

CODE OF ORDINANCES

City of

BRECKSVILLE, OHIO

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 5661, enacted November 21, 2023.

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THE CITY OF BRECKSVILLE, OHIO

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CD5:105, CD5:106	OC	CD5:181, CD5:182	OC
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CD5:193, CD5:194	OC	CD5:269, CD5:270	OC
CD5:195, CD5:196	OC	CD5:271, CD5:272	OC
CD5:197, CD5:198	OC	CD5:273, CD5:274	OC
CD5:199, CD5:200	OC	CD5:275, CD5:276	OC
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CD5:225, CD5:226	OC	CD5:301, CD5:302	OC
CD5:227, CD5:228	OC	CD5:303, CD5:304	OC
CD5:229, CD5:230	OC	CD5:305, CD5:306	OC
CD5:231, CD5:232	OC	CD5:307, CD5:308	OC
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CD5:255, CD5:256	OC	CD7:15, CD7:16	OC
CD5:257, CD5:258	OC	CD7:17, CD7:18	OC
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CD7:27, CD7:28	OC	CD7:103, CD7:104	OC
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CD7:33, CD7:34	OC	CD7:109, CD7:110	OC
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CD7:55, CD7:56	OC	CD7:131, CD7:132	OC
CD7:57, CD7:58	OC	CD7:133, CD7:134	OC
CD7:59, CD7:60	OC	CD7:135, CD7:136	OC
CD7:61, CD7:62	OC	CD7:137, CD7:138	OC
CD7:63, CD7:64	OC	CD7:139, CD7:140	OC
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CD7:91, CD7:92	OC	CD7:167, CD7:168	OC
CD7:93, CD7:94	OC	CD7:169, CD7:170	OC
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CD9:9, CD9:10	OC	CD11:25, CD11:26	OC
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CD11:1, CD11:2	OC	CD11:77, CD11:78	OC
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CD11:91, CD11:92	OC	CD11:167, CD11:168	OC
CD11:93, CD11:94	OC	CD11:169, CD11:170	OC
CD11:95, CD11:96	OC	CD11:171, CD11:172	OC
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CD11:103, CD11:104	OC	CD11:179, CD11:180	OC
CD11:105, CD11:106	OC	CD11:181, CD11:182	OC
CD11:107, CD11:108	OC	CD11:183, CD11:184	OC
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CD11:117, CD11:118	OC	CD11:193, CD11:194	OC
CD11:119, CD11:120	OC	CD11:195, CD11:196	OC
CD11:121, CD11:122	OC	CD11:197, CD11:198	OC
CD11:123, CD11:124	OC	CD11:199, CD11:200	OC
CD11:125, CD11:126	OC	CD11:201, CD11:202	OC
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CD11:129, CD11:130	OC	CD11:205, CD11:206	OC
CD11:131, CD11:132	OC	CD11:207	OC
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CD11:155, CD11:156	OC	CD11:231, CD11:232	OC
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CD11:243, CD11:244	OC	CD13:5, CD13:6	OC
CD11:245, CD11:246	OC	CD13:7, CD13:8	OC
CD11:247, CD11:248	OC	CD13:9, CD13:10	OC
CD11:249, CD11:250	OC	CD13:11, CD13:12	OC
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CD11:257, CD11:258	OC	CD13:19, CD13:20	OC
CD11:259, CD11:260	OC	CD13:21, CD13:22	OC
CD11:261	OC	CD13:23, CD13:24	OC
CD11:263, CD11:264	OC	CD13:25, CD13:26	OC
CD11:265, CD11:266	OC	CD13:27, CD13:28	OC
CD11:267, CD11:268	OC	CD13:29, CD13:30	OC
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CD11:273, CD11:274	OC	CD13:35, CD13:36	OC
CD11:275, CD11:276	OC	CD13:37, CD13:38	OC
CD11:277, CD11:278	OC	CD13:39, CD13:40	OC
CD11:279, CD11:280	OC	CD13:41, CD13:42	OC
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CD13:83, CD13:84	1	CD15:21, CD15:22	OC
CD13:85, CD13:86	1	CD15:23, CD15:24	OC
CD13:87, CD13:88	1	CD15:25, CD15:26	OC
CD13:89, CD13:90	1	CD15:27, CD15:28	OC
CD13:91, CD13:92	1	CD15:29, CD15:30	OC
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CD13:97, CD13:98	1	CD15:35, CD15:36	OC
CD13:99, CD13:100	1	CD15:37, CD15:38	OC
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CD13:107, CD13:108	OC	CD15:41, CD15:42	OC
CD13:109, CD13:110	OC	CD15:43, CD15:44	OC
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CD13:117, CD13:118	OC	CD15:51, CD15:52	OC
CD13:119, CD13:120	OC	CD15:53, CD15:54	OC
CD13:121, CD13:122	OC	CD15:55, CD15:56	1
CD13:123, CD13:124	OC	CD15:57, CD15:58	1
CD13:125, CD13:126	OC	CD15:59, CD15:60	1
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TSO:33, TSO:34	OC	PRT:3, PRT:4	OC
TSO:35, TSO:36	OC	PRT:5, PRT:6	OC
TSO:37, TSO:38	OC	PRT:7, PRT:8	OC
TSO:39, TSO:40	OC	PRT:9, PRT:10	OC
TSO:41, TSO:42	OC	PRT:11, PRT:12	OC
TSO:43, TSO:44	OC	PRT:13, PRT:14	OC
TSO:45, TSO:46	OC	PRT:15, PRT:16	OC
TSO:47, TSO:48	OC	PRT:17, PRT:18	OC
TSO:49, TSO:50	OC	PRT:19, PRT:20	OC
TSO:51, TSO:52	OC	PRT:21, PRT:22	OC
TSO:53	1	PRT:23, PRT:24	OC
TSO:90	OC	PRT:25, PRT:26	OC
TSO:120, TSO:121	OC	PRT:27, PRT:28	OC
TSO:121, TSO:122	OC	PRT:29, PRT:30	OC
TSO:123, TSO:124	OC	PRT:31, PRT:32	OC
TSO:125	OC	PRT:33	OC
TSO:150, TSO:151	OC	PRT:35, PRT:36	OC
TSO:151, TSO:152	OC	PRT:37, PRT:38	OC
TSO:153, TSO:154	1	PRT:39, PRT:40	OC
TSO:180, TSO:181	OC	PRT:41, PRT:42	OC
TSO:181, TSO:182	OC	PRT:43, PRT:44	OC
TSO:183, TSO:184	OC	PRT:45, PRT:46	OC
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TSO:270, TSO:271	OC	CHTi:1, CHTi:2	1
TSO:271, TSO:272	OC	CHTi:3, CHTi:4	1
TSO:273, TSO:274	OC	CHTi:5, CHTi:6	1
TSO:275, TSO:276	OC	CDi:1, CDi:2	1
TSO:277, TSO:278	OC	CDi:3, CDi:4	1
TSO:279, TSO:280	OC	CDi:5, CDi:6	1
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SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature are not codified in the Code and are considered "Omitted."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ord. No./Res. No.	Date Adopted	Included/Omitted
Supp. No. 1		
5437(Res.)	5-16-23	Omitted
5438(Res.)	5-16-23	Omitted
5449(Res.)	7- 5-23	Omitted
5606	7-18-23	Included
5607	7-18-23	Included
5608	7-18-23	Included
5609	7-18-23	Included
5610	7-18-23	Included
5611	7-18-23	Included
5623	6-20-23	Omitted
5630	6-20-23	Omitted
5649	10- 3-23	Omitted
5658	11- 7-23	Included
5659	11- 7-23	Omitted
5660	11- 7-23	Included
5661	11-21-23	Included

CHARTER

- Section 6. Sale of municipal property.
- Section 7. Procedure for selecting depositories and deposit of public monies.
- Section 8. Purchasing.

Article VII. Nominations and Elections

Article VIII. Initiative, Referendum and Recall

- Section 1. Initiative.
- Section 2. Referendum.
- Section 3. Recall.
- Section 4. Petitions.

Article IX. Franchises

Article X. Amendments to Charter

Article XI. Charter Review Commission

Article XII. Miscellaneous Provisions

- Section 1. Effective date of Charter.
- Section 2. Saving clause.
- Section 3. Effect of the Charter upon existing laws and rights.
- Section 4. Interpretation of the Charter.
- Section 5. Misspellings, errors in grammar, renumbering upon codification and gender neutral designations.

PREAMBLE

We, the people of Brecksville, in the County of Cuyahoga and State of Ohio, in order to secure for ourselves the benefits of municipal home rule and to exercise all the powers of local self-government under the Constitution and laws of the State of Ohio, do hereby adopt this Charter for our municipality.

ARTICLE I. BOUNDARIES

This municipality now existing in the County of Cuyahoga and State of Ohio shall continue to be a body politic incorporated under the name of BRECKSVILLE, with the same boundaries as now exist. It shall have the power and authority to change its boundaries in the manner authorized by the laws of Ohio, except that no territory shall be detached from or annexed to this municipality, nor shall the municipality be annexed to or merged with any other body politic, nor shall the corporate existence of this municipality be terminated, without the assent of a majority of the electors of this municipality. Any such question shall be submitted to the electors only at a regular election in such manner as Council shall by resolution or ordinance prescribe.

ARTICLE II. MUNICIPAL POWERS

The municipality of Brecksville shall have all the powers, general or special, governmental or proprietary, express or implied, which may now or hereafter lawfully be possessed or assumed by municipalities of the class of this municipality under the Constitution and laws of Ohio. No enumeration of specific powers in this Charter shall be held to be exclusive.

All such powers shall be exercised in the manner prescribed in this Charter, or if not prescribed herein, in such manner as Council may determine, or unless a contrary intent appears in this Charter or in the enactments of the Council, in such manner as now or hereafter may be provided by the laws of Ohio.

ARTICLE III. THE MAYOR**Section 1. Term.**

The Mayor shall be elected at the regular municipal election in the year 1975, and every fourth year thereafter, for a term of four (4) years. His term shall commence and he shall assume office on the second day of January next following such election and shall serve until his successor has been duly elected and qualified. He may be a candidate to succeed himself.

(Amended 11-6-73)

Section 2. Qualifications.

The Mayor shall have been a qualified elector and a resident in this municipality for at least four (4) years immediately prior to the date of the Mayor's election, and shall continue to be a qualified elector and resident therein during the Mayor's term. The Mayor shall not, directly or indirectly, solicit, contract for, receive or be interested in any profit or emolument from or on account of any contracts job, work or service with or for the municipality.

If at any time the Mayor shall cease to possess any of the aforesaid qualifications of office, or shall be convicted of a felony or other crime involving moral turpitude, it shall be the duty of Council to declare the office of Mayor vacant, and upon such declaration the office of Mayor shall automatically and immediately become vacant. Such declaration by Council shall be made only after public hearing upon the charge or charges brought, and provided, further, that the Mayor shall have been notified in writing of the charge or charges against the Mayor at least fifteen (15) days in advance of such hearings; provided, further, that the Mayor or the Mayor's counsel shall have been given an opportunity to be heard, present evidence, and examine all witnesses appearing in support of such charge or charges. To be effective such declaration of vacancy in the office of Mayor must receive the affirmative vote of five (5) or more members of Council.

(Ord. No. 5606, § 1, 7-18-23)

Section 3. Absence or vacancy.

When the Mayor is absent or inaccessible or is unable for any cause or reason to perform his duties, the President of Council shall become the acting Mayor, but he shall not thereby cease to be a councilman.

In the event of a vacancy in the office of Mayor, the President of Council shall thereupon become acting Mayor for a period not to exceed sixty (60) days, and during such period he shall continue to serve the offices of President of Council and councilman. Within such sixty (60) day period, Council shall appoint as Mayor a councilman or any qualified elector of the City of Brecksville who meets the qualifications of said office. Such appointee shall hold office for the unexpired term of the Mayor or until the beginning of the term of a successor duly elected for the unexpired term at the next regular Municipal election if the vacancy shall have occurred more than ninety (90) days prior to such election, provided such election shall occur two years or more prior to the expiration of the unexpired term. If the President of Council or other councilman is appointed to the office of Mayor as provided for herein, then such office or offices shall become vacant upon the succession to the office of Mayor.

In the event the President of Council shall be absent or inaccessible or for any reason unable to perform his duties as acting Mayor, then Council, by a vote of a majority of the remaining members of Council, shall designate one of their number to act as Mayor.

(Amended 11-8-83)

Section 4. Powers of the mayor.

A. *Judicial.* The Mayor shall have all the judicial powers now or hereafter granted by the laws of Ohio to Mayors of municipalities of the class of this municipality.

B. *Legislative.* The Mayor shall be entitled to a seat in the Council and shall attend all meetings of Council. He shall have the right to introduce ordinances, resolutions and motions, and the right to participate in the discussion of all matters coming before the Council, but he shall have no vote in the Council.

C. *Veto.* Every ordinance or resolution passed by Council shall be signed by the Clerk of Council and shall be presented to the Mayor by the Clerk of Council. If the Mayor approves such ordinance or resolution, he shall sign it and file it with the Clerk of Council. If the Mayor disapproves any emergency ordinance or resolution, he shall return it to the Clerk of Council within twenty-four (24) hours after its

The Planning Commission shall give such notice of public hearings as is now or may hereafter be provided for by ordinance of Council. Disapproval of any recommendation or report made pursuant to formal action of the Planning Commission shall require a concurrence of not less than five (5) members of Council.

(Amended 11-5-63)

Section 9. Recreation Commission.

The Recreation Commission shall consist of seven (7) members who shall serve without compensation. The Mayor shall appoint six (6) members thereof with the approval of Council. Each of the appointees by the Mayor shall serve for a term of four (4) years. The terms of the present members of the Recreation Commission shall continue until expiration thereof. The two (2) new appointments herein established shall be for a term of five (5) years commencing January 2, 1974. The seventh member of the Recreation Commission shall be a council member appointed by the Mayor with the approval of Council, who shall serve until the next organizational meeting of Council following the council member's appointment. Any member of the Recreation Commission appointed by the Mayor may be removed for any cause at the direction of the Mayor with the approval of at least five (5) members of City Council. A vacancy occurring during the term of any member of the Recreation Commission shall be filled for the unexpired term in the manner authorized for an original appointment. The powers and duties of the Recreation Commission shall be as provided by ordinance of Council.

(Amended 11-6-73; Amended 11-2-93; Ord. No. 5607, § 1, 7-18-23)

Section 10. Civil Service Commission.

A. *Appointment of Members.* The Civil Service Commission shall consist of three (3) members of the Municipality not holding other municipal office or appointment, to be appointed by the Mayor with the approval of Council, for terms of six (6) years, commencing upon the expiration of the respective terms of the present members of the Civil Service Commission. A vacancy occurring during the term of any member of the Civil Service Commission shall be filled for the unexpired term in the manner authorized for an original appointment.

The Commission shall designate one of its members as Chairman, and may appoint a Secretary, who need not be a member of the Commission and may hold other municipal office or appointment.

B. *Compensation.* The members of the Civil Service Commission shall serve without compensation unless otherwise provided by ordinance. A sufficient sum shall be appropriated by the Council to carry out the civil service provisions of this Charter.

C. *Powers and Duties.*

- (a) In all matters dealing with the Civil Service of the City, the Commission shall provide by rule for ascertainment of merit and fitness as a basis for appointment and promotion in the Classified Service of the municipality as required by the Constitution of the State of Ohio; for the basis and method for determination of eligibility, certification, appointment and promotion of candidates for positions in the Classified Service; for the conduct of the affairs of the Commission; and for appeals in case of transfer, reduction, suspension or removal.

- (b) The Commission shall keep a record of its proceedings and results of examinations which shall be open to public inspection, and shall have such other powers and duties as are given to Municipal Civil Service Commissions by the laws of the State of Ohio and not contrary to the provisions of this Charter.

D. *Procedures.* The Commission shall conduct its affairs in accordance with the provisions of the laws of the State of Ohio in all matters not otherwise provided for in this Charter.

E. *Classification of Service.* The Civil Service of the Municipality is hereby divided into Unclassified and Classified Service.

The Unclassified Service shall include:

- (a) All officers elected by the people or persons to fill vacancies in such office.
- (b) All directors of departments, department heads, division heads, supervisors and foremen, including their assistants, except Chief of Police and Fire Chief.
- (c) The members of all boards and commissions appointed by the Mayor or the Council.
- (d) Clerk of Council.
- (e) Municipal clerks and secretaries.
- (f) All persons duly licensed to practice a profession by the State of Ohio and employed in such capacity.
- (g) All employees of the Building, Finance, Service and Recreation Departments
- (h) All unskilled labor, temporary, part-time, and volunteer employees.

The Classified Service shall include:

All other persons or positions not included in the Unclassified Service. Any person who shall have served the Municipality for at least one (1) year immediately prior to January 1, 1964, may be retained in the same or any similar position without examination. In the case of volunteer firemen part-time paid in the Fire Department of the Municipality, any fireman who has been continuously employed by the Municipality in such position since February 16, 1983, and is otherwise qualified, shall be eligible for full-time appointment to such position, when established, without written examination. When such list of eligible firemen is exhausted, thereafter all appointments to the Fire Department shall be made from the eligibility list provided by the Civil Service Commission.

F. *Removal.* The Mayor may at any time suspend any member of the Commission for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office, incapacity or incompetency, provided, however, that such suspension shall not become final without the concurrence of at least five (5) members of Council.

(Amended 11-6-79; 5-8-84; Amended 11-7-89; Amended 11-2-93)

Section 11. Residence qualifications.

To be eligible for appointment to the Board of Zoning Appeals, Planning Commission, Recreation Commission or Civil Service Commission, each appointee shall have been a qualified elector and a

resident of this municipality not less than two (2) years next preceding the commencement of his term. During his term each of said appointees shall continue to be a resident of this Municipality and a qualified elector thereof.

(Adopted 11-5-63)

ARTICLE VI. FINANCES

Section 1. General.

The laws of Ohio relating generally to budgets, appropriations, deposits, expenditures, debts, bonds, contracts and other fiscal matters applicable to municipalities of the class of this municipality shall be applicable to this municipality except as modified by or necessarily inconsistent with the provisions of the ordinances of the Council or this Charter.

(Amended 11-2-93)

Section 2. Annual budget and appropriations.

The fiscal year of this municipality shall, unless Council by proper action shall adopt a different date, be the same as that established from time to time for municipalities of the class of this municipality by the general laws of Ohio. The Mayor, with the assistance of the Director of Finance and the Service Director, shall prepare and submit to the Council an estimate of revenues and expenditures of this municipality for the succeeding fiscal year. This estimate shall be compiled from information which shall be furnished by the head of each department, division, board or commission, in such form and detail as Council or the Mayor may require. The Mayor, with the assistance of the Director of Finance, shall furnish to the Council an ordinance making appropriations for the expenditures of this municipality.

(Amended 11-6-73)

Section 3. Limitation on rate of taxation.

The aggregate amount of taxes that may be levied by the taxing authority of the City of Brecksville without a vote of the people, on any taxable property assessed and listed for taxation according to value, shall not in any one year exceed the amount currently authorized by the Ohio Constitution to be so levied, plus an additional 4.40 mills for each dollar of assessed valuation. The additional 4.40 mills as specified above shall exclusively be used for the purposes described in subsections 3-A and 3-B of this section. The limitation upon the power of Council to levy taxes as specified herein shall not operate as a limitation upon the power of Council to levy taxes upon such other subjects and for such other purposes as may be lawful under the Constitution and laws of this State.

3-A. Within the maximum levy provided for in Section 3 herein, the Council may levy an amount not to exceed 3.40 mills for the purpose of creating a fund for the operation, including equipment and personnel, of a fire and ambulance service.

3-B. Within the maximum levy provided for in Section 3 herein, the Council may levy an amount not to exceed 1.00 mill for the purpose of creating a fund for road repair, maintenance, reconstruction and improvement.

(Amended 5-5-87; Ord. 3164, passed 7-16-91)

Section 4. Limitation upon expenditures without prior Council approval.

No expenditures shall be made or liability incurred in an amount of more than six thousand dollars (\$ 6,000.00) without prior authorization and approval by Council.
(Amended 11-2-93; Amended 11-4-03; Ord. No. 5608, § 1, 7-18-23)

Section 5. Advertisement for bids.

Competitive bidding shall be had and carried on as required by the laws of Ohio now or hereafter in effect and governing competitive bidding in municipalities of the class of this municipality.

There shall be no splitting of orders or making of multiple contracts to avoid the effect of Section 4 hereinabove or this Section 5, or both, and any order placed and any contract made contrary to or in evasion of the provisions of Section 4 or of this Section 5 or both, shall be illegal and void.

Section 6. Sale of municipal property.

At public sale the Director of Purchasing and/or the Service Director may sell personal property not needed for municipal purposes having an estimated value of one thousand dollars (\$1,000.00) or less without prior authorization and approval of Council.
(Adopted 11-5-63; Amended 11-2-93; Amended 11-4-03; Ord. 5609, § 1, 7-18-23)

Section 7. Procedure for selecting depositories and deposit of public monies.

Council shall by ordinance provide for the procedure of selecting depositories and the deposit and custody of public monies of the Municipality. Such ordinance shall establish the standards on which the selection of depositories for public monies is to be made, which standards shall include consideration of the interest to be earned and the security to be provided for public monies.
(Adopted 11-5-63)

Section 8. Purchasing.

Purchasing for the municipality shall be conducted by the Director of Purchasing who shall be appointed by the Mayor and serve at the Mayor's pleasure. All such purchasing, and the procedures therefor, shall be in accordance with this Charter and the ordinances of Council. The Director of Purchasing shall have the responsibility to make certain that all terms and conditions imposed in favor of the Municipality or its inhabitants in any purchasing contract to which the Municipality is a party are fully and faithfully kept and performed. The Director of Purchasing shall administer all competitive bidding as required by this Charter and the ordinances of Council. The Director of Purchasing shall perform such other duties and functions as may be required by the Mayor.
(Adopted 11-2-93; Ord. No. 5610, § 1, 7-18-23)

ARTICLE VII. NOMINATIONS AND ELECTIONS

Commencing with the Regular Municipal election to be held on November 8, 2011, nominations for elective offices of this municipality shall be made only by petition filed with the election authorities prescribed by the general laws of Ohio, not more than one hundred twenty (120) days nor less than ninety

(90) days next preceding the date of the election, signed by registered electors of the municipality not less in number than two percent (2%) of the number voting at the last preceding general election. Each petition shall be accompanied by the written acceptance of the nomination by the nominee. The nomination of each candidate shall be made by a separate petition. No primary election shall be held for the selection of any candidate for any elective office of this municipality, and no nomination for such office shall be of any effect unless made as required by this Section. The ballot used in the election of officers of this municipality shall be without party mark or designation. The names of all candidates for any municipal office shall be placed upon the same ballot and shall be rotated in the manner provided by the laws of Ohio. Except as otherwise provided in this Charter, the laws of Ohio now or hereafter in effect shall govern the nomination and election of the elective officers of this municipality.

(Amended 5-3-11)

ARTICLE VIII. INITIATIVE, REFERENDUM AND RECALL

Section 1. Initiative.

The electors of this municipality shall have the power to propose by initiative petition ordinances and other measures providing for the exercise of powers granted by the Constitution of Ohio and the laws of the General Assembly to municipalities of the class of this municipality. The exercise of said power of initiative shall be in accordance with the provisions of the Constitution and laws of Ohio now or hereafter in effect.

Section 2. Referendum.

The electors of this municipality shall have the power to approve or reject at the polls any ordinance or other measure passed by Council, except as otherwise provided by the laws of Ohio. The exercise of said power of referendum shall be in accordance with the provisions of the Constitution and laws of Ohio now or hereafter in effect.

Section 3. Recall.

The electors shall have the power to remove from office by a recall election any elected officer of this municipality. If an elected officer shall have served for six months of his term, a petition demanding his removal may be filed with the Clerk of the Council who shall note thereon the name and address of the person filing the petition and the date of such filing. Such petition shall be signed by at least that number of electors which equals 25% of the electors voting at the last preceding general election. Within ten (10) days after the day on which such petition shall have been filed, the Clerk shall determine whether or not it meets the requirements here of. If the Clerk shall find the petition insufficient, he shall promptly certify the particulars in which the petition is defective, deliver a copy of his certificate to the person who filed the petition with him, and make a record of such delivery. Such person shall be allowed a period of twenty (20) days after the day on which such delivery was made in which to make the petition sufficient. If the Clerk shall find the petition sufficient, he shall promptly so certify to the Council, shall deliver a copy of such certificate to the officer whose removal is sought, and shall make a record of such delivery. If such officer shall not resign within five (5) days after the day on which such delivery shall have been made, the Council shall thereupon fix a day for holding a recall election, not less than seventy-five (75)

nor more than ninety (90) days after the date of such delivery. At such recall election this question shall be placed on the ballot: "Shall (naming the officer) be allowed to continue as (naming the office)?" with provision on the ballot for voting affirmatively or negatively on such question. If a majority of the votes cast at such election shall be voted affirmatively, such officer shall remain in office. If a majority of the votes cast shall be voted negatively, such officer shall be considered as removed, his office shall be deemed vacant, and such vacancy shall be filled as provided in this Charter. The officer removed by such recall election shall not be eligible for appointment to the vacancy created thereby.
(Amended 5-3-11)

Section 4. Petitions.

A recall petition may be circulated in separate parts, but the separate parts shall be bound together and filed as one instrument. Each part shall contain the name and office of the person whose removal is sought and a statement in not more than 200 words of the grounds for the removal. The manner of signing, the method of circulating, the form and requirements as to the affidavit, and the other requirements of the general law regulating initiative and referendum petitions, shall apply to recall petitions in this municipality except as otherwise provided in this Charter.

ARTICLE IX. FRANCHISES

The Council may by ordinance grant a nonexclusive franchise to any person, firm or corporation to construct or operate a public utility on, across, under or above any public street or public real estate within the municipality for a period not in excess of twenty-five (25) years; and it may prescribe in the ordinance the kind or quality of service or product to be furnished, the rate or rates to be charged therefor, and such other terms as it shall deem conducive to the public interest. Such franchise may be amended or renewed in the manner and subject to the provisions established herein for original grants. No consent of the owner of property abutting on any public street or public real estate shall be necessary to the effectiveness of any such grant, amendment or renewal.

All such grants, amendments and renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for the operation of such utilities with reference to such streets and public real estate, including the right to require such reconstruction, relocation, alteration or removal of structures and equipment used in such streets or public real estate as shall, in the opinion of the Council, be necessary in the public interest.

ARTICLE X. AMENDMENTS TO CHARTER

The Council may, by affirmative vote of five (5) or more of its members, submit to the electors any proposed amendment or amendments to this Charter, and upon petition signed by not less than ten percent (10%) of the registered electors of the municipality setting forth any proposed amendment or amendments to this Charter, the Council shall forthwith submit such proposed amendment or amendments to the electors in accordance, in each instance, with the provisions of the Constitution and laws of

Ohio now or hereafter in effect. The Council shall determine the manner of submission of any proposed amendment or amendments to the electors to the extent that such submission is not governed by this Charter or the Constitution or the laws of the State of Ohio.

If any such proposed amendment or amendments shall be approved by a majority of the electors voting thereon, it or they shall become a part of this Charter; except that if two or more inconsistent proposed amendments on the same subject shall be submitted at the same election, only the one of such amendments receiving the largest affirmative vote, not less than a majority, shall become a part of the Charter.

ARTICLE XI. CHARTER REVIEW COMMISSION

On September 1, 2022, and each ten (10) years thereafter, the Mayor shall, with approval of Council, appoint a Commission of nine (9) qualified electors of the municipality holding no other office or appointment in this municipality, as members of a Charter Review Commission. In addition to the aforementioned nine (9) members, the Mayor shall appoint, with the approval of the Council, a tenth (10th) alternate member, who shall not be a voting member of the Commission at the time of such appointment. Should one of the said nine (9) members be unable or unwilling to continue to service as a member of the Commission, the alternate member shall replace said member and become a full voting member of the Commission. Such Commission shall review the municipal Charter, and within nine (9) calendar months after such appointment, deliver to Council such alterations, revisions and amendments, if any, to this Charter as in the Commission's judgment are desirable. The Council shall forthwith without amendment submit to the electors any such proposed alterations, revisions or amendments to this Charter within the time frame provided in the Constitution and laws of Ohio.

The members appointed to said Commission shall serve without compensation. Meetings of the Charter Review Commission shall be open to the public.

(Amended 11-8-83; Amended 11-5-13)

Editor's note—Pursuant to Resolution No. 3529, passed 1-21-03, the Charter Review Commission is hereby re-established in accordance with Article XI hereof.

ARTICLE XII. MISCELLANEOUS PROVISIONS

Section 1. Effective date of Charter.

For the purpose of nominating and electing officers of this municipality and fixing the compensation of those to be elected in 1957, this Charter shall be in effect from and after the date of its approval by the electors and for all other purposes the Charter shall be in effect on and after the second day of January, 1958.

Section 2. Saving clause.

The determination that any part of this Charter is invalid shall not invalidate or impair the force or effect of any other part hereof except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

Section 3. Effect of the Charter upon existing laws and rights.

The adoption of this Charter shall not affect any pre-existing rights of the municipality, or any right or liability or pending suit or prosecution, either on behalf of or against the municipality or any officer thereof, nor any franchise granted by the municipality, nor pending proceedings for the authorization of public improvements or the levy of assessments therefor. Except as a contrary intent appears herein, all acts of the Council of the municipality shall continue in effect until lawfully amended or repealed.

Section 4. Interpretation of the Charter.

The Article and Section headings herein have been inserted for convenient reference and are not intended to define or limit the scope of, or otherwise affect any provision of this Charter.

Section 5. Misspellings, errors in grammar, renumbering upon codification and gender neutral designations.

All legislation and all amendments to the Codified Ordinances shall henceforth contain gender neutral language. Following any election at which any amendment to this Charter is adopted and prior to any reprinting of this Charter, the Clerk of Council, with the majority approval of Council and the Law Director, shall make the following changes therein, provided that no substantive changes to the Charter language are made:

- A. *Misspellings and Errors in Grammar.* Any misspellings and errors of grammar or construction may be corrected.
- B. *Making Language Gender Neutral.* Any gender specific terms shall become gender neutral.
- C. *Renumbering upon Codification.* Any changes in the numbering of the provisions of this Charter or the cross referencing of provisions of this Charter by the addition or deletion of Articles, Sections, or Subsections may be made.

(Adopted 11-2-93; Ord. No. 5611, § 1, 7-18-23)

Editor's note—Ord. No. 5611, § 1, adopted July 18, 2023, amended the title of Art. XII, Section 5 to read as herein set out. The former Art. XII, Section 5 title pertained to gender neutral designations.

of the municipality by this chapter. In fixing the annual compensation for the positions listed herein, Council shall give due consideration to the responsibilities of each job and the duties and obligations such job imposes upon the employee.

Administrative Assistant.
Animal Warden.
Aquatics Administrative Coordinator.
Aquatics Facilities Coordinator.
Athletics/Facility Coordinator.
Assistant Building Commissioner.
Assistant Director of Finance.
Assistant Purchasing Director.
Athletics Program Coordinator.
AV/Technology and Communications Technician.
Building Maintenance and Housekeeping Supervisor.
Building Supervisor — Recreation.
Building Commissioner or Building Official.
Building Inspectors.
Clerk of Council.
Clerk of Courts.
Director of Finance.
Director of Human Services.
Director of Planning and Community Development.
Director of Public Service.
Director of Purchasing.
Director of Recreation.
Executive Administrator — Mayor.
Field House Coordinator.
Financial/Customer Service Clerk Recreation.
Fire Chief.
Fitness Center Coordinator/Recreation.
Food Service Operations Manager.
Payroll Supervisor.

Planning and Zoning Coordinator/Inspector.

Police Chief.

Prosecutor.

Records Clerk — Police.

Recreation Clerk.

Supervisor of Administrative Services/Recreation.

Supervisor of Payroll — Personnel.

Visual Communications Coordinator.

('64 Code, § 145.13; Ord. 2876, passed 4-21-87; Am. Ord. 3412, passed 3-7-95; Am. Ord. 3624, passed 1-2-98; Am. Ord. 3731, passed 5-19-99; Am. Ord. 3861, passed 1-16-01; Am. Ord. 4025, passed 5-6-03; Am. Ord. 4140, passed 12-7-04; Am. Ord. 4356, passed 9-21-07; Am. Ord. 4521, passed 10-20-09; Am. Ord. 4536, passed 1-2-10; Am. Ord. 4905, passed 12-16-14; Am. Ord. 5003, passed 5-3-16; Am. Ord. 5148, passed 12-19-17; Am. Ord. 5214, passed 11-6-18; Am. Ord. 5285, passed 12-17-19; Am. Ord. 5418, passed 6-15-21; Am. Ord. 5420, passed 7-6-21; Am. Ord. 5455, passed 12-7-21; Am. Ord. 5501, passed 5-3-22; Am. Ord. 5510, passed 6-7-22; Am. Ord. 5548, passed 9-20-22; Am. Ord. 5571, passed 12-6-22; Ord. No. 5661, § 1, 11-21-23)

Sec. 145.14. Leaves of absence; salary continuation.

(a) *Leave of absence.* Any full-time employee having at least five years service with the municipality may apply in writing to the Mayor for a leave of absence not to exceed six months. No compensation or any fringe benefits shall be paid to or on behalf of such employee granted such leave. A maternity leave of absence may be granted after one year of service with the municipality. In the event the Mayor declares a Health and Safety Workplace Cautionary Period, the Mayor may waive the five year service requirement and may grant paid administrative leave to any full-time employee. The employee granted a leave of absence hereunder shall notify the Mayor, at least 30 days prior to the expiration of such leave, of his or her intention to return to service with the municipality.

(b) *Jury duty.* The city shall provide for payment of salaries and wages to employees serving jury duty, not to exceed two weeks per year. Any stipend or other form of compensation received by the employee from the agency responsible for the jury may be retained by the employee to cover parking, meals and other incidental expenses related to jury duty.

(c) *Military leave.*

(1) The city shall provide for payment of salaries and wages to employees for performance of duty for an Ohio organized militia or members of other reserve components of the armed forces of the United States, including the Ohio National Guard, for periods of up to one month (176 hours or 408 hours for a public safety employee as defined in R.C. § 5923.05(A)(2)(g)) for each federal fiscal year in which they are performing duty in the uniformed services. "Federal fiscal year" means the year beginning on the first day of October and ending on the 30th day of

EMPLOYEES GENERALLY

§ 145.14

September. Employees recalled to extended active duty with Reserve units shall be paid for any unused vacation time due them at the end of the year in which they were recalled to active duty. They may return to employment after service with full seniority rights.

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of such plans and specifications by the chief. For good cause shown, the chief may extend either or both of such periods, but in no event shall the time for completing the installation be extended more than six months.

('64 Code, § 1329.04; Ord. 1721, passed 8-6-68)

Cross reference—Penalty, see § 1329.99

Sec. 1329.05. Inspections.

The Chief of the Fire Department and the Building Commissioner or their duly authorized representatives are hereby authorized to enter upon and inspect any premises for the purpose of determining whether the place, establishment, premises or equipment located therein comply with the provisions of this chapter.

('64 Code, § 1329.05; Ord. 1721, passed 8-6-68)

Sec. 1329.99. Penalty.

Whoever violates any of the provisions of this chapter shall be fined not more than \$500.00, imprisoned for not more than six months, or both. Each day any violation hereof is continued shall constitute a separate offense.

('64 Code, § 1329.99; Ord. 1721, passed 8-6-68)

CHAPTER 1331. CONSTRUCTION SITE SOIL EROSION, SEDIMENT, STORMWATER RUNOFF AND STORMWATER QUALITY CONTROLS AND REGULATIONS***Sec. 1331.01. Purpose.**

The intent of this chapter is to comply with the requirements of the Ohio Environmental Protection Agency (EPA) Permit No. OHQ000004: Authorization for Small Municipal Separate Storm Sewer Systems to Discharge Stormwater Under the National Pollutant Discharge Elimination System (NPDES) and its successors by establishing standards to achieve a level of soil erosion and stormwater control that will minimize and abate degradation of land and water resources and damage to public and private property resulting from earth disturbing activities involving one acre or more. Reduction of stormwater discharges from construction activity disturbing less than one acre must be considered if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. In addition, this regulation further intends to:

- (a) Assure that those involved in earth-disturbing activities minimize both soil erosion and the volume and rate of stormwater runoff from their sites.
- (b) Assure that stormwater controls are incorporated into site planning and design at the earliest possible stage and that all stormwater management practices are properly designed, constructed, and maintained.
- (c) Prevent unnecessary stripping of vegetation and loss of soil and to promptly revegetate and stabilize the site following earth disturbing activities.
- (d) Encourage the construction of stormwater management practices that serve multiple purposes such as flood control, erosion control, water quality protection, recreation, and habitat preservation.

(Ord. No. 5658, § 1(Exh. A), 11-7-23)

Sec. 1331.02. Scope.

- (a) *Site development plan.* Any person or persons proposing to disturb one acre or more of land for residential, institutional, commercial, office and industrial purposes, including land development proposals for nonagricultural uses and public infrastructure uses, including transportation and utilities within the city shall design, develop, and submit a site development plan as described in section 1331.06. Said plan will be evaluated to determine the potential for erosion, runoff, and sedimentation impacts that may result from such development activities.
- (b) *Stormwater management plan.* A stormwater management (SWM) plan shall be prepared as described in § 1331.07 to minimize the impacts of increased impervious surfaces.

***Editor's note**—Ord. No. 5658, §§ 1(Exh. A), 2, adopted November 7, 2023, repealed the former Ch. 1331, §§ 1331.01—1331.08, and enacted a new Ch. 1331 as set out herein. The former Ch. 1331 pertained to similar subject matter and derived from Ord. 1622, adopted April 5, 2011.

- (c) No earth disturbing activity subject to regulation under this chapter shall be undertaken for any land disturbance equal to or greater than one acre without an approved site development plan as required under section 1331.06 and a stormwater management (SWM) plan as required under section 1331.07.
- (d) Final approval of a proposed development, redevelopment, street or utility project shall not be given unless:
 - (1) A determination is made by the City Engineer based on submission of a site development plan as detailed in § 1331.06 that the proposed earth disturbing activity will minimize accelerated runoff, erosion, and/or sediment.
 - (2) A SWM plan in accordance with section 1331.07 has been approved by the City Engineer.
- (e) Any person or persons seeking approval to construct a structure shall be exempted from having to prepare a site development plan and a SWM plan with site-specific SWP3 developed to meet the requirements of the Ohio EPA Construction General Permit, provided they meet all of the following:
 - (1) Construction takes place on one parcel.
 - (2) The earth disturbing activity does not affect more than one acre of the development site at a time.
 - (3) The activity is not located within a floodplain or floodway as identified by FEMA.
 - (4) The parcel is part of an overall development plan which has received approval of a SWM plan and the developer certifies that they will comply with said plan, or the parcel is not part of a larger development plan and the applicant certifies that they will comply with and implement all applicable standard pollution prevention practices as described in the Small Construction Site Controls section of the Rainwater and Land Development manual.
- (f) This chapter does not apply to:
 - (1) Land-disturbing activities related to producing agricultural crops or silviculture operations regulated by Ohio Administrative Code (OAC) 1501:15-3-01 to 1501:15-3-09, Ohio Agricultural Sediment Pollution Abatement Rules.
 - (2) Existing strip mining operations regulated by ORC chapter 1513.
 - (3) Existing surface mining operations regulated by ORC chapter 1514.

(Ord. No. 5658, § 1(Exh. A), 11-7-23)

Sec. 1331.03. Conflicts, severability, nuisances and responsibility.

- (a) Where this chapter imposes a greater restriction upon land than is imposed or required by other city provisions of law, ordinance, contract or deed, the provisions of this chapter shall prevail.
- (b) If a court of competent jurisdiction declares any clause, section, or provision of the provisions contained in this chapter invalid or unconstitutional, the validity of the remainder shall not be affected thereby.

(c) The provisions contained in this chapter shall not be construed as authorizing any person to maintain a private or public nuisance on their property. Compliance with the provisions of this chapter shall not be a defense in any action to abate such nuisance.

(d) Failure of the city to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the city, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

(Ord. No. 5658, § 1(Exh. A), 11-7-23)

Sec. 1331.04. Definitions.

All words used in this chapter shall have their customary meanings as defined in Webster's New World Dictionary, the most recent Ohio EPA Construction General Permit, and/or the current edition of Rainwater and Land Development, except those specifically defined in this section.

Approval authority means an official, organization, or group designated to review and approve/disapprove stormwater pollution prevention plans (SWP3s), site development plans, and/or stormwater management plans submitted to the city.

Authorized agent means an official, organization, or group which has official permission to represent or act on behalf of the city.

Best management practices (BMPS) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and nonstructural) to prevent or reduce the pollution of surface waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant and/or construction site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Buffer means a designated transition area around water resources or wetlands that is left in a natural, usually vegetated, state so as to protect the surface waters of the state from runoff pollution. Construction activities in this area are restricted or prohibited.

Business day means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in ORC § 1.14.

The city means the City of Brecksville, State of Ohio, and its authorized agents and representatives.

Construction general permit means the most recent General National Pollutant Discharge Elimination System (NPDES) permit for authorization of storm water discharges associated with construction activities issued by Ohio EPA (Ohio EPA Permit #OHC000006 and its successors).

Critical storm means a storm which is calculated by means of the percentage increase in volume of runoff by a proposed earth disturbing activity or development area. The critical storm is used to calculate the maximum allowable stormwater discharge rate from a site.

Cut means an excavation. The difference between a point on the original ground and a designated point of lower elevation on the final grade.

CWA refers to the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended, Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117 and Pub. L. 100-4, 33 U.S.C. 1251 et seq.

Detention basin means an impoundment area created by constructing an embankment, excavating a pit, or both, for the purpose of temporarily storing stormwater.

Detention facility means a detention basin or alternative structure designed to temporarily store stormwater runoff and gradually release the stored water at a controlled rate.

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavating or drilling operations; or the storage of equipment or materials.

Development area means any area upon which earth-disturbing activities are planned or underway for a development.

Earth-disturbing activity or *soil-disturbing activity* means any clearing, grading, excavation, filling, or other alteration of the earth's surface where natural or man-made ground cover is destroyed in a manner that exposes the underlying soils.

Fill means any act by which, earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface. The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade.

Grubbing means removing or grinding of roots, stumps, and other unwanted material below existing grade.

Nonstructural controls means stormwater runoff control and treatment techniques that use natural measures to control runoff and/or reduce pollution levels. Examples include minimizing impervious area, buffer strips along streams, and preserving natural vegetation.

NPDES means National Pollutant Discharge Elimination System, which is the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits and enforcing pretreatment requirements, under sections 307, 402, 318 and 405 of the CWA. The term includes an "approved program."

Parcel means any legally described piece of land created by a partition, subdivision, deed or other instrument recorded with the appropriate entity or agency.

Peak rate of runoff means the maximum rate of runoff for any 24-hour storm of a given frequency.

Permanent stabilization means the establishment of permanent vegetation, decorative landscape mulching, matting, sod, rip rap and landscaping techniques to provide permanent erosion control on areas where construction operations are complete or where no further disturbance is expected for at least one year.

Permittee means the operator or operators responsible for obtaining authorization to discharge stormwater associated with construction activity under the terms and conditions of the Ohio EPA Construction General Permit or an individual NPDES permit, or coverage under an alternative NPDES general permit as described in the Construction General Permit, Part I.C.1, for a development.

Pre-development conditions means site conditions as they existed prior to clearing or initiation of soil disturbing activity, and reflecting the average type of land use over the past 20 years, or as agreed by the City Engineer based upon the specific site details.

Qualified inspection personnel means a person knowledgeable in the principles and practices of erosion and sediment control, who possesses the skills to assess all conditions at the construction site that could impact stormwater quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of stormwater discharges from the construction activity.

Rainwater and land development or *Rainwater and Land Development Manual* refers to the current edition of Rainwater and Land Development: Ohio's Standards for Stormwater Management, Land Development and Urban Stream Protection developed by the Ohio Department of Natural Resources, U.S. Department of Agriculture Natural Resource Conservation Service, and the Ohio Environmental Protection Agency. This manual describes construction and post construction best management practices and associated specifications. A copy of the manual may be obtained by contacting the Ohio Department of Natural Resources, Division of Soil and Water Conservation.

Riparian means relating to the banks of the surface waters of the State of Ohio.

Sediment settling pond means a sediment trap, sediment basin or permanent basin that has been temporarily modified for sediment control, as described in the Rainwater and Land Development manual.

Site development plan means the written document or set of plans meeting the requirements of this chapter that provides information on the location of the area proposed for development, the site in relation to its general surroundings, and existing characteristics of the site, including limits of earth disturbing activities.

Silviculture means a branch of forestry dealing with the development and care of forests.

Stop-work order means an order issued which requires that all work on the site must cease except work associated with bringing the site into compliance with the approved SWM plan or site development plan.

Stormwater control measure (SCM) means a structure or area designed to remove pollutants from stormwater and/or reduce stormwater flow rates. SCMs are a subset of best management practices (BMPs) as defined in the construction general permit.

Stormwater management (SWM) plan means the written document meeting the requirements of this chapter that sets forth the plans and practices to be used to minimize stormwater runoff from a site and to safely convey or temporarily store and release post-development stormwater runoff at an allowable rate to minimize flooding and erosion.

SWP3 means stormwater pollution prevention plan as described in the Ohio EPA Construction General Permit. The requirements of the SWP3 will be coordinated and combined with the requirements for a stormwater management plan as defined above and described in this chapter.

Storm frequency or storm return interval means the average period of time in years within which a storm of a given duration and intensity can be expected to be equaled or exceeded.

Structural controls means any human-made facility, structure, or device that is constructed to provide temporary storage and/or treatment of stormwater runoff. Examples include retention and detention basins, rock check dams, swales, and constructed wetlands.

Surface waters of the state, water resources, or water bodies means all streams, lakes, reservoirs, ponds, marshes, wetlands or other waterways which are situated wholly or partially within the boundaries of the State of Ohio, except those private waters which do not combine or effect a junction with natural surface waters. Waters defined as sewerage systems, treatment works or disposal systems in ORC § 6111.01 are not included.

Swale means a low lying stretch of vegetated land which gathers and carries surface water.

Temporary stabilization means the establishment of temporary vegetation, mulching, geotextiles, sod, preservation of existing vegetation and other techniques capable of quickly establishing cover over disturbed areas to provide erosion control between construction operations.

Temporary vegetation means short term vegetative cover such as oats, rye, or wheat, used to stabilize the soil surface until final grading and installation of permanent vegetation.

TR55 refers to the Natural Resources Conservation Service (NRCS) Technical Release 55, Urban Hydrology for Small Watersheds, current edition. This document presents simplified procedures to calculate storm runoff volume, peak rate of discharge, hydrographs, and storage volumes required for floodwater reservoirs. These procedures are applicable in small watersheds, especially urbanizing watersheds, in the United States.

(Ord. No. 5658, § 1(Exh. A), 11-7-23)

Sec. 1331.05. Performance standards.

(a) *Erosion and sediment kept on site.* Using BMPs, erosion and sedimentation caused by accelerated wind or stormwater runoff over the site shall be stabilized within the boundaries of the development site to the maximum extent practicable.

(b) *Structural and nonstructural best management practices.* Nonstructural stormwater management practices shall be encouraged. Such practices may include, but not be limited to, preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction, and designation of tree preservation areas.

(c) *Construction activities adjacent to water resources.* During the construction phase of a project, an undisturbed natural buffer around water resources shall be provided and maintained, except for crossings and other riparian area impacts approved by the City Engineer. Buffer shall include all areas within identified FEMA floodways and floodplains or revised floodplain via FEMA unless otherwise approved by the City Engineer, and areas as required by the City Engineer.

(d) *Protection of adjacent properties/public right-of-ways.* Properties, public rights-of-way, and thoroughfares adjacent to the site of an earth disturbing activity shall be protected from sediment deposition. This may be accomplished by preserving a well-vegetated buffer at the perimeter of the site whenever possible, by installing perimeter controls such as sediment barriers, filters, dikes, sediment basins, or by a combination of such measures as applicable.

(e) *Control practices.* The SWP3 must contain a description of the controls appropriate for each stage of construction operation and the applicant must implement such controls. BMP selection and design must meet criteria established within the current construction general permit. BMPs must be designed, constructed and installed to meet the specifications in Rainwater and Land Development or other standards acceptable to the Ohio EPA. This does not preclude the applicant from proposing an alternate solution as approved by the City Engineer. The approved SWP3, and the sediment and erosion controls, and nonsediment pollution controls contained therein, shall be implemented and maintained according to the requirements in the construction general permit. Site operators must conduct site inspections as described in the construction general permit. Certified inspection reports shall be submitted to the City Engineer within five working days from the inspection and retained at the development site.

(f) *Construction access routes.*

- (1) Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. The entrances shall be planned and installed according to the requirements in the most recent edition of the Rainwater and Land Development manual or as directed by the City Engineer.
- (2) Where soil is transported onto public road surfaces, the roads shall be cleaned thoroughly by either sweeping or scraping as needed each day or as directed by the city, in order to ensure public safety. Street washing shall not be permitted.
- (3) Erodible material ramps placed temporarily in streets to enable equipment to cross curbs shall be properly removed immediately after use.

(g) *Control of construction site debris and wastes.* All owners, applicants, contractors and developers shall control wastes such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste on debris from the site to the extent practical. Site management practices shall be implemented to prevent toxic materials, hazardous materials, or other debris from entering drainage channels. These practices shall include, but are not limited to, the additional site pollution controls specified in the Rainwater and Land Development manual.

(h) *Inspection of stormwater controls.* All on-site, and off-site if applicable, control practices shall be inspected by both the permittee and/or permittee's representative and a representative of the city to ensure proper function and to identify failures in accordance with the requirements of subsection 1331.08(h).

(Ord. No. 5658, § 1(Exh. A), 11-7-23)

Sec. 1331.06. Site development plan.

(a) Any person seeking approval of residential, industrial, commercial, office, and industrial purposes, including land development proposals for nonagricultural uses and public infrastructure uses, shall develop and submit to the City Engineer for review and approval a site development plan prepared by a professional engineer licensed by the State of Ohio as detailed below.

(b) *Site development plan requirements.*

- (1) Site plan map that shows the location of existing features and proposed improvements on the site including:
 - A. Total area of the site and the area of the site that is expected to be disturbed (e.g., grubbing, cleaning, excavation, filling or grading, including off-site borrow areas).
 - B. Area of land not to be disturbed shall be shown.
 - C. Surface water locations, including known springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site, including the boundaries of stream channels and first subsequent named receiving water(s).
 - D. The general directions of surface water flow and 100-year floodway and floodplain when applicable.
 - E. All existing and proposed improvements, including but not limited to buildings, retaining walls, sidewalks, streets, parking lots, driveways, utilities and stormwater basins, drainage impoundments, channels and outlets, etc.
- (2) A description of the nature and type of the earth disturbing/construction activity (e.g. residential, commercial, highway, etc.).
- (3) A depiction of soil types for all areas of the site as found in the USDA Soil Survey of Cuyahoga County.
- (4) An estimate of the impervious area and percent imperviousness created by the earth disturbing activity.

(c) *Site development plan submission, review and action.*

- (1) Submission of a site development plan by an applicant as prepared by a professional engineer seeking approval initiates the review process.
- (2) The City Engineer shall review the site development plan.
- (3) Review of the site development plan shall be completed within 30 calendar days of submittal.
- (4) Following the plan review the City Engineer shall either:
 - A. Approve the site development plan;
 - B. Conditionally approve the site development plan pending additional information and/or the incorporation of required changes; or
 - C. Reject the plan and request a revised plan be submitted addressing noted items.

(Ord. No. 5658, § 1(Exh. A), 11-7-23)

Sec. 1331.07. Stormwater management (SWM) plan requirements.

(a) Stormwater management (SWM) plans are intended to provide critical information on all soil erosion and run off control activities and best management practices (BMPs) to be used and incorporated on the site both during and after site development. This information includes, but is not limited to, site grading, stormwater management facilities and practices, erosion and runoff control information,

maintenance plans, and other measures that focus on managing the effects of earth disturbing activities that occur as a result of site development. Said plan shall be prepared and stamped by a licensed professional engineer authorized in the State of Ohio. To minimize duplication, stormwater pollution prevention plans developed to meet the requirements of the Ohio EPA Construction General Permit will be coordinated and combined with requirements of this section to serve as the applicant's SWM plan.

(b) Each SWM plan shall provide site design that meets the performance standards presented in section 1331.05 and provide practical treatment for both water quality and quantity of stormwater from the site as appropriate.

(c) In general, SWM plans need to address:

- (1) *Erosion and sediment control.* Provide measures to ensure that earth disturbing activities at the site during and after development will be managed in a manner that will minimize increased erosion and sedimentation from the site resulting in impacts to water quality and that meet the performance standards specified in section 1331.05.
- (2) *Runoff control.* Providing measures to ensure that the rate of surface water runoff from the development site during and after construction will approximate the predevelopment conditions and that meet the performance standards specified in section 1331.05.
- (3) *Nonstructural preservation methods.* Preserving existing natural conditions as much as feasible, in accordance with the Ohio EPA Construction General Permit, Part III.G.2.a.
- (4) *Post construction stormwater management practices.* Providing practices which offer perpetual management of runoff quality and quantity; ensure stream functions are maintained; and ensure receiving stream's physical, chemical, and biological characteristics are protected in accordance with the Ohio EPA Construction General Permit, Part III.G.2.e.
- (5) *Maintenance.* Providing a description of maintenance procedures needed to ensure the continued performance of control practices in accordance with the Ohio EPA Construction General Permit, Part III.G.2.h.
- (6) *Inspections.* Providing procedures for inspection of all on-site controls as specified in subsection 1331.08(h).

(d) A SWM plan shall specifically include all the following:

- (1) The minimum elements required in the site development plan described in subsection 1331.06(b).
- (2) The contents of the storm water pollution prevention plan (SWP3) required by the Ohio EPA Construction General Permit and incorporated herein by reference.
- (3) A copy of the written notification from the director of the Ohio EPA that the developer or permittee has been granted construction general permit coverage. The permittee shall reference its Ohio EPA Facility Permit Number on the SWM plan.
- (4) All submittals required by the City Engineer to show proof of compliance with all other federal, state, or local environmental regulations as described in subsection 1331.08(b).

(e) *Post development runoff control.*

- (1) Stormwater detention is required for all new construction, all building additions and/or parking lot expansions over 10,000 square feet, and all re-development that create over 10,000 square feet of new impervious area unless otherwise approved by the City Engineer. Stormwater detention requirements may apply for building additions and/or parking lot expansions equal to and less than 10,000 square feet, and re-development that create equal to and less than 10,000 square feet of impervious area if required by the City Engineer.

Stormwater detention is required for all residential subdivisions. Stormwater detention requirements do not apply to new single-family or two-family residential construction on lots that are not part of a subdivision. Stormwater detention requirements shall apply to two or more single-family or two-family residential lots as required by the City Engineer. Stormwater detention requirements may apply for single-family or two-family residential construction on lots that are not part of a subdivision but are larger than one acre as required by the City Engineer.

- (2) Stormwater quality control:
- A. The site shall be designed to direct runoff to one or more stormwater control measures that meet or exceed the criteria in the Ohio EPA Construction General Permit.
 - B. Where feasible, infiltration post-construction practices per Construction General Permit Part III.G.2.e.iv. Table 4b, and/or other green infrastructure/runoff reduction practices per Part III.G.2.e.ix., shall be utilized to meet the stormwater quality control criteria.
- (3) Each SWM plan shall include a comparison that quantifies the volume and rate of runoff from the site by subdrainage areas for pre-development conditions and proposed conditions.

This evaluation shall be prepared according to methods prescribed in the current edition of Rainwater and Land Development or other appropriate sources. The evaluation shall:

- A. Show delineation and sequence of subdrainage units which comprise the area proposed for development.
- B. Indicate the hydraulic length of slope per individual subdrainage unit and the length of the natural or manmade watercourse which accommodates the surface runoff from each subdrainage unit.
- C. Indicate within the legend the average percent slope, erosion factor (K) and runoff curve number (CN) per the individual subdrainage areas.
- D. Include a hydrograph using the TR55, Type II Rainfall Distribution Pattern over a 24-hour period for the following return intervals: one, two, five, ten, 25, 50, and 100-year storms. Hydrographs for each of the recurrence intervals shall be produced for both the pre-development and proposed conditions.
- E. The 24-hour rainfall depths in Table 1331.07(e)(3)E. shall be utilized to quantify the stormwater runoff for the pre-development and proposed conditions.

Table 1331.07(e)(3)E.: Sectional Mean Frequency Distributions for Storm Period of 24-Hours and Recurrence Intervals of 1 Year to 100 Years in Ohio	
Return Period (years)	Rainfall (inches) for given recurrence interval
1	2.00 in.
2	2.40 in.
5	2.98 in.
10	3.46 in.
25	4.16 in.
50	4.74 in.
100	5.36 in.

SOURCE: NOAA Atlas 14, Precipitation Frequency Estimates, Extracted Sept. 2023

- (4) Calculations for the design of stormwater management facilities shall demonstrate the following for each subdrainage unit:
 - A. The peak rate of runoff from the critical storm and all more frequent storms occurring on the site does not exceed the peak rate of runoff from a one-year frequency, 24-hour storm occurring on the same site under pre-development conditions.
 - B. Storms of less frequent occurrence (greater return periods) than the critical storm, shall have a proposed peak rate of runoff less than the pre-development peak rate of runoff.
- (5) The overflow spillway elevation shall be set one foot above the 100-year storm elevation and the surrounding berm elevation shall be set minimally one foot higher than the overflow spillway. The width of the top of berm shall be eight feet minimum, ten feet minimum if the berm height is 15 feet or more, and 12 feet minimum if vehicle access is required to be provided.
- (6) Calculation of a critical storm for each subdrainage unit of the site shall be determined as follows:
 - A. Calculate by appropriate hydrologic methods, such as the NRCS Technical Release 55 (TR55), the total volume of runoff from a one-year frequency, 24-hour storm occurring on the development area before and after development.
 - B. From the volumes determined in division (e)(6)A. above, determine the percentage increase in volume of runoff due to the proposed development, and using this percentage, select the 24-hour critical storm from Table 1331.07(e)(6)B.

Table 1331.07(e)(6)B.: 24-Hour Critical Storm Runoff Rate		
If the percentage of increase in runoff volume is:		
Equal to or greater than	And Less Than	The Critical Storm Runoff Rate will Be Limited To:
0	10	1 year
10	20	2 years
20	50	5 years
50	100	10 years
100	250	25 years

250	500	50 years
500	-	100 years

- C. The City Engineer shall approve or reject any calculation method based on its technical validity for the given situation. Downstream capacity may further reduce maximum allowable discharge requirements.

(7) *Stormwater management facility design criteria.*

- A. Runoff from all drainage area tributary to the stormwater management facility must be conveyed to the facility for all design storms up to and including the 100-year storm.
- B. A vehicular access drive and permanent easements must be provided from a public roadway to the outlet control device as approved by the City Engineer. The access drive width shall be 12 feet minimum and shall incorporate an adequate turnaround for maintenance vehicles.

C. *Stormwater basins.*

1. The stormwater basin, where possible or as determined by the City Engineer, shall be positioned in an open space block under common maintenance (for a residential subdivision), outside of the floodway and floodplain, outside of any water resource areas. When site constraints prohibit such, the location shall be as approved by the City Engineer and Planning Commission. When positioning stormwater basins on residential lots, the basin shall be positioned where the top-of-berm is minimally 50 feet from a residential home.
2. The outlet structure and/or riser shall be located in the embankment for maintenance purposes.
3. An emergency spillway is to be provided on all stormwater basins. Emergency spillways must be designed to convey flood flows safely past the embankment, and shall be designed in accordance with NRCS standards and specifications. The emergency spillway shall have a 100-year design storm capacity unless exempted in writing by the City Engineer.
4. All embankments shall be designed in accordance with the specifications in the current edition of the Ohio Rainwater and Land Development manual, the NRCS Field Office Technical Guide for Cuyahoga County, and the Ohio EPA standards.
5. All pond grading shall have a maximum slope of three to one (3:1) and shall incorporate safety features to ensure public safety, and as required by the applicant, by law, by the City Engineer, or by the Planning Commission. The applicant shall consider public safety as a design factor and alternative designs must be implemented where site limitations would preclude a safe design.
6. The primary spillway opening shall be constructed so as to not permit access to the public and other nonmaintenance personnel.

- (8) *Off-site stormwater control facilities.*
- A. Exceptions to requiring permanent on-site runoff control on the site may be considered by the City Engineer provided the applicant can prove that:
1. The intent and standards of this chapter for runoff control can be best achieved by the utilization of off-site stormwater control facilities.
 2. Runoff from the site can be conveyed to off-site stormwater facilities in a manner and by means which satisfy or surpass the standards of this chapter.
 3. The applicant has ownership of or the right to use the off-site facility in question.
- (f) *Stormwater management (SWM) plan submission, review and action.*
- (1) The applicant is encouraged to have a pre-submission meeting with the City Engineer.
 - (2) Submission of two sets of the SWM plan and other supporting data required by this regulation to the City Engineer complete the applicant's responsibilities and initiates the review process.
 - (3) The SWM plan shall be reviewed by the City Engineer to:
 - A. Verify background information furnished by the applicant and evaluate the proposed development in relation to existing site conditions.
 - B. Assess the SWM plan in relation to the performance standards and requirements of this chapter.
 - (4) Upon submission of the SWM plan the City Engineer shall complete a review and shall either:
 - A. Approve the SWM plan as submitted by the applicant;
 - B. Conditionally approve the SWM plan and require the submission of additional and/or revised information by the applicant, in order to fully meet the intent and standards of this chapter; or
 - C. Disapprove the SWM plan based upon a written review, noting the reasons.
 - (5) Action by the city approval authority and the authorized agent(s) approving or disapproving the SWM plan is a final order for purposes of judicial review.
- (Ord. No. 5658, § 1(Exh. A), 11-7-23)

Sec. 1331.08. Compliance responsibility.

(a) *Performance liability.* No provision of this chapter shall limit, increase or otherwise affect the liabilities of the applicant nor impose any liability upon the city not otherwise imposed by law.

(b) *No release from other requirements.* No provision of this chapter shall release the applicant from any responsibility or requirements under other federal, state, or local environmental regulations. If requirements vary, the most restrictive requirements shall prevail.

- (1) Approvals issued in accordance with this chapter do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the U.S. Army Corps of Engineers, and other federal, state, and/or local agencies. These permits may include, but are not limited to, the Ohio EPA Construction General Permit, Ohio EPA Water Quality

Certification under CWA Section 401, Ohio EPA Isolated Wetland or Ephemeral Stream Permit, U.S. Army Corps of Engineers Individual or Nationwide Permit, and ODNR Division of Water Dam Permit.

- (2) If any of the permits and/or approvals are not applicable to the proposed project, the applicant shall submit a letter from a qualified professional stating that they have surveyed the site and determined that the permit and/or approval is not applicable, and explaining why it is not applicable. Such verification(s) of nonapplicability shall be certified by the site owner and shall be submitted with the SWM plan.
- (3) All submittals required to show proof of compliance with these regulations, as determined by the City Engineer, shall be submitted with the SWM plan. Final SWM plan approval will not be granted until copies of all applicable permits and/or approvals have been submitted to the City Engineer, and/or verifications of nonapplicability provided as deemed necessary by the City Engineer.

(c) *Proceeding with activity.* Soil disturbing activities regulated under this chapter shall not begin until all necessary state and federal permits and appropriate approvals of site development plans or stormwater management plans have been granted to the site owner/applicant.

(d) *Performance responsibility.* The applicant is responsible for carrying out all provisions of the approved site development plan or SWM plan and for meeting all the standards and requirements of the provisions contained in this chapter.

(e) *Enforcement.*

- (1) All development sites are subject to inspections by the city authorized agent(s) under the direction of a licensed professional engineer to ensure compliance with the approved site development plan or SWM plan.
- (2) The status report prepared by the city and approved by the City Engineer shall be distributed to the permittee; the contractor, if applicable; and the professional engineer of record.
- (3) If it is found that the operations are being conducted in violation of the approved site development plan and SWM plan, a stop-work order may be issued by the city until the identified violations cease.
- (4) After the issuance of a stop work order provided for in division (e)(3) of this section, but before the imposition of any fines, the applicant shall have two business days to request a meeting with the Law Director and the City Engineer to show cause why work should not be stopped.
- (5) Following the issuance of a stop-work order, the city shall determine if and when the development may proceed. Any determination by the city pursuant to this section is a final order for purpose of judicial review.

(f) *Violations.*

- (1) The city shall notify the stormwater permittee of any violations observed in writing. Said notice shall indicate the exact nature of the violations and other specific corrections which are required.

- (2) The permittee shall comply with the timeline for correction specified in Table 1331.08(f)(2). Timeline extension for adverse weather conditions may be granted upon approval of the City Engineer.

Table 1331.08(f)(2): Timeline for Corrective Action	
Nature of Violation	Number of Days from Inspection to Correct Functioning of Control Practice
Silt fence	Within three days
Outlet control structure	Within three days
Temporary or permanent stabilization within 50 feet of drainage channels.	Within two days
Temporary or permanent stabilization for all other disturbed areas.	Within three days
Stabilized construction entrance	Within three days
Pumping sediment-laden discharge into drainage channel	Immediately upon notice
Sediment settling pond	Within ten days
Any other control practice not addressed in this table	Within three days

(g) *Penalties subsequent to issuance of stop-work order.*

- (1) Subsequent to the issuance of a stop-work order, one or more of the following penalties may be imposed.
- A. If the earth disturbing activity involves a subdivision, the applicable penalties (including fines) provided for in the subdivision regulations of the city shall apply. Applicable penalties as described in division (o) of this section.
 - B. The authorized agent(s) on behalf of the city may enter the site and make any modifications necessary to correct the situation(s) involving excessive erosion or sedimentation, and place the cost of such corrective actions on the tax duplicate of the developer/owner.
 - C. The authorized agent(s) may request the legal representative of the city to seek an injunction or other appropriate relief to abate excessive erosion or sedimentation and secure compliance with this chapter. In granting such relief, the court may order the construction of sediment control improvements and/or the implementation of other control measures and/or fines as identified in division (o)(1) of this section or any other relief the court determines.

(h) *Permittee self-inspections.*

- (1) The permittee/site operator shall provide for inspection of all controls on the site at least once every seven calendar days and within 24 hours after any rainfall greater than one-half inch of rain per 24-hour period. The inspection frequency may be reduced to at least once every month if the site is temporarily stabilized or runoff is unlikely due to weather conditions. A waiver of inspection requirements is available during frozen conditions until one month before thawing is expected if: a) frozen conditions exist for an extended period of time (greater than one month);

- b) disturbance activities have been suspended; and c) the beginning and ending dates of the waiver period have been documented in the SWP3. The site owner and/or applicant shall assign a professional engineer experienced in the installation and maintenance of erosion and runoff controls or an individual working under the responsible charge of a professional engineer to oversee these inspections to make certain that all stormwater control practices are functional; ensure all provisions of the SWM plan and the provisions contained in this chapter are being met; and determine whether additional control measures are required.
- (2) The site owner shall maintain the records for three years following the final stabilization of the site. The records shall include:
- A. Name of site.
 - B. Name(s) and qualifications of personnel making the inspections.
 - C. The date(s) of inspections.
 - D. Weather information for the period since the last inspection including 1) best estimate of the beginning of each storm event; 2) duration of each storm event and approximate amount of rainfall for each storm event in inches; and 3) whether any discharges occurred. Weather information and a description of any discharges occurring at the time of inspection.
 - E. Major observations relating to the implementation of the SWM plan and a certification as to whether the site is in compliance with the SWM plan, SWP3, and NPDES permit, if applicable. Locations of discharges of sediment or other pollutants from the site, locations of BMPs that need to be maintained, locations of BMPs that failed to operate as designed or proved inadequate, and locations that need additional BMPs shall be reported.
 - F. This record shall also identify any incidents of noncompliance, actions taken to correct any problems and the date(s) corrective action(s) was taken.
 - G. Any additional documentation required by the applicant's individual NPDES permit or Ohio EPA Construction General Permit.
- (3) A copy of all of the inspection reports must be submitted to the City Engineer within five business days of the date that the inspection was conducted. Inspections shall be documented in a format deemed acceptable by the City Engineer.
- (i) *Ownership and maintenance of stormwater facilities.*
- (1) In the case of proposed subdivisions, inspection and maintenance agreements shall be approved before the city accepts the final plat of the proposed subdivision. Said agreement shall be incorporated into the declaration of easements, covenants and restrictions for the land in question and into the developer's agreement when applicable. These declaration of easements, covenants and restrictions and the developer's agreement, when applicable, shall bind all current and subsequent owners of land served by the stormwater facilities.

- (2) All inspection and maintenance agreements shall do the following:
 - A. Designate the party or parties responsible for the maintenance of all stormwater management facilities and practices including mowing, landscaping, debris pick-up, and to ensure all inlet and outlet structures are free of obstructions and in good repair.
 1. For subdivisions, unless otherwise approved by the city, responsible party or parties this shall be an entity of common ownership (e.g., homeowners'/land owners' association) within the proposed subdivision.
 - B. Prohibit unauthorized alterations of all stormwater management facilities. All revisions shall be approved by the City Engineer and the Planning Commission where applicable.
 - C. Provide adequate access to all stormwater management facilities for inspection by the city authorized agent(s) and corrective actions by the owner.
- (3) As applicable, all stormwater management facility easements shall be shown on the record plat, prior to approval by the city, and a reference shall be made to the entity or individual(s) responsible for their maintenance.
- (4) The City Planning Commission may require the owner and/or the applicant to follow the maintenance procedure outlined in ORC § 6131.63. The city authorized agent(s) may require of the owner and/or applicant any one or more of the following items of the maintenance agreement:
 - A. Benefit two or more property owners.
 - B. Are designed for cost-effective maintenance.
 - C. Are determined by the City Planning Commission or authorized agent(s) to be appropriate additions to this jurisdiction's existing storm drainage system.
 - D. Are not better suited for private maintenance by an individual or group of property owner(s), with ultimate responsibility for maintenance in the event of default on the part of the owner(s) remaining with jurisdiction.
- (5) The following conditions shall apply to all drainage easements:
 - A. Easements shall be approved by the City Engineer prior to approval of the final plat and shall be recorded with said plat.
 - B. Unless otherwise required by the City Engineer drainage easements shall be not less than 20 feet wide.
 - C. Unless otherwise required and approved by the City Engineer, stormwater management facilities, including basins, ponds or other retention/detention practices, shall be on separate lots held and maintained by an entity of common ownership such as a land owners or homeowners association.
 - D. Those lots that contain and/or are crossed by a drainage easement shall have the following restriction: "Any lot area reserved for drainage purposes shall at all times be kept free of

any obstructions to the flow of water. No improvements or modifications within the identified drainage easement area will be allowed without the approval of the City Engineer."

- (6) The city shall also have the following authority concerning the maintenance, repair and replacement of stormwater management facilities:
- A. The City Engineer or his or her designee shall have the authority to inspect stormwater management facilities on a periodic basis, especially following severe rain events, to make certain that these stormwater management facilities and the appurtenances thereto are in proper condition and in working order.
 - B. In the event the City Engineer, or his or her designee, determine that any stormwater management facility or any appurtenances thereto, needs to be maintained, repaired or replaced, written notice to the responsible party shall be given detailing the correction needed to the stormwater management facility or any appurtenances thereto. A time limit for the making of the corrections shall be included with the written notice and shall be at least 30 days unless, in the opinion of the City Engineer, that immediate corrective action is necessary in which event the City Engineer shall specify, in writing, the time limit for which the corrections must be made.
 - C. Failure by the responsible party to undertake the corrections as required by the City Engineer in a timely manner shall result in the city taking whatever action is provided or authorized in the declaration of easements, covenants and restrictions for the land in question and/or the developer's agreement and/or any other provisions contained in this chapter or elsewhere in the Codified Ordinances of the City of Brecksville.
 - D. In any event, all charges incurred by the city in undertaking any corrective action to the stormwater management facility or any appurtenances thereto on behalf or in lieu of the responsible parties, shall result in a lien being placed upon the affected property owners on a pro-rata basis upon the failure of the responsible party to timely pay these charges as incurred by the city.

(j) *Schedule of fees.* The city shall establish a schedule of deposits, fees, charges, expenses, and collection procedure for same and other matters pertaining to this chapter. The schedule of fees shall be posted at the applicable city offices. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

(k) *Complaints.* The city authorized agent(s) shall investigate any complaint related to discharge of stormwater pollutants covered by this chapter.

(l) *Variations.*

- (1) *Appeal to the Board of Zoning Appeals.* The Board of Zoning Appeals may grant a variance to the regulations contained in this chapter as provided herein. In granting a variance under this chapter, the Board of Zoning Appeals, for good cause, may impose such conditions that it deems appropriate to maintain the purposes of this chapter.

- (2) *Procedures for variances and appeals.* Any applicant seeking a variance to the conditions imposed under this chapter or an appeal to an administrative decision made under this chapter, other than a decision by the Board of Zoning Appeals, may apply to or appeal to the Board of Zoning Appeals. The following conditions shall apply:
- A. When filing an application for an appeal to the Board of Zoning Appeals from any orders, decisions, and determinations by the Building Commissioner, City Engineer and any other city administrative officer, board or commission, with respect to the application or enforcement of the provisions contained in this chapter, the applicant shall file a notice of appeal specifying the grounds therefor with the Building Department within ten days of the Building Commissioner's, City Engineer's or any other city administrative officer, board or commission's order, decision or determination. Upon determining that the application is complete and upon receipt of the required fee as provided by City Council for appeals to the Board of Zoning Appeals, the Building Department shall transmit to the Board of Zoning Appeals the application and a transcript constituting the record from which the order, decision or determination subject to appeal was based. This matter shall be placed before the Board of Zoning Appeals and heard in accordance with the provisions contained in chapter 1197 of the Codified Ordinances of the City of Brecksville.
 - B. Applications for appeals or variances made under these regulations shall contain the following information:
 - 1. The name, address, and telephone number of the applicant;
 - 2. Proof of ownership or authorization to represent the owner/lessee of the property;
 - 3. The location of the property, including street address and permanent parcel number; and
 - 4. A description of the administrative order, decision or determination being appealed or the conditions of the regulation from which a variance is sought.
 - C. Applications for variances or appeals of administrative orders, decisions or determinations shall not be resubmitted to the Board of Zoning Appeals unless, prior to the decision being made by the Board of Zoning Appeals, the applicant shows the Board of Zoning Appeals newly discovered evidence that could not have been presented with the original submission. The Board of Zoning Appeals may, at its sole and complete discretion, re-hear an appeal only if it finds specific evidence of a substantial change in circumstances of the same property has occurred since the time of the original submission.
 - D. All other procedures for the hearing and deciding of applications for variances or appeals not covered by this section shall be in accordance with the provisions contained in chapter 1197 of the Codified Ordinances of the City of Brecksville.
 - E. The city may grant a variance to these regulations where the owner or his appointed representative can show that a hardship exists under which compliance with these regulations is not appropriate, based upon the following:
 - 1. That exceptional topographic or other physical conditions exist that are peculiar to the particular parcel of land.

2. That the literal interpretation of the provisions contained in this chapter would deprive the owner of rights enjoyed by other property owners.
 3. Adverse economic conditions or hardship shall not be considered as a valid reason for a variance request to be granted. No variances will be granted where activities occur that will defeat the purposes of this chapter.
- F. Any and all variances in and exceptions to the application of the provisions of this chapter that are allowed by the Board of Zoning Appeals shall be subject to the review and approval of Council before becoming effective. Any decision by the Board of Zoning Appeals in an appeal of an administrative order, decision or determination filed pursuant to this chapter shall be final.

(m) *Appeals.* Any person aggrieved by any order, requirement, determination, or any other action or inaction by the city or its representatives in relation to this regulation may appeal to the Court of Common Pleas. Such appeal shall be made within 30 days of the date of an order or decision and shall specify the grounds for appeal.

(n) *Violations and enforcement.*

- (1) No person shall violate or cause or knowingly permit to be violated any of the provisions of this chapter, or fail to comply with any of its provisions or with any lawful requirements of any public authority made pursuant to it, or knowingly use or cause or permit the use of any lands in violation of this chapter or in violation of any approval permit granted under this chapter. Violations of these regulations include, but are not limited to, the following conditions:
 - A. Failure to install control practices specified in the state and federal permits.
 - B. Improper installation of control practices according to the Rainwater and Land Development manual, current edition, and/or as recommended by the manufacturer.
 - C. Inadequate design and/or unacceptable performance of the control practices as judged by the City Engineer.
 - D. Failure to properly maintain control practices put in place as determined by the City Engineer.
 - E. Failure to remove control practices after the site has reached final stabilization.
- (2)
 - A. The city or its representatives may proceed with enforcement actions for violation of any provision of this or any amendment or supplement thereto, or failure to comply with any of the requirements of these regulations.
 - B. Where clear and convincing evidence exists that violations of this section exist or are allowed to persist upon private property and the landowner has failed to abate the violation within a reasonable time, as determined by the City Engineer, the County Health Department or a designee of either, and after appropriate notification by certified mail or personal delivery to the owner of record, the city may cause the violation to be remedied and may subsequently assess the cost therefore as a lien against the property as provided by law.

(o) *Penalties.*

- (1) Violation of any provision of this chapter or any amendment or supplement thereto, or failure to comply with any of the requirements herein for purposes of a fine shall constitute a fourth-degree misdemeanor. Each day such violation exists shall be considered a separate offense. Any person or persons violating any of the provisions herein shall upon conviction be fined up to \$250.00 per day the violation exists and, in addition, shall pay all costs and expenses involved in the case.
 - (2) Upon notice from the city and/or its authorized agent(s), that work is being done contrary to this chapter, such work shall immediately stop. Such notice shall be in writing and shall be given to the applicant, and shall state the conditions under which such work may resume; provided, however, in instances where immediate action is deemed necessary for the public safety or the public interest, the city's authorized agent may require that work be stopped upon verbal order pending issuance of the written order.
 - (3) The imposition of any other penalties provided herein shall not preclude the city, by or through its Law Director and/or any of its assistants, from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, chapters, rules, or regulations, or the orders of the authorized agent(s).
- (Ord. No. 5658, § 1(Exh. A), 11-7-23)

CHAPTER 1339. DEMOLITION OF UNSAFE BUILDINGS***Sec. 1339.01. Definitions; nuisance.**

Nuisance means all buildings or structures which are a menace to the public health, safety or welfare or which are structurally unsafe, unsanitary or not provided with adequate safe egress, or which constitute a fire hazard or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to the public health, safety or welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment are, severally, for the purpose of this chapter, declared to be unsafe structures or public nuisances. All such unsafe structures or public nuisances are hereby declared to be illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the procedures of this chapter.

('64 Code, § 1339.01; Ord. 2628, passed 12-21-82)

Cross reference—Penalty, see § 101.99

Sec. 1339.02. Examination by Building Commissioner.

(a) The Building Commissioner shall examine or cause to be examined every building or other structure reported to be unsafe or damaged and shall make a written record of such examination.

(b) The Building Commissioner shall have the authority and power to condemn as a public nuisance any structures which he deems to be injurious to the public health, safety or welfare.

('64 Code, § 1339.02; Ord. 2628, passed 12-21-82)

Sec. 1339.03. Notice to owner.

Whenever the Building Commissioner finds any building or structure or portion thereof to be an unsafe structure or public nuisance as defined in this chapter, he shall give written notice to the owner or owners of record, including any purchasers under a land sale contract and the persons occupying the building if they are not the owners thereof. The notice shall be written and specifically state the defects that cause the building to be unsafe and shall require the owner within a stated time either to complete specified repairs or improvements or to demolish and remove the building or structure or portion thereof, leaving the premises in a clean, safe and sanitary condition, such condition being subject to the approval of the Building Commissioner.

('64 Code, § 1339.03; Ord. 2628, passed 12-21-82)

Sec. 1339.04. Service of notice.

(a) Proper service of the notice set forth in section 1339.03, shall be by personal service, residence service or by certified mail; provided, however, that such notice shall be deemed to be properly served if a copy thereof is sent by certified mail to the owner's last known address. If a party cannot be located, nor his address ascertained, this notice shall be deemed to be properly served if a copy thereof is placed in a

***State law reference**—Cost recovery, see R.C. § 715.261

conspicuous place in or about the building structure affected by such notice and further, a copy of this notice shall be published in a newspaper of general circulation in this county for a period of three consecutive days.

TAXATION CODE

- Sec. 1523.02. Duty to enforce collection.
- Sec. 1523.03. Authority to make and enforce regulations; adoption of rules and regulations of the regional income tax agency.
- Sec. 1523.04. Authority to arrange installment payments.
- Sec. 1523.05. Authority to determine amount of tax due.
- Sec. 1523.06. Authority to make investigations.
- Sec. 1523.07. Authority to compel productions of records.
- Sec. 1523.08. Refusal to produce records.
- Sec. 1523.09. Confidential nature of information obtained.
- Sec. 1523.10. Taxpayer required to retain records.
- Sec. 1523.11. Authority to contract for central collection facilities.
- Sec. 1523.12. Authority to enter agreement with other municipal corporation.

Chapter 1525. Board of Review

- Sec. 1525.01. Board of Review established.
- Sec. 1525.02. Duty to approve regulations and to hear appeals.
- Sec. 1525.03. Right of appeal.

Chapter 1527. Other Provisions

- Sec. 1527.01. Declaration of legislative intent.
- Sec. 1527.02. Collection of tax after termination of title.

Chapter 1529. Tax Administrator

- Sec. 1529.01. Establishment, appointment and term.
- Sec. 1529.02. Duties.

Chapter 1531. Amendment to Above chapters and Enactment of Chapter 1531 Effective for Tax Years Beginning on or After January 1, 2016

- Sec. 1531.01. Authority to levy tax; purpose of tax.
- Sec. 1531.02. Definitions.
- Sec. 1531.03. Imposition of tax.
- Sec. 1531.04. Collection at source.
- Sec. 1531.05. Annual return; filing.
- Sec. 1531.06. Credit for tax paid to other municipalities.
- Sec. 1531.07. Estimated taxes.
- Sec. 1531.08. Rounding of amounts.
- Sec. 1531.09. Requests for refunds.
- Sec. 1531.10. Second municipality imposing tax after time period allowed for refund.
- Sec. 1531.11. Amended returns.
- Sec. 1531.12. Limitations.
- Sec. 1531.13. Audits.
- Sec. 1531.14. Service of assessment.
- Sec. 1531.15. Administration of claims.
- Sec. 1531.16. Tax information confidential.
- Sec. 1531.17. Fraud.
- Sec. 1531.18. Interest and penalties.

BRECKSVILLE CODE

- Sec. 1531.19. Authority of Tax Administrator; verification of information.
- Sec. 1531.20. Request for opinion of the Tax Administrator.
- Sec. 1531.21. Board of Tax Review.
- Sec. 1531.22. Authority to create rules and regulations.
- Sec. 1531.23. Rental and leased property.
- Sec. 1531.24. Savings clause.
- Sec. 1531.25. Collection of tax after termination of chapter.
- Sec. 1531.26. Adoption of RITA rules and regulations.
- Sec. 1531.27. Election to be subject to ORC 718.80 to 718.95.
- Sec. 1531.99. Violations; penalties.

CHAPTER 1509. EXEMPTIONS**Sec. 1509.01. 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 of Ohio from which the city is specifically prohibited from taxing, and income of a descendant'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 of their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the city to impose net income taxes.
- (l) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as part of an ordained minister's compensation. The ordained minister must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church.

('64 Code, § 1509.01; Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

CHAPTER 1511. RETURNS**Sec. 1511.01. When return required to be made.**

Each taxpayer shall, whether or not a tax be due thereon, make and file a return on or before April 15th of the year following the effective date of this title and on or before April 15th 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. Any person who has no income need not file an annual return. Any person who has exempt income shall file a return and declare to the administrator the nature of his exemption. Any person who has income shall file a tax return with the Tax Administrator.

('64 Code, § 1511.01; Ord. 2750, passed 12-4-84; Am. Ord. 4173, passed 5-3-05)

Cross reference—Penalty, see Ch. 1515

Sec. 1511.02. 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, commissions and other compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax.
- (b) The amount of the tax imposed by this title on such earnings and profits, and
- (c) Such other pertinent statements, information returns, or other information as the administrator may require.

('64 Code, § 1511.02; Ord. 1567, passed 12-20-66)

Sec. 1511.03. Extension of times for filing returns.

The administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. For tax years ending on or after January 1, 2023, the extended due date of city's income tax return for a taxpayer that is not an individual shall be the 15th day of the 11th month after the last day of the taxable year to which the return relates.

('64 Code, § 1511.03; Ord. 1567, passed 12-20-66; Ord. No. 5660, § 1(Exh. A), 11-7-23)

Sec. 1511.04. 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 city constituting a portion only of its total business, the administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the city. If the administrator finds that net profits are not properly allocated to the city by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the city.

(c) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code may file a consolidated return with the city. However, once the affiliated group has elected to file a consolidated return or a separate return with the city, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the administrator.

('64 Code, § 1511.04; Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05; Ord. No. 5660, § 1(Exh. A), 11-7-23)

Sec. 1511.05. Amended returns.

(a) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in chapters 1517 and 1519. 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 city tax liability, such taxpayer shall make and file an amended city return showing income subject to the city tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

('64 Code, § 1511.05; Ord. 1567, passed 12-20-66)

CHAPTER 1513. PAYMENT OF TAX**Sec. 1513.01. Payment of tax on filing of returns.**

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the administrator the amount of taxes shown as due thereon; provided, however, that:

- (1) Where any portion of the tax so due has been deducted at the source pursuant to the provisions of section 1513.02, or
- (2) Where any portion of such tax has been paid by the taxpayer pursuant to the provisions of section 1513.03, or
- (3) Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in section 1519.02, 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 city is entitled under the provisions of this title may have such overpayment applied against any subsequent liability hereunder or, at his election, indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than \$1.00 shall be collected or refunded.

(c) If any employer which is liable for tax obligations imposed by this chapter undergoes a fundamental change, then the employer and its manager shall be liable for taxes due up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. Any successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalty which the predecessor employer owes pursuant to this title. The successor employer shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amount, then the successor and, in a personal manner, the successor's manager, shall be jointly and severally liable for the payment of such taxes, interest and penalty.

('64 Code, § 1513.01; Ord. 1978, passed 12-7-71; Am. Ord. 2750, passed 12-4-84)

Sec. 1513.02. Collection at source.

(a) In accordance with rules and regulations prescribed by the administrator, each employer within or doing business within the city shall deduct, at the time of the payment of such salary, wages, commission or other compensation, the tax of two percent (unless a different tax rate is imposed in section 1505.01) per annum of the gross salaries, wages, commissions or other compensation due by the employer to such 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; provided, however, that if the amount of the tax so deducted by any employer in any one month is less than \$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.

described in subsection (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, and except as provided in division (g) 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 subsection, a sale of property originates in the city if, regardless of where title passes, the property meets any of the following criteria:
 1. The property is shipped to or delivered within the city from a stock of goods located within the city.
 2. The property is delivered within the city from a location outside the city, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the city and the sales result from such solicitation or promotion.
 3. The property is shipped from a place within the city to purchasers outside the city, 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 city to the extent that such services are performed in the city.
 - C. To the extent included in income, gross receipts from the sale of real property located in the city shall be situated to the city.
 - D. To the extent included in income, gross receipts from rents and royalties from real property located in the city shall be situated to the city.
 - E. Gross receipts from rents and royalties from tangible personal property shall be situated to the city based upon the extent to which the tangible personal property is used in the city.
- (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 city's tax only if the property generating the net profit is located in the city or if the individual taxpayer that receives the net profit is a resident of the city. The city shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this subsection 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 city, 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 city 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 city shall report the individual's net profit from all real estate activity on the individual's annual tax return for the city. 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 city's Income Tax Ordinance.
- (7) When calculating the ratios described in subsection (f)(1) of this section for the purposes of that subsection or subsection (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.
- (g) (1) As used in this division:
- A. "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:
1. The taxpayer has assigned the individual to a qualifying reporting location.
 2. The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.
- B. *Qualifying remote work location* means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.
- C. *Reporting location* means either of the following:
1. A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;
 2. Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under section 4 of this chapter, on qualifying wages paid to an employee for the performance of personal services at that location.
- D. *Qualifying reporting location* means one of the following:
1. The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year;

2. If no reporting location exists in this state for an employee or owner under division (g)(1)D.1. of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;
3. If no reporting location exists in this state for an employee or owner under division (g)(1)D.1. or 2. of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

- (2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of division (f) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation.

Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

- (3) For the purpose of calculating the ratios described in division (f)(1) of this section, all of the following apply to a taxpayer that has made the election described in division (g)(2):
 - A. For the purpose of division (f)(1)A. of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

- B. For the purpose of division (f)(1)B. of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.
 - C. For the purpose of division (f)(1)C. of this section, and notwithstanding division (f)(4) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.
- (4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (f)(2) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.
- (5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to section 4 of this chapter.

(Ord. 4961, passed 11-3-15; Ord. No. 5660, § 1(Exh. A), 11-7-23)

Sec. 1531.04. Collection at source.

Withholding provisions.

- (a) Each employer, agent of an employer, or other payer located or doing business in the city shall withhold an income tax from the qualifying wages earned and/or received by each employee in the city. Except for qualifying wages for which withholding is not required under section 1531.03 or subsection (b)(4) or (6) of this section, the tax shall be withheld at the rate, specified in section 1531.01, of two percent. 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 subsection (b)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of the city 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 city in the preceding calendar year exceeded \$2,399.00, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the city in any month of the preceding calendar quarter exceeded \$200.00. Payment under subsection (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 subsection (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 city. The payment of tax by electronic funds transfer under this subsection 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 subsection shall be accepted by the Tax Administrator and the city as the return required of a nonresident 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 city 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 city 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 city 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 city 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 city 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 city 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 subsection, 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 subsection:
- 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 subsection (c)(2)A.1. 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 subsection 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 subsection, the location at which an employee spends a particular day shall be determined in accordance with subsection (c)(2)B. of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that subsection.

- 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 subsections (c)(3), (5), (6), and (7) of this section, an employer is not required to withhold city income tax on qualifying wages paid to an employee for the performance of personal services in the city if the employee performed such services in the city on 20 or fewer days in a calendar year, unless one of the following conditions applies:
- 1. The employee's principal place of work is located in the city.
 - 2. The employee performed services at one or more presumed worksite locations in the city. For the purposes of this subsection, *presumed worksite location* means a construction site or other temporary worksite in the city 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.
 - 3. The employee is a resident of the city and has requested that the employer withhold tax from the employee's qualifying wages as provided in § 1531.04.
 - 4. 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 subsection (c)(2)A. of this section, an employee shall be considered to have spent a day performing services in the city only if the employee spent more time performing services for or on behalf of the employer in the city 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:
 - 1. Traveling to the location at which the employee will first perform services for the employer for the day;
 - 2. Traveling from a location at which the employee was performing services for the employer to any other location;
 - 3. 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;
 - 4. Transporting or delivering property described in subsection (c)(2)B.3. 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;
 - 5. 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 subsection (c)(2)A. of this section shall apply only if, with respect to the employee's qualifying wages described in that subsection, the employer withholds and remits tax on such qualifying wages to that municipal corporation.

- (4) A. Except as provided in subsection (c)(4)B. of this section, if, during a calendar year, the number of days an employee spends performing personal services in the city

exceeds the 20-day threshold, the employer shall withhold and remit tax to the city for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in the city.

B. An employer required to begin withholding tax for the city under subsection (c)(4)A. of this section may elect to withhold tax for the city for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in the city.

(5) If an employer's fixed location is in the city and the employer qualifies as a small employer as defined in section 1531.02, 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 city, regardless of the number of days which the employee worked outside the corporate boundaries of the city.

To determine whether an employer qualifies as a small employer for a taxable year, the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(6) Subsections (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 1531.04.

(Ord. 4961, passed 11-3-15)

Sec. 1531.05. Annual return; filing.

(a) An annual city income tax return shall be completed and filed by every taxpayer 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 1531.04 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 city.

(2) Retirees having no municipal taxable income for city 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 city, 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 city, 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 city shall permit spouses to file a joint return.

(f) (1) Each return required to be filed under this subsection 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 or, in the case of a return or request required by a qualified municipal corporation, Ohio form IT-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 subsection 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 city to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under subsection (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) *[Exceptions.]*

(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 R.C. § 5747.08. 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 city. No remittance is required if the net amount due is \$10.00 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 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 city. No remittance is required if the net amount due is \$10.00 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 city's income tax return. The extended due date of city's income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates. For tax years ending on or after January 1, 2023, the extended due date of city's income tax return for a taxpayer that is not an individual shall be the 15th day of the eleventh 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 city'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 city income tax return. If the request is received by the Tax Administrator on or before the date the city 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 R.C. § 5747.08, a taxpayer shall automatically receive an extension for the filing of a city income tax return. The extended due date of the city'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 city, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this subsection, including taxpayers not otherwise required to file annual returns.
- (5) If a taxpayer receives an extension for the filing of a municipal income tax return under divisions (g)(2), (3), or (4) of this section, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.
- If a tax administrator violates division (g)(5) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to \$150.00.

Division (g)(5) of this section does not apply to an extension received under division (g)(2) of this section if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under division (g)(2) of this section or failed to file for an extension under division (g)(2)(b) of this section.

- (6) 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 city shall not require a taxpayer to remit tax with respect to net profits if the net amount due is \$10.00 or less.
- (2) Any taxpayer not required to remit tax to the city for a taxable year pursuant to subsection (h)(1) of this section shall file with the city an annual net profit return under subsection (f)(3) of this section, unless the provisions of subsection (h)(3) apply.
- (3) A. A person may notify the Tax Administrator that the person does not expect to be a taxpayer subject to Brecksville's Income Tax Ordinance for a taxable year if both the following apply:
 - 1. The person was required to file a tax return with Brecksville for the immediately preceding taxable year because the person performed services at a worksite location (as defined in section 1531.04(c)(1)G.) within Brecksville.
 - 2. The person no longer provides services in Brecksville and does not expect to be subject to Brecksville's income tax for the taxable year.
- B. The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within Brecksville. The affidavit shall also include the following statement: "The affiant has no plans to perform any services within Brecksville, make any sales in Brecksville, or otherwise become subject to the tax levied by Brecksville during the taxable year. If the affiant does become subject to the tax levied by Brecksville for the taxable year, the affiant agrees to be considered a taxpayer and to properly comply as a taxpayer with Brecksville's Income Tax Ordinance and rules and regulations." The person shall sign the affidavit under penalty of perjury.
- C. If a person submits an affidavit described in subsection (h)(3)B. of this section the Tax Administrator shall not require the person to file and tax return for the taxable year unless the Tax Administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change.
- D. Nothing in subsection (h)(3) of this section prohibits the Tax Administrator from performing an audit of the person.

(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 subsection shall not apply to payments required to be made under subsection 1531.04(b)(1)A. or provisions for semi-monthly withholding.

(j) Taxes withheld for the city by an employer, the agent of an employer, or other payer as described in section 1531.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by the city, unless the amounts withheld were not remitted to the city 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 city to be filed in accordance with this subsection 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 city, 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 city or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this chapter and of the city'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 city'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 city for both an extension of time for filing of the return and an extension of time for payment of taxes required by the city 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 180th 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 subsection 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 subsection (o)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (p) (1) Nothing in this subsection denies to any person described in this subsection the application of subsections (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 subsection (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 subsection, *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 subsection (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 subsection (c)(2)A. of this section in calculating the penalty or interest due on any unpaid tax.
- (q) For each taxable year to which subsections (n), (o), or (p) of this section applies to a taxpayer, the provisions of subsections (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 subsection (r)(1) of this section.
- (4) *Incumbent local exchange carrier* has the same meaning as in R.C. § 4927.01.
- (5) *Local exchange telephone service* has the same meaning as in R.C. § 5727.01.
- (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 city'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 subsection (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 subsection (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 subsections (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 city 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 city. A taxpayer that is required to file a consolidated city income tax return for a taxable year shall file a consolidated city 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 city 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 subsections (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 1531.02, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that subsection and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that subsection.
- (2) No corporation filing a consolidated city income tax return shall make any adjustment otherwise required under this section 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 80 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, the corporation filing a consolidated city 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 subsections (r) through (y) of this section, 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 city. 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 subsections (r) through (y) of this section, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the city. 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 80 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 subsections (r) through (y) of this section, 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 city;

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

(w) Corporations filing a consolidated city income tax return shall make the computations required under subsections (r) through (y) of this section 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 city income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by city 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 city before January 1, 2016, to file a consolidated or combined tax return with the city 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. 4961, passed 11-3-15; Am. Ord. 5121, passed 11-21-17; Ord. No. 5660, § 1(Exh. A), 11-7-23)

Sec. 1531.06. Credit for tax paid to other municipalities.

(a) Except in the years provided in subsection (e) below, every individual taxpayer domiciled in the city 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 subsections (c) and (d) of this section, the credit shall not exceed the tax due the city under this chapter.

(b) The city shall grant a credit against its tax on income to a resident of the city who works in a joint economic development zone created under R.C. § 715.691 or a joint economic development district created under R.C. § 715.70, 715.71, or 715.72 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 subsections (a) and (d) 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) For any tax year beginning on or after January 1, 2015, every individual taxpayer domiciled in the city 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 against the tax imposed by this chapter equal to 87.50 percent of the amount obtained by multiplying the income, qualifying wages, commissions, net profits or other compensation subject to tax in the other municipality by the lower of

the tax rate in such other municipality or the tax rate of two percent. This subsection (d), will cease to be effective as of the earlier of: January 1, 2025; or January 1 of the year immediately following the third consecutive calendar year in which the city collects more than \$18,000,000.00 in gross receipts from the tax imposed under this title or chapter.

(Ord. 4961, passed 11-3-15)

Sec. 1531.07. 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 city's income tax for the current taxable year.

(2) *Tax liability* means the total taxes due to the city 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 \$200.00. For the purposes of this section:

A. Taxes withheld for the city from qualifying wages shall be considered as paid to the city 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 subsection, *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 12 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 § 1531.05(g) or on or before the fifteenth 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 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 city, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:
- A. On or before the fifteenth day of the fourth month after the beginning of the taxable year, 22.5 percent of the tax liability for the taxable year;
 - B. On or before the fifteenth day of the sixth month after the beginning of the taxable year, 45 percent of the tax liability for the taxable year;
 - C. On or before the fifteenth day of the ninth month after the beginning of the taxable year, 67.5 percent of the tax liability for the taxable year;
 - D. On or before the fifteenth day of the twelfth month of the taxable year, 90 percent of the tax liability for the taxable year. For taxable years beginning on or after January 1, 2018, for an individual, on or before the fifteenth day of the first month of the following taxable year, 90 percent of the tax liability for the taxable year.

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 city from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(Ord. 4961, passed 11-3-15)

Sec. 1531.17. 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 city 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 city or the Tax Administrator.

(Ord. 4961, passed 11-3-15)

Sec. 1531.18. 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 city provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of city.
- (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 city pursuant to applicable law, including at any time before January 1, 2016.
- (4) *Interest rate as described in subsection (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 subsection (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 city 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 city 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 city 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 city any return required to be filed, the following penalties and interest shall apply:
- (1) Interest shall be imposed at the rate described in subsection (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, city may impose a penalty equal to 15 percent of the amount not timely paid.
B. With respect to any unpaid withholding tax, the city may impose a penalty not exceeding 50 percent of the amount not timely paid.
 - (3) A. For tax years ending on or before December 31, 2022, with respect to returns other than estimated income tax returns, the city may impose a penalty of \$25.00 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 \$150.00 for each failure.
B. For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, the city may impose a penalty not exceeding \$25.00 for each failure to timely file each return, regardless of the liability shown thereon, except that the city shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.
- (d) Nothing in this section requires the city to refund or credit any penalty, amount of interest, charges, or additional fees that the city has properly imposed or collected before January 1, 2016.

(e) Nothing in this section limits the authority of the city 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 thirty-first day of October of each year the city shall publish the rate described in subsection (a) of this section applicable to the next succeeding calendar year.

(g) The city may impose on the taxpayer, employer, any agent of the employer, or any other payer the city's post-judgment collection costs and fees, including attorney's fees.

(Ord. 4961, passed 11-3-15; Am. Ord. 5123, passed 11-21-17; Ord. No. 5660, § 1(Exh. A), 11-7-23)

Sec. 1531.19. 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 Ohio Revised Code:
- (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 subsection 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 city'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 chapter;
 - (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 1531.03;
 - (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 1531.04.

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 city 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 subsection 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 1531.18, in addition to any applicable penalty described in section 1531.99.
- 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 subsection (c) of this section within 30 days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 1531.18.
- C. The penalties provided for under subsections (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 1531.99 for a violation of section 1531.17 and any other penalties that may be imposed by the Tax Administrator by law.

(Ord. 4961, passed 11-3-15)

Sec. 1531.20. 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. 4961, passed 11-3-15)

Sec. 1531.21. 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 city, but such appointees may not be employees, elected officials, or contractors with the city 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 city. This member may be an employee of the city, 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 of the city 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 city 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 subsection (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 R.C. § 5717.011.

(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 R.C. § 149.43. 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 R.C. § 121.22.

(Ord. 4961, passed 11-3-15)

Sec. 1531.22. Authority to create Rules and Regulations.

Nothing in this chapter prohibits the legislative authority of the city, 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 city 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. All rules adopted under this section shall be published and posted on the internet.

(Ord. 4961, passed 11-3-15)

Sec. 1531.23. Rental and leased property.

(a) All property owners of real property located in the city, 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 city. 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 city. The Tax Administrator, or his duly authorized agent, may compel the production of papers and records and the attendance of all personnel 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 city.

(c) Any property owner or person that violates one or more of the following shall be subject to section 1531.99:

- (1) Fails, refuses or neglects to timely file a written report required by subsection (a) of this section;
- (2) Makes an incomplete or intentionally false written report required by subsection (a) of this section;
- (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. 4961, passed 11-3-15)

Sec. 1531.24. 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. 4961, passed 11-3-15)

Sec. 1531.25. 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 sections 1531.12 and 1531.99.

(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 1531.04 and 1531.05 as though the same were continuing.
(Ord. 4961, passed 11-3-15)

Sec. 1531.26. Adoption of RITA Rules and Regulations.

The city hereby adopts the Regional Income Tax Agency (RITA) Rules and Regulations, including amendments that may be made from time to time, for use as the city's income tax rules and regulations. In the event of a conflict with any provision(s) of the city Income Tax Ordinance and the RITA Rules and Regulations, the ordinance will supersede. Until and if the contractual relationship between the city and RITA ceases, this section will supersede all other provisions within this chapter regarding promulgation of rules and regulations by the Tax Administrator.

(Ord. 4961, passed 11-3-15)

Sec. 1531.27. Election to be subject to ORC 718.80 to 718.95.

(a) The city hereby adopts and incorporates herein by reference sections 718.80 to 718.95 of the ORC for tax years beginning on or after January 1, 2018.

(b) A taxpayer, as defined in division (c) of this section, may elect to be subject to sections 718.80 to 718.95 of the ORC in lieu of the provisions of this chapter.

(c) *Taxpayer* has the same meaning as in section 718.01 of the ORC, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under chapter 5745 of the ORC. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.

(Ord. No. 5660, § 1(Exh. A), 11-7-23)

Editor's note—Ord. No. 5660, § 1(Exh. A), adopted November 7, 2023, added the provisions of this section titled, "Election to be subject to R.C. 718.80 to 718.95." The title has been amended to read as set out herein, at the discretion of the editor, to match the style of the Code.

Sec. 1531.99. Violations; penalties.

(a) Whoever violates sections 1531.04, 1531.16(a) or 1531.17 by failing to remit city 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 \$1,000.00 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 city, 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 subsection 1531.16(a) shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000.00 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 city, the individual is subject to discharge from employment or dismissal from office.

(c) Each instance of access or disclosure in violation subsection 1531.16(a) 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 subsection (d) of this section shall be subject to the penalties provided for in subsection (a) of this section.

(Ord. 4961, passed 11-3-15)

TABLE OF SPECIAL ORDINANCES

TABLE B

Ord. No.	Date Passed	Description
Res. 5361	11-15-22	Accepting an easement for temporary grading and access across certain lands owned by Andrew Sickle and known as PPN 603-09-002.
Res. 5368	12-6-22	Accepting an easement for construction, reconstruction, maintaining, repairing, and replacing sidewalks and landscaping in, under, across and through certain lands owned by Courtney Leanne Montgomery and known as PPN 603-09-001.
Res. 5369	12-6-22	Accepting an easement for temporary grading and access across certain lands owned by Courtney Leanne Montgomery and known as PPN 603-09-001.
Res. 5449	7-5-23	Accepting an easement for access to storm and drainage facilities across certain lands owned by Zachary and Nina Moore and known as PPN 605-15-003; and declaring an emergency.

TABLE OF SPECIAL ORDINANCES

TABLE E

Ord. No.	Date Passed	Description
Res. 5085	10-6-20	Authorizing the Mayor to accept a quit claim deed from the Brecksville Community Improvement Corporation for PP# 603-20-029, 603-20-030, 603-21-022, 604-07-007, 604-08-001, 604-08-002, 604-08-003, 604-08-004, and 604-08-007.
Res. 5086	10-6-20	Authorizing the Mayor to convey a quit claim deed to the Brecksville Community Improvement Corporation for PP# 603-20-029, 603-20-030, 603-21-022, 604-07-007, 604-08-001, 604-08-002, 604-08-003, 604-08-004, and 604-08-007.
5451	10-19-21	Authorizing the Mayor to enter into a purchase contract with Michael Jason Miller and Jacqueline R. Czarnota for the purchase of Permanent Parcel No. 602-09-042, property address V/L Crinkleroot Drive.
5471	1-18-22	Authorizing the Mayor to enter into an offer to purchase real estate and acceptance with Jayne M. Antrobus for the purchase of property located at 9056 Brecksville Road, PP# 601-34-085.
Res. 5263	3-1-22	Authorizing the Mayor to enter into a development and real estate transfer agreement with the Brecksville- Broadview Heights City School District concerning identified district properties.
5482	3-1-22	Authorizing the Mayor to accept a fiduciary's deed to transfer from Jayne M. Antrobus real property located at 9056 Brecksville Road, PP# 601-34-085.
Res. 5290	5-17-22	Authorizing the Mayor to accept a quit claim deed from VA Land, LLC for property known as Parcel 8-WD and also known as PPN 604-09-016.
Res. 5294	5-17-22	Authorizing the Mayor to accept a quit claim deed from Brant E. Giere for property known as Parcel 2-WL and also known as PPN 604-16-002.
5503	5-17-22	Authorizing the Mayor to enter into a contract for sale and purchase of real property and a contract for right of entry with PNC Bank, National Association.
5504	5-17-22	Authorizing the Mayor to enter into a contract for sale and purchase of real property and a contract for right of entry with 6850 Miller Road Holding Company, LLC.
Res. 5306	7-19-22	Authorizing the Mayor to accept a warranty deed from 6850 Miller Road Holding Company, LLC for property known as Parcel 9-WD1, WD2 and also known as PPN 604-17-003.
Res. 5307	7-19-22	Authorizing the Mayor to accept a warranty deed from Grand Bay Plaza Limited Partnership for property known as Parcel 1-WL and also known as PPN 604-07-002.

TABLE E

BRECKSVILLE CODE

Ord. No.	Date Passed	Description
Res. 5329	9-6-22	Authorizing the Mayor to accept a limited warranty deed from PNC Bank, National Association for property known as Parcel 7-WL and also known as part of PPN 604-17-008.
Res. 5437	5-16-23	Authorizing the Mayor to accept a quit claim deed from Sherwin Williams Company for property known as parcel 6-WD and also known as PPN 604-08-008; and declaring an emergency.
Res. 5438	5-16-23	Authorizing the Mayor to accept a quit claim deed from Sherwin Williams Company for property known as parcel 6-WL and also known as PPN 604-08-008; and declaring an emergency.
5630	6-20-23	Authorizing the Mayor to enter into a real estate transfer and development agreement with the Brecksville-Broadview Heights City School District and Triban Investments, LLC for PP# 603-15-009 located at 9457 Highland Drive; and declaring an emergency.
5649	10-3-23	Authorizing the Mayor to enter into an agreement for the sale and purchase of real estate with Morel Landscaping, LLC for PP# 604-25-007 located on Noble Park Lane, aka Noble Park Drive and Noble Park Road; and declaring an emergency.

TABLE OF SPECIAL ORDINANCES

TABLE I

Ord. No.	Date Passed	Voter Action	Description
5523	7-19-22	Approved 11-8-22	Amending the zoning map by changing the classification of PP# 604-07-002, located at 0000 S. Edgerton Road, currently zoned L-B Local Business to include a planned development overlay district of an assembly use for a gathering room/event center.
5623	6-20-23		Amending the zone map of the City of Brecksville for PP No. 601-34-004, 27 Public Square, currently zoned C-F Community Facilities to R-8A Residential along Arlington Street for the portion of the site measuring 125 feet in depth from the right-of-way and L-B Local Business to the remainder.

TABLE OF SPECIAL ORDINANCES

TABLE J

Ord. No.	Date Passed	Description
4648	11-1-11	Acknowledging the intent to reimburse the Building and Improvement Fund #490 for monies used to construct Fire Station Expansion with monies generated by the Fire Fund #290.
Res. 4189	12-6-11	Eliminating the Echo-Snowville Sanitary Sewer Fund #263.
Res. 4437	3-18-14	Establishing the Indigent Drivers Interlock and Alcohol Monitoring Fund No. 289.
Res. 4471	9-2-14	Establishing the Workers' Compensation Fund No. 602.
5659	11-7-23	Amending Ordinance No. 5592 as it relates to employee compensation; and declaring an emergency.

CODE COMPARATIVE TABLE

This table gives the location within this Code of those ordinances adopted since the 1995 Code, as supplemented. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

Legislation	Adoption Date	Section	Section this Code
5606	7-18-23	1	Char., Art. III, § 2
5607	7-18-23	1	Char., Art. V, § 9
5608	7-18-23	1	Char., Art. VI, § 4
5609	7-18-23	1	Char., Art. VI, § 6
5610	7-18-23	1	Char., Art. VI, § 8
5611	7-18-23	1	Char., Art. XII, § 5
5658	11- 7-23	1(Exh. A)	Added 1331.01—1331.08
		2	Rpld 1331.01—1331.08
5660	11- 7-23	1(Exh. A)	1511.03, 1511.04
			1531.03
			1531.05
			1531.18
			Added 1531.27
5661	11-21-23	1	145.13

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