2) weeks of vacation with pay. After three (3) years of continuous service in the employment of the Village, service time shall be calculated on the year your employment started, not on the actual month. After eight (8) years of continuous service, they shall be granted three (3) weeks of vacation with pay. After fifteen (15) years of continuous service, they shall be granted four (4) weeks of vacation with pay. After twenty (20) years of continuous service, they shall be granted five (5) weeks of vacation with pay. All earned vacation shall become effective on January 1 after the completion of such year of service.

(c) The basis of computing the compensation of an employee who works on an hourly rate of pay, for the period of his or her respective vacation, shall be at the normal straight time earnings of the particular employee working a full week at the hourly rate fixed for his or her employment in the particular Village department where employed.

(d) Each person having charge of a department of the Village wherein there are other employees under the supervision of such person, shall arrange a schedule of vacations as nearly as possible to conform the proper functioning of the particular department, as well as to suit the convenience of the respective employees.

(e) Vacations may not be accumulated and shall be taken not later than the end of the subsequent year of service for which the vacation was earned, unless an extension is authorized by Council.

(f) An employee whose employment with the Village is terminated, or upon retirement, shall be paid for vacation time earned the previous year but not yet taken, and for vacation time earned but not yet taken in the year of retirement. Compensation shall be calculated by dividing the employee's bi-weekly wage by the number of hours normally worked bi-weekly, times the unused hours of vacation, provided that the employee has twelve months or more continuous service.

(g) Vacation allowance calculated pursuant to subsection (f) hereof shall be paid to the estate or to the executor or administrator of the estate of a deceased employee.

(h) Any hours worked while on vacation shall be paid at one and one half times the normal hourly rate of pay in addition to the vacation pay.

(i) Vacation hours shall be counted as hours worked for overtime purposes, but shall not be counted for sick leave credits. (Ord. 2161. Passed 12-8-08.)

159.07 HOSPITALIZATION.

(a) All full-time employees shall be entitled to have the premiums for their personal or immediate family plan hospitalization insurance paid by the Village. The premiums shall be paid eighty-five percent (85%) by the Village and fifteen percent (15%) by the employee.

(b) All part-time employees shall be entitled to purchase personal or immediate family plan hospitalization insurance through the Village plan at the employee's expense.
(Ord. 2161. Passed 12-8-08.)

159.08 SICK LEAVE.

(a) Each full time employee shall be entitled for each completed eighty (80) hours of service to sick leave of three and one tenth (3.1) hours with pay.
(Ord. 2161. Passed 12-8-08.)

(b) EDITOR'S NOTE: Subsection (b) hereof was deleted by Ordinance 2380.

(c) Accumulation.

- (1) A full-time employee (except an elected official) shall accumulate sick leave without limit at the rate of 3.1 hours each 80 hours worked.
- (2) A part-time employee shall not accumulate sick leave.

(d) Usage.

- (1) Sick leave shall be charged at a minimum of one hour, exact time for anything over an hour, and eight hours for one work day.
- (2) An employee shall be charged for sick leave only for days upon which he or she would otherwise have been scheduled to work.
- (3) Sick leave may be granted for the following reasons:
 - A. Illness, pregnancy and/or childbirth, injury of the employee or a member of the employee's immediate family which requires the employee's presence;
 - B. Death of a member of the employee's immediate family (see Section 159.22 for provisions regarding funeral leave);
 - C. Medical, dental or optical examination or treatment of an employee or a member of the employee's immediate family, which requires the employee's presence and which cannot be scheduled during nonworking hours; or
 - D. Contagious disease of an immediate family member which requires the care and attendance of the employee, or if, through exposure to the contagious disease, the presence of the employee at work would jeopardize the health of others.
- (4) Sick leave benefits shall become available for use by employees after one year of service.

(e) Employer's Rights.

- (1) The Village may require the employee to furnish a standard written statement on a form provided by the Village to justify the use of sick leave.
- (2) The Village may require the employee to present a certificate stating the nature of the illness from a licensed physician, dentist or chiropractor, for any illness of more than three days duration.
- (3) In addition to the other provisions of this subsection, when an employee misses work because of an injury or disability, whether job related or not, the employee may be required to provide the employer with a physician's statement that the employee is not physically fit to perform the duties of the employee's job.
- (4) When sick leave is requested to care for a member of the employee's immediate family, the employer may require a physician's statement to the effect that the presence of the employee is necessary to care for the ill person.

(f) Payment.

- (1) Payment of sick leave shall be at the employee's base rate.
- (2) Unused sick leave payments shall be made for the following reasons:
 - A. Upon the death of an employee, the Estate may request and receive pay for one-fourth the value of accumulated but unused sick leave not to exceed 30 full days pay (240 hours). Request must be made within six months of the death.
 - B. For an employee who retires after 10 years of service with the Village, may, upon request, receive pay for one-half of the value of accumulated but unused sick leave not to exceed 60 full days pay (480 hours).
- (3) Payments made to an employee shall be made within one year after the employee's last day of regular employment. Such payments shall be made in one or more installments and shall not be less frequent than quarterly. Payments for accumulated sick time shall not bear interest.
- (4) An employee who transfers in from another public agency within the State shall not be credited with the earned but the unused balance of the employee's accumulated sick leave.
- (5) An employee who transfers employment to another public agency or is re-employed by another public agency within thirty days after termination with the Village shall transfer the unused balance of the employee's accumulated sick leave credits to the public agency to which the employee transfers.

(g) Sick Leave Sell-Back.

- (1) Any full-time employee, not on probation, who has accumulated and not used earned sick leave shall be eligible to sell back to the Village at a rate of pay equal to 50% of said unused sick leave not to exceed 30 days payment (240 hours). Any employee, who is not on probation, who is eligible to sell back sick leave under this section shall notify the Village Clerk-Treasurer, by December 1 of each calendar year as to how much accumulated and unused sick leave, if any, the employee desires to sell back. The compensation for any such sick leave sold back to the Village shall be paid to the employee by January 30 of the following year.

- (2) Any employee who subscribes to the sick leave sell-back plan as provided in division (g)(1) of this section shall have their accumulated days of unused sick leave for which they would be entitled to be paid under division (f) of this section reduced for each day of sick leave they sell back to the Village under division (g)(1) of this section.
(Ord. 2153. Passed 10-13-08.)
- (h) Sick Leave Donation Policy.
- (1) Purpose: The intent of the sick leave donation policy is to allow employees to voluntarily provide assistance to their co-workers who are in critical need of leave due to an extended illness or injury of the employees or a member of the employee's immediate family.
- (2) Definitions: For the purpose of this policy the following shall apply:
- A. Donee: The employee in need of and approved to receive donated sick leave.
- B. Donor: The employee volunteering to donate sick leave.
- C. Immediate family: Father, mother, spouse, child, stepchild, grandchild, a legal guardian or any other person who stands in place of a parent (loco parentis).
- D. Serious health condition: An illness, injury, impairment, or physical/mental condition that involves a period of incapacity or treatment that requires absence from employment and involves care by a health care provider. Serious health condition also includes continuing treatment of chronic or long-term incurable conditions and prenatal care.
- E. Spouse: A legally recognized husband or wife.
- F. Policy: Employees may donate accrued sick leave to a fellow employee who is otherwise eligible to accrue and use sick leave. The intent of the leave donation policy is to allow employees to voluntarily provide assistance to their co-workers who are in critical need of leave due to an extended serious health condition of the employee or a member of the employee's immediate family. This policy is established pursuant to Ohio R.C. 124.391.
- (3) Hours donated: Any units donated shall be donated at a rate of pay equal to that of the donor for each day of sick leave to be donated.
- (4) Receiving leave: An employee may receive donated units up to the number of units the employee is normally scheduled to work each pay period. To receive donated units the member or a member of the employee's immediate family has a serious health condition and the employee:
- A. Has no accrued paid leave; and
- B. Has completed his or her new hire probationary period; and
- C. Has exhausted any paid leave, Workers' Compensation, or benefits program for which the employee is eligible; and
- D. Has applied for Family and Medical Leave;¹ and
- E. Has not been disciplined for the improper use of sick leave during the past three (3) year period; and
- F. Has provided acceptable written verification that a serious health condition exists; and
- G. Agrees to accept the leave under the terms of this policy and completes an "Application to Receive Donated Leave" form.

- (5) Donating leave: Employees may donate leave if the donating employee:
- A. Voluntarily elects to donate sick leave and does so with the understanding that donated leave will not be returned; and
 - B. Retains a sick leave balance of at least 144 hours; and
 - C. Completes an “Application to Donate Leave” form.
- (6) Administration: The sick leave donation program shall be administered on a pay period to pay period basis. The Employer shall review the Application to Receive Donated Sick Leave and the Application to Donate Sick Leave to assure compliance with subsections (h)(4) and (5) of this policy. Donations of sick leave will be recorded in the order of their submission, and will not be considered actually donated nor be deducted from the donor’s balance or credited to the donee’s balance until the pay period such leave is actually used. Unused donation applications shall be returned to the donor. Employees using donated leave shall be considered in active pay status and shall accrue leave and be entitled to any benefits to which they would otherwise be entitled. Vacation and sick leave accrued by an employee while using donated sick leave shall be used, if necessary, in the following pay period before additional donated sick leave may be received. The Employer shall maintain records that are necessary for the administration of this program. The Employer reserves the right to discontinue the program at any time.
- (7) Certification. Employees who wish to donate sick leave units shall certify:
- A. The name of the employee for whom the donated leave is intended; and
 - B. The number of days to be donated; and
 - C. That the employee will have a minimum sick leave balance after donation of at least 144 hours; and
 - D. That the sick leave is donated voluntarily and the employee understands that it will not be returned.
- (8) Confidentiality: The Employer shall ensure that no employees are forced to donate leave. The Employer shall respect an employee’s right to privacy; however, the Employer may, with the permission of the employee who is in need of leave or a member of the employee’s immediate family, inform employees of their co-worker’s critical need for leave donations from the employees. The donation of sick leave shall occur on a strictly confidential and voluntary basis.
- (9) Applications: An employee wishing to donate or receive donated sick leave should request the appropriate application from his immediate supervisor. (Ord. 2240. Passed 3-22-10.)

¹ Leave taken under this program will be included in and subject to the twelve (12) week entitlement under the Family and Medical Leave Act.

159.09 DRUG TESTING POLICY.

There shall be a Village drug testing policy as follows:

- (a) Pre-employment drug-testing shall be required for all newly hired employees of the Police, Fire and Service Departments and dispatchers.
- (b) There may also be drug testing required with cause for all nonelected employees. Elected officials are governed by the Ohio Revised Code.

- (c) The Mayor shall determine the date of testing and who shall submit to a drug test for cause, upon recommendation of a department head or upon the Mayor's own initiative. Before ordering a drug test, the Mayor must have in his or her possession a written description of all the incidents that make up the cause for the test.
- (d) The Village will have random drug testing for all Village Employees.
- (e) All positive test results shall result in:
 - (1) A suspension from work of a minimum of thirty days or a voluntary minimum thirty-day leave of absence if the person comes forth and admits to a drug problem.
 - (2) The time off shall be without pay.
 - (3) If a person is ordered to take a drug test, the Mayor may suspend such employee until he or she receives the results. If said employee tests negative and no illegal drugs are found in said person's system, then said employee shall be paid his or her normal wages for scheduled time lost from work.
 - (4) A person who has previously tested positive must pass one drug test with the date picked by the Mayor before he or she may return to work. This test will be at his or her own expense. The Mayor may order random drug testing for such person for up to two years after the first negative test result.
 - (5) Any employee shall have the opportunity to challenge a positive analysis result by use of a legally competent test or tests.
- (f) As used in this chapter the following terms are defined as follows:
 - (1) Employees are all nonelected personnel who are subject to Federal and/or State withholding tax.
 - (2) A drug of abuse is as defined in Section 513.01 of the General Offenses Code.
 - (3) A positive test is one which shows that the person has a legally prohibited substance or drug of abuse in his or her body.
 - (4) A negative test is one which shows that no illegal substance or drug of abuse is present in his or her body.
 - (5) Cause includes, but is not limited to the following:
 - A. Accidents on the job;
 - B. Unauthorized leave;
 - C. Excessive sick leave,
 - D. Repeated absence of two to four days (including days before and after days off);
 - E. Excessive tardiness, especially after a day or weekend off or when returning from lunch;
 - F. Leaving work early;
 - G. Peculiar and increasingly improbable excuses for absences;
 - H. Continued absences from work station (more than required);
 - I. Difficulty in concentration;
 - J. Alternate periods of very high and very low work standards;
 - K. Suspected theft;
 - L. Coming to or returning to work in an obvious altered state, i.e. slurred speech, unsteady gait;
 - M. Generally lowered job efficiency;
 - N. Use of poor judgment;
 - O. Making bad decisions;
 - P. Complaints received from the public regarding the employee;
 - Q. Offering of improbable excuses for poor work performance;

- R. Inattentiveness, which results in mistakes;
 - S. Friction in employee relationships; and
 - T. Overreaction to real or imagined criticism.
- (Ord. 2161. Passed 12-8-08.)

159.10 EMPLOYMENT AND APPOINTMENT PRACTICES.

(a) All persons appointed to boards or commissions constituting a governing body of the Village shall be subject to confirmation by a majority of the members of Council present, unless a different procedure is mandated by State law.

(b) All persons employed, on any basis, by any officer, department head or other person in the Village shall be subject to confirmation by a majority of the members of Council present, unless a different procedure is mandated by State law.

(c) Any appointment or employment provided for in this section be it temporary, provisional or permanent, shall be presented to Council for consideration of confirmation. In the case of temporary or provisional employment, confirmation shall be made before employment is begun; in the case of permanent employment, confirmation shall be made within sixty days of the completion of the probationary period.

(d) No person shall be paid from Village funds for a period of more than sixty days after the completion of the probationary period, and before permanent appointment or employment by the Mayor with the confirmation of Council.

(e) All persons appointed or employed on an acting basis will be limited to serving three months, at which time the person shall either be removed from the position or presented to Council for confirmation on a temporary basis.
(Ord. 2161. Passed 12-8-08.)

159.11 BLANKET BOND.

There shall be a blanket bond policy in the amount of fifty thousand dollars (\$50,000) required for all Village officers and employees not otherwise specifically provided for.
(Ord. 2161. Passed 12-8-08.)

159.12 LIFE INSURANCE.

The Village is authorized to obtain, and the Clerk-Treasurer is authorized to pay for, on behalf of the Village, life insurance coverage for those employees whom the Village is obligated to provide health insurance coverage for by ordinance. Said life insurance, if purchased, must be purchased in conjunction with the purchase of said required health insurance benefits.
(Ord. 2161. Passed 12-8-08.)

159.13 PAYMENT OF COMPENSATION FOR CERTAIN OFFICIALS.

The Clerk-Treasurer is authorized to pay the Mayor, Council Members, the Village Administrator, the Solicitor, all other elected and appointed office holders who normally receive a salary, and any employees of the Village on a bi-weekly basis. The Village shall hereby have twenty-six (26) pay-periods annually.
(Ord. 2161. Passed 12-8-08.)

159.14 REIMBURSEMENT OF EXPENSES.

(a) Any expenses reimbursed to the Mayor, a member of Council, the President Pro-Tem of Council, the Clerk-Treasurer or the Village Administrator, and all other Village officials and employees, shall be supported by receipts in accordance with the provisions of the Ohio Revised Code.

(b) All expenses that have been reimbursed prior to the effective date of this section shall not be deemed improper merely because of a lack of supported receipts.
(Ord. 2161. Passed 12-8-08.)

159.15 EXPENSE ACCOUNTS.

The following Village officials are hereby entitled to reimbursement for Village related expenses up to the following amounts per year:

Mayor - \$1,200
Clerk-Treasurer - \$800.00
Council members - \$150.00
Village Administrator - \$600.00
Police Chief- \$600.00
Fire Chief- \$600.00
Residential Building Inspector - \$300.00
Commercial Building Inspector - \$300.00
Zoning Administrator - \$600.00

(Ord. 2161. Passed 12-8-08.)

159.16 AFTER-HOUR CALL-OUT PAY.

(a) Service Department Personnel. The minimum number of hours of work for which Service Department employees shall be paid for an after-hour call-out is three hours, or the actual number of hours worked, whichever is greater.

(b) Police Department and Fire Department Personnel. The minimum number of hours of work for which Police Department and Fire Department employees shall be paid for an after-hour call-out is three hours, or the actual number of hours worked, whichever is greater.

(c) After-Hour Call-Out Defined. As used in this section, "after-hour call-out" means any time that an employee of the Village is called to work, other than during his or her normal work hours, and in fact does such requested work. Such request to work must be made by the authorized Village department head.

(Ord. 2161. Passed 12-8-08.)

159.17 DEFERRED COMPENSATION.

(a) Municipal employees are hereby authorized to participate in the Ohio Public Employees Deferred Compensation Program.

(b) Municipal employees are hereby authorized to participate in the Equitable Life Assurance Society Deferred Compensation Program.

(Ord. 2161. Passed 12-8-08.)

159.18 COMPENSATORY TIME AND OVERTIME PAY FOR FIRE CHIEF, POLICE CHIEF, WATER AND STREET SUPERINTENDENT AND RESIDENTIAL BUILDING INSPECTOR. Overtime Pay For Full-Time Police Department Employees.

(a) The Fire Chief, the Police Chief, the Water and Street Superintendent and the Residential Building Inspector shall be given compensatory time or overtime pay for any authorized extra hours worked. Such extra hours shall be authorized and approved by the supervisor of each officer referred to herein.

(b) All full-time employees shall be paid one and one-half times their hourly rate for hours worked over 80 hours in a pay period. The use of vacation time during the pay period in which the overtime is accrued shall be considered hours worked and will be included for over-time calculation. (Ord. 2161. Passed 12-8-08.)

159.19 MERIT INCREASES.

A fifty cent (\$.50) maximum amount over the base rate of pay is hereby established for the purpose of merit increases for hourly workers. Merit increases are to be given only with the recommendation of the department head and with the approval of the Mayor. Evaluations, reviews and job descriptions must be completed for a whole department before an increase will be considered. (Ord. 2161. Passed 12-8-08.)

159.20 COMPENSATION FOR EXTRA SERVICES.

The Village shall, from time to time, by ordinance, establish a rate of compensation to be paid for any extra services provided by Police Department patrol officers or patrol vehicles, Fire Department Employees or Fire Department Equipment, or by Service Department employees or equipment. All such extra services shall be performed only at the direction of the Mayor or with the approval of the Mayor. (Ord. 2161. Passed 12-8-08.)

159.21 LONGEVITY COMPENSATION.

(a) Each qualified full-time employee shall be entitled to a longevity payment for each year said employee has worked continuously part-time and/or full-time for the Village of Sheffield.

(b) Full-time and part-time employees are hereby defined as set forth in Section 159.01.

(c) "Qualified employee" means an employee that is a current, full-time employee for the Village between the dates of November 1st and November 20th who has worked continuously part-time and/or full-time for at least six years.

(d) The longevity payment will be paid at a rate of seventy-five dollars (\$75.00) for each year of continuous employment and calculated from the year of employment, not the actual date or month of hire. (5th year = \$0.00; 6th year = \$450.00; 7th year = \$525.00; see Attachment A to Ordinance 2161 referenced herein and made a part hereof.)

(e) The longevity payments shall be separate checks to qualified employees between the dates of November 1st and November 20th no later than November 20th of the qualifying year. (Ord. 2161. Passed 12-8-08.)

159.22 FUNERAL LEAVE.

(a) Full-time employees, as defined in Section 159.01, shall be granted a paid three-day funeral leave for the death of an immediate family member upon meeting certain conditions as set forth below.

(b) For purposes of this section, "immediate family member" shall be defined as spouse, grandparents, grandparents-in-law, parents, parents-in-law, sibling, siblings-in-law, children and significant others.

(c) Funeral leave pay shall consist of payment for eight hours at said full-time employee's hourly rate, and shall count as hours worked for pay purposes and sick leave accrual purposes.

(d) Any holiday falling within the three-day funeral leave shall not replace any of the funeral leave time and shall be calculated for hours worked purposes, according to Section 159.05.

(e) Any employee requesting funeral leave shall, upon return to work and prior to being paid for said funeral leave, provide his/her supervisor with documentation of the death of said immediate family member, such as a clipping of the newspaper obituary notice or a copy of the death certificate.

(f) Any employee requiring extended travel time beyond the three-day funeral leave, shall be granted the necessary time, upon providing his/her supervisor with proof of travel arrangements and such extended time shall be without pay.
(Ord. 2161. Passed 12-8-08.)

159.23 TRANSITIONAL WORK.

(a) In the event that an employee suffers a work injury and, as the result of such injury, is not able to perform his/her normal job functions, the Village may assign such employee to perform Transitional Work, upon receipt by the Village of a written request by such employee that details the nature of the injury, the current course of treatment and prognosis for recovery.

(b) Transitional Work is work that:

- (1) An injured employee can perform without the risk of injury.
- (2) Is necessary; and
- (3) Allows the employee to continue working while he/she makes the transition back to his/her regular work duties and/or normal work schedule.

(c) Transitional Work is offered at the discretion of the Village. The maximum aggregate duration of Transitional Work assignments during any given year shall be six months.

(d) Once an employee has been assigned to perform Transitional Work, such employee shall not be permitted to return to the performance of his/her regular work duties and/or normal work schedule until such employee provides the Village with a written note or report from a qualified physician indicating that the employee is able to perform his/her normal work duties and/or normal work schedule. (Ord. 2161. Passed 12-8-08.)

159.24 CORRECTIVE BEHAVIOR AUTHORITY.

(a) The Police Chief or his/her designee shall have the authority to utilize the following corrective behavior methods in any order deemed necessary by a given violation from verbal counseling/discipline in include discharge.

- (1) Verbal counseling.
- (2) Written reprimand.
- (3) Discipline or time-off including discharge (must be by Mayor approval).
- (4) Paid Administrative leave for up to 96 consecutive scheduled work hours.

(b) Subsection (a)(3) hereof requires an immediate notification and a written report to the Mayor/Safety Director for further consideration/action.

(c) Nothing in the Corrective Behavior Authority shall prevent the Village of Sheffield from utilizations of the provision contained in Ohio Revised Code, Title 7.

(d) An employee subject to Corrective Behavior Authority provisions shall have the ability to address concerns in writing to the Mayor for review.
(Ord. 2161. Passed 12-8-08.)

159.25 POLICY ON EMPLOYEE USE OF VILLAGE-OWNED VEHICLES.

This written policy supersedes any and all prior policies of Sheffield Village with respect to Employee use of Village-owned vehicles (hereafter referred to as "Village-Owned Vehicles.").

(a) De Minimis Use. "De minimis" as used throughout this policy shall mean "occasional, infrequent or not routine". "De minimis" shall not mean more than once a month.

This policy applies as follows:

Vehicles owned or leased by Sheffield Village and dedicated to the service and use of Sheffield Village.

(1) Assigned vehicles to designated employees.

- A. The Village, as an Employer, provides vehicles assigned to certain Employees of Sheffield Village for business use as a condition of their employment;
- B. Said Employer provides Village-Owned Vehicles to be used by its Police Department and Fire Department since certain Employees are on-call 24-hours-a-day, seven days a week related to the law enforcement or investigations of criminal activity and/or acts of arson pursuant to the laws of the State of Ohio. Said Employees are required to commute to and from work in the Village-Owned Vehicle and, therefore, said Employees are required to commute in the vehicle for non-compensatory business reasons.
- C. Personal use other than commuting or de minimis personal use is prohibited. De minimis personal use, such as stopping for lunch between business trips during the normal course of conducting business, is an extension of business use and is not considered personal use.
- D. Employees who are furnished a Village-Owned Vehicle pursuant to this policy cannot be a control employee, as described under Treas. Reg. §§1.61.21(f)(5) and (6).
- E. Personal use of Village-Owned Vehicles is taxable and included in the Employee's gross income on Form W-2.
- F. Commuting does not qualify as de minimis personal use.
- G. Every Employee who may be provided a Village-Owned Vehicle shall sign a written acknowledgment with respect to the delivery and understanding of this written policy.

- (2) General purpose use vehicles.
- A. Employees, other than those designated as law and fire enforcement and/or investigatory Employees as provided in subsection (a)(1) hereof may use Village-Owned Vehicles upon approval of the Mayor or designee of the Mayor for general purposes.
 - B. General purposes shall include only uses necessary and beneficial to the business of Sheffield Village.
 - C. Employees provided a vehicle for general purposes may not use the vehicle for personal use, except de minimis use.
 - D. Commuting, except on a de minimis basis, is taxable to the Employee in the same manner as provided in subsection (a)(1) hereof.
- (b) Explanation of Policy.
- (1) There are at least three different valuation methods under Internal Revenue Service Regulations and the Internal Revenue Code of 1986 for computing taxable Employee personal use of Village-Owned Vehicles.
 - (2) The three special valuation rules include:
 - A. The automobile lease valuation rule,
 - B. The vehicle cents-per-mile rule, and
 - C. The commuting valuation rule.Treas. Reg. §1.61-21(c)(3)(ii) maintains that, in order to qualify for use of the special valuation rules, one of the following four (4) conditions must be satisfied:
 - 1. The employer treats the value of the benefit as wages for reporting purposes on a timely basis, which is the time for filing returns for the taxable year, including extensions, in which the benefit is provided;
 - 2. The employee includes the value of the benefit in income on a timely basis;
 - 3. The employee is not a control employee as described in Treas. Reg. §§1.61-21(f)(5) and (6), such as a highly-compensated employee (compensation greater than one hundred thousand dollars (\$100,000) in the case of a government employer; or
 - 4. The employer demonstrates a good faith effort to treat the benefit correctly for reporting purposes.Treas. Reg. §1.61-21(e)(2) defines a vehicle as any motorized wheeled vehicle, including an automobile, that is manufactured primarily for use on public streets, roads, and highways. Treas. Reg. §1.61-21(d)(1)(ii) defines an automobile as any four-wheeled vehicle manufactured primarily for use on public streets, roads, and highways.
- Sheffield Village has elected to use the commuting valuation method.
- (c) Commuting Valuation Rule. Under Treas. Reg. §1.61-21(f), personal use for commuting can be valued at one dollar and fifty cents (\$1.50) each way three dollars (\$3.00 a day), provided the following criteria are met:
- (1) The vehicle is owned or leased by the employer;
 - (2) The vehicle is provided to the employee for business use;
 - (3) The employer requires the employee to commute in the vehicle for valid non-compensatory business reasons;

- (4) The employer has a written policy prohibiting a person's use other than commuting or de minimis personal use;
 - (5) The employee does not use the vehicle for personal use; and
 - (6) The employee required to use the vehicle for commuting is not a control employee, as described under Treas. Reg. §§1.61 -21(f)(5) and (6), such as a highly compensated employee (compensation greater than one hundred thousand dollars (\$100,000)) in the case of a government employer.
- (d) Qualified Non-Personal Use Vehicles.
- (1) Temporary (Temp.) Treas. Reg. §1.274-5T(k)(ii) defines a qualified non-personal use vehicle as any vehicle that, by reason of its nature (design), is not likely to be used more than a de minimis amount for personal use. The recordkeeping and substantiation requirements of IRC §274(d) do not apply to qualified, non-personal use vehicles. Examples of such vehicles include clearly marked police and fire vehicles, certain unmarked vehicles used by law enforcement officers, tractors and other special purpose farm vehicles, qualified specialized utility repair trucks, flatbed trucks, dump trucks, and school buses.
 - (2) Temp. Treas. Reg. §1.274-5T(k)(iii) maintains that a police or fire vehicle is a vehicle that:
 - A. Is owned or leased by a governmental unit or instrumentality thereof,
 - B. Is required to be used for commuting by a police officer or fire fighter who is on call at all times,
 - C. Is prohibited to be used for personal reasons (other than commuting), and
 - D. Is clearly marked, if it is apparent that the vehicle is a police or fire vehicle, by means of painted insignia or words.(Ord. 2219. Passed 3-8-10.)

159.26 VOICE AND VIDEO TAPING.

Employees of the Village of Sheffield shall not secretly record or tape conversations with others by either audio or video means (including cellular telephones) while on duty or in any other capacity with the Village of Sheffield unless specifically authorized by the standard operating procedure of their department.

(Ord. 2464. Passed 1-26-15; Ord. 2490. Passed 7-27-15.)

159.27 FAMILY AND MEDICAL LEAVE.

(a) Any Employee ("Participant") who has worked for the Village for at least 12 months (this includes all time worked whether consecutive or not) and who has worked at least 1,250 hours in the previous 12-month period, is entitled to medical and family leave ("FMLA Leave") of up to 12 work weeks, without pay, for any of the following: (Whether an Employee has worked the minimum 1,250 hours of service is determined according to FLSA principles for determining compensable hours of work. The 1,250 hours include only those hours actually worked. Paid Time Off and unpaid time off, including FMLA leave, are not included.)

- (1) Birth of a child of the Participant, in order to care for such child;
- (2) Placement of a child with the Participant for adoption or foster care, in order to care for the child;
- (3) Serious health condition of a spouse, child or parent of the Participant, in order to care for that person; or

- (4) Serious health condition of the Participant which makes the Participant unable to perform the functions of his/her job.
- (5) Any period of incapacity or treatment connected with in patient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility;
- (6) Any period of incapacity requiring the absence of more than three calendar days from work that also involves continuing treatment by (or under the supervision of) a health care provider; or
- (7) Any period of incapacity for episodic or chronic conditions, including, e.g., mental illness, stroke, cancer, etc.; or
- (8) Any period of incapacity due to pregnancy, or for prenatal care.

FMLA Leave qualification will be determined by the Mayor/Safety Service Director based on information provided by the Employee or the Employee's representative and will be calculated based on a rolling 12-month leave period measured backward from the date an Employee uses any FMLA leave.

Participants are requested to provide the Village 30 days advance notice of the need to take FMLA Leave, when the need is foreseeable. In cases where the need was not foreseeable 30 days in advance, Participants are requested to provide as much notice as reasonably possible.

- (b) Definitions. As used in this section, the following definitions apply:
- (1) "Child" means a son or daughter who is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."
 - (2) "Employee" means an individual working for the Village of Sheffield and a member of the Ohio Patrolmen's Benevolent Association.
 - (3) "Health Care Provider" means:
 - A. Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices;
 - B. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors authorized to practice in the state and performing within the scope of their practice under state law;
 - C. Advanced practice registered nurses, nurse-midwives, and clinical social workers authorized to practice under state law and performing within the scope of their practice as defined under state law;
 - D. Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts;
 - E. Any health care provider recognized by the Employer or the Employer's group health plan's benefits manager; and,
 - F. A health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.
 - (4) "Incapable of self-care" means the individual requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living (caring appropriately for one's grooming and hygiene, bathing, dressing and eating) or instrumental activities of daily living (cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.)
 - (5) "Parent" means a biological parent or an individual who stands or stood in loco parentis to an Employee when the Employee was a son or daughter as defined in law. The term does not include parents "in law".

- (6) "Period of incapacity" means the time when an Employee is unable to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.
- (7) A "regimen of continuing treatment" includes a course of prescription medication, such as antibiotics, or therapy requiring special equipment to resolve or alleviate a health condition, such as oxygen therapy. A regimen of continuing treatment that includes the taking of over-the-counter medications, bed rest, drinking fluids, exercise or other similar activities, is not, by itself, sufficient to qualify an Employee for FMLA leave.
- (8) A "serious health condition" is defined as an illness, injury, impairment, or physical or mental condition that involves a period of incapacity or treatment following inpatient care in a hospital, hospice or residential medical care facility; a period of incapacity requiring more than three days absence from work and continuing treatment by a health care provider; or continuing treatment by a health care provider for a chronic or long-term health condition that is so serious that, if not treated, would likely result in incapacity of more than three days; or continuing treatment by or under the supervision of a health care provider for a chronic or long-term condition or disability that is incurable; or certain prenatal care.
- (9) "Spouse" means a husband or wife as defined or recognized under state law for purposes of marriage in the state where the Employee resides, including common law marriage.
- (10) "Continuing treatment by a health care provider" includes any time when requested leave is:
 - A. Associated with the same condition that involves treatment two or more times by a health care provider.
 - B. Treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under supervision of a health care provider.
 - C. Required due to pregnancy or for prenatal care.
 - D. Needed for any period of incapacity or for treatment due to a chronic serious health condition.
 - E. For periodic visits for treatment by a health care provider.
 - F. Continuing over an extended period of time (including recurrences).
 - G. Intermittent periods of incapacity that are due to a serious health condition.
 - H. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective, such as Alzheimer's Disease or stroke.
 - I. Any period of absence to receive multiple treatments (including a recovery period) by a health care provider, such as chemotherapy or dialysis.

(c) Family Medical Leave Act Military Family Leave Entitlements. Any Employee ("Participant") who has worked for the Village for at least 12 months (this includes all time worked whether consecutive or not) and who has worked at least 1,250 hours in the previous 12-month period, is entitled to family and medical leave ("FMLA Leave"), without pay, for any of the following: (Whether an Employee has worked the minimum 1,250 hours of service is determined according to FLSA principles for determining compensable hours of work. The 1,250 hours include only those hours actually worked. Paid time off and unpaid time off, including FMLA leave, are not included.)

Military Caregiver Leave: An eligible Employee who is a spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness is entitled to a maximum of 26 workweeks of unpaid leave during a "single 12-month period" to care for the service member.

Qualifying Exigency Leave: An eligible Employee is entitled to a maximum of 12 workweeks of unpaid leave for qualifying exigencies arising out of the fact that the Employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. The leave will be calculated based on a rolling 12-month leave period measured backward from the date an Employee uses any FMLA leave. This leave is available to a family member of a military member in the National Guard or Reserves; it does not extend to family members of military members in the Regular Armed Forces.

Qualifying exigencies include:

- Issues arising from a covered military member's short notice deployment (i.e. deployment on seven or less days of notice) for a period of seven days from the date of notification;
- Military event and related activities, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member;
- Certain childcare and related activities arising from the active duty or call to active duty status of a covered military member, such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attending certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the active duty or call to active duty of the covered military member;
- Making or updating financial and legal arrangements to address a covered military member's absence;
- Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member;
- Taking up to five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member;
- Any other event that the Employee and Employer agree is a qualifying exigency.

Participants are requested to provide the Village 30 days advance notice of the need to take FMLA Leave, when the need is foreseeable. In cases where the need was not foreseeable 30 days in advance, Participants are requested to provide as much notice as reasonably possible.

- (d) Definitions. As used in this section, the following definitions apply:
- (1) "Covered Service Member" means a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.
 - (2) "Serious injury or illness" is one that was incurred by a service member in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank, or rating.
- (e) Certification/Re-Certification.
- (1) In the case of FMLA Leave taken under either subsection (a)(3) or (4) above, certification from the health care provider of the medical necessity for the FMLA Leave will be required. The certification shall include: date on which the serious health condition commenced; probable duration of the condition; and appropriate medical facts within the knowledge of the health care provider regarding the condition.
 - (2) FMLA Leave taken under either subsection (c) above will also require certification. The certification shall include appropriate facts related to the particular qualifying exigency leave, including contact information if the leave involves meeting with a third party. When caring for a covered service member, certification should be completed by an authorized health care provider. A copy of an Invitational Travel Order (ITO) or Invitational Travel Authorization (ITA) issued to any member of the covered service member's family would also suffice as a form of certification.
 - (3) In the case of foreseeable FMLA Leave, a Participant who fails to provide timely certification after being requested by the Village to furnish such certification within 15 calendar days, (if practicable), may be denied the taking of FMLA Leave until the required certification is provided. When the need for FMLA Leave is not foreseeable, a Participant must provide certification within 15 calendar days after being requested to do so, or as soon as reasonably possible under the particular facts and circumstances. In the case of a medical emergency, it may not be practicable for a Participant to provide the requested certification within 15 calendar days. However, if a Participant fails to provide a medical certification within a reasonable time under the pertinent circumstances, the Village may deny the Participant's continuation of FMLA Leave.
 - (4) The Village may require the Employee to provide periodic reports during the period of leave of the Employee's status and intent to return to work. If the Village requests the reports verbally from the Employee, the Village will follow up with a written statement of the requirement(s).
 - (5) The Village may, at its own expense, require the Employee to obtain a second opinion from a health care provider for FMLA Leave taken under either subsection (a)(3) or (4) above.
 - (6) If the opinions of the Employee's and the Employer's designated health care providers differ, the Village may require the Employee to obtain certification from a third health care provider, again at the expense of the Village. This third opinion shall be final and binding. The third health care provider must be approved jointly by the Village and the Employee.

- (7) The Village must provide the Employee with a copy of the second and third medical opinions upon request by the Employee within two business days, unless extenuating circumstances prevent such action.
 - (8) The Village is not permitted to request second and third opinions or recertification of a covered service member's serious injury or illness or of a qualifying exigency for FMLA Leave taken under either subsection (c) above.
 - (9) An Employee will be required to submit a new Certification for the first FMLA absence in each FMLA year. The FMLA year will be calculated based on a rolling 12-month leave period measured backward from the date an Employee uses any FMLA leave.
 - (10) Any Participant who takes FMLA Leave for the Participant's own serious health condition that makes the Participant unable to perform his or her job, must obtain and present certification from the health care provider that the Participant is able to resume work, with or without reasonable accommodation.
- (f) Continuation Of Health Care And Other Benefits.
- (1) During FMLA Leave, the Village will continue payment of any insurance premiums for continuation of health insurance coverage for the Participant (including family coverage if Participant is on the family plan). Any share of health plan premiums which are paid by the Participant prior to FMLA Leave must continue to be paid by the Participant during FMLA Leave. If premiums are raised or lowered on the group health insurance coverage while the Participant is on FMLA Leave, the Participant will be required to pay the new premium rates. However, if the Participant fails to return from FMLA Leave after the period of FMLA Leave entitlement has expired, the Village may recover the premiums paid on the Participant's behalf during FMLA Leave, unless the Participant fails to return to work due to continuation, recurrence or onset of a serious health condition that entitles the Participant to FMLA Leave under subsection (a)(3) or (4) above, or for other circumstances beyond the control of the Participant.
 - (2) If FMLA Leave includes substituted paid leave entitlement (i.e. use of paid time off), the Participant's share of premiums for group health coverage will be paid in the usual manner through payroll. When paid leave entitlement expires, payment of Participant's portion of the health plan premium as well as any optional life or disability premiums must be made to the Village by the Employee by the 15th of each month.
 - (3) Accrued paid time off (sick time, vacation time and compensatory time) must be used concurrent with FMLA Leave until the available balance is completely used. Per the Village's standard policy on paid time off, new paid time off is earned for time worked and years of service credit will accrue during FMLA Leave under this policy if using paid time off during FMLA Leave. Any FMLA Leave time taken without using paid time off will not accrue paid time off but will provide credit towards years of service.
 - (4) Your right to continue participation in, or coverage under, any other benefit plan during FMLA Leave is subject to any restrictions, limitations or conditions contained within the particular Village benefit plan or in any contract between the Village and any third party under which the benefit is established or provided.

- (g) Return to Work.
- (1) Upon expiration of the period of FMLA Leave entitlement, the Participant will resume his/her position with the Village, or an equivalent position with equivalent benefits, pay and other terms and conditions of employment. The Participant shall be reinstated at the same pay, benefits, and seniority and subject to all terms and conditions of the position at the time Participant went on FMLA Leave, and shall be credited with years of service accrued and credited immediately prior to commencement of FMLA Leave for purposes of determining benefit levels under the Village's benefit programs, subject to any present or future restrictions, limitations, or conditions of such benefit programs.
 - (2) The Village may require periodic reports from a Participant on FMLA Leave regarding the Participant's status and intent to return to work. If the Participant provides a statement of intent to return to work, even if the statement is qualified, entitlement to FMLA Leave and maintenance of health benefits will continue. However, if the Participant gives an unequivocal notice of intent not to return to work and/or fails to return to work without notice, the obligations of the Village to provide health benefits (except pursuant to COBRA requirements) and to restore the Participant to work will end.
- (h) Spouses as Participants.
- (1) Where spouses are both employed by the Village and are otherwise eligible for FMLA Leave, the aggregate number of work weeks of FMLA Leave to which both may be entitled is limited to 12 workweeks during any 12-month period for FMLA Leave taken under subsection (a)(3) and (4) above.
 - (2) Spouses are limited to a combined total of 26 workweeks in a "single 12-month period" for FMLA Leave taken under Section 3 above and for FMLA Leave taken under subsection(a)(3) and (4) above.
- (i) Intermittent or Reduced FMLA Leave.
- (1) When medically necessary for the illness of a spouse, child, parent or Participant him/herself, or to care for a covered service member or a qualifying exigency, a Participant may take FMLA Leave on an intermittent or reduced FMLA Leave basis. The total amount of workweeks available to an Employee in a 12-month period will be based on the type of FMLA Leave for which the Employee is eligible. When a Participant requests such intermittent or reduced FMLA Leave schedule, the Village may require that the Participant transfer temporarily to an available alternative job position for which the Participant is qualified, at equivalent pay and benefits, where such transfer better accommodates recurring periods of FMLA Leave of the Participant. For FMLA Leave that is foreseeable for planned medical treatment, Participant must make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the Village, and shall provide wherever possible at least 30 days notice before the date FMLA Leave is to begin.
 - (2) Intermittent or reduced FMLA Leave can include such things as doctor appointments for prenatal care, treatment for chronic illnesses, etc.

- (3) An Employee under intermittent FMLA leave for a long-term condition other than FMLA Leave taken under subsection (c) above, will be required to submit Medical recertification every thirty (30) days provided the Employee has been absent since the last re-certification was completed.
- (4) An Employee will also need to submit a Medical recertification in the event the Employee's need for leave changes, other than FMLA Leave taken under subsection (c) above, (e.g., a need for more frequent time off or for a longer duration each occasion than stated in the most recent Certification).

(j) Misuse or Abuse of FMLA. FMLA leave abuse occurs when an Employee uses leave for unauthorized purposes or misrepresents the actual reason for charging an absence to FMLA leave. Abuse is cause for discipline, up to and including dismissal. (Ord. 2494. Passed 6-22-15.)

159.28 CREDIT CARD/PURCHASING CARD POLICY.

The Credit Card/Purchasing Card Policy, attached to original Ordinance 2483 and marked as Exhibit A and incorporated herein by reference, is hereby established as the policy for the Village of Sheffield. (Ord. 2483. Passed 4-13-15.)

TITLE SEVEN - Boards and Commissions

Chap. 169. Planning Commission.

Chap. 179. Records Commission.

**CHAPTER 169
Planning Commission**

169.01 Establishment.

169.02 Membership; compensation.

169.03 Powers and duties generally.

169.04 Height, design and location of buildings.

169.05 Developer's Agreement.

CROSS REFERENCES

Plat approval required - see Ohio R.C. 711.09

Planning Commission shall be Platting Commission - see Ohio R.C. 713.03

Planning Commission to control buildings - see Ohio R.C. 713.04

Amendments of Zoning Code - see P. & Z. Ch. 1111

169.01 ESTABLISHMENT.

There is hereby established a Planning Commission in the Village in accordance with the provisions of Ohio R.C. 713.01 et seq. (Ord. 127. Passed 11-19-46.)

169.02 MEMBERSHIP; COMPENSATION.

The Planning Commission shall consist of five members, as follows: the Mayor, one member of Council to be selected by Council for the remainder of his or her term as a member of Council, and three citizens of the Village who shall be appointed by the Mayor for terms of six years each, except that the term of one of the members first appointed shall be for four years and one for two years. All of such members shall serve without compensation. The members of Council, at the first meeting of Council in January following their election, shall choose one of their number to serve as a member of the Planning Commission as provided for herein.

169.03 POWERS AND DUTIES GENERALLY.

The Planning Commission shall have and exercise all of the powers and authority and shall perform all of the duties of similar commissions, under and in accordance with the provisions of Ohio R.C. 713.01 et seq. and other relevant provisions of the Ohio Revised Code.
(Ord. 127. Passed 11-19-46.)

169.04 HEIGHT, DESIGN AND LOCATION OF BUILDINGS.

Council hereby authorizes the Planning Commission to control the height, design and location of buildings in accordance with the provisions of Ohio R.C. 713.07 through 713.09 and other relevant provisions of the Ohio Revised Code.
(Ord. 127. Passed 11-19-46.)

169.05 DEVELOPER'S AGREEMENT.

The Mayor and Clerk/Treasurer are authorized to enter into a Developer's Agreement and a Performance Bond on behalf of the Village of Sheffield, Ohio with future Developers in the Village, the terms and conditions of which shall be substantially similar to the terms and conditions that are contained in the form Developer's Agreement attached hereto as Exhibits A and A-1 and incorporated herein by reference.
(Ord. 1992. Passed 10-25-04.)

EXHIBIT A

DEVELOPER'S AGREEMENT

THIS AGREEMENT is entered into by and between _____, an Ohio corporation, hereinafter referred to as "Developer", and the VILLAGE OF SHEFFIELD, Lorain County, Ohio, hereinafter referred to as "Village". "Council" as referred to herein, shall refer to the Village Council of Sheffield, Lorain County, Ohio, and "Village Engineer" shall refer to the Consulting Engineer of the Village of Sheffield, Lorain County, Ohio or the Engineer designated by Village Ordinance.

WHEREAS, engineering estimates to construct improvements have been agreed upon between the Developer and the Village Engineer; and

WHEREAS, Developer desires to construct aforementioned improvements under terms of this Developer's Agreement; and

WHEREAS, Village is willing to agree to such provisions as are necessary for the construction of said improvements as set forth herein;

NOW, THEREFORE, IT IS HEREBY AGREED BY THE DEVELOPER AND THE VILLAGE OF SHEFFIELD, LORAIN COUNTY, OHIO:

1. Construction of Improvements.

Said Developer is to construct and install according to specifications all improvements described in the Engineer's plan, a copy of which must be submitted to the Village on or before the date on which the parties enter into this Agreement.

2. Engineer's Estimation of Cost of Improvements.

The Village Consulting Engineer has reviewed the estimated costs of construction of improvements as submitted by the Developer's Engineer and concurs with said estimated cost in the amount of _____ Dollars (\$_____).

3. Performance Bond Agreement.

Within Thirty (30) days after the date on which the parties enter into this Agreement, Developer shall provide a financial guarantee of performance to the Clerk-Treasurer of the Village of Sheffield in the form of a Performance Bond, a copy of which is attached hereto as Exhibit A-1, in the amount of _____ (\$_____) which is One Hundred Ten (110%) percent of the total Engineer's estimate of costs.

This financial guarantee shall be released to Developer upon completion of all improvements to be accepted by the Village for this phase to the satisfaction of the Village Engineer and upon passage of Ordinance by Council accepting improvements.

4. Deposit for Engineering Fees.

Prior to an ordinance to accept improvements being placed on Council's agenda, the Developer shall deposit the sum of _____ Dollars (\$_____) with the Clerk-Treasurer of the Village of Sheffield to cover the Engineering Fees commensurate with the work performed, including Engineer's inspection fees. Should actual expenses exceed the required deposit, all fees must be paid to the Village prior to final acceptance of improvement for the development. The Village reserves the right, at any time, to demand additional funds be deposited under this section should the Clerk-Treasurer determine that remaining funds are insufficient to cover current or future engineering fees. No additional work shall be performed on the project until such time as the additional funds are deposited. Failure to make the required deposits with the Clerk-Treasurer within three (3) business days of said Director's written request shall constitute and be considered cause for the Village to suspend any further development by the Developer until such time that Developer is in full compliance with this Section.

Any deposit over and above actual expenses for these improvements shall be retained by the Village and shall be released to the Developer after the completion of all improvements to the satisfaction of the Village Engineer for the entire development.

5. Deposit for Legal Fees.

Prior to an ordinance to accept improvements being placed on Council's agenda, the Developer shall deposit the sum of _____ Dollars (\$_____) with the Clerk-Treasurer of the Village of Sheffield to cover the legal expenses commensurate with the work performed. Should actual expenses exceed the required deposit, all fees must be paid to the Village prior to final acceptance of improvements. The Village reserves the right, at any time, to acquire additional funds to be deposited under this section should the remaining funds be insufficient to cover legal fees. Any deposit over and above actual expenses for the improvements shall be retained by the Village and shall be released to the Developer after the completion of all improvements to the satisfaction of the Village Engineer and upon approval by the Solicitor.

6. Deposit for Miscellaneous Costs. (AS APPLICABLE)

In order to provide the Village with adequate funds to cover miscellaneous costs incurred by the Village relating to the improvements, the Developer shall deposit the sum of _____ Dollars (\$_____) with the Clerk-Treasurer of the Village of Sheffield prior to acceptance of improvements by Village Council. This deposit must be made prior to an ordinance to accept improvements being placed on Council's agenda for action. This deposit shall be held by the Clerk-Treasurer for a period of three (3) years from the date of acceptance of the improvements.

7. Indemnification and Liability Insurance. (AS APPLICABLE)

The Developer hereby agrees to hold the Village of Sheffield, its officers, directors, agents and employees harmless and to indemnify them against all claims, expenses and liability as a result of loss or injury arising out of the clearing of land or construction of the improvements.

Prior to the commencement of any work or construction on the Development site, Developer agrees to provide the Village with proof of One Million Dollars (\$1,000,000.00) liability insurance protecting the Village from liability arising out of the development of the improvements. Developer shall not allow this insurance to expire earlier than the effective period of any maintenance bond, and shall provide a copy of the insurance policy to remain, at all times, with the Clerk-Treasurer of the Village.

8. Title Insurance. (AS APPLICABLE)

Prior to recording of the final Plat, the Developer shall furnish title insurance in the amount of _____ Dollars (\$_____), covering the lands to be dedicated to the Village of Sheffield as indicated on the final Plat and showing the unencumbered, legal title to such dedicated lands in the name of the Village when the final Plat is filed for record.

9. Maintenance Bonds.

Prior to acceptance of dedication of improvements by the Council of the Village of Sheffield, Developer shall deposit with the Clerk-Treasurer a Three (3) year maintenance bond for streets, pavement, storm and sanitary sewers, water systems, street lighting systems and facilities appurtenant thereto in the amount of _____ Dollars (\$_____).

10. Sidewalk. (AS APPLICABLE)

Developer's estimated cost for sidewalk and bike path is _____ Dollars (\$___). Should sidewalks not be constructed at the time of acceptance of improvements by Village Council, the Developer shall deposit with the Clerk-Treasurer a cash deposit in the amount of _____ Dollars (\$___) which is 150% times the Developer's estimate. This deposit must be made prior to an ordinance to accept improvements being placed on Council's agenda for action. The Developer will be entitled to incremental refunds of 25% of the total amount deposited upon installation of each quarter (1/4) of the total sidewalk/bike path to be installed and upon verification of same by the Village Administrator and/or the Village Engineer.

Developer must install sidewalks within Thirty (30) months of the date in which the Village passes an Ordinance accepting improvements. In the event that sidewalks are not installed within this period, the sidewalk deposit shall be forfeited and the Village shall install the sidewalks and charge to the Developer any additional costs incurred not covered by the sidewalk deposit.

11. Tree Deposit. (AS APPLICABLE)

Prior to an ordinance to accept improvements being placed on Council's agenda, Developer will deposit with the Clerk-Treasurer of the Village of Sheffield the sum of _____ Dollars (\$___) to assure compliance with the requirement of planting of One (1) tree per subplot (\$150 x 30) in the development. The bond will be released by the Clerk-Treasurer upon verification by the Village Engineer that trees have been planted in compliance with this Agreement and the Codified Ordinances of the Village of Sheffield.

12. Deposit for Traffic Control Devices. (AS APPLICABLE)

Prior to an ordinance to accept improvements being placed on Council's agenda, the Developer shall be required to deposit with the Clerk-Treasurer the amount of _____ (\$___) Dollars (\$25 x ___), to be held by the Village for a Two (2) year period commencing with the passage of the Ordinance accepting such improvements. Said sum shall be expended by the Village exclusively for the costs of placement of traffic control devices, as shall be determined by the Director of Public Safety, within the development.

At the expiration of this Two (2) year period, any amount remaining on deposit with the Village shall be refunded to the Developer with the approval of the Safety Director.

13. Sublots Within Floodplain. (AS APPLICABLE)

Developer agrees not to convey any interest in any subplot which is within the floodplain as determined by the current Federal Emergency Management Agency (FEMA) map nor shall any Building Pennit be granted until the Developer obtains permission and authority from FEMA to proceed. Violation of this Section of this Developer's Agreement shall constitute and be considered cause for the Village to suspend any further development by the Developer until such time as these additional funds are deposited and Developer is in full compliance with this Section.

14. Model Home. (AS APPLICABLE)

The Village of Sheffield hereby grants Developer an exception to the Village Subdivision regulations allowing a building pennit for construction of Two (2) model homes in the development, after construction of the utilities and street in front of the model home(s) but prior to acceptance of dedication of improvements by the Village. A sidewalk shall be constructed in front of the model home(s) immediately upon completion of the model home(s). No occupancy permit will be issued for the model home until construction of improvements in the development, and acceptance of dedication of improvements in the development by the Village.

15. Assessments. (AS APPLICABLE)

Prior to the Developer presenting the final plat for recording with the County Recorder's Office, Developer agrees to pay all outstanding assessments to the appropriate governmental entity. Proof that said assessments have been paid must be submitted to the Clerk-Treasurer in order for an ordinance to accept improvements to be placed on Council's agenda.

16. Payment or Satisfaction of Delinquent or Outstanding Obligations. (AS APPLICABLE)

Unless otherwise specified in this document, prior to Council's acceptance of improvements by ordinance, any monies owed by the Developer to the Village of Sheffield, as determined by the Village Clerk-Treasurer, and which remain unpaid, shall be paid by the Developer or approved as satisfied by the Village Clerk-Treasurer.

17. Time for Completion of Improvements.

All improvements are to be completed within a period of _____ (__) months from the date on which the parties enter into this Agreement unless Council extends this period of time by legislative action. In the event that construction of improvements is not instituted within this _____ (__) month period or within the period pursuant to an extension granted by the Village, Developer shall, if requested by the Village Engineer, provide new engineering estimates of cost of construction of improvements and the Village Engineer may require, if necessary, the performance bond, maintenance bond and engineering and legal fee deposits to be updated to reflect the revised Engineer's estimate of cost.

18. Actual Costs of Improvements.

The Developer, prior to passage of an Ordinance accepting improvements, shall submit to the Clerk-Treasurer of the Village the actual costs of improvements itemized as to roadway (length, width, type, unit cost, street name), traffic control (signalization, location, cost), sanitary sewers (length by size, unit cost, street location), storm sewers (length by size, unit cost, street location) water distribution (length by size, unit cost, street location), park/bike trail(s) (if applicable, length, width, unit cost, location) and pump station(s) (if applicable, cost, location, description) that are to be accepted by the Village. The costs for these items shall include all incidentals such as hydrants, valves, manholes, catch basins, etc., as necessary to construct the improvement.

19. Engineer's As-Built Plans.

Developer shall file with the Village its Engineer's as-built plans within Ninety (90) days from the date of the Village's acceptance of improvements.

20. Storm Water Detention and Fee.

Due to the location of this Development, the Village Consulting Engineer requires an on-site storm water detention basin.

21. Storm Water Detention Area, Common Areas and Easements. (AS APPLICABLE)

Developer shall require the formation of a Homeowner's Association which shall assume responsibility for all maintenance, upkeep, repair, replacement and management of the storm water detention area or other common area. The rules of the Homeowner's Association shall prohibit the construction of any improvement or structure or the retention of any obstruction of any kind in the storm water detention area, common areas or easements. Said rules shall include the establishment of a special fund approved by the Village Engineer and Solicitor for the sole purpose of maintaining the storm water detention area and its pertinent easements. Prior to recording of the final Plat, the rules or bylaws of the Homeowner's Association shall be approved by the Village Solicitor, and reference to the rules or bylaws of the Homeowner's Association shall be contained in the recorded Plat. All conveyances by the Developer shall contain deed restrictions referring to the requirement of membership in the Homeowner's Association. Should the Homeowner's Association fail to maintain the storm water detention area or other common areas, the Village may enter upon the land and perform any necessary maintenance, repair or replacement, and shall charge all costs incurred by the Village, including legal and engineering fees, to the Homeowner's Association and/or the individual property owners. Easements for this purpose, acceptable to the Village Engineer and Solicitor, shall be provided by Developer. Compliance with this Section shall be a condition precedent to issuance of Building Permits.

22. Maintenance and Repair of Storm Sewers Not Located on Village Right-of-Way.
(AS APPLICABLE)

The Homeowner's Association and individual property owners shall be responsible for the maintenance and repair of all storm sewers located within the development other than those located within the Village right-of-way. In the event that the Homeowner's Association or property owners fail to keep in good repair and maintain said storm sewers, the Village, upon notice to the Homeowner's Association, shall have the right to enter upon the developed lands and perform any repairs deemed necessary to avoid or abate any conditions which obstruct the flow of storm water in order to assure proper drainage. All costs incurred by the Village for repairs and maintenance of the storm sewers shall be charged against the Homeowner's Association or property owners.

23. Compliance by Developer as Condition Precedent to Subsequent Development or Phases. (AS APPLICABLE)

Developer acknowledges and agrees that he will fully comply with all terms and conditions contained herein as a condition precedent for the commencement of any subsequent development or phase of development and the Village may withhold approval of any such subsequent development or improvements until such time as the Developer fulfills all the terms, conditions and requirements set out herein.

24. Off-Site Storm Drainage. (AS APPLICABLE)

The Developer agrees to comply with plans and off-site drainage approved by the Village Consulting Engineer and shall perform the clearing and cleaning of ditches and land reasonably necessary at its expense. The Village will provide the Developer with access to land owned and controlled by the Village for this purpose and the Developer shall be responsible for obtaining licenses or easements on all private lands necessary to satisfy the drainage plans approved by the Village Consulting Engineer.

25. License to Enter Upon Private Streets. (AS APPLICABLE)

Developer herein agrees to grant to the Village of Sheffield (i.e., Fire Department, Police Department, Service Department and the like), a license to enter upon any private streets within the development for the purposes of carrying out patrolling and security and necessary governmental functions. While present on said private streets, said public employees or agents for the various departments shall have those rights, privileges, defenses and immunities granted Village employees set forth in Ohio Revised Code including but not limited to Chapter 2744.

26. Breach of Contract.

The Developer further agrees that any violation of or non-compliance with any of the provisions and stipulations of this Agreement shall constitute a breach of contract. A breach of contract shall also be deemed to have occurred in the event of the Developer's failure to perform work for a period of _____ days, the Developer's insolvency, appointment of a receiver, filing of a voluntary or involuntary petition in bankruptcy, the commencement of a foreclosure proceeding of a lien against the development property, or its conveyance in lieu of foreclosure. The Village agrees that in the event of a breach, it shall provide Developer with notice thereof in writing. Should Developer fail to remedy the breach, to the satisfaction of the Village, within Thirty (30) days after receiving notice thereof from the Village, the Engineer of the Village shall have the right to stop the work forthwith and use Developer's guarantees for such purpose and require Developer to pay any additional amount required to complete the work.

27. Preservation and Restoration of Property. (AS APPLICABLE)

Developer shall maintain the work during construction and until final acceptance. This maintenance shall constitute continuous and effective work prosecuted as required with adequate equipment and forces to the end that the roadbeds, road surfaces and structures are kept in satisfactory condition at all times.

Developer shall be responsible for all damage or injury to property of any character, including roadbeds and road surfaces, during the prosecution of the work, resulting from any act, omission, neglect or misconduct in his manner of method of executing said work satisfactorily, or due to his non-execution of said work, or at any time due to defective work or materials, and said responsibility shall not be released until the work shall have been completed and accepted. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect or misconduct in the execution of the work or in consequence of the non-execution thereof on the part of contractor, he shall restore, at his own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring as may be directed, or he shall make good such damage or injury, in an acceptable manner.

In the event of any damage or injury to property as stated herein, all deposits and financial guarantees set forth in this Agreement shall be retained by the Village and not released until such time as the appropriate repairs are made and acceptable to the Village Engineer and Solicitor.

28. Ingress and Egress. (AS APPLICABLE)

Developer shall restrict all movement of loads, vehicles and other equipment into and from site in strict accordance with a route approved by the Village Administrator.

29. Cleaning Up.

During the construction, the Developer shall keep the site of the work and adjacent premises as free from material, debris and rubbish as is practicable and shall remove this waste entirely and at once, if, in the opinion of the Village, such material, debris or rubbish constitutes a nuisance, a safety hazard or is objectionable in any way to the public.

Upon completion and before final acceptance of the work, the Developer shall remove from the site of the work and adjacent premises all machinery, equipment, surplus materials, falsework, excavated and useless materials, rubbish, temporary buildings, barricades and signs, and shall restore the site to the same general conditions that existed prior to the commencement of its operations.

The Developer shall clean off all cement streaks or drippings, paint smears or drippings, rust stains, oil, grease, dirt, and any other foreign materials deposited or accumulated on any portion of its work, or existing work, due to its operations.

In the event Developer fails to comply as set forth herein, the Village shall perform the necessary work to accomplish the clean up set forth herein and shall charge the Developer for said work.

In the event of non-compliance as stated herein, all deposits and financial guarantees set forth in this Agreement shall be retained by the Village and not released until such time as the appropriate clean up is made and acceptable to the Village Engineer and Law Solicitor.

30. Warranty Against Defects.

Developer shall warrant all improvements to be free from defects and shall make all necessary repairs or modification to said improvements for a period of Three (3) years from acceptance of dedication of improvements by the Village of Sheffield. If the Developer fails to meet the warranty obligations in a timely manner, the Village of Sheffield may contract with any other party for the necessary work or use its own employees to perform the work and to be reimbursed by the Developer or, if sufficient funds are available, to draw upon the financial guarantees provided in this Agreement.

31. Village Ordinance and Regulations, Survival of Agreement, Non-Waiver.

Nothing in this Developer's Agreement shall constitute a waiver of the rights of the Parties, including local government sovereign immunity. All Village Ordinances and Regulations not inconsistent with this Agreement shall remain in full force and effect, and shall be binding upon and control construction and development of the improvements, and nothing contained in this Agreement, nor acceptance of dedication of improvements by the Village, shall limit the effect of same, including, but not limited to, design and construction, planting of trees, street lighting, conveyance of required easements, payment of storm drainage fees, park fees, sewer tap fees, and any other requirements of the Codified Ordinances of the Village.

32. A.D.A. Compliance. (AS APPLICABLE)

Developer shall fully comply with all relevant requirements of the Americans with Disabilities Act and all site improvements subject to this law must be approved by the Village of Sheffield prior to construction.

33. Severability Clause.

If any part, clause, provision or condition of this Developer's Agreement is held to be void, invalid, or inoperative, such party, clause, provision or condition will be severed and will not render invalid the remaining portions of this Agreement.

34. Obligation to Notify. (AS APPLICABLE)

Developer shall notify any transferee of the developed property of the existence, terms and conditions contained in this Agreement and any easements or restrictions required hereunder, and shall provide the Village with a copy of the notification immediately thereafter.

35. Addresses of Parties for Purpose of Notice.

After obligation to notify all notices and communications between parties pursuant to this Agreement shall be made upon the Village through the Office of the Mayor at Sheffield Village Municipal Complex, 4340 Colorado Avenue, Sheffield Village, Ohio, and upon the Developer at _____.

36. Parties Bound.

This Agreement shall be binding upon and inure to the benefit of the Developer, its builders, contractors, subcontractors, its heirs, executors, administrators, agents and assigns, and shall further be binding upon and inure to the Village and its assigns.

37. Modification or Amendment.

This Developer's Agreement shall not be modified or amended except by a written instrument signed by Developer and the Mayor or other authorized agent of the Village of Sheffield and approved by vote of a majority of the members of Village Council.

IN WITNESS WHEREOF, the parties have affixed their signature hereto this ____ day of _____, 2004.

WITNESSES:

_____ INC.

By: _____

Title: _____
"Developer"

WITNESSES:

VILLAGE OF SHEFFIELD

By: _____
Name

Title: _____

"Village"

Approved as to Form by:

Luke F. McConville, Esq.
Solicitor
Village of Sheffield

Exhibit A-I**PERFORMANCE BOND AGREEMENT**

THIS AGREEMENT is entered into by and between _____, hereinafter referred to as "Developer," and the VILLAGE OF SHEFFIELD, Lorain County, Ohio, hereinafter referred to as "Village", "Council" as referred to herein, shall refer to the Village Council of the Village of Sheffield, Lorain County, Ohio, and "Village Engineer" shall refer to the Consulting Engineer of the Village of Sheffield, Lorain County, Ohio or the Engineer designated by Village Ordinance.

WHEREAS, the Developer has agreed to construct the improvements in _____ (hereinafter "Improvements") in accordance with the Regulations of the Village of Sheffield, and in accordance with a Developer's Agreement entered into between Developer and the Village on or about the __ day of _____, 2004; and

WHEREAS, the Developer's Agreement provides that the Developer shall furnish financial guarantees of performance in an amount equal to 110% of the estimated construction costs, engineering and inspection fees in a form, manner of execution and surety approved by the Solicitor of the Village of Sheffield; and

WHEREAS, based upon the estimates of cost of construction of the improvements by the Developer's Engineer, approved by the Village Engineer, Developer is required to provide a financial guarantee of performance to the Clerk-Treasurer of the Village of Sheffield in the amount of _____ Dollars (\$_____).

NOW, THEREFORE, in consideration of the foregoing promises and to insure the faithful performance of said Developer's Agreement, the Developer has undertaken the following:

1. Developer will post a surety bond with the Clerk-Treasurer in a form, manner of execution and surety acceptable to the Village of Sheffield in the sum of _____ Dollars (\$_____).
2. The Developer and its surety shall at all times keep the records of said Performance Bond open to inspection by the Engineer of the Village or any other duly authorized agent of the Village.
3. Upon completion of all improvements to the satisfaction of the Village Engineer, payment of all engineering and legal expenses of the Village of Sheffield, and compliance with all provisions of the Developer's Agreement upon written instruction from the Clerk-Treasurer of the Village of Sheffield, the surety shall be released from its obligations hereunder.
4. In the event of Developer's default, as defined in the Developer's Agreement, the Village shall have the right to execute on the Performance Bond herein posted and to complete construction of improvements, or any part thereof, and to pay any engineering or legal fees for the improvements over and above the Developer's deposit, and the surety is authorized and required to release the funds upon certification by the Clerk-Treasurer of the Village of Sheffield that the funds will be used for completion of construction of improvements and any applicable fees.

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5. The surety shall accept as full and complete evidence of default and of the resulting right of the Village of Sheffield to complete said project or any portion thereof a copy of the resolution from the Village of Sheffield duly authenticated by the Clerk of Council declaring said default and the intention of the Village of Sheffield to proceed to complete the performance of said Improvements or any portion thereof.

IN WITNESS WHEREOF, the parties have affixed their signature hereto this ____ day of _____, 2004.

WITNESSES:

_____ INC.

By: _____

Title: _____
"Developer"

WITNESSES:

VILLAGE OF SHEFFIELD

By: _____
Name

Title: _____
"Village"

Approved as to Form by:

Luke F. McConville, Esq.
Solicitor
Village of Sheffield

**ACKNOWLEDGMENT AND ACCEPTANCE
BY LENDING INSTITUTION**

The lending institution for _____, for _____ does hereby acknowledge receipt of a copy of this Performance Bond Agreement and the Developer's Agreement, accepts same, is willing to be bound by these documents as additional escrow instructions for the financial guarantees therein provided.

Signature of Officer

Printed Name of Bank or Surety

Title of Officer

Date

(Ord. 1992. Passed 10-25-04.)

CHAPTER 179
Records Commission

179.01 Establishment; composition.	179.05 State approval required for disposal; notice to Ohio Historical Society.
179.02 Secretary.	179.06 Fees for records.
179.03 Meetings.	
179.04 Functions.	

CROSS REFERENCES

Prohibition against destruction or damage of records - see Ohio R.C. 149.351
Municipal records commissions - see Ohio R.C. 149.39
Only necessary records to be made - see Ohio R.C. 149.40
Tampering with records - see GEN. OFF. 545.14

179.01 ESTABLISHMENT; COMPOSITION.

There is hereby established in and for the Village a Records Commission. Such Commission shall consist of:

- (a) The Mayor or his or her appointed representative as Chairperson;
- (b) The Clerk-Treasurer;
- (c) The Solicitor; and
- (d) A citizen appointed by the Mayor, who shall serve for three years.

179.02 SECRETARY.

The Records Commission shall appoint a Secretary, who may or may not be a member of the Commission and who shall serve at the pleasure of the Commission.

179.03 MEETINGS.

The Records Commission shall meet at least once every six months and upon the call of the Chairperson.

179.04 FUNCTIONS.

The functions of the Records Commission shall be to provide rules for retention and disposal of records of the Village and to review applications for one-time records disposal and schedules of records retention and disposition submitted by Municipal offices. Records may be disposed of by the Commission pursuant to the procedure outlined in Section 179.05. The Commission may at any time review any schedule it has previously approved and for good cause shown may revise that schedule.

179.05 STATE APPROVAL REQUIRED FOR DISPOSAL; NOTICE TO OHIO HISTORICAL SOCIETY.

When Municipal records have been approved for disposal, a list of such records shall be sent to the State Auditor. If he or she disapproves of the action taken by the Records Commission, in whole or in part, he or she shall so inform the Commission within a period of sixty days and these records shall not be destroyed. Further, the Ohio Historical Society shall be given notice of records to be disposed of and shall have sixty days to select for its custody such public records as it considers to be of continuing historical value.

179.06 FEES FOR RECORDS.

The fee for obtaining copies of all public records shall be five cents (5¢) per single sided page for requests exceeding six pages. If copies are to be mailed, the requestor shall provide a self-addressed envelope with proper postage affixed, in addition to the fee for copies, if any. (Ord. 1753. Passed 2-14-00.)

TITLE NINE - Judiciary
Chap. 185. Mayor's Court.

CHAPTER 185
Mayor's Court

EDITOR'S NOTE: Ohio R.C. 1905.01 provides that the Mayor of Sheffield has jurisdiction to hear and determine any prosecution for the violation of a Sheffield ordinance, and has jurisdiction in all criminal causes involving moving traffic violations occurring on State highways located within the corporate limits of Sheffield, subject to the limitations of Ohio R.C. 2937.08 and 2938.04. In keeping his or her docket and file, the Mayor shall be governed by the laws pertaining to county courts.

Ohio R.C. 2937.08 provides 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 the Mayor unless the accused, by writing subscribed by him or her, waives a jury and consents to be tried by the magistrate. If the defendant, in such event, does not waive his or her right to a jury trial, then the magistrate shall require the accused to enter into a recognizance to appear before a court of record in Lorain County (the Avon Lake Municipal Court) and the magistrate shall thereupon certify all papers filed, together with a transcript of proceedings and accrued costs to date, and such recognizance, if given, to the court of record. However, Rule 23(A) of the Ohio Rules of Criminal Procedure provides that in petty offense cases, where there is a right to jury trial, the defendant shall be tried by the court unless he or she demands a jury trial. The jurisdiction of a Mayor's Court, in such cases, is further limited by Rule 9 of the Ohio Traffic Rules, which provides that if a jury demand is not made pursuant to Criminal Rule 23, and the defendant waives his or her right to jury trial in writing, a mayor may try the case only if (1) his or her compensation as a judge is not directly dependent upon criminal case convictions, or (2) he or she is not the chief executive and administrative officer of the municipality and as such responsible for the financial condition of the municipality. Guilty and no contest pleas may be taken by any mayor.

Ohio R.C. 1901.24 and 2938.04 provide that the right to trial by jury shall be claimed by making demand in writing therefor and filing the same with the clerk of the court of record not less than three days prior to the date set for trial or on or before the day following receipt of notice of the date set for trial, whichever is later. However, Rule 23(A) of the Ohio Rules of Criminal Procedure, which presumptively supersedes Ohio R.C. 2938.04, provides that right to trial by jury shall be claimed by making demand in writing therefor and filing the same 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 claim a jury trial as provided herein is a complete waiver of the right thereto. Ohio R.C. 2938.04 provides, further, that a jury trial may not be had in courts not of record, but failure to waive a jury in writing where the right to a jury trial may be asserted shall require the magistrate to certify such case to a court of record as provided in Ohio R.C. 2937.08.

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 Sheffield ordinance, except in cases in which the penalty involved does not exceed a fine of one hundred dollars (\$100.00).

The Supreme Court of Ohio, on December 4, 1967, promulgated "Rules of Practice and Procedure in Traffic Cases For All Courts Inferior to Common Pleas," the adoption of which became mandatory prior to March 2, 1969. Amended Rules, referred to as the Ohio Traffic Rules, became effective on January 1, 1975.

Effective October 20, 1987, Mayors of Mayor's Courts were authorized to suspend or revoke the operator's or commercial driver's license or permit or nonresident operating privilege of any person who is convicted of or pleads guilty to a violation of Ohio R.C. 4511.19 or Section 333.01 of the Traffic Code (DUI), in accordance with Ohio R.C. 4507.16(B).

185.01 Mayor's Court Computer Fund.

CROSS REFERENCES

Mayor's Court jurisdiction - see Ohio R.C. 1905.01 et seq.
Mayor's powers and duties - see Ohio R.C. 1905.20 et seq.
Contempt of court - see Ohio R.C. 1905.28, 1907.171 et seq., 2935.11
Peace and search warrant - see Ohio R.C. Ch. 2933
Detection and arrest - see Ohio R.C. Ch. 2935
Preliminary "examination; bail - see Ohio R.C. Ch. 2937
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

185.01 MAYOR'S COURT COMPUTER FUND.

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

Proceeds received hereunder are hereby designated by Council to be used only for payment for the court computer and for any updates or maintenance required therefor.

(b) The Clerk-Treasurer and the Solicitor shall obtain written approval from the Auditor of the State prior to implementation of the Mayor's Court Computer Fund and collection of money therefor. (Ord. 1533. Passed 1-27-97.)

(c) Council hereby designates that five dollars (\$5.00) of each of the mayor's Court court costs assessed and collected shall be deposited and used in accordance with subsection (a) hereof. (Ord. 1545. Passed 3-24-97.)

TITLE ELEVEN - Taxation

- Chap. 191. Earned Income Tax in Effect on or Before December 31, 2015.
 Chap. 193. Income Tax Effective January 1, 2016.
 Chap. 195. Hotel/Motel Lodging Excise Tax.
 Chap. 197. Motor Vehicle License Tax.

CHAPTER 191**Earned Income Tax in Effect on or Before December 31, 2015**

- | | | | |
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| 191.01 | Definitions. | 191.28 | Limitation on prosecutions. |
| 191.02 | Levy of tax; purpose. | 191.29 | Failure to procure forms not excuse. |
| 191.03 | Imposition of tax; rate and income taxable. | 191.30 | Unpaid taxes recoverable as other debts. |
| 191.04 | Effective period of tax. | 191.31 | Refunds of taxes erroneously paid. |
| 191.05 | Determination of allocation of tax. | 191.32 | Amounts of less than one dollar. |
| 191.06 | Sales made in the village defined. | 191.33 | Tax credit. |
| 191.07 | Determination of business allocation percentage. | 191.34 | Disbursement of funds collected. |
| 191.08 | Rentals. | 191.35 | Receipt of taxes; records and reports. |
| 191.09 | Operating loss carry-forward. | 191.36 | Enforced collection. |
| 191.10 | Exemptions; sources of income not taxed. | 191.37 | General authority of Administrator; rules and regulations. |
| 191.11 | When return required to be made. | 191.38 | Installment payments. |
| 191.12 | Form and content of return. | 191.39 | Determination of amount of tax due. |
| 191.13 | Extension of time for filing returns. | 191.40 | Investigations. |
| 191.14 | Consolidated returns. | 191.41 | Production of records. |
| 191.15 | Amended returns. | 191.42 | Refusal to produce records. |
| 191.16 | Payment of tax on filing of reports. | 191.43 | Confidential nature of information obtained. |
| 191.17 | Collection at source. | 191.44 | Taxpayer required to retain records. |
| 191.18 | Declarations of income not collected at source. | 191.45 | Board of Review. |
| 191.19 | Filing of declaration. | 191.46 | Duty of Board to approve regulations and to hear appeals. |
| 191.20 | Form of declarations. | 191.47 | Right of appeal. |
| 191.21 | Payment to accompany declarations. | 191.48 | Collection of tax after termination of chapter. |
| 191.22 | Annual returns. | 191.49 | Authority of central collection agency. |
| 191.23 | Interest on unpaid tax. | 191.50 | Separability. |
| 191.24 | Penalties on unpaid tax. | 191.99 | Penalty. |
| 191.25 | Exceptions. | | |
| 191.26 | Abatement of interest and penalty. | | |
| 191.27 | Violations. | | |

CROSS REFERENCES

Municipal income taxes - see Ohio R.C. Ch. 718

191.01 DEFINITIONS.

As used in this chapter:

- (a) "Administrator" means the individual or tax collecting authority, or both, as provided for in Section 191.49, designated to administer and enforce the provisions of this chapter.
- (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 191.45.
- (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 any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation.
- (h) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (i) "Gross Gambling Winnings" means the gross proceeds, receipts, payments or winnings from gambling or from any game of chance conducted or administered in, but not limited to, the State of Ohio, any other state, or any United States territory, whether conducted by a state agency, a private entity, or by individual persons.
- (j) "Gross Lottery Winnings" means the gross proceeds, receipts, payments, or winnings from a lottery commissioned, conducted, or administered by, but not limited to, the State of Ohio, any other state, United States territory, government-benefit multi-state lottery association, or other similar agency.
- (k) "Gross receipts" means the total income from any source whatever.
- (l) "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.
- (m) "Nonresident" means an individual domiciled outside of the Village of Sheffield.
- (n) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village of Sheffield.
- (o) "Other compensation" means, for purposes of this chapter, but is in no way limited to, Gross Lottery/Gambling Winnings, as such term is defined herein.
(Ord. 2021. Passed 3-28-05.)

- (p) "Pension" means any amount paid to an employee or former employee that is reported to the recipient on an IRS Form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS Form W-2, Wage and Tax Statement, or successor form.
(Ord. 2458. Passed 10-13-14.)
- (q) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.
- (r) "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 or her regular employees regularly in attendance.
- (s) "Resident" means an individual domiciled in the Village of Sheffield.
- (t) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village of Sheffield.
- (u) "Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter, and Gross Lottery/Gambling Winnings.
- (v) "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.
- (w) "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.
- (x) The singular shall include the plural, and the masculine shall include the feminine and the neuter.
- (y) "Tenant" means:
 - (1) If there is a written lease or rental agreement, the person or persons who sign(s) the written lease or rental agreement with the owner; or
 - (2) If there is an oral lease or rental agreement, the person or persons with whom the owner enters into the oral lease or rental agreement.
 (Ord. 2499. Passed 7-27-15.)

191.02 LEVY OF TAX; PURPOSE.

There is hereby levied a tax on all salaries, wages, commissions and other compensation, and on net profits, as hereinafter provided, for the purpose of providing funds to finance the general Municipal functions of the Village. (Ord. 491. Passed 5-6-68.)

191.03 IMPOSITION OF TAX; RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in Section 191.02 shall be imposed on and after July 1, 1968, at the rate of one one-half percent per annum upon the following:

- (a) On all salaries, wages, commissions and other compensation earned on and after July 1, 1968, by residents of the Village.
- (b) On all salaries, wages, commissions and other compensation earned on and after July 1, 1968, by nonresidents of the Village for work done or services performed or rendered within the Village.
- (c) On the portion attributable to the Village on the net profits earned on and after July 1, 1968, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village.

- (d) On the portion of the distributive share of the net profits earned on and after July 1, 1968, of a resident partner or owners of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity by the Village.
- (e) On the portion attributable to the Village of the net profits earned on or after July 1, 1968, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village, whether or not such unincorporated business entity has an office or place of business in the Village.
- (f) On the portion of the distributive share of the net profits earned on or after July 1, 1968, 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 by the Village.
- (g) On the portion attributable to the Village of the net profits earned on and after July 1, 1968, of all corporations derived from 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. (Ord. 2172. Passed 1-26-09.)
- (h) On November 5, 2013 voters approved an ordinance providing for the replacement of the temporary one-half of one percent (0.5%) levy on income established in Ordinance No. 2172 with a permanent one-half of one percent (0.5%) levy on income for the purpose of providing adequate funding for the general operations of the Village of Sheffield and the operations of its Police, Fire and Service Departments. (Ord. 2407. Passed 7-8-13.)

191.04 EFFECTIVE PERIOD OF TAX.

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, professions or other activities earned on and after July 1, 1968. (Ord. 491. Passed 5-6-68.)

191.05 DETERMINATION OF ALLOCATION OF TAX.

(a) In the taxation of income which is subject to 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 of Sheffield, in the absence of actual records thereof, shall be determined as follows:

(b) 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" includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.

- (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.

(c) 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. (Ord. 491. Passed 5-6-68.)

191.06 SALES MADE IN THE VILLAGE DEFINED.

As used in Section 191.05(c) "sales made in the Village" means:

- (a) 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.
- (b) 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.
- (c) All sales of tangible personal property which is shipped from a place within the Village to purchasers outside of 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. (Ord. 491. Passed 5-6-68.)

191.07 DETERMINATION OF BUSINESS ALLOCATION PERCENTAGE.

Add together the percentages determined in accordance with Section 191.05(a) through (c) or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentage referred to in Section 191.05.

A factor is applicable even though it may be allocable entirely in or outside the Village. (Ord. 491. Passed 5-6-68.)

191.08 RENTALS.

(a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 181.03 of the Codified Ordinances of the Village of Sheffield, Ohio 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 part.

(b) Where the gross monthly rental of any and all real properties regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of 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 two hundred fifty dollars (\$250.00) per month; further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in net receipts derived from the farm, whether or not the gross income exceeds said two hundred fifty dollars (\$250.00) 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 two hundred fifty dollars (\$250.00) per month.

(c) All property owners of rental or leased property, who rent to tenants of residential, commercial or industrial premises, shall file with the Village Administrator a report showing the name and address of each such tenant who occupies residential, commercial or industrial premises within the boundaries of the Village.

(d) Within thirty (30) days after a new tenant occupies residential, commercial or industrial rental property of any kind within the Village, all property owners of rental or leased residential, commercial or industrial property who rent to tenants shall file with the Village Administrator a report showing the name and address of each such tenant who occupies residential, commercial or industrial premises within the boundaries of the Village.

(e) Within thirty (30) days after a tenant vacates a rental or leased residential, commercial or industrial property located within the Village, the property owner of such vacated rental or leased property shall file with the Village Administrator a report showing the date of vacating from the rental or leased residential, commercial or industrial property and identifying such vacating tenant(s). (Ord. 2497. Passed 7-13-15.)

191.09 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to July 1, 1968, 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.

(b) 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.

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined. (Ord. 491. Passed 5-6-68.)

191.10 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 intangible property.
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State 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 subdivisions to impose net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the Village to impose net income taxes. (Ord. 491. Passed 5-6-68.)

191.11 WHEN RETURN REQUIRED TO BE MADE.

Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following the effective date of this section (Ordinance 621, passed October 9, 1972) and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. (Ord. 621. Passed 10-9-72.)

191.12 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:

- (a) The aggregate amounts of salaries, wages, 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 such tax;
- (b) The amount of the tax imposed by this chapter on such earnings and profits; and
- (c) Such other pertinent statements, information returns or other information as the Administrator may require. (Ord. 491. Passed 5-6-68.)

191.13 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 more than 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. (Ord. 491. Passed 5-6-68.)

191.14 CONSOLIDATED RETURNS.

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

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Administrator shall require such additional information as he or she 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 actions 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 or she shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of net profits to the Village. (Ord. 491. Passed 5-6-68.)

191.15 AMENDED RETURNS.

(a) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due or claim a refund to tax overpaid, subject to the requirements, limitations, or both, contained in Sections 191.30 through 191.33. 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.

(b) Within three months from the final determination of any Federal tax 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. 491. Passed 5-6-68.)

191.16 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon, except:

- (1) Where any portion of the tax so due is deducted at the source pursuant to the provisions of Section 191.17; or
- (2) Where any portion of such tax is paid by the taxpayer pursuant to the provisions of Sections 191.18 and 191.21; or
- (3) Where an income tax has been paid on the same income to another municipality. In such case, credit for the amount so deducted or paid or credit to the extent provided for in Section 191.33 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.

(b) 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 or her 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. 621. Passed 10-9-72.)

191.17 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Village shall deduct, at the time of the payment of salary, wages, commission or other compensation, the tax of two percent (unless a different tax rate is imposed in Section 191.03) per year of the gross salaries, wages, commissions or other compensation due by such employer to an employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the

previous month. However, if the amount of the tax so deducted by an employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Such returns shall be on a form 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, in fact, been withheld.

(c) Such employer in collecting such 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 or her employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him or her 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. (Ord. 621. Passed 10-9-72.)

(e) The officer or employee having control or supervision of or charged with the responsibility of filing the return and making the payment shall be personally liable for failure to file the return or pay the tax due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes due. (Ord. 2074. Passed 9-11-06.)

191.18 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned during the current tax year, together with the estimated tax due thereon, less the amount withheld within the Village, and less the tax credit allowed in Section 191.33, unless the entire taxable income is subject to withholding within the Village, pursuant to Section 191.17. If the estimated tax for the current year, less the tax to be withheld, and less such tax credit, amounts to not more than one hundred dollars (\$100.00), no declaration of payment of estimated tax is required. (Ord. 1868. Passed 6-24-02.)

191.19 FILING OF DECLARATION.

(a) The declaration required by Section 191.18 shall be filed on or before April 30 of each year during the effective period set forth in Section 191.04 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period. (Ord. 491. Passed 5-6-68.)

191.20 FORM OF DECLARATIONS.

(a) The declaration required by Section 191.18 shall be filed upon a form furnished by, or obtainable from, the Administrator. However, credit shall be taken for Village tax to be withheld from any portion of such income. In accordance with the provisions of Section 191.33, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

(b) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein. (Ord. 491. Passed 5-6-68.)

191.21 PAYMENT TO ACCOMPANY DECLARATIONS.

Declarations 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 seventh and tenth months after the beginning of the taxable year and on or before the last day of the first month of the succeeding year following the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
(Ord. 660. Passed 12-3-73.)

191.22 ANNUAL RETURNS.

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 191.16. However, any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing an amended declaration and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.
(Ord. 621. Passed 10-9-72.)

191.23 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers, and all installments of estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due, shall bear interest at the rate of six percent per year.
(Ord; 621. Passed 10-9-72.)

191.24 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 191.23, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

- (a) For failure to pay taxes or estimated taxes due, other than taxes withheld, ten percent per year, but not less than five dollars (\$5.00);
- (b) For failure to remit taxes withheld from employees, ten percent per month or fraction thereof. The accumulated penalty shall not exceed fifty percent upon any unpaid amount and shall be not less than five dollars (\$5.00).

(Ord. 621. Passed 10-9-72.)

191.25 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. In the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability.
(Ord. 491. Passed 5-6-68.)

191.26 ABATEMENT OF INTEREST AND PENALTY.

Either the Administrator or the Board of Review may abate penalty or interest, or both, for good cause shown. (Ord. 621. Passed 10-9-72.)

191.27 VIOLATIONS.

No person shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (b) Make any incomplete, false or fraudulent return;
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;

- (d) Fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Administrator;
- (e) Refuse to permit the Administrator or any duly authorized agent or employee to examine his or her books, records, papers and Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (f) Fail to appear before the Administrator and to produce his or her books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer upon order or subpoenas of the Administrator;
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (i) Give to an employer false information as to his or her true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and date thereof;
- (j) Fail 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
- (k) Attempt to do anything whatever, to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.
(Ord. 491. Passed 5-6-68.)

191.28 LIMITATION ON PROSECUTIONS.

All prosecutions under this chapter must be commenced within the periods provided for in Ohio R.C. 718.06.

191.29 FAILURE TO PROCURE FORMS NOT EXCUSE.

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form or from paying the tax.
(Ord. 491. Passed 5-6-68.)

191.30 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 limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.
(Ord. 491. Passed 5-6-68.)

191.31 REFUNDS OF TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later.
(Ord. 491. Passed 5-6-68.)

191.32 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 491. Passed 5-6-68.)

191.33 TAX CREDIT.

(a) When the taxable income of a resident of the Village is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, but not in excess of 100 percent of the amount obtained by multiplying the lower of the tax rates of such other municipality or of the Village by the taxable income earned in or attributable to the municipality of employment or business activity. For the purpose of this section, taxable income includes the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event such Village resident fails, neglects or refuses to file such return or form as is prescribed by the Administrator, he or she shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

(Ord. 621. Passed 10-9-72.)

191.34 DISBURSEMENT OF FUNDS COLLECTED.

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

- (a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
- (b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited into the General Fund at least fifty percent of which shall be used for capital improvements. Any funds not immediately needed shall be invested in interest-bearing investments as permitted by law.

(Ord. 491. Passed 5-6-68.)

191.35 RECEIPT OF TAXES; RECORDS AND REPORTS.

It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof and to report all moneys so received.

(Ord. 491. Passed 5-6-68.)

191.36 ENFORCED COLLECTION.

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

(Ord. 491. Passed 5-6-68.)

191.37 GENERAL AUTHORITY OF ADMINISTRATOR; RULES AND 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, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns. (Ord. 491. Passed 5-6-68.)

191.38 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 or she 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 or her 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 191.27 and 191.30 shall apply.
(Ord. 491. Passed 5-6-68.)

191.39 DETERMINATION OF 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.
(Ord. 491. Passed 5-6-68.)

191.40 INVESTIGATIONS.

The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal Income Tax Returns 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 or her duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.
(Ord. 491. Passed 5-6-68.)

191.41 PRODUCTION OF RECORDS.

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her 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 or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information pertinent to such inquiry.
(Ord. 491. Passed 5-6-68.)

191.42 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal Income Tax Returns, or the refusal to submit to an examination, by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 191.99.
(Ord. 491. Passed 5-6-68.)

191.43 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. No person shall divulge such information in violation of this section.

In addition to the penalty provided in Section 191.99, any employee of the Village or of the Regional Income Tax Agency (R.I.T.A.) who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

191.44 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of five years from the date his or her return is filed or the withholding taxes are paid. (Ord. 491. Passed 5-6-68.)

191.45 BOARD OF REVIEW.

A Board of Review, consisting of two members to be appointed by the Mayor with the approval of Council and a member of Council to be elected by that body, is hereby established. Each member of the Board shall serve for a period of three years. The Board shall select, each year for a one-year term, one of its members to serve as Chairperson and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 191.43 with reference to the confidential character of information required to be disclosed by this chapter, shall apply to such matters as may be heard before the Board on appeal. (Ord. 491. Passed 5-6-68.)

191.46 DUTY OF BOARD TO APPROVE REGULATIONS AND TO HEAR APPEALS.

All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternative methods of allocation. (Ord. 491. Passed 5-6-68.)

191.47 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. 491. Passed 5-6-68.)

191.48 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and until any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 191.27 through 191.32.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 191.11 and 191.17 as though the same were continuing. (Ord. 491. Passed 5-6-68.)

191.49 AUTHORITY OF CENTRAL COLLECTION AGENCY.

The Village has entered into an agreement for the establishment of a Regional Council of Governments. Such Council has organized a municipal tax collection agency known as the Regional Income Tax Agency, which is authorized to administer and enforce the provisions of this chapter as the agent of the Village, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of such Agency through the Administrator of such Agency. However, the Administrator of such Agency shall have no authority to abate penalties or interest provided for in Section 191.24. (Ord. 621. Passed 10-9-72.)

191.50 SEPARABILITY.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 491. Passed 5-6-68.)

191.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense.

(b) Whoever violates any of the provisions of Section 191.43 is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. Each disclosure shall constitute a separate offense.

CHAPTER 193
Income Tax Effective January 1, 2016

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193.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.

(A) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements, the Village of Sheffield, Ohio hereby levies an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.

- (B) (1) The annual tax is levied at a rate of two percent. The tax is levied at a uniform rate on all persons residing in or earning or receiving income in the Village of Sheffield, Ohio. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 193.03 and other sections as they may apply.
- (2) Twenty five percent of the income tax collected under the provisions of this chapter shall be used for capital improvements after payment of all expenses of collecting the tax and administering and enforcing the provisions of this chapter.

(C) The tax on income and the withholding tax established by this chapter are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This chapter is effective for tax years beginning on and after January 1, 2016. Municipal tax years beginning on or before December 31, 2015, are subject to the income tax ordinance and amendments thereto, and rules and regulations and amendments thereto, as the existed before January 1, 2016.

(Ord. 2526. Passed 12-14-15.)

193.02 DEFINITIONS.

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

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) As used in this chapter:

- (1) "**Adjusted federal taxable income**," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under subsection (C)(24)(d), means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - (a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;
 - (c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

- (d)
 - (i) Except as provided in (C)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;
 - (ii) Division (C)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.
- (e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (f) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (g) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under Section 4313.02 of the ORC;
- (h)
 - (i) Except as limited by divisions (C)(1)(h)(ii), (iii), and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.
The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
 - (ii) No person shall use the deduction allowed by division (C)(1)(h) of this section to offset qualifying wages.
 - (iii)
 - (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(1)(h)(i) of this section.
 - (b) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (C)(1)(h)(i) of this section.
 - (iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to (C)(1)(h) of this section.

- (v) Nothing in division (C)(1)(h)(iii)(a) of this section precludes a person from carrying forward, use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (C)(1)(h)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(1)(h)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (C)(1)(h)(iii)(a) of this section shall apply to the amount carried forward.
- (i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with Section 193.05(V)(3)(b).
- (j) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with Section 193.05(V)(3)(b).

If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in division (C)(48)(b) of this section, is not a publicly traded partnership that has made the election described in division (C)(24)(d) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under Section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

- (2) (a) "**Assessment**" means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 193.21, and has "ASSESSMENT" written in all capital letters at the top of such finding.
- (b) "Assessment" does not include a notice denying a request for refund issued under division (C)(3) of Section 193.09, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (C)(2)(a) of this section.
- (3) "**Audit**" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.
- (4) "**Board of Tax Review**" or "Board of Review" or "Board of Tax Appeals", or other named local board constituted to hear appeals of municipal income tax matters, means the entity created under Section 193.21.
- (5) "**Calendar quarter**" means the three-month period ending on the last day of March, June, September, or December.
- (6) "**Casino operator**" and "**casino facility**" have the same meanings as in Section 3772.01 of the ORC.
- (7) "**Certified mail**," "**express mail**," "**United States mail**," "**postal service**," and similar terms include any delivery service authorized pursuant to Section 5703.056 of the ORC.
- (8) "**Disregarded entity**" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (9) "**Domicile**" means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more than one domicile.
- (10) "**Employee**" means an individual who is an employee for federal income tax purposes.
- (11) "**Employer**" means a person that is an employer for federal income tax purposes.
- (12) "**Exempt income**" means all of the following:
- (a) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.
- (b) Intangible income. However, a municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.

- (c) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C)(12)(c) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.
- (d) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (e) Compensation paid under Section 3501.28 or 3501.36 of the ORC to a person serving as a precinct election official to the extent that such compensation does not exceed \$1,000 for the taxable year. Such compensation in excess of \$1,000 for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
- (f) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
- (g) Alimony and child support received.
- (h) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages.
- (i) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the ORC. Division (C)(12)(i) of this section does not apply for purposes of Chapter 5745. of the ORC.
- (j) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business.
- (k) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code.
- (l) Employee compensation that is not qualifying wages as defined in division (C)(35) of this section.
- (m) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

- (n) Intentionally left blank.
- (o) All of the income of individuals under 18 years of age.
- (p)
 - (i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 193.04 to the extent the qualifying wages are not subject to withholding for the Village of Sheffield, Ohio under either of those divisions.
 - (ii) The exemption provided in division (C)(12)(p)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 - (iii) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 193.04.
 - (iv) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages if both of the following conditions apply:
 - (a) For qualifying wages described in division (C)(2) of Section 193.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (C)(5) of Section 193.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
 - (b) The employee receives a refund of the tax described in division (C)(12)(p)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.
- (q)
 - (i) Except as provided in division (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Village of Sheffield, Ohio on not more than 20 days in a taxable year.
 - (ii) The exemption provided in division (C)(12)(q)(i) of this section does not apply under either of the following circumstances:
 - (a) The individual's base of operation is located in the municipal corporation.
 - (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 193.04 (C).

- (iii) Compensation to which division (C)(12)(q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
- (iv) For purposes of division (C)(12)(q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.
- (r) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to Section 709.023 of the ORC on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
- (s) Income the taxation of which is prohibited by the constitution or laws of the United States.

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

- (13) "**Form 2106**" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (14) "**Generic form**" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.
- (15) "**Gross receipts**" means the total revenue derived from sales, work done, or service rendered.
- (16) "**Income**" means the following:
 - (a) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in (C)(24)(d) of this division.
 - (ii) For the purposes of division (C)(16)(a)(i) of this section:

- (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (C)(16)(a)(iv) of this section;
- (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
- (iii) Division (C)(16)(a)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (C)(16)(e) of this section.
- (iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
- (b) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (c) For taxpayers that are not individuals, net profit of the taxpayer;
- (d) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.
- (e) In accordance with a ballot issue, regarding S corporation language, approved by the voters in the election on November 2, 2004, a shareholder's share of net profits of an S corporation are taxable to the Village of Sheffield Ohio to the extent such shares would be so allocated or apportioned to this state.

- (17) **"Intangible income"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the ORC, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (18) **"Internal Revenue Code"** has the same meaning as in Section 5747.01 of the ORC.
- (19) **"Limited liability company"** means a limited liability company formed under Chapter 1705. of the ORC or under the laws of another state.
- (20) **"Municipal corporation"** includes a joint economic development district or joint economic development zone that levies an income tax under Section 715.691 , 715.70 , 715.71 , or 715.74 of the ORC.
- (21) (a) **"Municipal taxable income"** means the following:
- (i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Village of Sheffield, Ohio under Section 193.03, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Village of Sheffield, Ohio.
 - (ii) (a) For an individual who is a resident of the Village of Sheffield, Ohio, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipal corporation.
 - (b) For an individual who is a nonresident of the Village of Sheffield, Ohio, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the municipal corporation under Section 193.03, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Village of Sheffield, Ohio.
- (b) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by Section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income

- tax purposes, but only to the extent the expenses do not relate to exempt income. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation and are not related to exempt income.
- (22) "**Municipality**" means the same as the Village of Sheffield. If the terms are capitalized in this chapter they are referring to the Village of Sheffield. If not capitalized they refer to a municipal corporation other than the Village of Sheffield.
- (23) "**Net operating loss**" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.
- (24) (a) "**Net profit**" for a person other than an individual means adjusted federal taxable income.
- (b) "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (C)(24)(b) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(1)(h) of this section.
- (c) For the purposes of this chapter, and notwithstanding division (C)(24)(a) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- (d) A publicly traded partnership that is treated as a partnership for federal income tax purposes, and that is subject to tax on its net profits by the Village of Sheffield, Ohio, may elect to be treated as a C corporation for the Village of Sheffield, Ohio. The election shall be made on the annual return for the Village of Sheffield, Ohio. The Village of Sheffield, Ohio will treat the publicly traded partnership as a C corporation if the election is so made.
- (25) "**Nonresident**" means an individual that is not a resident.
- (26) "**Ohio Business Gateway**" means the online computer network system, created under Section 125.30 of the ORC, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (27) "**Other payer**" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (28) "**Pass-through entity**" means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

- (29) **"Pension"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (30) **"Person"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (31) "Postal service" means the United States postal service.
- (32) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B)(3) of Section 5703.056 of the ORC.
- (33) (a) **"Pre-2017 net operating loss carryforward"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Village of Sheffield, Ohio that was adopted by the Village of Sheffield, Ohio before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in the Village of Sheffield, Ohio in future taxable years.
- (b) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.
- (34) **"Publicly traded partnership"** means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.
- (35) **"Qualifying wages"** means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (a) Deduct the following amounts:
- (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.
 - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
 - (iii) Intentionally left blank.
 - (iv) Intentionally left blank.
 - (v) Any amount included in wages that is exempt income.
- (b) Add the following amounts:
- (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

- (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (C)(35)(b)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (C)(35)(b)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with Section 1402(a)(8) of the Internal Revenue Code.
 - (vi) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under Section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in Section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (C)(35)(b) of this section or ORC Section 718,03, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.
- (36) **"Related entity"** means any of the following:
- (a) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;
 - (b) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

- (c) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (C)(36)(d) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;
 - (d) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (C)(36)(a) to (c) of this section have been met.
- (37) "**Related member**" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.
 - (38) "**Resident**" means an individual who is domiciled in the municipal corporation as determined under Section 193.03(E).
 - (39) "**S corporation**" means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
 - (40) "**Schedule C**" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
 - (41) "**Schedule E**" means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
 - (42) "**Schedule F**" means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
 - (43) "**Single member limited liability company**" means a limited liability company that has one direct member.
 - (44) "**Small employer**" means any employer that had total revenue of less than \$500,000 during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; compensation; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

- (45) **"Tax Administrator"** means the individual charged with direct responsibility for administration of an income tax levied by the Village of Sheffield in accordance with this ordinance.
- (46) **"Tax return preparer"** means any individual described in Section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .
- (47) **"Taxable year"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (48) (a) **"Taxpayer"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (C)(48)(b)(i) of this section, a disregarded entity.
- (b) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
- (a) The limited liability company's single member is also a limited liability company.
- (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
- (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of ORC 718.01 as that section existed on December 31, 2004.
- (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
- (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
- (ii) For purposes of division (C)(48)(b)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least \$400,000.
- (49) **"Taxpayers' rights and responsibilities"** means the rights provided to taxpayers in Sections 193.09, 193.12, 193.13, 193.19(B), 193.20, 193.21, and Sections 5717.011 and 5717.03 of the ORC, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Ordinance 718. of the ORC and resolutions, ordinances, and rules and regulations adopted by the Village of Sheffield, Ohio for the imposition and administration of a municipal income tax.

- (50) **"Video lottery terminal"** has the same meaning as in Section 3770.21 of the ORC.
- (51) **"Video lottery terminal sales agent"** means a lottery sales agent licensed under Chapter 3770. of the ORC to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the ORC.
(Ord. 2526. Passed 12-14-15.)

193.03 IMPOSITION OF TAX.

The income tax levied by the Village of Sheffield, Ohio at a rate of two percent [2.0%] is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in the Village of Sheffield, Ohio.

Individuals.

- (A) For residents of the Village of Sheffield, Ohio, the income tax levied herein shall be on all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident. This is further detailed in the definition of income (Section 193.02 (C)(16)).
- (B) For nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (C) For residents and nonresidents, income can be reduced to "Municipal Taxable Income" as defined in Section 193.02 (C)(21). Exemptions which may apply are specified in Section 193.02 (C)(12).

Refundable credit for Nonqualified Deferred Compensation Plan.

- (D) (1) As used in this division:
 - (a) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
 - (b) "Qualifying loss" means the amount of compensation attributable to a taxpayer's nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the nonqualified deferred compensation plan. The taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
 - (c) (i) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to the Village of Sheffield, Ohio with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

- (ii) If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the Village of Sheffield, Ohio each year with respect to the nonqualified deferred compensation plan.
 - (d) "Refundable credit" means the amount of the Village of Sheffield, Ohio income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.
- (2) If, in addition to the Village of Sheffield, Ohio, a taxpayer has paid tax to other municipal corporations with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
- (3) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to the Village of Sheffield, Ohio for all taxable years with respect to the nonqualified deferred compensation plan.
- (4) The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:
 - (a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (b) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

Domicile.

- (E)
 - (1)
 - (a) An individual is presumed to be domiciled in the Village of Sheffield, Ohio for all or part of a taxable year if the individual was domiciled in the Village of Sheffield, Ohio on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the Village of Sheffield, Ohio for all or part of the taxable year.
 - (b) An individual may rebut the presumption of domicile described in division (E)(1)(a) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Village of Sheffield, Ohio for all or part of the taxable year.
 - (2) For the purpose of determining whether an individual is domiciled in the Village of Sheffield, Ohio for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
 - (a) The individual's domicile in other taxable years;
 - (b) The location at which the individual is registered to vote;
 - (c) The address on the individual's driver's license;
 - (d) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
 - (e) The location and value of abodes owned or leased by the individual;

- (f) Declarations, written or oral, made by the individual regarding the individual's residency;
 - (g) The primary location at which the individual is employed.
 - (h) The location of educational institutions attended by the individual's dependents as defined in Section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation where the educational institution is located;
 - (i) The number of contact periods the individual has with the Village of Sheffield, Ohio. For the purposes of this division, an individual has one "contact period" with the Village of Sheffield, Ohio if the individual is away overnight from the individual's abode located outside of the Village of Sheffield, Ohio and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Village of Sheffield, Ohio.
- (3) All additional applicable factors are provided in the Rules and Regulations.

Businesses.

- (F) This division applies to any taxpayer engaged in a business or profession in the Village of Sheffield, Ohio, unless the taxpayer is an individual who resides in the Village of Sheffield, Ohio or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745. of the ORC.
- (1) Except as otherwise provided in division (F)(2) of this section, net profit from a business or profession conducted both within and without the boundaries of the Village of Sheffield, Ohio shall be considered as having a taxable situs in the Village of Sheffield, Ohio for purposes of municipal income taxation in the same proportion as the average ratio of the following:
 - (a) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Village of Sheffield, Ohio during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
 - (b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Village of Sheffield, Ohio to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 193.04 (C);

- (c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Village of Sheffield, Ohio to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (2)
 - (a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in the Village of Sheffield, Ohio, the taxpayer may request, or the Tax Administrator of the Village of Sheffield, Ohio may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
 - (i) Separate accounting;
 - (ii) The exclusion of one or more of the factors;
 - (iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;
 - (iv) A modification of one or more of the factors.
 - (b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 193.12 (A).
 - (c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 193.12 (A).
 - (d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (3) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
 - (a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (i) The employer;
 - (ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (iii) A vendor, customer, client, or patient of a person described in (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.
 - (b) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

- (c) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (F) (3)(a) or (b) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (4) For the purposes of division (F)(1)(c) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
 - (a) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in the Village of Sheffield, Ohio if, regardless of where title passes, the property meets any of the following criteria:
 - (i) The property is shipped to or delivered within the Village of Sheffield, Ohio from a stock of goods located within the Village of Sheffield, Ohio.
 - (ii) The property is delivered within the Village of Sheffield, Ohio from a location outside the Village of Sheffield, Ohio, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village of Sheffield, Ohio and the sales result from such solicitation or promotion.
 - (iii) The property is shipped from a place within the Village of Sheffield, Ohio to purchasers outside the Village of Sheffield, Ohio, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
 - (b) Gross receipts from the sale of services shall be situated to the Village of Sheffield, Ohio to the extent that such services are performed in the Village of Sheffield, Ohio.
 - (c) To the extent included in income, gross receipts from the sale of real property located in the Village of Sheffield, Ohio shall be situated to the Village of Sheffield, Ohio.
 - (d) To the extent included in income, gross receipts from rents and royalties from real property located in the Village of Sheffield, Ohio shall be situated to the Village of Sheffield, Ohio.
 - (e) Gross receipts from rents and royalties from tangible personal property shall be situated to the Village of Sheffield, Ohio based upon the extent to which the tangible personal property is used in the Village of Sheffield, Ohio.
- (5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to the Village of Sheffield, Ohio's tax only if the property generating the net profit is located in the Village of Sheffield, Ohio or if the individual taxpayer that receives the net profit is a resident of the Village of Sheffield, Ohio. The Village of Sheffield, Ohio shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

- (6) (a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the Village of Sheffield, Ohio, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the Village of Sheffield, Ohio to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
 - (b) An individual who is a resident of the Village of Sheffield, Ohio shall report the individual's net profit from all real estate activity on the individual's annual tax return for the Village of Sheffield, Ohio. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under the Village of Sheffield, Ohio's income tax ordinance.
 - (7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.
 - (8) Left intentionally blank.
 - (9) Intentionally left blank.
- (Ord. 2526. Passed 12-14-15.)

193.04 COLLECTION AT SOURCE.

Withholding provisions.

(A) Each employer, agent of an employer, or other payer located or doing business in the Village of Sheffield, Ohio shall withhold an income tax from the qualifying wages earned and/or received by each employee in the Village of Sheffield, Ohio. Except for qualifying wages for which withholding is not required under Section 193.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 193.03. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

- (B) (1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Village of Sheffield, Ohio the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer according to the following schedule:
 - (a) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the Village of Sheffield, Ohio in the preceding calendar year exceeded \$2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Village of Sheffield, Ohio in any month of the preceding calendar quarter exceeded \$200.

- Payment under division (B)(1)(a) of this section shall be made so that the payment is received by the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.
- (b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the 15th day of the month following the end of each calendar quarter.
- (2) If the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation, the payment shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the Village of Sheffield, Ohio. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.
 - (3) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by Tax Administrator and the Village of Sheffield, Ohio as the return required of a non-resident employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.
 - (4) An employer, agent of an employer, or other payer is not required to withhold the Village of Sheffield, Ohio income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.
 - (5)
 - (a) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
 - (b) The failure of an employer, agent of an employer, or other payer to remit to the Village of Sheffield, Ohio the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.
 - (6) Compensation deferred before June 26, 2003, is not subject to the Village of Sheffield, Ohio income tax or income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

- (7) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Village of Sheffield, Ohio until such time as the withheld amount is remitted to the Tax Administrator.
- (8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:
 - (a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Village of Sheffield, Ohio during the preceding calendar year;
 - (b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year;
 - (c) The name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year;
 - (d) Any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee;
 - (e) Other information as may be required by the Tax Administrator.
- (9) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.
- (10) An employer is required to deduct and withhold the Village of Sheffield, Ohio income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.
- (11) The Tax Administrator shall consider any tax withheld by an employer at the request of an employee, when such tax is not otherwise required to be withheld by this chapter, to be tax required to be withheld and remitted for the purposes of this section.

Occasional Entrant - Withholding.

- (C) (1) As used in this division:
 - (a) "Employer" includes a person that is a related member to or of an employer.

- (b) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (c) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer. If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (C)(2)(a)(i) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.
- For the purposes of this division, the location at which an employee spends a particular day shall be determined in accordance with division (C)(2)(b) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.
- (d) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (e) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (f) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- (g) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than 20 days during the calendar year. "Worksite location" does not include the home of an employee.

- (2) (a) Subject to divisions (C)(3), (5), and (6), of this section, an employer is not required to withhold the Village of Sheffield, Ohio income tax on qualifying wages paid to an employee for the performance of personal services in the Village of Sheffield, Ohio if the employee performed such services in the Village of Sheffield, Ohio on 20 or fewer days in a calendar year, unless one of the following conditions applies:
- (i) The employee's principal place of work is located in the Village of Sheffield, Ohio.
 - (ii) The employee performed services at one or more presumed worksite locations in the Village of Sheffield, Ohio. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in the Village of Sheffield, Ohio at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than 20 days in a calendar year. Services can "reasonably be expected by the employer to last more than 20 days" if either of the following applies at the time the services commence:
 - (a) The nature of the services are such that it will require more than 20 days of the services to complete the services;
 - (b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than 20 days.
 - (iii) The employee is a resident of the Village of Sheffield, Ohio and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 193.04.
 - (iv) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure.
- (b) For the purposes of division (C)(2)(a) of this section, an employee shall be considered to have spent a day performing services in the Village of Sheffield, Ohio only if the employee spent more time performing services for or on behalf of the employer in the Village of Sheffield, Ohio than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
- (i) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (ii) Traveling from a location at which the employee was performing services for the employer to any other location;

- (iii) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
 - (iv) Transporting or delivering property described in division (C)(2)(b)(iii) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
 - (v) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.
- (3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to that municipal corporation.
- (4)
 - (a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in the Village of Sheffield, Ohio exceeds the 20-day threshold, the employer shall withhold and remit tax to the Village of Sheffield, Ohio for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in the Village of Sheffield, Ohio.
 - (b) An employer required to begin withholding tax for the Village of Sheffield, Ohio under division (C)(4)(a) of this section may elect to withhold tax for the Village of Sheffield, Ohio for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in the Village of Sheffield, Ohio.
- (5) If an employer's fixed location is the Village of Sheffield, Ohio and the employer qualifies as a small employer as defined in Section 193.02, the employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the Village of Sheffield, Ohio, regardless of the number of days which the employee worked outside the corporate boundaries of the Village of Sheffield, Ohio. To determine whether an employer qualifies as a small employer for a taxable year, a the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
- (6) Divisions (C)(2)(a) and (4) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 193.04.
(Ord. 2526. Passed 12-14-15.)

193.05 ANNUAL RETURN; FILING.

(A) An annual the Village of Sheffield, Ohio income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.

- (1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 193.04 when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due the Village of Sheffield, Ohio.
- (2) Retirees having no Municipal Taxable Income for the Village of Sheffield, Ohio income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal Taxable Income taxable to the Village of Sheffield, Ohio, at which time the retiree shall be required to comply with all applicable provisions of this chapter.

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

(C) If an individual is unable to complete and file a return or notice required by the Village of Sheffield, Ohio, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) The Village of Sheffield, Ohio shall permit spouses to file a joint return.

- (F) (1) Each return required to be filed under this division shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer. The return shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.
- (2) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return, and amended return, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return, any other documentation necessary to support the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

- (3) The Tax Administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.
- A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway.
- (4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by the Village of Sheffield, Ohio to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
- (G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Village of Sheffield, Ohio. No remittance is required if the net amount due is ten dollars or less.
- (b) Except as otherwise provided in this chapter, each annual net profit return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day (15th) of the fourth month following the end of the taxpayer's taxable year. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Village of Sheffield, Ohio. No remittance is required if the net amount due is ten dollars or less.
- (2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of the Village of Sheffield, Ohio's income tax return. The extended due date of the Village of Sheffield, Ohio's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
- (a) A copy of the federal extension request shall be included with the filing of the Village of Sheffield, Ohio's income tax return.

- (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's the Village of Sheffield, Ohio income tax return. If the request is received by the Tax Administrator on or before the date the Village of Sheffield, Ohio income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.
- (3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of the Village of Sheffield, Ohio's income tax return. The extended due date of the Village of Sheffield, Ohio's income tax return shall be the same as the extended due date of the state income tax return.
- (4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Village of Sheffield, Ohio, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.
- (5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.
- (H) (1) For taxable years beginning after 2015, the Village of Sheffield, Ohio shall not require a taxpayer to remit tax with respect to net profits if the net amount due is ten dollars or less.
- (2) Any taxpayer not required to remit tax to the Village of Sheffield, Ohio for a taxable year pursuant to division (H)(1) of this section shall file with the Village of Sheffield, Ohio an annual net profit return under division (F)(3) of this section.

(I) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. This division shall not apply to payments required to be made under division (B)(1)(a) of Section 193.04 or provisions for semi-monthly withholding.

(J) Taxes withheld for the Village of Sheffield, Ohio by an employer, the agent of an employer, or other payer as described in Section 193.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by the Village of Sheffield, Ohio, unless the amounts withheld were not remitted to the Village of Sheffield, Ohio and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the Village of Sheffield, Ohio to be filed in accordance with this division shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return.

(L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by the Village of Sheffield, Ohio, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by the Village of Sheffield, Ohio or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this ordinance and of the Village of Sheffield, Ohio's ordinance, resolution, or rules and regulations governing the filing of returns, reports, or documents.

Filing via Ohio Business Gateway.

- (M) (1) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file the Village of Sheffield, Ohio's income tax return, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.
- (2) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.
- (3) Nothing in this section affects the due dates for filing employer withholding tax returns.

Extension for service in or for the armed forces.

(N) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the president of the United States or an act of the congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Village of Sheffield, Ohio for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Village of Sheffield, Ohio during the period of the member's or civilian's duty service, and for 180 days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

- (O) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the 181st day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate. However, taxes pursuant to a contract entered into under this division are not delinquent, and the Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (2) If the Tax Administrator determines that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the municipal corporation before the 181st day after the applicant's active duty or service terminates.

- (3) Taxes paid pursuant to a contract entered into under (O)(1) of this division are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (P) (1) Nothing in this division denies to any person described in this division the application of divisions (N) and (O) of this section.
- (2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by a municipal corporation in accordance with this chapter. The length of any extension granted under division (P)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this division, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the president of the United States or an act of the congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.
- (b) Taxes whose payment is extended in accordance with division (P)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (P)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

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

Consolidated municipal income tax return.

- (R) As used in this section:
- (1) "Affiliated group of corporations" means an affiliated group as defined in Section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (R)(1) of this section.
 - (4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the ORC.
 - (5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the ORC.
- (S)
- (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the Village of Sheffield, Ohio's income tax in that taxable year, and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (S)(2) of this section or a taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
 - (2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (S)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
 - (3) An election made under division (S)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

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

(U) A taxpayer shall prepare a consolidated the Village of Sheffield, Ohio income tax return in the same manner as is required under the United States department of treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

- (V) (1) Except as otherwise provided in divisions (V)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 193.02, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
- (2) No corporation filing a consolidated the Village of Sheffield, Ohio income tax return shall make any adjustment otherwise required under Section 193.02(C)(1) to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
- (3) If the net profit or loss of a pass-through entity having at least eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated the Village of Sheffield, Ohio income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
- (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 193.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to the Village of Sheffield, Ohio. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
- (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 193.05, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to the Village of Sheffield, Ohio. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

- (a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in divisions (R) through (Y) of Section 193.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the Village of Sheffield, Ohio;
- (b) The pass-through entity shall be subject to the Village of Sheffield, Ohio income taxation as a separate taxpayer in accordance with this ordinance on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(W) Corporations filing a consolidated the Village of Sheffield, Ohio income tax return shall make the computations required under divisions (R) through (Y) of Section 193.05 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

(Y) Corporations and their affiliates that made an election or entered into an agreement with the Village of Sheffield, Ohio before January 1, 2016, to file a consolidated or combined tax return with the Village of Sheffield, Ohio may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016. (Ord. 2526. Passed 12-14-15.)

193.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(A) Every individual taxpayer domiciled in the Village of Sheffield, Ohio who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this chapter may claim a nonrefundable credit upon satisfactory evidence of the tax paid to the other municipality. Subject to division (C) of this section, the credit shall not exceed the tax due the Village of Sheffield, Ohio under this ordinance.

(B) The Village of Sheffield, Ohio shall grant a credit against its tax on income to a resident of the Village of Sheffield, Ohio who works in a joint economic development zone created under Section 715.691 or a joint economic development district created under Section 715.70, 715.71, or 715.72 of the ORC to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation.

(C) If the amount of tax withheld or paid to the other municipality is less than the amount of tax required to be withheld or paid to the other municipality, then for purposes of division (A) of this section, "the income, qualifying wages, commissions, net profits or other compensation" subject to tax in the other municipality shall be limited to the amount computed by dividing the tax withheld or paid to the other municipality by the tax rate for that municipality.

(D) Intentionally left blank.
(Ord. 2526. Passed 12-14-15.)

193.07 ESTIMATED TAXES.

(A) As used in this section:

- (1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for the Village of Sheffield, Ohio's income tax for the current taxable year.
- (2) "Tax liability" means the total taxes due to the Village of Sheffield, Ohio for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least \$200. For the purposes of this section:

(a) Taxes withheld for the Village of Sheffield, Ohio from qualifying wages shall be considered as paid to the Village of Sheffield, Ohio in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they shall be considered as paid on the dates on which the amounts were actually withheld.

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

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 193.05 or on or before the fifteenth (15th) day of the fourth month after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth month after the beginning of each fiscal year or period.

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

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

- (a) On or before the fifteenth (15th) day of the fourth month after the beginning of the taxable year, twenty-two and one-half (22.5) percent of the tax liability for the taxable year;
 - (b) On or before the fifteenth (15th) day of the sixth month after the beginning of the taxable year, forty-five (45) percent of the tax liability for the taxable year;
 - (c) On or before the fifteenth (15th) day of the ninth month after the beginning of the taxable year, sixty-seven and one-half (67.5) percent of the tax liability for the taxable year;
 - (d) On or before the fifteenth (15th) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.
 - (2) When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates.
 - (3) On or before the fifteenth (15th) day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 718.05 of the ORC.
- (D)
 - (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 193.18 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
 - (a) For the first payment of estimated taxes each year, twenty-two and one-half percent (22.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, forty-five percent (45%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, sixty-seven and one-half percent (67.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, ninety percent (90%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
 - (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.
- (E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
 - (1) The amount of estimated taxes that were paid equals at least ninety percent (90%) of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

- (2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the Village of Sheffield, Ohio under Section 193.05 for that year.
- (3) The taxpayer is an individual who resides in the Village of Sheffield, Ohio but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.
(Ord. 2526. Passed 12-14-15.)

193.08 ROUNDING OF AMOUNTS.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter . Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.
(Ord. 2526. Passed 12-14-15.)

193.09 REQUESTS FOR REFUNDS.

(A) As used in this section, "withholding tax" has the same meaning as in Section 193.18.

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

- (1) Overpayments of ten dollars or more;
- (2) Amounts paid erroneously if the refund requested is ten dollars or more.

(C) (1) Except as otherwise provided in this chapter, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund.

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

(3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 193.21.

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

- (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
- (2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.
- (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(E) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within 90 days after the final filing date of the annual return or 90 days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in Section 193.18 (A)(4). (Ord. 2526. Passed 12-14-15.)

193.10 SECOND MUNICIPALITY IMPOSING TAX AFTER TIME PERIOD ALLOWED FOR REFUND.

(A) Income tax that has been deposited with the Village of Sheffield, Ohio, but should have been deposited with another municipality, is allowable by the Village of Sheffield, Ohio as a refund but is subject to the three-year limitation on refunds.

(B) Income tax that was deposited with another municipality but should have been deposited with the Village of Sheffield, Ohio is subject to recovery by the Village of Sheffield, Ohio. If the Village of Sheffield, Ohio's tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, the Village of Sheffield, Ohio shall allow a nonrefundable credit against the tax or withholding the Village of Sheffield, Ohio claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipality with respect to such income or wages.

(C) If the Village of Sheffield, Ohio's tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using the Village of Sheffield, Ohio's tax rate. However, if the Village of Sheffield, Ohio's tax rate is greater than the tax rate in the other municipality, the tax due in excess of the nonrefundable credit is to be paid to the Village of Sheffield, Ohio, along with any penalty and interest that accrued during the period of nonpayment.

(D) Nothing in this section permits any credit carryforward.
(Ord. 2526. Passed 12-14-15.)

193.11 AMENDED RETURNS.

- (A) (1) If a taxpayer's tax liability shown on the annual tax return for the Village of Sheffield, Ohio changes as a result of an adjustment to the taxpayer's federal or state income tax return, the taxpayer shall file an amended return with the Village of Sheffield, Ohio. The amended return shall be filed on a form required by the Tax Administrator.
- (2) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.
- (B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due, together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, no payment need be made. The amended return shall reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return only:
- (i) To determine the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; or,
- (ii) If the applicable statute of limitations for civil actions or prosecutions under Section 193.12 has not expired for a previously filed return.
- (2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; i.e., the payment shall be the lesser of the two amounts.
- (C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (D) of this section for filing the amended return, even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is less than ten dollars, no refund need be paid by the Village of Sheffield, Ohio. A request filed under this division shall claim refund of overpayments resulting from alterations only to those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return, unless it is also filed within the time prescribed in Section 193.09.
- (2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. All facts, figures, computations, and attachments may be reopened to determine the refund amount due by inclusion of all facts, figures, computations, and attachments.
- (D) Within 60 days after the final determination of any federal or state tax liability affecting the taxpayer's the Village of Sheffield, Ohio's tax liability, that taxpayer shall make and file an amended the Village of Sheffield, Ohio return showing income subject to the Village of Sheffield, Ohio income tax based upon such final determination of federal or state tax liability. The taxpayer shall pay any additional the Village of Sheffield, Ohio income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than ten dollars. (Ord. 2526. Passed 12-14-15.)

193.12 LIMITATIONS.

- (A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the later of:
- (i) Three years after the tax was due or the return was filed, whichever is later; or
 - (ii) One year after the conclusion of the qualifying deferral period, if any.
- (b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.
- (2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:
- (a) Beginning on the date a person who is aggrieved by an assessment files with the Board of Tax Review the request described in Section 193.21. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.
 - (b) Ending the later of the sixtieth day after the date on which the final determination of the Board of Tax Review becomes final or, if any party appeals from the determination of the Board of Tax Review, the sixtieth day after the date on which the final determination of the Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.
- (B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.
- (C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 193.09.
- (D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Village of Sheffield, Ohio does not prejudice any claim for refund upon final determination of the appeal.

- (2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Board of Tax Review, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the resultant amount due is less than the amount paid, a refund will be paid in the amount of the overpayment as provided by Section 193.09, with interest on that amount as provided by division (E) of Section 193.09.

(E) No civil action to recover the Village of Sheffield, Ohio income tax or related penalties or interest shall be brought during either of the following time periods:

- (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
 - (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.
- (Ord. 2526. Passed 12-14-15.)

193.13 AUDITS.

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

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

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

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner.

This division does not authorize the practice of law by a person who is not an attorney.

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

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

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest. (Ord. 2526. Passed 12-14-15.)

193.14 SERVICE OF ASSESSMENT.

(A) As used in this section:

- (1) "Last known address" means the address the Tax Administrator has at the time a document is originally sent by certified mail, or any address the Tax Administrator can ascertain using reasonable means such as the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC.
- (2) "Undeliverable address" means an address to which the postal service or an authorized delivery service under Section 5703.056 of the ORC is not able to deliver an assessment of the Tax Administrator, except when the reason for non-delivery is because the addressee fails to acknowledge or accept the assessment.

(B) Subject to division (C) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the ORC. With the permission of the person affected by an assessment, the Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail.

- (C) (1) (a) If certified mail is returned because of an undeliverable address, a Tax Administrator shall utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC. If the Tax Administrator is unable to ascertain a new last known address, the assessment shall be sent by ordinary mail and considered served. If the ordinary mail is subsequently returned because of an undeliverable address, the assessment remains appealable within 60 days after the assessment's postmark.
- (b) Once the Tax Administrator or other the Village of Sheffield, Ohio official, or the designee of either, serves an assessment on the person to whom the assessment is directed, the person may protest the ruling of that assessment by filing an appeal with the local board of tax review within 60 days after the receipt of service. The delivery of an assessment of the Tax Administrator under division (C)(1)(a) of this section is prima facie evidence that delivery is complete and that the assessment is served.
- (2) If mailing of an assessment by a Tax Administrator by certified mail is returned for some cause other than an undeliverable address, the Tax Administrator shall resend the assessment by ordinary mail. The assessment shall show the date the Tax Administrator sends the assessment and include the following statement:
"This assessment is deemed to be served on the addressee under applicable law ten days from the date this assessment was mailed by the Tax Administrator as shown on the assessment, and all periods within which an appeal may be filed apply from and after that date."
Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima facie evidence that delivery of the assessment was completed ten days after the Tax Administrator sent the assessment by ordinary mail and that the assessment was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the Tax Administrator shall proceed under division (C)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (D) of this section.

- (D) (1) A person disputing the presumption of delivery and service under division (C) of this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent by certified mail was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least 20 percent, as determined by voting rights, of the addressee's business.
- (2) If a person elects to appeal an assessment on the basis described in division (D)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within 60 days after the initial contact by the Tax Administrator or other the Village of Sheffield, Ohio official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the local board of tax review.

(E) Nothing in this section prohibits the Tax Administrator or the Tax Administrator's designee from delivering an assessment by a Tax Administrator by personal service.

(F) Collection actions taken upon any assessment being appealed under division (C)(1)(b) of this section, including those on which a claim has been delivered for collection, shall be stayed upon the pendency of an appeal under this section.

(G) Additional regulations as detailed in the Rules and Regulations shall apply. (Ord. 2526. Passed 12-14-15.)

193.15 ADMINISTRATION OF CLAIMS.

(A) As used in this section, "claim" means a claim for an amount payable to the Village of Sheffield, Ohio that arises pursuant to the Village of Sheffield, Ohio's income tax imposed in accordance with this chapter.

(B) Nothing in this chapter prohibits a Tax Administrator from doing either of the following if such action is in the best interests of the municipal corporation:

- (1) Compromise a claim;
- (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments.

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

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall be to the benefit of only the parties to the compromise or agreement, and shall not eliminate or otherwise affect the liability of any other person.

(E) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due. (Ord. 2526. Passed 12-14-15.)

193.16 TAX INFORMATION CONFIDENTIAL.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this chapter is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Village of Sheffield, Ohio as authorized by this chapter. The Tax Administrator or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the internal revenue service, the tax commissioner, and tax administrators of other municipal corporations.

(B) This section does not prohibit the Village of Sheffield, Ohio from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers. (Ord. 2526. Passed 12-14-15.)

193.17 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by the Village of Sheffield, Ohio ordinance or state law to be filed with a the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Village of Sheffield, Ohio or the Tax Administrator. (Ord. 2526. Passed 12-14-15.)

193.18 INTEREST AND PENALTIES.

(A) As used in this section:

- (1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Village of Sheffield, Ohio provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of the Village of Sheffield, Ohio.
- (2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under Section 1274 of the Internal Revenue Code, for July of the current year.

- (3) "Income tax," "estimated income tax," and "withholding tax" means any income tax, estimated income tax, and withholding tax imposed by the Village of Sheffield, Ohio pursuant to applicable law, including at any time before January 1, 2016.
 - (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.
 - (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a the Tax Administrator or the Village of Sheffield, Ohio by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
 - (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
 - (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
 - (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
 - (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.
- (B)
- (1) This section applies to the following:
 - (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
 - (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Village of Sheffield, Ohio on or after January 1, 2016.
 - (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules and regulations, as adopted before January 1, 2016, of the Village of Sheffield, Ohio to which the return is to be filed or the payment is to be made.
- (C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fails, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Village of Sheffield, Ohio any return required to be filed, the following penalties and interest shall apply:
- (1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.
 - (2) (a) With respect to unpaid income tax and unpaid estimated income tax, the Village of Sheffield, Ohio may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

- (b) With respect to any unpaid withholding tax, the Village of Sheffield, Ohio may impose a penalty equal to fifty percent (50%) of the amount not timely paid.
- (3) With respect to returns other than estimated income tax returns, the Village of Sheffield, Ohio may impose a penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure.

(D) Nothing in this section requires the Village of Sheffield, Ohio to refund or credit any penalty, amount of interest, charges, or additional fees that the Village of Sheffield, Ohio has properly imposed or collected before January 1, 2016.

(E) Nothing in this section limits the authority of the Village of Sheffield, Ohio to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.

(F) By the 31st day of October of each year the Village of Sheffield, Ohio shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(G) The Village of Sheffield, Ohio may impose on the taxpayer, employer, any agent of the employer, or any other payer the Village of Sheffield, Ohio's post-judgment collection costs and fees, including attorney's fees.
(Ord. 2526. Passed 12-14-15.)

193.19 AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION.

Authority.

(A) Nothing in this chapter shall limit the authority of the Tax Administrator to perform any of the following duties or functions, unless the performance of such duties or functions is expressly limited by a provision of the ORC:

- (1) (a) Exercise all powers whatsoever of a query nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths.
- (b) The powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under the Village of Sheffield, Ohio's income tax ordinance;
- (2) Appoint agents and prescribe their powers and duties;

- (3) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (4) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, for any reason overpaid. In addition, the Tax Administrator may investigate any claim of overpayment and, if the Tax Administrator finds that there has been an overpayment, make a written statement of the Tax Administrator's findings, and approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this ordinance;
- (5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 193.03;
- (7)
 - (a) Make all tax findings, determinations, computations, and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, re-determine, or correct any tax findings, determinations, computations, or orders the Tax Administrator has made.
 - (b) If an appeal has been filed with the Board of Tax Review or other appropriate tribunal, the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, or order which the Tax Administrator has made, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
- (8) Destroy any or all returns or other tax documents in the manner authorized by law;
- (9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 193.04.

Verification of accuracy of returns and determination of liability.

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

- (2) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Village of Sheffield, Ohio or for the withholding of such tax.
- (3) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.
- (4) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal or state income tax returns under this section shall fail to comply.

Identification information.

- (C) (1) Nothing in this chapter prohibits the Tax Administrator from requiring any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.
- (2) (a) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within 30 days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 193.18, in addition to any applicable penalty described in Section 193.99.

- (b) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (C) of Section 193.19 within 30 days after filing the next tax document requiring such identifying information, nothing in this ordinance prohibits the Tax Administrator from imposing a penalty pursuant to Section 193.18.
- (c) The penalties provided for under divisions (C)(2)(a) and (b) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 193.99 for a violation of Section 193.17 and any other penalties that may be imposed by the Tax Administrator by law. (Ord. 2526. Passed 12-14-15.)

193.20 REQUEST FOR OPINION OF THE TAX ADMINISTRATOR.

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

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator in accordance with the Rules and Regulations.

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

(D) A Tax Administrator may refuse to offer an opinion on any request received under this section. Such refusal is not subject to appeal.

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

(F) An opinion of the Tax Administrator issued under this section is not subject to appeal. (Ord. 2526. Passed 12-14-15.)

193.21 BOARD OF TAX REVIEW.

- (A) (1) The Board of Tax Review shall consist of three members. Two members shall be appointed by the legislative authority of the Village of Sheffield, Ohio, but such appointees may not be employees, elected officials, or contractors with the Village of Sheffield, Ohio at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the Mayor of the Village of Sheffield, Ohio. This member may be an employee of the Village of Sheffield, Ohio, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

- (2) The term for members of the Board of Tax Review the Village of Sheffield, Ohio shall be two years. There is no limit on the number of terms that a member may serve if the member is reappointed by the legislative authority. The board member appointed by the Mayor of the Village of Sheffield, Ohio shall serve at the discretion of the administrative official.
- (3) Members of the Board of Tax Review appointed by the legislative authority may be removed by the legislative authority by majority vote for malfeasance, misfeasance, or nonfeasance in office. To remove such a member, the legislative authority must give the member a copy of the charges against the member and afford the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten days' notice. The decision by the legislative authority on the charges is final and not appealable.
- (4) A member of the Board of Tax Review who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (5) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within 60 days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the Board of Tax Review shall impair the power and authority of the remaining members to exercise all the powers of the Board of Tax Review.
- (6) If a member is temporarily unable to serve on the Board of Tax Review due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the Board of Tax Review in the member's place. The appointment of such an individual shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

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

(C) Any person who has been issued an assessment may appeal the assessment to the Board of Tax Review by filing a request with the Board of Tax Review. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within 60 days after the taxpayer receives the assessment.

(D) The Board of Tax Review shall schedule a hearing to be held within 60 days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board of Tax Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of Tax Review may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within 120 days after the first day of the hearing unless the parties agree otherwise.

(E) The Board of Tax Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Tax Review shall issue a final determination on the appeal within 90 days after the Board of Tax Review's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within 15 days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board of Tax Review's final determination as provided in Section 5717.011 of the ORC.

(F) The Board of Tax Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the ORC. Hearings requested by a taxpayer before a Board of Tax Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the ORC.
(Ord. 2526. Passed 12-14-15.)

193.22 AUTHORITY TO CREATE RULES AND REGULATIONS.

(A) Nothing in this chapter prohibits the legislative authority of the Village of Sheffield, Ohio, or a Tax Administrator pursuant to authority granted to the administrator by resolution or ordinance, to adopt rules to administer an income tax imposed by the Village of Sheffield, Ohio in accordance with this chapter. Such rules shall not conflict with or be inconsistent with any provision of this chapter. Taxpayers are hereby required to comply not only with the requirements of this chapter, but also to comply with the Rules and Regulations.

(B) All rules adopted under this section shall be published and posted on the internet.
(Ord. 2526. Passed 12-14-15.)

193.23 RENTAL AND LEASED PROPERTY.

(A) All property owners of real property located in the Village of Sheffield, Ohio, who rent or otherwise lease the same, or any part thereof, to any person for residential dwelling purposes, including apartments, rooms and other rental accommodations, during any calendar year, or part thereof, commencing with the effective date of this section, shall file with the Tax Administrator on or before the January 31 first following such calendar year a written report disclosing the name, address and also telephone number, if available, of each tenant known to have occupied on December 31 during such calendar year such apartment, room or other residential dwelling rental property.

(B) The Tax Administrator may order the appearance before him, or his duly authorized agent, of any person whom he believes to have any knowledge of the name, address and telephone number of any tenant of residential rental real property in the Village of Sheffield, Ohio. The Tax Administrator, or his duly authorized agent, is authorized to examine any person, under oath, concerning the name, address and telephone number of any tenant of residential real property located in the Village of Sheffield, Ohio. The Tax Administrator, or his duly authorized agent, may compel the production of papers and records and the attendance of all personal before him, whether as parties or witnesses, whenever he believes such person has knowledge of the name, address and telephone number of any tenant of residential real property in the Village of Sheffield, Ohio.

(C) Any property owner or person that violates one or more of the following shall be subject to Section 193.99:

- (1) Fails, refuses or neglects to timely file a written report required by subsection (a) hereof; or
- (2) Makes an incomplete or intentionally false written report required by subsection (a) hereof; or
- (3) Fails to appear before the Tax Administrator or any duly authorized agent and to produce and disclose any tenant information pursuant to any order or subpoena of the Tax Administrator as authorized in this section; or
- (4) Fails to comply with the provisions of this section or any order or subpoena of the Tax Administrator.

(Ord. 2526. Passed 12-14-15.)

193.24 SAVINGS CLAUSE.

This chapter shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, or part hereof, not been included therein.

(Ord. 2526. Passed 12-14-15.)

193.25 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(A) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 193.12 and Section 193.99.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 193.05 and Section 193.04 as though the same were continuing. (Ord. 2526. Passed 12-14-15.)

193.26 ADOPTION OF RITA RULES AND REGULATIONS.

The Village of Sheffield, Ohio hereby adopts the Regional Income Tax Agency (RITA) Rules & Regulations, including amendments that may be made from time to time, for use as the Village of Sheffield, Ohio's Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of the Village of Sheffield, Ohio Income Tax Ordinance and the RITA Rules & Regulations, this chapter will supersede. Until and if the contractual relationship between the Village of Sheffield, Ohio and RITA ceases, Section 193.26 will supersede all other provisions within this chapter regarding promulgation of rules and regulations by the Tax Administrator.

(Ord. 2526. Passed 12-14-15.)

193.99 VIOLATIONS; PENALTIES.

(A) Whoever violates Section 193.17, division (A) of Section 193.16, or Section 193.04 by failing to remit the Village of Sheffield, Ohio income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than \$1,000 or imprisonment for a term of up to six months, or both. If the individual that commits the violation is an employee, or official, of the Village of Sheffield, Ohio, the individual is subject to discharge from employment or dismissal from office.

(B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 193.16 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. If the individual that commits the violation is an employee, or official, of the Village of Sheffield, Ohio, the individual is subject to discharge from employment or dismissal from office.

(C) Each instance of access or disclosure in violation of division (A) of Section 193.16 constitutes a separate offense.

(D) If not otherwise specified herein, no person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (2) File any incomplete or false return;
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (4) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;
- (5) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;
- (6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;
- (7) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator authorized hereby;
- (8) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;
- (9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(E) Any person who violates any of the provisions in Section 193.99 (D) shall be subject to the penalties provided for in Section 193.99(A).

(Ord. 2526. Passed 12-14-15.)

CHAPTER 195
Hotel/Motel Lodging Excise Tax

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195.01 DEFINITIONS.

Except where the context otherwise requires, the definitions given in this section govern the construction and are the meaning of the words defined.

- (a) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, the State and its political subdivisions, or any other group or combination acting as a unit.
- (b) "Clerk-Treasurer" means the Clerk-Treasurer of the Village of Sheffield or his/her appointed designee.
- (c) "Hotel" and "Motel" and Motor Inn" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for a consideration to guests, in which five or more rooms are used for the accommodations of such guests, whether such rooms are in one or several structures.
- (d) "Transient guests" means a natural person who physically occupies a room or rooms for sleeping accommodations for less than thirty consecutive days.
- (e) "Vendor" means the person who is the proprietor of the hotel, motel or motor inn, whether in the capacity of owner, lessee, mortgagee in possession, licensee or any other capacity. Where the vendor performs its functions through a managing agent of any type or character, other than an employee, the managing agent shall also be deemed a vendor for the purposes of this chapter and shall have the same duties and liabilities as its principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
- (f) "Excise tax" means the tax levied by the Village on transactions by which lodging by a hotel, motel or motor inn is or is to be furnished to transient guests.

- (g) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever.
(Ord. 1717. Passed 6-28-99.)

195.02 IMPOSITION OF TAX.

(a) For the purpose of providing revenue with which to meet the needs of the Village for the use of the General Revenue Fund of the Village, an excise tax is hereby levied on transactions by which lodging by a hotel, motel or motor inn is or is to be furnished to transient guests. The tax is three percent (3%) of the amount paid or to be paid by the transient guest for the lodging.

(b) Commencing December 27, 2017 for the purpose of providing revenue for the Village to promote economic development and tourism related activities, an additional three percent (3%) excise tax is hereby levied on transactions by which lodging by a hotel is or is to be furnished to transient guests pursuant to ORC §5739.09(B)(3). This tax shall be in addition to the three percent (3%) tax currently being levied pursuant to ORC §5709.02, resulting in a total aggregate tax due of six percent (6%).

(c) The tax applies and is collectible at the time the lodging is furnished, regardless of the time when the amount paid for lodging is paid.

(d) For the proper administration of this chapter and to prevent evasion of the tax, it is presumed that all lodging furnished by hotels, motels and motor inns in the Village is to be to transient guests and is subject to the tax until the contrary is established.
(Ord. 2606. Passed 12-27-17.)

195.03 TRANSIENT GUEST TO PAY TAX.

The tax imposed by this chapter shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging. (Ord. 1717. Passed 6-28-99.)

195.04 EXEMPTIONS FROM EXCISE TAX.

- (a) No tax shall be imposed under this chapter:
- (1) Upon rents not within the taxing power of the Village under the Constitution or laws of Ohio or the United States;
 - (2) Upon rents paid by the State of Ohio or any of its political subdivisions.

(b) No exemption claimed under subsections (a)(1) or (2) above shall be granted except upon a claim therefor made at the time rent is collected, and under penalty of perjury, upon a form prescribed by the Clerk-Treasurer.
(Ord. 1717. Passed 6-28-99.)

195.05 TAX TO BE SEPARATELY STATED AND CHARGED.

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

(b) No vendor of a hotel, motel or motor inn shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the vendor, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.
(Ord. 1717. Passed 6-28-99.)

195.06 REGISTRATION.

Within thirty (30) days after the effective date of this chapter or within thirty days after commencing business, whichever is later, each vendor of any hotel, motel or motor inn renting lodging to transient guests shall register the hotel with the Clerk-Treasurer and obtain from him or her a transient occupancy registration certificate, to be at all times posted in a conspicuous place on the premises. The certificate shall, among other things, state the following:

- (a) The name of the vendor;
- (b) The address of the hotel;
- (c) The date upon which the certificate was issued;
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Village of Sheffield Hotel/Motel Excise Tax Code of Regulations by registering with the Clerk-Treasurer for the purpose collecting from transient guests the Transient Occupancy Tax and remitting said tax to the Clerk-Treasurer. This certificate does not constitute a permit."
(Ord. 1717. Passed 6-28-99.)

195.07 REPORTING AND REMITTING.

Each vendor shall on or before the tenth (10th) day of the month following the close of each month, make a return to the Clerk-Treasurer on forms provided by him or her, of the total rents charged and received and the amount of tax collected for the transient occupancies. All claims for exemption from tax filed by occupants with the operator during the reporting period shall be filed with the report.

At the time the return is filed, the full amount of the tax collected shall be remitted to the Clerk-Treasurer. The Clerk-Treasurer may establish shorter reporting periods for any certificate holder if he or she deems it necessary in order to insure collection of the tax and he or she may require further information in the return if such information is pertinent to the collection of the tax. Returns and payments are due immediately upon cessation of business for any reason.

All taxes collected by vendors pursuant to this regulation shall be held in trust for the account of the Village of Sheffield until payment thereof is made to the Clerk-Treasurer. All returns and payments submitted to each vendor shall be treated as confidential by the Clerk-Treasurer and shall not be released by him or her except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State of Ohio, the County of Lorain or in order to comply with the requirements of Ohio R.C. Section 149.43. A statement of account shall be furnished annually, to all operators effective December 31st of the current year.
(Ord. 1717. Passed 6-28-99.)

195.08 PENALTIES AND INTEREST.

(a) Delinquency. Any vendor who fails to remit any tax imposed by this chapter within the time required shall pay a penalty equal to ten percent (10%) of the amount of the tax, in addition to the tax.

(b) Continued Delinquency. Any vendor who fails to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty equal to ten percent (10%) of the amount of the tax and previous penalty in addition to the tax and the ten percent (10%) first imposed. An additional penalty equal to ten percent (10%) of the total tax and penalty of the previous thirty-day period shall be added for each successive thirty-day period that the account remains delinquent.

(c) Fraud. If the Clerk-Treasurer determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in subsection (a) hereof.

(d) Interest. In addition to the previous penalties imposed, any vendor who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent (1%) per month, or fraction thereof, on the amount of the tax exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Penalties During Pendency of Hearing or Appeal. No penalty provided under the terms of this chapter shall be imposed during the pendency of any hearing provided for in Section 195.09, nor during the pendency of any appeal to the Board of Review provided for in Section 195.10 hereof.

(f) Abatement of Interest and Penalty. In cases where a return has been filed in good faith, and an assessment has been paid within the time prescribed by the Clerk-Treasurer, the Clerk-Treasurer may abate any charge of penalty or interest or both.
(Ord. 1717. Passed 6-28-99.)

195.09 FAILURE TO COLLECT AND REPORT TAX; DETERMINATION OF CLERK-TREASURER.

If any vendor fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of the tax, or any portion thereof required by this chapter, the Clerk-Treasurer shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the Clerk-Treasurer procures such facts and information upon which to base the assessment of any tax imposed by this chapter and payable by any vendor who has failed or refused to collect the same and to make a report and remittance, he or she shall proceed to determine and assess against the vendor the tax, interest and penalties provided for by this chapter.

In case such determination is made, the Clerk-Treasurer shall give notice of the amount so assessed by serving it personally, or by depositing it in the U.S. mail, postage prepaid, addressed to the vendor so assessed at the vendor's last known place of address. The vendor may within ten (10) days after the service or mailing of the notice make application in writing to the Clerk-Treasurer for a hearing on the amount assessed.

If an application by the vendor for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Clerk-Treasurer, shall become final and conclusive, and immediately be due and payable.

If an application by the vendor is made, the Clerk-Treasurer shall give not less than five (5) days' written notice in the manner prescribed herein to the vendor to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for the tax, interest and penalties. At the hearing the vendor may appear and offer evidence why the specified tax, interest and penalties should not be so fixed.

After the hearing, the Clerk-Treasurer shall determine the proper tax to be remitted, and shall give written notice to the vendor in the manner prescribed herein of the determination and the amount of the tax, interest and penalties. The amount determined to be due shall be payable after fifteen (15) days unless an appeal is taken as proved in Section 195.10 hereof.

(Ord. 1717. Passed 6-28-99.)

195.10 APPEAL.

Any vendor aggrieved by the decision of the Clerk-Treasurer with respect to the amount of the tax, interest and penalties, may appeal to the Board of Review by filing a notice of appeal with the Clerk-Treasurer within fifteen (15) days of the serving or mailing of the determination of the tax due. The Board shall fix a time and place for hearing the appeal and shall give notice in writing to the vendor at his or her last known place of address. The findings of the Board shall be served upon the vendor in the manner prescribed above for service of the notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the Board findings.

(Ord. 1717. Passed 6-28-99.)

195.11 BOARD OF REVIEW

(a) A Board of Review, consisting of the Mayor and the Village Solicitor, is hereby created. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearings by the Board may be conducted privately and the provisions of Section 195.07 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) The Board shall hear and pass on appeals from any ruling or decision of the Clerk-Treasurer, and at the request of the vendor or the Clerk-Treasurer, is empowered to substitute alternate methods of allocation. The Board shall have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(Ord. 1717. Passed 6-28-99.)

195.12 RECORDS.

Every vendor liable for the collection and payment to the Village of Sheffield of any tax imposed by this chapter shall keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of tax that he or she may have been liable for the collection of and payment to the Village, which record the Clerk-Treasurer shall have the right to inspect at all reasonable times.

(Ord. 1717. Passed 6-28-99.)

195.13 REFUNDS.

(a) Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the Village of Sheffield under this regulation, it may be refunded as provided in subparagraph (b) and (c) of this section provided a claim in writing therefore, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the Clerk-Treasurer within three years of the date of payment. The claim shall be on forms furnished by the Clerk-Treasurer.

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

(c) A transient guest may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the Village by filing a claim in the manner provided in subparagraph (a) of this section, but only when the tax was paid by the transient guest directly to the Clerk-Treasurer, or when the transient guest having paid the tax to the vendor, establishes to the satisfaction of the Clerk-Treasurer that the transient guest has been unable to obtain a refund from the vendor who collected the tax.

(d) No refund shall be paid under the provisions of this section unless the claimant establishes his or her right thereto by written records showing entitlement thereto.
(Ord. 1717. Passed 6-28-99.)

CHAPTER 197
Motor Vehicle License Tax

197.01 Levy of tax.

CROSS REFERENCES

Authority to levy - see Ohio R.C. 4504.06 et seq.

197.01 LEVY OF TAX.

(a) As used in this section, "motor vehicle" means any and all vehicles included within the definition of motor vehicle in Ohio R.C. 4501.01 and 4505.01.

(b) There is hereby levied an annual license tax upon the operation of motor vehicles on the public roads or highways pursuant to Ohio R.C. 4504.171, for the purposes of paying the costs and expenses of enforcing and administering the tax provided for in this section; and to provide additional revenue for the purposes set forth in Ohio R.C. 4504.06; and to supplement revenue already available for such purposes.

(c) Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on each and every motor vehicle that is registered in the district of registration, as defined in Ohio R.C. 4503.10, which is in the Village of Sheffield, Ohio.

(d) The tax imposed by this section shall apply to and be in effect for the registration year commencing the 1st day of January, 1999 and shall continue in effect and application during each registration year thereafter.

(e) The tax imposed by this section shall be paid to the Registrar of Motor Vehicles of the State of Ohio or to a Deputy Registrar at the time application for registration of a motor vehicle is made as provided in Ohio R.C. 4503.10 and all monies derived from the tax hereinbefore levied shall be used by the Village for the purposes specified in this section. (Ord. 1571. Passed 9-22-97.)