

CODIFIED ORDINANCES OF WESTLAKE

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CHAPTER 101 Codified Ordinances

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CROSS REFERENCES

- See sectional histories for similar State law
- Statute of limitations on prosecutions - see Ohio R.C. 718.06; GEN. OFF. 501.06
- Codification in book form - see Ohio R.C. 731.23
- Imprisonment until fine and costs are paid - see Ohio R.C. 1905.30, 2947.14
- Citation issuance for minor misdemeanors - see Ohio R.C. 2935.26 et seq.
- Ordinances and resolutions - see ADM. Ch. 123
- Rules of construction for offenses and penalties - see GEN. OFF. 501.04

101.01 DESIGNATION; CITATION; HEADINGS.

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

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

101.02 GENERAL DEFINITIONS.

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

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

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

101.03 RULES OF CONSTRUCTION.

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

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

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

(ORC 1.43)

(c) Calendar; Computation of Time.

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

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

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

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

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

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

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

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

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

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

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

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

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

101.05 CONSTRUCTION OF SECTION REFERENCES.

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

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

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

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

101.06 CONFLICTING PROVISIONS.

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

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

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

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

101.07 DETERMINATION OF LEGISLATIVE INTENT.

- (a) In enacting an ordinance, it is presumed that:
 - (1) Compliance with the constitutions of the State and of the United States is intended;
 - (2) The entire ordinance is intended to be effective;
 - (3) A just and reasonable result is intended;
 - (4) A result feasible of execution is intended.
(ORC 1.47)
- (b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective.
(ORC 1.48)
- (c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:
 - (1) The object sought to be attained;
 - (2) The circumstances under which the ordinance was enacted;
 - (3) The legislative history;
 - (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
 - (5) The consequences of a particular construction;
 - (6) The administrative construction of the ordinance.
(ORC 1.49)

101.08 SEVERABILITY.

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

101.99 GENERAL PENALTY.

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

CHAPTER 105
Wards and Boundaries

105.01 Division of City into wards.

CROSS REFERENCES

Redividing the City into wards - see CHTR. Art. III,
Sec. 3(c)
Division of City into wards - see Ohio R.C. 731.06
Annexation and detachment - see Ohio R.C. Ch. 709

105.01 DIVISION OF CITY INTO WARDS.

(a) Council does hereby redivide the City of Westlake into various Wards with the boundaries as set forth on the Ward Map which is attached to original Ordinance 2007-190 and made a part hereof as though fully rewritten herein and marked Exhibit "A".

(b) The Ward boundaries are additionally described by legal description as to the exact boundary locations of the various Wards, which said legal description is attached to original Ordinance 2007-190 and made a part hereof as though fully rewritten herein and marked as Exhibit "B". (Ord. 2007-190. Passed 12-20-07.)

(See Code Book for Proposed Ward Redistricting Map)

(Editor's Note: Next printed page is page 21)

CHAPTER 107
Payments to Contractors

107.01	Compliance with chapter; Revised Code superseded.	107.05	Correction of approximate estimates.
107.02	Method and schedule.	107.06	Contents of final estimate.
107.03	Payment or acceptance not deemed waiver.	107.07	Withholding estimates for noncompliance.
107.04	Attested accounts.	107.08	Additional standards.

CROSS REFERENCES

Payment of claims - see CHTR. Art. V, Sec. 4
 Conflict of interest - see CHTR. Art. XI, Sec. 9
 Public contracts - see Ohio R.C. 735.05 et seq., 737.02 et seq.
 Contract interest - see GEN. OFF. 525.10

107.01 COMPLIANCE WITH CHAPTER; REVISED CODE SUPERSEDED.

The scheduled time, rate, amount and manner of payments on all construction or improvement contracts or contracts contemplating performance in installments entered into by the City shall be in accordance with the provisions of this chapter, notwithstanding the provisions of Ohio R.C. 153.12 through 153.14. It is the intention of Council that the provisions of this chapter shall supersede and be in lieu of the provisions of such sections of the Ohio Revised Code. (Ord. 1976-147. Passed 10-7-76.)

107.02 METHOD AND SCHEDULE.

Payment by the Municipality under its contracts shall be made in accordance with the procedure established in this section for the several improvements included herein. Any improvements not included in this section shall be made in the manner agreed upon between the City and the contractor in the contract for the improvement or construction to be made.

For a general contract of Municipal engineering construction for sewers, either storm or sanitary, or a combination thereof, water mains and appurtenances, sidewalks, surface treatment of streets and the repairs thereof, pavement and appurtenances thereto and any other public improvements, the method and schedule of payment shall be as follows:

- (a) Approximate Estimates; Partial Payments. The Director of Engineering will have made within the first ten days of each month an approximate estimate of the amount and value of acceptable work done and put in place and of the materials incorporated into the work during the previous calendar month. More frequent estimates may, at the option of the Director, be made at any time during the progress of the work, and payment may at the time be withheld if the work is not proceeding in a manner satisfactory to the Director and in accordance with such contract. After such estimates have been approved by the Director, partial payments will be made to the contractor for acceptable work performed and put in place under unit and lump sum price items based on the principal features entering into or forming a part of the work.
- Partial payments to the contractor for labor performed under the contract will be made at the rate of ninety-two percent (92%) of the estimates prepared and approved. After all estimates of materials that are furnished and delivered but not actually entered into and made a part of the contract have been made, and after the same have been inspected and approved by the Director, there will be paid a sum equal to ninety-two percent (92%) of such estimated value as is shown by invoice. Thereupon such material shall become the property of the City. However, this provision shall not be construed as relieving the contractor from the sole responsibility for the care and protection of materials and work upon which payments have been made or for the restoration of any damaged work or as a waiver of the right of the City to require fulfillment of all of the terms of the contract.
- The amount of such estimates, after deducting former payments, will be payable after the approval by the City, provided no legal restraints are placed upon the City preventing payment, but the allowance of such estimates shall not be deemed as acceptance of the work or materials therein included.
- (b) Final Estimate. The Director shall, as soon as practical after the completion of the entire work by the contractor and its acceptance by the Director, make a complete and final estimate of the work done. Such final estimate, after deducting therefrom all previous payments and the amount to be retained upon such contract as a guarantee, shall be due the contractor after such completion and acceptance, provided the same is free from all claims for labor and material under these specifications that might in any manner become a lien upon such work or upon the City. The acceptance by the contractor of such final estimate shall constitute a release to the City and to all officers or agents thereof from all claims and liability of the contractor for any reason except claims for final payment provided for herein.
- All prior partial estimates shall be subject to correction in the final estimate. The final estimate shall be subject to correction upon payment of the retainer.
(Ord. 1976-147. Passed 10-7-76.)

- (c) **Posting Bond; Guarantee Fund.** The contractor shall guarantee all materials and workmanship furnished under these specifications by posting a bond in the amount of ten percent of the contract price for a period of two years after the completion and final acceptance by the City. During this time, the City shall retain an amount equal to four percent of the total contract price as a guarantee upon the part of the contractor that the work will remain in good sound condition during the first six months. If, however, any work done under the contract or any adjacent property damaged by this work requires repairs, replacement or backfilling, in the opinion of the Director, the contractor shall furnish all materials and do all work at his own expense. Should the contractor fail to do so within a reasonable time after notification, the City may have such work done and pay the cost of such work out of such four percent (4%) guarantee fund or bond. Should the cost exceed such sum, the contractor shall pay the amount of the excess to the City. Upon the expiration of the first six months, after acceptance, the City shall, provided that all the work at that time is in good order and that all obligations of the contractor are fulfilled, pay to the contractor such part of the above mentioned sum retained as may remain after the expense of all repairs, replacements or backfilling has been paid therefrom. The acceptance by the contractor of such final payment shall constitute a release to the City and to all officers and agents thereof from all claims and liability of the contractor for any reason. At the expiration of the two-year period after acceptance, provided that at that time all the work is in good order and that all obligations are fulfilled, the maintenance bond shall be released.
(Ord. 1994-192. Passed 9-15-94.)

107.03 PAYMENT OR ACCEPTANCE NOT DEEMED WAIVER.

The payment of moneys based on the estimates mentioned in Section 107.02 shall not be construed as an acceptance by the City of any such work so estimated. The acceptance of or payment for any work performed or materials furnished under any such contract, or any possession by the City, shall not be construed as a waiver by the City of any rights under the contract or of any right or power therein reserved to the City, nor shall any waiver or any breach of any part or of the whole of any such contract be construed as a waiver of any other part thereof or of a subsequent breach thereof. (Ord. 1976-147. Passed 10-7-76.)

107.04 ATTESTED ACCOUNTS.

Any and all payments due or to become due the contractor and all rights of the contractor to demand and receive such payments shall be subject to all provisions of law relating to attested accounts of subcontractors, equipment men, material men, laborers or mechanics. The contractor shall pay or satisfy the just and equitable claims of all persons who have performed labor or furnished materials or equipment for the contractor in the execution of each such contract, the just and equitable claims of all persons who have previously filed an attested account of any such claims with the proper official of the City and all bills, costs or claims of any kind which might become a liability, lien or charge against the City. In the event that attested accounts are filed with the City, the City may retain out of the moneys due or to become due the contractor a sum sufficient to pay all such attested account claimants. If such accounts are not paid or adjusted to the satisfaction of the City, the City may retain all payments pursuant to the provisions of this chapter and pursuant to the law of attested accounts provided for by Ohio R.C. 1311.26 through 1311.37.
(Ord. 1976-147. Passed 10-7-76.)

107.05 CORRECTION OF APPROXIMATE ESTIMATES.

All prior estimates shall be subject to correction at the time of the final estimate and final payment.

(Ord. 1976-147. Passed 10-7-76.)

107.06 CONTENTS OF FINAL ESTIMATE.

The final estimate shall include all work of every description done and all materials furnished by the contractor under the contract. All questions as to estimates, measurements or the determination of the quantity or quality of work shall be left to the discretion of the Director of Engineering. Labor or material furnished outside the provisions of such contract shall not be paid for unless such labor or material has been ordered by the Director in writing by change order and approved by the contractor, the Mayor and Council.

(Ord. 1976-147. Passed 10-7-76.)

107.07 WITHHOLDING ESTIMATES FOR NONCOMPLIANCE.

If the contractor fails to comply with the terms of the specifications or contract or fails to comply with such orders or directions of the Director of Engineering as are provided for in or pursuant to the contract, the City reserves the right to withhold any estimates that may be due until such terms, specifications, written change or directions are complied with to the satisfaction of the Director.

(Ord. 1976-147. Passed 10-7-76.)

107.08 ADDITIONAL STANDARDS.

Council hereby adopts and approves, in addition to those items concerning the schedule of payments to contractors as set forth in the provisions of this chapter, the City of Westlake Standard General Conditions of Contract for Engineering Construction and City of Westlake, Ohio, Municipal Engineering Department General Provisions shall be set forth in all contracts for public improvements to be constructed within the City. Such General Conditions and General Provisions shall supersede any and all provisions of the Ohio Revised Code covering the same subject matter. Such General Conditions and General Provisions are attached to original Ordinance 1976-147, passed October 7, 1976, and made a part hereof as though fully rewritten herein.

(Ord. 1976-147. Passed 10-7-76.)

**CHAPTER 109
Public Meetings**

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| 109.01 | Purposes. | 109.05 | Notice to news media of special meetings. |
| 109.02 | Definitions. | 109.06 | Notification of discussion of specific types of public business. |
| 109.03 | Notice of regular and organizational meetings. | 109.07 | General regulations. |
| 109.04 | Notice of special meetings. | | |

CROSS REFERENCES

Public meetings of Council and committees - see CHTR.
Art. 3, Sec. 8(b)
Open public meetings - see CHTR. Art. XI, Sec. 10

109.01 PURPOSES.

(a) Pursuant to Article XI, Sec. 10 of the City Charter, the provisions of this chapter, which shall be known and may be cited as the Rules for Notification of Meetings to the Public and News Media, are adopted for the purposes of:

- (1) Establishing a reasonable method for any person to determine the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings;
- (2) Making provisions for giving advance notice of special meetings to the news media that have requested notification; and
- (3) Making provisions for persons to request and obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed.

(b) These Rules apply to each Municipal body of the City and are in addition to any applicable legal requirements as to notices to members of a Municipal body or to others in connection with specific meetings or specific subject matters.
(Ord. 1975-177. Passed 12-4-75.)

109.02 DEFINITIONS.

As used in this chapter:

- (a) "Clerk" means the Clerk of Council.
- (b) "Day" means a calendar day.
- (c) "Meeting" means any prearranged discussion of the public business of a Municipal body by a majority of the members of the Municipal body.
- (d) "Municipal body" means each of the following:
 - (1) Council;
 - (2) The Board of Zoning Appeals;
 - (3) The Board of Building Appeals;
 - (4) The Planning Commission;
 - (5) The Civil Service Commission;
 - (6) Assessment equalization boards;
 - (7) The Industrial Commission;
 - (8) Westlake Assistance and Service Commission;
 - (9) Youth Commission;
 - (10) Tree Commission; and
 - (11) Committees of the above Municipal bodies comprised of members of such bodies if such committees are:
 - A. Comprised of a majority of the members of the main Municipal body; or
 - B. Decision-making committees.
- (e) "Oral notification" means notification given orally, either in person or by telephone, directly to the person for whom such notification is intended, or by leaving an oral message for such person at the address, or if by telephone at the telephone number of such person as shown on the records kept by the Clerk under this chapter.
- (f) "Post" means to post in an area accessible to the public during the usual business hours at the office of the Clerk and at the following locations:
 - (1) The City Hall; and
 - (2) Porter Public Library.A notice identifying the locations at which notifications will be posted pursuant to this chapter shall be published by the Clerk within ten days after the adoption of this chapter.
- (g) "Published" means published once in a newspaper having a general circulation in the Municipality, as defined in Ohio R.C. 7.12, except that no portion of such newspaper need be printed in the Municipality.
- (h) "Special meeting" means a meeting which is neither a regular meeting nor an adjournment of a regular or special meeting to another time or day to consider items specifically stated on the original agenda or such regular or special meeting.
- (i) "Written notification" means notification in writing mailed, telegraphed or delivered to the address of the person for whom such notification is intended as shown on the records kept by the Clerk under this chapter, or in any way delivered to such person. If mailed, such notification shall be mailed by first-class mail, deposited in a U.S. Postal Service mailbox not later than the second day preceding the day of the meeting to which such notification refers, provided that at least one regular mail delivery day falls between the day of mailing and the day of such meeting.
(Ord. 1975-177. Passed 12-4-75.)

109.03 NOTICE OF REGULAR AND ORGANIZATIONAL MEETINGS.

(a) The Clerk shall post a statement of the time and place of regular meetings of each Municipal body for each calendar year not later than the second day preceding the day of the first regular meeting (other than the organizational meeting) of the calendar year of that Municipal body. The Clerk shall check at reasonable intervals to ensure that such statement remains so posted during such calendar year. If at any time during the calendar year the time or place of regular meetings, or of any regular meeting, is changed on a permanent or temporary basis, a statement of the time and place of such changed regular meetings shall be so posted by the Clerk at least twenty-four hours before the time of the first changed regular meeting.

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

(c) Upon the adjournment of any regular or special meeting to another day, the Clerk shall promptly post notice of the time and place of such adjourned meeting.

(d) In addition to the posting of the statements as provided in subsections (a) and (b) hereof, the Clerk shall cause to be published once a statement of the time and place of regular meetings for the calendar year of each Municipal body, a statement of the time and place of any changed regular meetings, and a statement of the time and place of any organizational meeting of a Municipal body. Such publication shall occur not later than the day preceding the day of the first such regular meeting of the calendar year, the day preceding the day of the first changed regular meeting, and the day preceding the day of any such organizational meeting, as the case may be. (Ord. 1975-177. Passed 12-4-75.)

109.04 NOTICE OF SPECIAL MEETINGS.

(a) Except in the case of special meeting referred to in Section 109.05(d), the Clerk shall, not later than twenty-four hours before the time of a special meeting of a Municipal body, post a statement of the time, place and purpose of such special meeting.

(b) The statement required under this section and the notification required under Section 109.05 shall state such specific or general purpose or purposes then known to the Clerk to be intended to be considered at such special meeting and may state, as an additional general purpose, that any other business as may properly come before such Municipal body at such meeting may be considered and acted upon.

(c) In addition to the posting of the statement as provided in subsection (a) hereof, the Clerk shall cause to be published once, not later than twelve hours prior to the time of a special meeting of a Municipal body, a statement of the time, place and purpose of such special meeting. (Ord. 1975-177. Passed 12-4-75.)

109.05 NOTICE TO NEWS MEDIA OF SPECIAL MEETINGS.

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

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

(b) News media requests for such advance notification of special meetings shall specify the Municipal body that is the subject of such request; the name of the medium; the name and address of the person to whom written notifications to the medium may be mailed, telegraphed or delivered; and the names, addresses and telephone numbers, including addresses and telephone numbers at which notifications may be given either during or outside of business hours, of at least two persons to either one of whom oral notifications to the medium may be given, at least one telephone number of which the request shall identify as being manned and that can be called at any hour for the purpose of giving oral notification to such medium.

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

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

(d) In the event of an emergency requiring immediate official action, a special meeting may be held without giving twenty-four hours advance notification thereof to the requesting news media. The persons calling such meeting, or any one or more of such persons or the Clerk on their behalf, shall immediately give oral notification or written notification, or both, as the person or persons giving such notification determine, of the time, place and purpose of such special meeting to such news media that have requested such advance notification in accordance with subsection (b) hereof. The minutes or the call, or both, of any such special meeting shall state the general nature of the emergency requiring immediate official action.
(Ord. 1975-177. Passed 12-4-75.)

109.06 NOTIFICATION OF DISCUSSION OF SPECIFIC TYPES OF PUBLIC BUSINESS.

(a) Any person, upon written request and as provided herein, may obtain reasonable advance notification of all meetings at which any specific type of public business is scheduled to be discussed. Such person may file a written request with the Clerk specifying the person's name; the address and telephone number at or through which the person can be reached during and outside of business hours; the specific type of public business the discussion of which the person is requesting advance notification of; the Municipal body that is the subject of such request; and the number of calendar months that the request covers. Such request may be canceled by request from such person to the Clerk.

Each such written request shall be accompanied by stamped self-addressed envelopes sufficient in number to cover the number of regular meetings during the time period covered by the request and an estimated number of special meetings. The Clerk shall notify in writing the requesting person when the supply of envelopes is running out, and if the person desires notification after such supply has run out such person must deliver to the Clerk an additional reasonable number of stamped self-addressed envelopes as a condition to receiving further notifications.

The Clerk shall provide a standard form to be used for such requests. Such form shall set forth the following general subject matter categories to be checked off by the requesting person:

COUNCIL

- A. Regular meetings
- B. Special meetings
- C. Emergency meetings
- D. Caucus meetings
- E. Committee meetings
 - 1. Committee of the Whole
 - 2. Finance and Wages
 - 3. Public Grounds, Buildings, Transportation, Recreation and Civil Service
 - 4. Safety, Utilities, Industrial Development and Welfare
 - 5. Sanitation
 - 6. Service, Streets, Sidewalks and Road Drains
 - 7. Zoning, Planning, Building Codes and Legislative

BOARDS AND COMMISSIONS

- A. Board of Zoning Appeals
 - regular meetings
 - special meetings
- B. Board of Building Appeals
 - regular meetings
 - special meetings
- C. Planning Commission
 - regular meetings
 - special meetings
- D. Civil Service Commission
 - regular meetings
 - special meetings
- E. Industrial Commission
 - regular meetings
 - special meetings
- F. Westlake Assistance and Service Commission
 - regular meetings
 - special meetings
- G. Youth Commission
 - regular meetings
 - special meetings
- H. Westlake Tree Commission
 - regular meetings
 - special meetings

Such requests may be modified or extended only by filing a complete new request with the Clerk. A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the City that is the subject of such request and by the Clerk.

(b) The Clerk shall give such advance notification under this section by written notification, or by oral notification, or both, as the Clerk determines.

The contents of written notification under this subsection may be a copy of the agenda of the meeting. Written notification under this subsection may be accomplished by giving advance written notification of all meetings of the Municipal body that is the subject of the request. (Ord. 1975-177. Passed 12-4-75.)

109.07 GENERAL REGULATIONS.

(a) Any person may visit or telephone the office of the Clerk during the regular hours of that office to determine, based on information available at that office, the time and place of regular meetings; the time, place and purpose of any then known special meetings; and whether or not the available agenda of any such future meeting states that any specific type of public business, identified by such person, is to be discussed at such meeting.

(b) Any notification provided herein to be given by the Clerk may be given by any person acting in behalf of or under the authority of the Clerk.

(c) A reasonable attempt at notification shall constitute notification in compliance with this chapter.

(d) At the commencement of each meeting, the Clerk or a member of the Municipal body shall submit a certificate of the Clerk as to compliance with this chapter as to notice and notification. Such certificate shall be conclusive upon the City and the Municipal body involved as to the facts set forth therein.

(e) The Clerk shall maintain a record of the date and manner, and time if pertinent under this chapter, of all actions taken with regard to notices and notifications under Sections 109.04 through 109.06 and shall retain copies of proofs of publication of any notifications or notices published thereunder.

(f) To better ensure compliance with this chapter as to notice and notification, it shall be the responsibility of the chairman or Secretary of a Municipal body other than Council, or the person or persons calling the meetings, to give timely notice to the Clerk of future meetings and the subject matters to be discussed thereat, of such Municipal body. (Ord. 1975-177. Passed 12-4-75.)

TITLE THREE - Legislative

Chap. 121. Council.

Chap. 123. Ordinances, Resolutions and Documents.

**CHAPTER 121
Council**

121.01	Officials' attendance at Council meetings.	121.11	Committee quorum.
121.02	President of Council.	121.12	Committee reports.
121.03	Clerk of Council.	121.13	Board members; appointments.
121.04	Assistants to the Clerk.	121.14	Petitions.
121.05	Preservation of order.	121.15	Reports.
121.06	Order of business.	121.16	Precedence of motions.
121.07	Committees.	121.17	Amendment or suspension of rules.
121.08	Committee members and appointment.	121.18	Absence of rule.
121.09	Terms of committee members.	121.19	Reading of ordinances and resolutions.
121.10	Committee vacancies.	121.20	Expense fund.

CROSS REFERENCES

Council Charter provisions - see CHTR. Art. III
Number and term of Councilmen - see CHTR. Art. III, Sec. 1
Qualifications of Councilmen - see CHTR. Art. III, Sec. 2
Duties of Council - see CHTR. Art. III, Sec. 3
President of Council - see CHTR. Art. III, Sec. 4
Removal of Council President or members - see CHTR. Art. III, Sec. 5
Vacancies - see CHTR. Art. III, Sec. 6
Clerk of Council - see CHTR. Art. III, Sec. 7
Council meetings - see CHTR. Art. III, Sec. 8
Quorum; adoption of rules - see CHTR. Art. III, Sec. 9
Procedure - see CHTR. Art. III, Sec. 10
Enactment of zoning ordinances - see CHTR. Art. III, Sec. 13
Conflict of interest - see CHTR. Art. XI, Sec. 9

121.01 OFFICIALS' ATTENDANCE AT COUNCIL MEETINGS.

Attendance of department heads and officials at Council meetings shall be as prescribed in Article II, Section 5(a) of the City Charter. The Mayor may require these officials to attend Council meetings and provide advice and opinions as may be requested by the Mayor or Council. (Ord. 1960-7. Passed 2-4-60.)

121.02 PRESIDENT OF COUNCIL.

The President of Council shall preside at all meetings of Council at which he is present. In the event of the absence of the President of Council he shall designate one Council member as President pro tem. (Ord. 1960-7. Passed 2-4-60.)

121.03 CLERK OF COUNCIL.

(a) There is hereby created the position of Clerk of Council, who shall be appointed by a majority of Council members, at its first or second meeting at the start of the Council term in January 2010 and then each term thereafter. Should the majority of the members of Council not approve the candidate selected for appointment then the Council President shall appoint an interim Clerk until such time as an appointment can be made by a majority vote. The Clerk shall serve at the pleasure of Council during the term and may be removed by a vote of a majority of the members of Council. The Clerk of Council shall attend all regular and special meetings of Council; shall keep the Council journal; shall prepare its minutes and be the custodian of all resolutions, ordinances, motions and other action passed or adopted by Council, and all papers or other documents kept by Council; shall serve or cause to be served all notices required by law to be served; shall post or publish or cause to be posted or published all ordinances, resolutions and action of the Council required to be published or posted; and shall perform such other duties as may be imposed or requested by Council. The Clerk shall furnish the Mayor and each member of Council with a copy of the minutes of all Council meetings and a current compilation of matters pending before Council, within five days after the date of such meetings. The Clerk shall prepare, with the advice of the President of Council, an agenda of the business proposed to be transacted at any Council meeting, and shall cause a copy thereof to be delivered to each member of Council and the Mayor, and publicly posted, not later than forty-eight hours before the scheduled meeting time. No matter not included in the docket or otherwise called to the attention of all members of Council, at least twenty-four hours before the meeting, shall be submitted to Council for final action without the consent of a two-thirds majority of Council elected thereto. If the Clerk is unable to attend any meeting, an Acting Clerk of Council shall be designated by the President or, in his absence, by the presiding member of Council. (Ord. 2008-8. Passed 1-17-08.)

(b) The compensation to be paid the Council Clerk for the performance of duties shall be determined by Council. (Ord. 1965-59. Passed 6-3-65.)

(c) The Clerk shall receive all the benefits and shall be subject to all employment policies and practices as all other administrative (non-union) employees generally of the City, as directed by and under the supervision of the Council President. (Ord. 2008-8. Passed 1-17-08.)

121.04 ASSISTANTS TO THE CLERK.

(a) There is hereby created the position of Assistant to the Clerk of Council, who shall be appointed by and serve at the pleasure of Council. Such Assistant shall perform such duties as may be directed by the Council President, the Council Clerk, the director of any department to whom she is assigned to assist, or the chairman or titular head of any committee, commission or administrative board of the City to which she may be assigned to assist. The compensation to be paid the Assistant to the Clerk for the performance of duties shall be determined by Council. (Ord. 1965-72. Passed 7-1-65.)

(b) The President of Council be and he is hereby authorized to employ part-time clerical personnel as needed to assist the Clerk of Council to perform duties as required by law. (Ord. 1969-16. Passed 2-6-69.)

121.05 PRESERVATION OF ORDER.

The presiding officer shall maintain order, confine members and the public to the question under consideration, offer opportunity for amendment and clarification thereof and debate thereon, and rule upon all questions of order and procedure. Disorderly conduct, abusive language or profanity, by anyone, may be deemed the basis for ejection from the Council chamber by persons designated for that purpose.

(Ord. 1960-7. Passed 2-4-60.)

121.06 ORDER OF BUSINESS.

(a) The following shall be the order of business:

- (1) Roll call of members and officials.
- (2) Action on minutes.
- (3) Presentation of selected correspondence - reading and action.
- (4) Presentation of petitions, grievances and problems by the general public.
- (5) Mayor's report.
- (6) Reports of administrative officials.
- (7) Council committee reports.
- (8) Reports of other committees, boards and commission.
- (9) Legislation.
- (10) Unfinished business.
- (11) New business.
- (12) Miscellaneous business.

(b) The foregoing order of business may be changed by vote of the majority of Council members present.

(Ord. 1960-7. Passed 2-4-60.)

121.07 COMMITTEES.

(a) Standing Committees. The President of Council shall appoint the following standing committees:

- (1) Finance and Wages.
- (2) Public Grounds, Buildings, Public Transportation, Recreation and Civil Service.
- (3) Safety, Utilities, Industrial Development, Welfare.
- (4) Sanitation (Sewers, Refuse Disposal, Landfill Operation).
- (5) Service (Streets, Sidewalks, Road Drains).
- (6) Zoning, Planning, Building Codes.

(b) Special Committees. The President of Council shall appoint special committees as he or Council shall see fit.

(c) Membership on such committees shall be for no more than one year subject to review, reappointment or replacement by President of Council. Civilian advisory members may be included.

(Ord. 1964-98. Passed 9-17-64.)

121.08 COMMITTEE MEMBERS AND APPOINTMENT.

Standing committees shall be composed of at least three members of Council, one of whom shall be the chairman, except the Finance and Wages Committee and the Sanitation Committee. The Finance and Wages Committee and the Sanitation Committee shall be composed of three members of Council respectively, one of whom shall be designated as chairman. The members and chairman shall be appointed as soon as convenient after election and the organization of Council, but not later than the second meeting of January. (Ord. 1970-5. Passed 1-15-70.)

121.09 TERMS OF COMMITTEE MEMBERS.

Members of Council appointed to standing and special committees on September 17, 1964, shall serve in such capacity through December 31, 1965. Thereafter, members of Council appointed to standing and special committees shall continue as members thereof for a period of one year, subject to review, reappointment or replacement by the President of Council at the end of that time. (Ord. 1964-98. Passed 9-17-64.)

121.10 COMMITTEE VACANCIES.

Vacancies in standing committees shall be filled within thirty days by the President of Council for the unexpired term of the members who have caused the vacancy. (Ord. 1960-7. Passed 2-4-60.)

121.11 COMMITTEE QUORUM.

A majority but not less than two persons shall constitute a quorum for the transaction of committee business. (Ord. 1960-7. Passed 2-4-60.)

121.12 COMMITTEE REPORTS.

(a) Each meeting of a Council committee shall have written minutes prepared containing sufficient facts and information to permit the general public to understand and appreciate the rationale behind the committee's decision and shall be signed by the chairman. At the request of a member of the committee, their written minority opinion shall be included in the official minutes. The chairman or their designee will submit such minutes no later than the second regular Council meeting following the committee meeting and Council shall, after discussion of the minutes by the committee chairman, vote on the reception of such minutes. The committee minutes will be part of the official record of the Council meeting at which they are accepted by Council and shall be available to the public at the next regular Council meeting after they are submitted to the Clerk of Council. Any Council member at a Council meeting can demand that the minutes be read at the Council meeting. (Ord. 1996-173. Passed 4-3-97.)

(b) The committee to which a matter has been referred for report and recommendation of approval or disapproval of the subject matter shall submit its report and recommendation within sixty days from the time that it is referred by the President of Council, unless the time has been extended by Council. The failure of the committee to submit its report and recommendation within the time limit shall be considered to be a recommendation of approval by the Committee, and Council may proceed accordingly. (Ord. 1973-54. Passed 5-17-73.)

121.13 BOARD MEMBERS; APPOINTMENTS.

(a) The President of Council, not later than the second regular meeting in January of each year, unless otherwise provided, shall appoint, subject to Council's approval, the Planning Commission member.

(b) The above appointments shall be for a one-year period. Vacancies shall be filled in the manner provided by law. (Ord. 1960-7. Passed 2-4-60.)

121.14 PETITIONS.

All persons desiring to present grievances, problems or petitions to Council may do so in the form of a letter addressed to the Clerk in advance of regular meetings or may register name, address and subject matter on a form provided at the door on any Council meeting night, to enable the presiding officer to allocate appropriate time for such presentations. The presiding officer may limit the number of speakers to be heard and the length of time to be devoted upon any single problem.

(Ord. 1960-7. Passed 2-4-60.)

121.15 REPORTS.

Reports from the directors and officers of various departments of the City and from the Planning Commission, Board of Zoning Appeals, Board of Building Appeals and Civil Service Commission, shall be in writing, signed by the person in authority, and when practicable, delivered to the Clerk of Council forty-eight hours before the regular meeting. All reports, except those from the Planning Commission, Board of Zoning Appeals, Board of Building Appeals and Civil Service Commission, shall be offered no less frequently than every two months.

(Ord. 1966-43. Passed 6-2-66.)

121.16 PRECEDENCE OF MOTIONS.

When any question or proposition is before Council, or under debate, no motions shall be received except the following, which shall have precedence in the following order:

- (1) To adjourn.
- (2) To lay on the table.
- (3) For the previous questions.
- (4) To postpone to a certain day.
- (5) To commit.
- (6) To amend.
- (7) To postpone indefinitely. (Ord. 1960-7. Passed 2-4-60.)

121.17 AMENDMENT OR SUSPENSION OF RULES.

These rules may be amended or new rules adopted by a vote of three-fourths of the Council members in the manner provided by law, and may be temporarily suspended for no longer than one meeting, by unanimous vote of the members of Council present.

(Ord. 1960-7. Passed 2-4-60.)

121.18 ABSENCE OF RULE.

In the absence of any rule, upon any matter of procedure of business, Council shall be governed by Robert's Rules of Order. (Revised).

(Ord. 1960-7. Passed 2-4-60.)

121.19 READING OF ORDINANCES AND RESOLUTIONS.

Council shall read all ordinances and resolutions by caption and title only unless for a particular purpose the entire ordinance is requested to be read. Otherwise, a full oral reading of each ordinance and resolution shall be dispensed with. Printed copies of the complete ordinances and resolutions shall be in the hands of all Councilmen prior to Council meetings, and copies of the same shall be made available to the general public whenever possible.

(Ord. 1960-9. Passed 2-18-60.)

121.20 EXPENSE FUND.

(a) There is hereby created an expense fund for Council not to exceed two thousand dollars (\$2,000) per year, which fund shall be at its disposal for its use for expenditures for City business, including but not limited to business meetings, luncheons, dinners, automobile and incidental expenses.

(b) Council shall keep a record of all its expenditures, subject to the approval of the President of Council, and submit the record and appropriate receipts to the Director of Finance on the last day of each and every month, listing thereupon those expenditures made that month. The Director of Finance shall thereupon pay by way of reimbursement for such expenses or pay to the supplier of the goods or services incurred by Council.
(Ord. 1981-6. Passed 1-15-81.)

CHAPTER 123
Ordinances, Resolutions and Documents

123.01 Newspaper publication; posting.
123.02 Publication time required.
123.03 Custody of City documents and records.

123.04 Fees for copies or reproductions of City records; exceptions.

CROSS REFERENCES

Mayor's veto - see CHTR. Art. II, Sec. 5(c)
Ordinances to be signed by Council President - see CHTR. Art. III, Sec. 3(b)
Legislative procedure - see CHTR. Art. III, Sec. 10
Effective dates - see CHTR. Art. III, Sec. 11
Codification of ordinances - see CHTR. Art. III, Sec. 12
Zoning ordinance procedures - see CHTR. Art. III, Sec. 13, Art. IV, Sec 9(e); ZON. Ch. 1235
Initiated ordinances - see CHTR. Art. VIII, Sec. I
Referendum - see CHTR. Art. VIII, Sec. 2
Reading of ordinances and resolutions - see ADM. 121.19
Records Commission - see ADM. Ch. 179

123.01 NEWSPAPER PUBLICATION; POSTING.

(a) Ordinances, resolutions, statements, orders, proclamations, notices and reports required by law to be published may be published in an English language newspaper of general circulation in the City. Proof of such publication and circulation of any newspaper used as a medium of publication hereunder shall be made by affidavit of the proprietor or agent of such newspaper and shall be filed with the Clerk of Council.
(Ord. 1957-159. Passed 11-7-57.)

(b) Publication may also be made, pursuant to Article III, Section 10, of the City Charter, by posting the same at City Hall and Porter Public Library upon bulletin boards provided for that purpose.
(Ord. 1966-44. Passed 6-2-66.)

123.02 PUBLICATION TIME REQUIRED.

(a) Newspaper publication shall be for the following times: ordinances, resolutions, proclamations of elections and notices of public hearings relative to zoning matters referred to in Article III, Section 13, of the City Charter, once a week for two consecutive weeks; other notices, not less than two nor more than four consecutive weeks; all other matters shall be published once.
(Ord. 1966-45. Passed 6-2-66.)

(b) Publication by posting shall be for a period of not less than fifteen days prior to the effective date thereof, as required by Article III, Section 10, of the City Charter. (Ord. 1965-97. Passed 9-2-65.)

123.03 CUSTODY OF CITY DOCUMENTS AND RECORDS.

All official records of the City shall at all times be kept within the Municipal Building. No person shall for any purpose remove any such records from the Municipal Building, nor shall any official or employee of the City, with jurisdiction or custody of such records, permit the same to be removed from the Municipal Building. However, the provisions of this section do not prevent the removal of records pursuant to lawful order or subpoena of any court or other public body having the power to subpoena or otherwise require their production, the removal by City officials of records for their use or production before a court or other judicial or administrative body without subpoena in cases in which the City is party, and the removal of records for temporary copying, photostating or printing incident to the codification or recodification of City ordinances. (Ord. 1956-174. Passed 12-6-56.)

123.04 FEES FOR COPIES OR REPRODUCTIONS OF CITY RECORDS; EXCEPTIONS.

(a) The City shall charge and collect fees for copies or reproductions of records or documents as follows:

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|-----|---|---------------------|
| (1) | Complete binder copy of the Codified Ordinances including the then current amendments thereto | \$ 160.00 |
| (2) | Complete paper cover copy of the Codified Ordinances including the then current amendments thereto | 100.00 |
| (3) | Zoning Map, Guide Plan Map, Street Address Map
Each sheet | 2.00 |
| (4) | Complete copy of Guide Plan. | 15.00 |
| (5) | Any other official instrument, document, ordinance, resolution, record or report not herein enumerated - | |
| | i. Each page side | .05 (black & white) |
| | ii. Each page | .25 (color) |
| | (Ord. 2008-30. Passed 2-21-08.) | |
| (6) | Standard 3" x 5" photographs are \$2.00 per photograph. All other size photographs shall be the sum of ten dollars (\$10.00) per photograph. (Ord. 1996-67. Passed 4-4-96.) | |
| (7) | Documents duplicated onto compact disc, Costs per each used | 1.00 |

(b) No fee shall be collected from any philanthropic, nonprofit or civic organization, or for official use, from any City department, officer, employee or agent or the Board of Education. A copy of any such requested document shall be distributed at City Hall to any such qualifying organization. The City may require proof qualifying a requesting organization for such gratis copy of the document requested.

The Clerk of Council shall maintain gratis a complete binder copy of the Codified Ordinances, together with all amendments thereto, in the Porter Public Library.

(c) All fees collected shall be promptly transmitted to the Director of Finance, with an appropriate accounting statement thereof, who shall cause the same to be credited to the General Fund.

(Ord. 1976-37. Passed 4-1-76; Ord. 2008-30. Passed 2-21-08.)

TITLE FIVE - Administrative

- Chap. 131. Mayor.
- Chap. 133. Department of Law.
- Chap. 135. Department of Finance.
- Chap. 137. Police Department.
- Chap. 139. Fire Department.
- Chap. 141. Administrative Department.
- Chap. 143. Department of Engineering.
- Chap. 145. Department of Purchasing.
- Chap. 147. Department of Public Service.
- Chap. 149. Department of Buildings, Structures and Inspections.
- Chap. 151. Parks and Recreation Commission.
- Chap. 152. Department of Recreation.
- Chap. 157. Westlake Assistance and Service Commission. (Repealed)
- Chap. 159. Civil Service Commission.
- Chap. 161. Department of Planning and Economic Development.
- Chap. 163. Industrial Commission.
- Chap. 166. Community Improvement Corporation.
- Chap. 167. Employees Generally.
- Chap. 169. Community Services Department.
- Chap. 171. Litter Control Board.
- Chap. 173. Juvenile Diversion Commission.
- Chap. 177. Westlake Tree Commission.
- Chap. 179. Records Commission.
- Chap. 181. Travel Expenses.
- Chap. 183. Equipment, Services and Personnel Policies.
- Chap. 185. Westshore Central Dispatch Center.

CHAPTER 131 Mayor

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| <p>131.01 Executive Assistant to the Mayor.</p> <p>131.02 Expense fund.</p> <p>131.03 ADA grievance procedure; requests.</p> | <p>131.04 Claims against City to be settled by Mayor.</p> <p>131.05 Purchase of food and beverages for meetings, programs and staff events.</p> |
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CROSS REFERENCES

- Charter provisions - see CHTR. Art. II
- Qualifications - see CHTR. Art. II, Sec. 1
- Powers - see CHTR. Art. II, Sec. 2
- Removal from office - see CHTR. Art. II, Sec. 3
- Term of office - see CHTR. Art. II, Sec. 4
- Duties; veto power - see CHTR. Art. II, Sec. 5
- Vacancy in office - see CHTR. Art. II, Sec. 6

131.01 EXECUTIVE ASSISTANT TO THE MAYOR.

There is hereby created the position of Executive Assistant to the Mayor. The duties of the Executive Assistant to the Mayor are such as may be requested by the Mayor. The hours of employment of the Executive Assistant to the Mayor are to be determined by the Mayor. (Ord. 2001-185. Passed 11-15-01.)

131.02 EXPENSE FUND.

(a) There is hereby created an expense fund for the Mayor not to exceed three thousand six hundred dollars (\$3,600) per year, which fund shall be at the Mayor's disposal for his use and expenditures for City business, including but not limited to, business meetings, luncheons, dinners, automobile and incidental expenses.

(b) The Mayor shall keep a record of all expenditures, and submit such record to the Director of Finance on the last day of each and every month, listing thereon those expenditures made that month. The Director of Finance shall thereupon pay to the Mayor a reimbursement for such expenses incurred. (Ord. 190-46. Passed 3-1-90.)

131.03 ADA GRIEVANCE PROCEDURE; REQUESTS.

(a) The following ADA Grievance Procedure is established as to the investigation and mediation of complaints against the City as to its non-compliance or prohibited actions under the American With Disabilities Act of 1990 (ADA) for the prompt and equitable resolution of such complaints:

- (1) Any person may file a complaint with the Law Department regarding access or discrimination in regard to the ADA. Such complaint shall be in writing and shall clearly state the name and address of the complainant and the particulars of the alleged violation. Individuals with a disability shall be given any special assistance requested in filing a complaint.
- (2) The Law Director shall, after receiving such complaint, promptly inform the Mayor of the filing of the complaint in order that he may set a hearing upon the complaint within fifteen working days of its filing and give prompt written notice of such hearing to the complainant. The Law Director shall then make a prompt and full investigation and turn over his/her findings and recommendations to the Mayor within ten working days of the filing of the complaint.
- (3) The Mayor shall conduct an administrative hearing upon such complaint within fifteen working days of its filing. At the hearing, the individual filing the complaint may appear with witnesses to state his/her position regarding the complaint and resolution of it and may be represented by legal counsel. Any required auxiliary aids requested for purposes of the hearing shall be supplied by the City. The Mayor shall render a written opinion within five working days of the hearing. Should the complainant choose not to appear for the hearing, the Mayor shall render a decision based upon the complaint and the Law Director's investigation report and all other resources at the Mayor's disposal. The Mayor shall determine and include in the decision which if any, special accommodations or modifications were considered and the findings and determinations with reasons therefor as to whether the same would present an undue burden upon the City.

- (4) If the complaint cannot be resolved to the complainant's satisfaction by the Mayor, the complainant may make written request to the Clerk of Council within five working days of the Mayor's decision that the complaint be heard and discussed at an open, public committee meeting. Individuals with a disability shall be given any special assistance requested in filing this appeal. A public hearing with at least fourteen days public notice in a newspaper of general circulation within the City and written notice to the complainant shall be conducted within forty-five days of the next committee meeting. Proceedings shall be recorded and maintained. The commission shall then report its findings and recommendations to the full Council. Council shall then render its decision in writing within thirty days of the Council meeting. The decision of Council shall be final.
- (5) A record of action taken on all complaints and requests shall be maintained as part of the records or minutes at each level of the grievance process.
- (6) A complainant's right to a prompt and equitable resolution of his/her complaint or request shall not be impaired by his/her pursuit of other remedies and use of this grievance procedure shall not be considered a prerequisite to the pursuit of other remedies.
- (7) Council reserves the right to appoint a special committee or board to hold the required public hearing upon an appeal of the Mayor's decision upon any complaint under this section and to make written recommendations to Council before Council's decision upon the complaint.

(b) Any requests or suggestions regarding access to and participation in public facilities, services and functions of the City by qualified individuals with a disability shall be made through the Law Department for review and prompt presentation to the Mayor for consideration.

(c) The Law Department shall keep a record of all requests and complaints filed and action taken thereon. (Ord. 1994-67. Passed 4-7-94.)

131.04 CLAIMS AGAINST CITY TO BE SETTLED BY MAYOR.

The Mayor is authorized and empowered to compromise and settle any claim against the City or any of its officers, agents or employees in their official capacity, for an amount not to exceed \$5,000 and to compromise and settle any lawsuits against the City or any of its officers, agents or employees, in their official capacity, for an amount not to exceed \$15,000 and to authorize payment of those claims and suits compromised and settled not exceeding the limits established herein.

(Ord. 1996-101. Passed 7-9-96.)

131.05 PURCHASE OF FOOD AND BEVERAGES FOR MEETINGS, PROGRAMS AND STAFF EVENTS.

Council hereby authorizes the Mayor to purchase food and non-alcoholic beverages for meetings, programs and other staff events regarding City business, including employee holiday gatherings and small retirement gifts. Expenditures hereunder shall not exceed such amounts as may be annually appropriated in various accounts by Council.

(Ord. 2004-61. Passed 5-6-04.)

CHAPTER 133
Department of Law

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| <p>133.01 Duties of Director.</p> <p>133.02 Assistant Directors of Law - Civil.</p> <p>133.03 Assistant Director - Municipal Prosecutor.</p> | <p>133.04 Authority to employ additional counsel.</p> <p>133.05 Declaration of candidacy of Law Director.</p> |
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CROSS REFERENCES

- Department established - see CHTR. Art. IV, Sec. 1
- Director's appointment; compensation - see CHTR. Art. IV, Sec. 2
- Qualifications and duties of Director - see CHTR. Art. IV, Sec. 4
- Member of Records Commission - see ADM. Ch. 179

133.01 DUTIES OF DIRECTOR.

(a) In the future the Director of Law will not be obligated to perform all duties now or hereafter imposed by law upon solicitors of cities, but his legal duties will be limited to serving the Mayor, the various administrative departments of the City, the Planning Commission, the Board of Zoning Appeals, the Board of Building Appeals, the Civil Service Commission, officers of the City and Council as attorney and legal counsel. He shall represent the City in all proceedings in court or before any administrative body.

The Director of Law shall be free to handle any other legal work or represent any other boards and commissions if mutually satisfactory financial arrangements can be arrived at between the Director of Law and such boards and commissions. The provisions contained herein shall not be construed in any way to interfere with or otherwise limit his general practice of law.

(b) The compensation to be paid the Director of Law for the performance of duties shall be determined by Council.
(Ord. 2000-187. Passed 12-7-00.)

133.02 ASSISTANT DIRECTORS OF LAW - CIVIL.

(a) Civil Assistant - I. There is hereby created the position of Assistant Director of Law - Civil I who shall be recommended by the Mayor with the approval of a majority of members elected to Council, and who shall serve at the pleasure of the Mayor. This individual shall be an attorney at law, admitted to practice before the courts of Ohio and Federal Courts within the State of Ohio. The Assistant Director of Law - Civil I shall assist the Director of Law in the preparation of all legal actions for or against the City, and shall be required to keep regular hours at the Department of Law on a time schedule selected and approved by the Mayor. Such attorney shall be available to the Mayor, the members of Council and the directors of various departments to give legal advice and opinions when requested by the Director of Law or the Mayor. The Assistant Director of Law - Civil I shall be authorized to act in place of and for the Director of Law, in the event the Director is absent, because of vacation, sick leave or for any other reason. This attorney shall perform such additional duties as may be assigned by the Director of Law.

(b) Civil Assistant - II. There is hereby created the position of Assistant Director of Law - Civil II who shall be recommended by the Mayor with the approval of a majority of the members elected to Council and who shall serve at the pleasure of the Mayor. The Assistant Director of Law - Civil II shall be an attorney at law, admitted to practice before the courts of Ohio and Federal Courts located within the State of Ohio. The Assistant Director - Civil II shall, unless excused by the Director of Law, attend all regular or special meetings of the Planning Commission, Board of Zoning Appeals, Board of Building Appeals, Civil Service Commission and any other board or commission created by Council as directed by the Director of Law. This attorney shall serve and give legal advice and opinion to such boards, commissions and administrative officials as requested by the Director of Law or the Mayor, and shall represent the City in any civil case assigned to him by the Director of Law. The Assistant Director of Law - Civil II shall perform any additional duties assigned to him by the Director of Law. (Ord. 2000-187. Passed 12-7-00.)

133.03 ASSISTANT DIRECTOR - MUNICIPAL PROSECUTOR.

There is hereby created the offices of Assistant Director of Law - Municipal Prosecutor I and Assistant Director of Law - Municipal Prosecutor II each of whom shall be appointed by the Mayor with the approval of the majority of the members elected to Council and who shall serve at the pleasure of the Mayor. Both Assistant Directors - Municipal Prosecutors shall be attorneys at law admitted to practice before the Courts of Ohio and unless excused by the Director of Law, shall represent the City in all cases involving the violation of City ordinances or Ohio laws in the Municipal Court of Rocky River or such other court as may have jurisdiction to hear such cases. Assistant Directors - Municipal Prosecutors shall perform such other duties as assigned by the Director of Law. (Ord. 2000-187. Passed 12-7-00.)

133.04 AUTHORITY TO EMPLOY ADDITIONAL COUNSEL.

(a) The Director of Law is hereby authorized to employ legal counsel of the choice of the Director, with the approval of the Mayor, as necessary to assist in all litigation matters, including trial preparation and conduct of trials and such other and further duties as may be directed by the Director of Law.

(b) The compensation to be paid to such legal counsel shall be a maximum amount of one hundred forty dollars (\$140.00) per hour for the performance of such work. (Ord. 2000-187. Passed 12-7-00.)

133.05 DECLARATION OF CANDIDACY OF LAW DIRECTOR.

(a) Pursuant to Article VII, Sections 1 and 2, an election for the office of Director of Law shall be held in 2005. That office shall appear on the ballot for a nonpartisan primary election on the first Tuesday after the first Monday in May and at the general election held on the first Tuesday after the first Monday in November in odd numbered years commencing with the year 2005 and every four (4) years thereafter.

(b) At the primary election so held as set forth above, the names of the two (2) persons receiving the highest number of votes for the office of the Director of Law shall be nominated to be candidates for such office at the next succeeding regular municipal election. As is set forth Section 2 of Article VII, if there are no more than two (2) persons who have filed petitions as provided in the Charter to be candidates for Director of Law at such primary election, then said persons shall be nominated as the candidates at the next succeeding municipal election and the primary for that office will not be held.

(c) Any persons desiring to become a candidate for election of Law Director to be voted for at the next succeeding regular municipal election shall, not later than 4:00 p.m. of the 60th day before primary election day, file a nominating petition. Such petition shall require signatures of registered electors and shall be accompanied by the written acceptance of the nominees. The petition for the office of Law Director shall be signed by not less than five hundred (500) qualified electors. Petitions shall be circulated by a qualified elector of the City of Westlake.

(d) All other provisions contained in Article VII regarding nominations and elections that apply to other municipal offices elected at large in the City including the offices of Mayor and President of Council shall be likewise applicable to the office of Director of Law. (Ord. 2004-188. Passed 1-20-05.)

CHAPTER 135
Department of Finance

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| 135.01 Bond required for Director. | 135.04 Assistant Director. |
| 135.02 Fascimile signature authorized. | 135.05 Petty cash fund. |
| 135.03 Director as full-time position; hours; duties. | 135.06 Other personnel. |

CROSS REFERENCES

- Department established - see CHTR. Art. IV. Sec. 1
 Director's appointment; compensation - see CHTR. Art. IV, Sec. 2
 Director's duties - see CHTR. Art. IV, Sec. 3
 Department of Purchasing - see CHTR. Art. IV, Sec. 8; ADM. Ch. 145
 Finances - see CHTR. Art. V
 Member of Records Commission - see ADM. Ch. 179

135.01 BOND REQUIRED FOR DIRECTOR.

The Director of Finance shall execute a bond for one hundred thousand dollars (\$100,000), with such surety as the Mayor shall approve, to the City, conditioned upon the faithful performance of the duties of his office and for the benefit of any and all parties aggrieved by the acts or neglect of the Director.
 (Ord. 1975-60. Passed 5-15-75.)

135.02 FACSIMILE SIGNATURE AUTHORIZED.

The signature of the Director of Finance may be affixed to any check or other instrument for the payment of money or for the deposit of checks or other instruments for the payment of money, payable to the City, by a mechanical device bearing the facsimile signature of such Director. The financial depository designated by Council or any financial depository is hereby authorized to rely upon and to accept such facsimile signature produced mechanically as genuine.

The Director of Finance and Mayor are authorized to execute any resolution that may be required by the financial depository designated by Council or any financial depository to accomplish this objective.

135.03 DIRECTOR AS FULL-TIME POSITION; HOURS; DUTIES.

(a) The position of Director of Finance as established in Article IV, Section 3 of the City Charter, shall henceforth be a full-time position.
(Ord. 1986-57. Passed 9-4-86.)

(b) The full-time Director of Finance shall work forty hours per week, at times designated by the Mayor. All time shall be spent at City Hall unless the job requirements require his attendance at a place other than City Hall. In addition, the Director shall also attend, upon request of the Mayor or President of Council, meetings such as: Council, Planning Commission, Board of Zoning Appeals, Architectural Standards Board and meetings or seminars sponsored by state, municipal or federal organizations, etc.
(Ord. 1998-136. Passed 5-7-98.)

(c) The duties of the full-time Director of Finance shall be as outlined in Article IV, Section 3, of the City Charter and such other duties as requested by the Mayor.
(Ord. 1986-57. Passed 9-4-86.)

135.04 ASSISTANT DIRECTOR.

(a) There is hereby created the position of Assistant Finance Director. Such position is in the classified civil service of the City.

- (b) The duties of the Assistant Finance Director shall be:
- (1) The general supervision of the operation of the Finance Department.
 - (2) The instruction of new employees as to their duties and present employees as to new procedures.
 - (3) Such other financing, accounting duties and special projects as the Mayor and/or the Finance Director may prescribe.
 - (4) To assume the duties of the Finance Director in the absence of the Finance Director.
- (Ord. 1983-96. Passed 9-1-83.)

135.05 PETTY CASH FUND.

(a) A petty cash fund in the amount of one hundred dollars (\$100.00) to be used by the Finance Department for making change to anyone paying any charge due the City is hereby established. Such fund shall be under the control of the Director of Finance at all times.

(b) The Director of Finance is hereby authorized to draw the sum of one hundred dollars (\$100.00) from heretofore unappropriated funds to establish the one hundred dollar (\$100.00) petty cash fund.
(Ord. 1980-146. Passed 9-4-80.)

135.06 OTHER PERSONNEL.

Council may provide for such other personnel as may be needed by ordinance.
(Ord. 2006-186. Passed 12-21-06.)

CHAPTER 137
Police Department

<p>137.01 Establishment and composition.</p> <p>137.02 Clothing allowance.</p> <p>137.03 Original appointments; physical and age requirements.</p> <p>137.04 Physical examinations.</p> <p>137.05 Powers of department.</p> <p>137.06 Powers and duties of Chief; Acting Chief; overtime.</p> <p>137.07 Resignation; leaves of absence. (Repealed)</p> <p>137.08 Attendance at schools or meetings; compensation for meals. (Repealed)</p> <p>137.09 Division of School Guards.</p> <p>137.10 Matrons.</p>	<p>137.11 Charge for furnishing photographs and copies of accident reports. (Repealed)</p> <p>137.12 Grades defined.</p> <p>137.13 Confidential Investigation Fund.</p> <p>137.14 Auxiliary Police Unit.</p> <p>137.15 Nonliability re emergency medical duties.</p> <p>137.16 Collective bargaining agreement.</p> <p>137.17 Parking regulations enforced by Auxiliary Police and Park Patrol.</p> <p>137.18 Firearm conveyance upon</p>
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CROSS REFERENCES

Established - see CHTR. Art. IV, Sec. 1

Civil service classification - see CHTR. Art. IV, Sec. 12(c)

State law provisions - see Ohio R.C. Ch. 737

137.01 ESTABLISHMENT AND COMPOSITION.

There is hereby established a Police Department for the City. The Department shall be administered and controlled by a Police Chief, subject to the provisions of the City Charter and ordinances of the City.

The Police Department shall comprise the police force of the City and shall consist of the following ranks and personnel:

- (a) One Police Chief;
- (b) Not more than two Captains;
- (c) Not more than four Lieutenants;
- (d) Not more than six Sergeants;
- (e) Six Detectives who shall be appointed by the Chief from the rank of patrol officer and whose grade shall be designated by the Chief;
- (f) Not more than thirty-five patrol officers;
- (g) (EDITOR'S NOTE: Former subsection (g) hereof was repealed by Ordinance 2006-186, passed December 21, 2006.)
- (h) Executive Assistant;
- (i) Four part-time patrol officers;
- (j) One vehicle, building maintenance technician;
- (k) Two part-time jailers;
- (l) Five part-time community service officers; and
- (m) Such other personnel as Council may establish.
(Ord. 2008-1. Passed 1-3-08; Ord. 2008-82. Passed 5-15-08.)

137.02 CLOTHING ALLOWANCE.

(a) Police Chief Uniform. On July 1 of each year, the Director of Finance is authorized and directed to pay to the Police Chief a clothing allowance equal to the amount any other member of the Department receives through their collective bargaining agreement.

(b) Civilian Member Uniforms. Civilian member uniforms, if required by the Mayor, shall be provided as is addressed in the applicable collective bargaining agreement. (Ord. 1996-158. Passed 7-18-96.)

137.03 ORIGINAL APPOINTMENTS; PHYSICAL AND AGE REQUIREMENTS.

(a) All original appointments or promotions hereafter made in the Police Department shall be in a manner provided by the Charter, ordinances of Council enacted pursuant thereto and the rules and regulations of the Civil Service Commission. In instances not governed by the foregoing provisions, the general laws of the State shall be applicable. (Ord. 1992-126. Passed 10-15-92.)

(b) Appointments may be made upon certification by a licensed physician, acceptable to the appointing authority and the Civil Service Commission, that the duties of the position to which he/she may be appointed and is capable of performing will not render him/her a substantial physical risk in such position.

No person shall be eligible for an original appointment as a policeman unless he/she has attained the age of twenty-one years. No person shall be eligible to receive an original appointment as a policeman on or after his/her thirty-sixth birthday unless such person has (in the opinion of the Police Chief) commensurate law enforcement officer experience in which case the maximum age limitation shall be increased in direct proportion to the commensurate experience except that in no event shall anyone be eligible to receive an original appointment as a policeman on and after his/her fortieth birthday. (Ord. 1997-31. Passed 2-6-97.)

(c) Definitions. As used in this section, certain terms are defined as follows:

(1) "Law enforcement officer" has the same meaning as specified in Ohio R.C. 2901.01(K).

(2) "Commensurate" means a proportionate amount of time in service as a law enforcement officer on a year for year basis not to exceed four years.

(Ord. 1992-126. Passed 10-15-92.)

137.04 PHYSICAL EXAMINATIONS.

A physical examination shall be required of all members of the Police Department upon promotion to higher rank. The Police Chief or Mayor may require a member of the Department to undergo a physical examination at any other reasonable time for the purpose of determining if such member's physical or related bodily condition will enable him to continue as a member of the Department. (Ord. 1963-40. Passed 6-6-63.)

137.05 POWERS OF DEPARTMENT.

The Police Department shall have all powers and jurisdiction now or hereafter granted by the State Constitution, the general laws of the State relating to such Departments in cities, and by the City Charter and ordinances of Council passed pursuant thereto. The Department shall preserve the public health, safety and general welfare, including matters pertaining to the prevention, suppression and detection of crime, the supervision and maintenance of the equipment and quarters of the Department and of police alarm signal and communication systems and traffic control devices of all sorts which are the property of or located within the City. (Ord. 1963-40. Passed 6-6-63.)

137.06 POWERS AND DUTIES OF CHIEF; ACTING CHIEF; OVERTIME.

(a) The Police Chief shall be the executive officer of the Police Department, and shall devote his full time to the duties of such office. He shall be on active duty in performance of the duties of his office not less than forty hours per week, subject to lawful vacations and sick leaves, and shall remain on call for the performance of the duties of his office on a twenty-four hour per day basis. In addition, the Chief shall also attend, upon request of the Mayor or President of Council, meetings such as: Council, Planning Commission, Board of Zoning Appeals, Architectural Standards Board and meetings or seminars sponsored by state, municipal or federal organizations, etc.

During any period of absence or inability of the Police Chief to perform his duties while on vacation or sick leave, or for other proper reason, the Captain designated by the Chief shall exercise the authority of the Chief as Acting Chief. In the absence or disability of the Captain, such authority shall be exercised by such other officer as shall be designated by the Chief or, in his absence, by the Mayor.

The Police Chief shall have such authority as is necessary for the efficient discharge of the duties of the Department. Subject to approval by the Mayor, the Chief shall make, alter and promulgate all rules and regulations with respect to and governing the Department. However, such rules and regulations shall not be repugnant to any laws or ordinances applicable to the Department.

(Ord. 1998-136. Passed 5-7-98.)

(b) The Police Chief shall not be eligible for or entitled to pay for any overtime hours.
(Ord. 1982-77. Passed 6-3-82.)

137.07 RESIGNATION; LEAVES OF ABSENCE.

(EDITOR'S NOTE: Former Section 137.07 was repealed by Ordinance 1995-91, passed September 7, 1995.)

137.08 ATTENDANCE AT SCHOOLS OR MEETINGS; COMPENSATION FOR MEALS.

(EDITOR'S NOTE: This section was repealed by Ordinance 1993-142, passed July 1, 1993. See Section 167.18 for relevant provisions.)

137.09 DIVISION OF SCHOOL GUARDS.

There is hereby created the Division of School Guards of the Police Department. The maximum number of regular school guards who may be appointed pursuant to this section is not more than thirteen. Ten temporary substitute school guards may be appointed to replace those permanent school guards who are ill, on vacation or for any other valid reason are unable to report for duty.

Upon the recommendation of the Police Chief, such school guards shall be appointed by the Mayor and shall not be under the classified service of the City. School guards shall protect the children of the City while on their way to and from the schools located in the City.

The stations of duty of the respective school guards shall be assigned by the Police Chief and, in the absence of the Chief, by the Acting Chief.

The hours of duty, rules and regulations, duties and powers of the school guards shall be promulgated by the Police Chief.
(Ord. 2000-157. Passed 9-21-00.)

137.10 MATRONS.

The Police Chief may appoint not more than twelve matrons, who shall be paid an hourly rate prescribed by Council for the time actually employed.
(Ord. 2008-82. Passed 5-15-08.)

137.11 CHARGE FOR FURNISHING PHOTOGRAPHS AND COPIES OF ACCIDENT REPORTS.

(EDITOR'S NOTE: Former Section 137.11 was repealed by Ordinance 2004-25, passed March 4, 2004.)

137.12 GRADES DEFINED.

In the Police Department the grades within the rank of patrolman shall be established and defined as follows:

- (a) Grade Three. From an original appointment to the end of the first year of continuous employment.
- (b) Grade Two. From the beginning of the second year to the end of the second year of continuous employment.
- (c) Grade One. From the beginning of the third year to the end of the third year of continuous employment.

137.13 CONFIDENTIAL INVESTIGATION FUND.

(a) There is hereby created an account to be known as a Confidential Investigation Fund within the Police Department.

(b) From time to time moneys will be appropriated into such Confidential Investigation Fund by Council for use under the direction of the Chief of Police, who shall be responsible for the expenditures of same. An accounting shall be made by the Chief of Police from time to time, of such expenditures, to the Director of Finance, and it shall be the duty and responsibility of the Chief of Police to petition Council for funds when needed.

(c) The funds in the Confidential Investigation Fund shall be expended subject to the following general provisions and conditions:

- (1) The purchase of information and the entertainment of suspects and informants who furnish or who are deemed to be qualified to furnish information of possible value on an investigative mission constitute a proper claim for reimbursement. Investigators may claim reimbursement for meals and refreshments taken by themselves and others associated with the investigation in circumstances necessitating their doing so in conjunction with informers or contacts. However, confidential investigation funds shall not be used for general entertainment purposes.
- (2) Rental and maintenance of real property required for covert confidential investigation operations.
- (3) Hire of interpreters, specialists and/or special police officers required for the execution of covert confidential investigation missions where hire by normal means would jeopardize the success of the mission.
- (4) If certain items of supply and equipment are necessary in connection with a specific investigation and cannot be obtained through regular supply channels in time to meet the requirements of the investigation, the purchase on an emergency basis from confidential investigation funds is authorized.
- (5) The purchase of special items of supplies and equipment which can readily be identified as investigative in nature and which cannot be procured through normal channels without jeopardizing the mission is authorized.
- (6) Confidential investigation funds may be used for maintenance and replacement of all confidential investigation supplies and equipment purchased with confidential investigation funds.
- (7) Special clothing needed to accomplish a specific mission may be procured and furnished to investigate personnel without regard to the allowances prescribed in other ordinances if the necessity for such procurement is determined to exist by the Chief of Police. Special clothing may be purchased or rented for other personnel if such clothing is necessary in connection with a specific investigation.
- (8) When travel by a privately owned vehicle is required to accomplish a mission and is authorized by the Chief of Police, reimbursement will be made at the rate authorized by Section 167.02.
- (9) Payment on an actual cost basis from confidential investigation funds for travel by privately owned vehicle, taxicab or other public conveyance is authorized, provided City-owned vehicles are not available or the urgency of the situation does not permit or allow the utilization of City-owned transportation. Travel performed by conveyances must be in the actual performance of official investigating duties. The use of taxis and rental of automobiles should be kept to a minimum, consistent with maximum efficiency in accomplishing missions.

- (10) Tolls incurred in the use of either privately owned or rented, or City-owned vehicles are reimbursable from confidential investigation funds where the use of available funds from other accounts would compromise the mission or jeopardize successful accomplishment of the mission.
 - (11) Overnight storage, parking expenditures and any incidental expense incurred in the operation of a privately owned vehicle or City-owned vehicle, while on an investigative mission are reimbursable provided that, in the case of a City-owned vehicle, the service is not available from City facilities, or, if available, the utilization would jeopardize the successful accomplishment of the mission.
 - (12) Official travel performed by investigators by rail, airplane, bus or other than local travel are properly reimbursable from confidential investigation funds.
 - (13) When the exigencies of a special situation in connection with the official duties or assigned mission of an investigator require him (her) to live temporarily in a particular location or under particular conditions, the cost incurred is reimbursable from confidential investigation funds.
- (d) A separate record account will be established by the Chief of Police of all supplies and equipment purchased with confidential investigation funds.
- (1) Any property which is consumed, lost or destroyed out of necessity in connection with an investigation may be dropped from accountability upon approval by the Mayor.
 - (2) Property which is not consumed or destroyed but which passes from police control out of necessity in connection with an investigation may be dropped from accountability, is provided any of the following conditions apply:
 - A. The property is uneconomically recoverable;
 - B. Recovery would prejudice the successful completion of the investigation; or
 - C. Recovery would disclose investigative technique or disclose the identity of informants or the investigator;
 - (3) When property is dropped from accountability, the responsible investigators, will provide the Chief of Police with a report that the property was consumed, destroyed or otherwise passed from City control, presenting the reasons therefore and the identifying investigation in connection with which the property was used.
 - (4) Unserviceable and/or excess or obsolete property shall be destroyed in the presence of at least three witnesses, one of which shall be the Chief of Police.
- (e) The creation of this Confidential Investigation Fund is subject to the approval of the Bureau of Inspection and Supervision of Public Offices of the State of Ohio. The Clerk of Council is hereby authorized and directed to certify a copy of this section and send same to the Bureau of Inspection and Supervision of Public Offices of the State of Ohio, and to request the approval of such Bureau for the establishment of such Fund.

(f) The Chief of Police is responsible to the Mayor for the administration of the Confidential Investigation Fund.
(Ord. 1968-41. Passed 3-21-68.)

137.14 AUXILIARY POLICE UNIT.

(a) Appointment of Members. There is hereby created within the Police Department an Auxiliary Police Unit to consist of not more than thirty persons, the members of which shall be appointed by the Mayor.
(Ord. 1984-143. Passed 12-15-83.)

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

(c) Qualification of Members. The members of the Auxiliary Police Unit may not be under the age of twenty-one years at the time of their appointment. They shall meet such other requirements as provided by the rules and regulations provided for in subsection (e) hereof.

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

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

(f) Uniform. The Chief of Police is authorized to prescribe by rules and regulations the type of uniform or part thereof which shall be worn by members of the Auxiliary Police Unit.

(g) Service on Voluntary Basis; Compensation.

- (1) All services performed by Auxiliary police officers shall be on a voluntary basis.
- (2) Auxiliary policemen shall not be compensated for their services.
- (3) Auxiliary policemen shall not be entitled to any benefits of any relief or pension funds of the City or the State or any other similar benefit.

(h) Nonliability. This chapter is declared by Council to be an exercise by the City of its police powers for the protection of the public peace, health, property, safety and general welfare. Neither the City, or agent or representative of the City, an officer appointed under the provisions of this chapter, or any individual, firm, partnership, corporation, or the receiver, trustee or any agent thereof, who in good faith executes any executive order, rule or regulation

promulgated pursuant to the provisions of this chapter, shall be liable for injury or damage sustained to person or property as the direct and proximate result of such action. In addition to any other responsibilities or immunities, the members of the Auxiliary Police Unit shall bear the same responsibilities and the same immunities as any other regularly employed member of the Police Department, except as herein provided.
(Ord. 1972-98. Passed 5-18-72.)

137.15 NONLIABILITY RE EMERGENCY MEDICAL DUTIES.

Council hereby declares that any claim or suit brought against any member or employee of the Police Department, arising from or because of any action or inaction by such member or employee in the scope of his employment as a member or assistant of a member of a medical emergency unit, paramedic unit or other emergency unit on a medical assignment, operated by the Fire Department, shall be defended by the City until the final termination of the proceedings therein. The City shall save such member or employee of the Police Department harmless from personal liability or any judgment resulting from such claim or suit defended by the City.
(Ord. 1975-176. Passed 12-4-75.)

137.16 COLLECTIVE BARGAINING AGREEMENT.

Council shall from time to time, enter into a collective bargaining agreement with various employees of the Police Department under this chapter. The terms and provisions of the current collective bargaining agreement when in conflict with the terms and provisions of the various sections under this chapter shall take precedence over and control such conflicting provisions of this chapter.
(Ord. 1987-86. Passed 5-7-87.)

137.17 PARKING REGULATIONS ENFORCED BY AUXILIARY POLICE AND PARK PATROL.

The Chief of Police is hereby authorized to designate members of the Auxiliary Police Unit and employees of the City Park Patrol to enforce all parking regulations of the City, including those regulations relative to parks and public property within the City, and to issue parking citations to parking offenders for any violation of such parking regulations.
(Ord. 1989-208. Passed 7-5-90.)

137.18 FIREARM CONVEYANCE UPON RETIREMENT.

The Chief of Police, upon the consent of the Mayor, is authorized to convey ownership of one firearm to a police officer upon the occasion of his/her retirement to commemorate the outstanding years of service and dedication to the citizens of Westlake during that officer's law enforcement career. The firearm so conveyed shall not have a value in excess of \$1,000 and shall be considered to be a commemorative gift from the City not subject to taxation as income.
(Ord. 1997-23. Passed 2-6-97.)

CHAPTER 139
Fire Department

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| <p>139.01 Establishment and composition; probationary period.</p> <p>139.02 Clothing allowance.</p> <p>139.03 Original appointments; physical and age requirements.</p> <p>139.04 Physical examinations.</p> <p>139.05 Powers of Department.</p> <p>139.06 Powers and duties of Chief; Acting Chief; overtime.</p> <p>139.07 Resignations; leaves of absence. (Repealed)</p> | <p>139.08 Attendance at schools or meetings; compensation for meals. (Repealed)</p> <p>139.09 Grades defined.</p> <p>139.10 Nonliability re emergency medical duties.</p> <p>139.11 Collective bargaining agreement.</p> <p>139.12 Emergencies outside City limits.</p> <p>139.13 Helmet conveyance upon retirement.</p> |
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CROSS REFERENCES

- Established - see CHTR. Art. IV, Sec. 1
- Civil service classification - see CHTR. Art. IV, Sec. 12(c)
- State law provisions - see Ohio R.C. Ch. 737

139.01 ESTABLISHMENT AND COMPOSITION; PROBATIONARY PERIOD.

(a) There is hereby established a Fire Department for the City. The Department shall be administered and controlled by a Fire Chief, subject to the provisions of the City Charter and ordinances of the City. (Ord. 1996-8. Passed 1-4-96.)

(b) The Fire Department shall comprise the fire force of the City and shall consist of such personnel as set forth herein:

- (1) One Fire Chief;
- (2) One Assistant Fire Chief;
- (3) Up to three Captains;
- (4) Up to seven Lieutenants, one of which shall work a forty hour week as designated by the Fire Chief;
(Ord. 1999-58. Passed 3-4-99.)
- (5) Up to thirty-three full-time firefighters and/or firefighter-paramedics;
(Ord. 2000-12. Passed 1-6-00.)
 - A. Three of which may be mechanic hydraulic testers assigned by the Chief, who shall be subject to call twenty-four hours a day;
(Ord. 1999-73. Passed 3-18-99.)
- (6) (EDITOR'S NOTE: Former subsection (b)(6) hereof was repealed by Ordinance 2006-186, passed December 21, 2006.)
- (7) One part-time Fire Marshal. (Ord. 1999-58. Passed 3-4-99.)

(c) Members of the Fire Department shall receive the compensation established by Council. Each member of the Fire Department shall work, inclusive of paid holidays, vacation and sick leave used, for a maximum of 2,496 hours per year. Each member of the Fire Department, except the Chief, Assistant Chief of the Department and one Lieutenant as designated by the Chief, shall work on a forty-eight hour work week on a platoon established by the Chief of the Department and approved by the Mayor. The Chief, Assistant Chief and one Lieutenant as designated by the Chief, shall work a forty hour per week basis. Each member of the Fire Department shall be subject to call for the performance of duties of his office on a twenty-four hour per day basis. (Ord. 2001-91. Passed 6-7-01.)

(d) Active full-time firemen shall be appointed for a probationary period of twenty-four months. An appointee may be discharged during such probationary period, but at the end thereof his appointment shall either be confirmed and thereupon be final or shall be disapproved, whereupon he shall be immediately relieved from further duty. (Ord. 1996-159. Passed 7-18-96.)

(e) All persons applying for an entrance examination in the Fire Department on or after January 1, 2008, shall have a current State of Ohio Firefighter Certification and a current State of Ohio Paramedic Certification and retain such licensing qualifications upon appointment and during their employment as firemen-paramedics by the City. Upon the recommendation of the Fire Chief the continuing requirement to maintain the paramedic qualification may be waived for an indefinite or specified period by the appointing authority if they determine that such waiver is consistent with the maintenance of the highest level of paramedic and fire fighting service to the City and its citizens. Although professional judgment will be required in each case, such actions shall be based upon:

- (1) Occurrence of a medically certified change in the physical or emotional abilities of the individual which prevents the individual's performance of the duties of a paramedic; or
- (2) Upon failure to pass the recertification testing requirements the individual continues to make good faith efforts to regain paramedic certification and does regain such certification within nine months.
- (3) A job change which does not require paramedic certification as determined by the appointing authority.

In addition to and without limiting the foregoing, the appointing authority, upon the recommendation of the Fire Chief, may waive the continuing requirement for the Day Lieutenant to maintain paramedic certification due to scheduling difficulties. The Day Lieutenant shall not be penalized in regard to lateral movements and/or promotions as a result of the loss of paramedic certification due to a waiver as provided herein. The Fire Chief and Day Lieutenant shall meet yearly to review his/her paramedic re-certification requirements.

The continuing requirement to maintain the paramedic qualification described herein shall not be waived for any firefighter during the term of the probationary period. (Ord. 2007-178. Passed 12-6-07.)

139.02 CLOTHING ALLOWANCE.

On January 1 of each year, the Director of Finance is authorized and directed to pay to the Fire Chief and the Assistant Fire Chief a clothing allowance equal to the amount any other member of the Department receives through their Collective Bargaining Agreement. (Ord. 1996-158. Passed 7-18-96.)

In the event that any item of uniform is lost or destroyed while the owner thereof is performing his duty and through no negligence or fault on his part, Council may, by resolution, provide for the payment to him of such sum as in Council's opinion will compensate him for the value thereof. (Ord. 1988-46. Passed 3-3-88.)

139.03 ORIGINAL APPOINTMENTS; PHYSICAL AND AGE REQUIREMENTS.

(a) All original appointments or promotions hereafter made in the Fire Department shall be in a manner provided by the Charter, ordinances of Council enacted pursuant thereto and the rules and regulations of the Civil Service Commission. In instances not governed by the foregoing provisions the general laws of the State shall be applicable.
(Ord. 1988-47. Passed 2-18-88.)

(b) Appointments may be made upon certification by a licensed physician acceptable to the appointing authority and the Civil Service Commission, that the duties of the position to which he/she may be appointed and is capable of performing will not render him/her a substantial physical risk in such position.

No person shall be eligible for an original appointment as a firefighter unless he/she has attained the age of twenty-one years. No person shall be eligible to receive an original appointment as a firefighter on and after his/her thirty-sixth birthday unless such person has (in the opinion of the Fire Chief) commensurate firefighter experience in which case the maximum age limitation shall be increased in direct proportion to the commensurate experience except that in no event shall anyone be eligible to receive an original appointment as a firefighter on and after his/her fortieth birthday. (Ord. 1997-34. Passed 2-6-97.)

139.04 PHYSICAL EXAMINATIONS.

A physical examination shall be required of all members of the Fire Department upon promotion to higher rank. The Fire Chief or Mayor may require a member of the Department to undergo a physical examination at any other reasonable time, for the purpose of determining if such member's physical or related bodily condition will enable him to continue as a member of the Department.
(Ord. 1963-41. Passed 6-6-63.)

139.05 POWERS OF DEPARTMENT.

The Fire Department shall have all powers and jurisdiction now or hereafter granted by the State Constitution, the general laws of the State relating to such departments in cities, and by the City Charter and ordinances of Council passed pursuant thereto. The Department shall preserve the public health, safety and general welfare, including matters pertaining to the prevention, suppression and detection of fire, the supervision and maintenance of the equipment and quarters of the Department and of fire alarm signal and communication systems and shall be a provider of emergency medical services within the City limits.
(Ord. 1998-12. Passed 1-15-98.)

139.06 POWERS AND DUTIES OF CHIEF; ACTING CHIEF; OVERTIME.

(a) The Fire Chief shall be the executive officer of the Fire Department, and shall devote his full time to the duties of such office. He shall be on active duty in performance of the duties of his office not less than forty hours per week, subject to lawful vacations and sick leaves, and shall remain on call for the performance of the duties of his office on a twenty-four hour per day basis. In addition, the Chief shall also attend, upon request of the Mayor or President of Council, meetings such as: Council, Planning Commission, Board of Zoning Appeals, Architectural Standards Board and meetings or seminars sponsored by state, municipal or federal organizations, etc.

During any period of absence or inability of the Fire Chief to perform his duties while on vacation or sick leave or for other proper reason, the Assistant Chief shall exercise the authority of the Chief as Acting Chief. In the absence or disability of the Assistant Chief, such authority shall be exercised by such other officer as shall be designated by the Chief or, in his absence, by the Mayor.

The Fire Chief shall have such authority as is necessary for the efficient discharge of the duties of the Department. The Chief shall make, alter and promulgate all rules and regulations with respect to and governing the Department. However, such rules and regulations shall not be repugnant to any laws or ordinances applicable to the Department.
(Ord. 1998-136. Passed 5-7-98.)

(b) The Fire Chief shall not be eligible for or entitled to pay for any overtime hours.
(Ord. 1982-80. Passed 6-17-82.)

139.07 RESIGNATIONS; LEAVES OF ABSENCE.

(EDITOR'S NOTE: Former Section 139.07 was repealed by Ordinance 1995-103, passed September 7, 1995.)

139.08 ATTENDANCE AT SCHOOLS OR MEETINGS; COMPENSATION FOR MEALS.

(EDITOR'S NOTE: This section was repealed by Ordinance 1993-142, passed July 1, 1993. See Section 167.18 for relevant provisions.)

139.09 GRADES DEFINED.

In the Fire Department, the grades within the rank of fireman shall be established and defined as follows:

- (a) Grade Three. From an original appointment to the end of the first year of continuous employment.
- (b) Grade Two. From the beginning of the second year to the end of the second year of continuous employment.
- (c) Grade One. From the beginning of the third year to the end of continuous employment.

139.10 NONLIABILITY RE EMERGENCY MEDICAL DUTIES.

Council hereby declares that any claim or suit brought against any member or employee of the Fire Department arising from or because of any action or inaction by such member or employee in the scope of his employment as a member or assistant of a member of a medical emergency unit, paramedic unit or other emergency unit on a medical assignment, operated by the Fire Department, shall be defended by the City until the final termination of the proceedings therein. The City shall save such member or employee of the Fire Department harmless from personal liability or any judgment resulting from such claim or suit defended by the City.
(Ord. 1975-176. Passed 12-4-75.)

139.11 COLLECTIVE BARGAINING AGREEMENT.

Council shall from time to time, enter into a collective bargaining agreement with various employees of the Fire Department under this chapter. The terms and provisions of the current collective bargaining agreement when in conflict with the terms and provisions of the various sections under this chapter shall take precedence over and control such conflicting provisions of this chapter.

(Ord. 1987-87. Passed 5-7-87.)

139.12 EMERGENCIES OUTSIDE CITY LIMITS.

(a) The Fire Chief is hereby authorized, subject to written regulations, to provide for the response of the Fire Department to emergency fire calls outside the City, even though such response shall be into areas not covered by mutual aid fire protection contracts.

(b) The Fire Chief shall promulgate regulations governing the procedures to be followed in response to emergencies outside the City limits.

(Ord. 1993-108. Passed 5-20-93.)

139.13 HELMET CONVEYANCE UPON RETIREMENT.

The Chief of Fire, upon the consent of the Mayor, is authorized to convey ownership of one helmet to a Westlake Firefighter upon the occasion of his/her retirement to commemorate the outstanding years of service and dedication to the citizens of Westlake during that individual's fire fighting career. The helmet so conveyed shall not have a value in excess of one thousand dollars (\$1,000) and shall be considered to be a commemorative gift from the City not subject to taxation as income. (Ord. 1999-61. Passed 3-4-99.)

CHAPTER 141
Administrative Department

141.01 Secretary.	141.07 Safety Training Education Coordinator.
141.02 Clerk of Commissions.	141.08 Information technology personnel.
141.03 Administrative Assistants.	141.09 Human Resource Manager.
141.04 Seasonal and part-time employees.	141.10 Public Relations Assistant.
141.05 Custodians.	141.11 Acting Directors.
141.06 Communication/Computer Technician.	

CROSS REFERENCES

Civil Service Commission - see ADM. Ch. 159

Employee benefits - see ADM. Ch. 167

141.01 SECRETARY.

The Mayor is hereby authorized to employ not more than twelve Secretaries for use in the performance and conduct of the affairs of the City and its various departments and commissions, which positions shall be in the unclassified service. The duties of such Secretaries include bookkeeping, stenography or dictaphone, filing, receptionist/telephone responsibilities, computer operation, typing, copying, and such other similar duties as may be assigned.

The compensation to be paid such Secretary shall be determined by Council.
(Ord. 2008-6. Passed 1-17-08.)

141.02 CLERK OF COMMISSIONS.

(EDITOR'S NOTE: Former Section 141.02 was repealed by Ordinance 1994-100. Legislation pertaining to the Clerk of Commissions is now codified as Section 161.04.)

141.03 ADMINISTRATIVE ASSISTANTS.

(a) Administrative Assistants. The Mayor is hereby authorized to employ not more than fourteen Administrative Assistants for use in the performance and conduct of the affairs of the City and its various departments and commissions, which positions shall be in the unclassified service. The duties of such Administrative Assistants include supervising other clerical staff, accounting, preparing payrolls, financial reporting, and bookkeeping, stenography or Dictaphone, filing, receptionist/telephone responsibilities, computer operation, typing, copying, and such other duties as may be assigned.

The compensation to be paid to such Administrative Assistants shall be set by the Mayor within the salary range as determined by Council.

(b) Senior Administrative Assistant. The Mayor is hereby authorized to employ one Senior Administrative Assistant for use in the performance and conduct of the affairs of the City and its various departments and commissions, which position shall be in the unclassified service. The duties of such Senior Administrative Assistant may include, but shall not be limited to, supervising other departmental staff, review and preparation of purchase orders, assistance in budget preparation, preparation of correspondence and departments reports, processing and handling sensitive, confidential or privileged information, coordinating special projects, research and develop departmental publications, coordinate media releases and other duties that may be assigned by the department head or the Mayor. The compensation to be paid to such Senior Administrative Assistant shall be set by the Mayor within the salary range as determined by City Council. (Ord. 2010-153. Passed 12-16-10.)

141.04 SEASONAL AND PART-TIME EMPLOYEES.

(a) Seasonal Employees. The Mayor shall have the authority to hire as many seasonal employees as may be necessary to meet the recurrent, temporary and/or emergency needs of the City, provided Council appropriates the necessary funds for the hiring. Seasonal employees shall be in the unclassified service, be confined to jobs of unskilled labor, and shall work no more than 1,040 hours in any one calendar year. Seasonal employees shall not be entitled to sick leave, vacation pay, holiday pay or any other fringe benefits as otherwise may be applicable to employees of the City.

(b) Part-Time II Employees. The Mayor shall have the authority to hire as many part-time II employees as may be necessary to meet the needs of the City. Nothing shall prevent a part-time II employee from working more than twenty hours in any particular week if the need arises, but in no event shall a part-time II employee work more than 1040 hours in any one calendar year. Part-time II employees shall not be entitled to sick leave, vacation pay, holiday pay, hospitalization, or any other fringe benefit otherwise available to employees of the City.

(c) Part-Time I Employees. The Mayor shall have the authority to hire a maximum of three part-time I employees per department except for the Department of Recreation he may hire up to forty part-time I. Part-time I employees shall generally be scheduled to work no more than thirty hours per week. Nothing shall prevent a part-time I employee from working more than thirty hours in any particular week if the need arises, but in no event shall a part-time I employee work more than 1560 hours in any one calendar year. Part-time I employees shall be entitled to that sick leave, vacation pay, holiday pay, longevity pay and retirement pay provided to full-time employees, but on a pro rata basis according to hours worked. Part-time I employees shall not be entitled to hospitalization or any other medical fringe benefit.

(d) Compliance With Law. The rate of compensation for seasonal and part-time employees shall be sufficient to comply with the rate prescribed by the Federal Minimum Wage Law effective at the time of employment, or any increases mandated thereby, or such other compensation as otherwise may be set by Council.

(e) Assignment. The Mayor may assign seasonal and part-time employees to any of the departments of the City.
(Ord. 2006-74. Passed 6-1-06.)

141.05 CUSTODIANS.

The Mayor shall have the authority to hire a maximum of three full-time custodians and four part-time custodians as may be necessary to meet the needs of the City, provided Council appropriates the necessary funds for the positions. The Mayor may assign the full-time and part-time custodians to any of the departments within the City. All part-time custodians shall be required to comply with the maximum yearly hours and shall only be entitled to the benefits granted other part-time employees as set forth in Section 141.04(b). (Ord. 1998-210. Passed 9-3-98.)

141.06 COMMUNICATION/COMPUTER TECHNICIAN.

The Mayor shall have the authority to hire a Communication/Computer Technician to meet daily service and maintenance needs of the City for communications equipment, computer hardware and computer software, provided Council appropriates the necessary funds for the position. The Communication/Computer Technician shall report directly to the Mayor and shall perform such other duties as directed by the Mayor. (Ord. 1999-39. Passed 1-6-00.)

141.07 SAFETY TRAINING EDUCATION COORDINATOR.

There is hereby created the position of Safety Training Education Coordinator who shall have five years experience as a safety forces lieutenant or other commensurate experience. This position may be part-time or full-time as directed by the Mayor subject to the appropriations of Council. (Ord. 2006-46. Passed 4-20-06.)

141.08 INFORMATION TECHNOLOGY PERSONNEL.

The Mayor shall have the authority to hire two information technology personnel to meet daily service and maintenance needs of the City for communications equipment, computer hardware and computer software, provided Council appropriates the necessary funds for the positions. The Application Developer and the Network Administrative Technician shall report directly to the Mayor and shall perform such other duties as directed by the Mayor. (Ord. 2007-86. Passed 6-7-07.)

141.09 HUMAN RESOURCE MANAGER.

The Mayor shall have the authority to hire a Human Resource Manager to meet the personnel administration needs of the City. The Manager of Human Resources shall be report directly to the Mayor or his designate. The Human Resource Manager shall work the number of hours per week and at times designated by the Mayor, and shall be either a part-time or full-time position as determined by the Mayor and appropriated by Council. In addition, the Human Resource Manager shall attend, upon request of the Mayor or President of Council, meetings such as those of the City Council, Planning Commission, Board of Zoning Appeals, Architectural Standards Boards, and meets or seminars sponsored by state, municipal or federal organizations, etc.

The Human Resource Manager shall be responsible for implementing and supervising the personnel systems of the City, including classification, compensation and benefits, recruitment, selection, labor relations, training and for other duties as assigned by the Mayor or his designate. (Ord. 2007-121. Passed 11-1-07.)

141.10 PUBLIC RELATIONS ASSISTANT.

The Mayor shall have the authority to hire a Public Relations Assistant to meet the public relations needs of the City. The Public Relations Assistant shall work under the general guidance and direction of the Mayor or his designee and the Public Relations Coordinator.

The Public Relations Assistant shall be responsible for professional public relations work in the promotion, marketing, presentation and public relations of a variety of programs and projects for the City, and for other duties as assigned by the Mayor or his designee.

The Mayor shall designate the number of hours per week and the times at which the Public Relations Assistant shall work. In addition, the Public Relations Assistant shall be either a part-time or full-time position as determined by the Mayor and appropriated by Council. (Ord. 2007-122. Passed 11-1-07.)

141.11 ACTING DIRECTORS.

(a) Upon there being a vacancy in a Department of the City in the position of Director or a comparable position, the Mayor shall have authority to appoint an Acting Director on a temporary, interim and acting basis until a permanent Director is appointed, but not to exceed twelve (12) months without the approval or confirmation of Council. Should the Mayor desire to continue the temporary, interim and acting appointment of the Acting Director, he may reappoint the Acting Director for additional periods only upon the confirmation of a majority of the members of Council. Each additional appointment may not exceed six (6) months in length. There shall be no limit on the number of additional six (6) month temporary, interim and acting appointments of a Director, as long as confirmation of Council is obtained for each six (6) month period as provided for herein. The Acting Director shall have all the rights, responsibilities and benefits as traditionally included in the Directorship. The pay for the individual appointed as an Acting Director shall be set at the lowest end of the salary range as set forth in the applicable pay wage ordinance, enacted by Council and in effect during the Acting Director's appointment unless a higher compensation, not to exceed highest end of the salary range is approved by Council.

(b) The above provision does not limit the Mayor from appointing an interim Director in the temporary absence of the current Director. The compensation for an interim Director shall be determined by the Mayor but cannot exceed the maximum pay range authorized by Council for such directorship.

(c) Subsections (a) and (b) hereof do not include and are not applicable to the Fire Chief, Police Chief or Director of Law. (Ord. 2009-134. Passed 12-17-09.)

CHAPTER 143
Department of Engineering

143.01 Director of Engineering.

**143.02 Copies of plats and plans;
fee.**

**143.03 Administrative Assistant.
(Repealed)**

CROSS REFERENCES

Established - see CHTR. Art. IV, Sec. 1

Director's appointment; compensation - see CHTR. Art. IV,
Sec. 2

Qualifications of Director - see CHTR. Art. IV, Sec. 6

Member of Records Commission - see ADM. Ch. 179

143.01 DIRECTOR OF ENGINEERING.

(a) The Department of Engineering shall be headed by the Director of Engineering who shall be appointed by the Mayor as provided by Article IV, Section 2(a) of the City Charter. The Director of Engineering shall perform all general engineering requirements for the City and such other general and specific duties as hereafter directed by the Mayor. The Director of Engineering shall be a civil engineer licensed by the State of Ohio with a minimum of five (5) years' experience in municipal work. (Ord. 2010-180. Passed 2-3-11.)

(b) The hours of employment for the Director shall be as follows:

(1) Part-time Engineer. Minimum of four hours per day for five days per week, and in addition he shall attend all Council meetings and such meetings of any board or commission of the City upon request of the Mayor or President of Council; or

(2) Full-time Engineer. Forty hours per week at times designated by the Mayor. All time shall be spent at City Hall unless the job requirements require his attendance at a place other than City Hall. In addition he shall attend all Council meetings and such meetings of any board or commission of the City upon request of the Mayor or President of Council.

(Ord. 1986-62. Passed 9-4-86; Ord. 1998-136. Passed 5-7-98.)

143.02 COPIES OF PLATS AND PLANS; FEE.

(a) The Director of Engineering shall make available upon request by prospective purchasers, developers, builders and/or sales agents of developers and builders, copies of the final plat of subdivisions which have been approved for recording purposes only, topographical maps or any other plans showing grades, elevations, easements, open ditches, creeks, swales or walkways and other land characteristics within any subdivision of the City.

(b) The fee to be charged to any person, firm or corporation requesting a copy of a subdivision plat, topographical map or other plan shall be at least five dollars (\$5.00) per sheet, which fee shall be collected by the Director of Engineering and paid over to the Director of Finance. (Ord. 1977-155. Passed 9-1-77.)

143.03 ADMINISTRATIVE ASSISTANT.

(EDITOR'S NOTE: Former Section 143.03 was repealed by Ordinance 2006-186, passed December 21, 2006.)

CHAPTER 145
Department of Purchasing

- | | |
|---|---|
| 145.01 Director; appointment and term.
145.02 Duties and records.
145.021 Administrative Assistant.
(Repealed) | 145.03 Prevailing wage certification.
145.04 Affirmative action certification. |
|---|---|

CROSS REFERENCES

Established - see CHTR. Art. IV, Sec. 1
Duties of Director - see CHTR. Art. IV, Sec. 8
Department of Finance - see ADM. Ch. 135

145.01 DIRECTOR; APPOINTMENT AND TERM.

The Department of Purchasing shall be headed by the Director of Purchasing who shall be appointed by the Mayor, as provided by Article IV, Section 2(a) of the City Charter. The Director shall work forty hours per week at times designated by the Mayor and all times shall be spent at City Hall unless job requirements require his attendance at a place other than City Hall. In addition, the Director shall also attend, upon request of the Mayor or President of Council, meetings such as: Council, Planning Commission, Board of Zoning Appeals, Architectural Standards Board and meetings or seminars sponsored by state, municipal or federal organizations, etc. (Ord. 2010-180. Passed 2-3-11.)

145.02 DUTIES AND RECORDS.

(a) Pursuant to requisitions submitted and approved by the Mayor or Council, the Director of Purchasing shall prepare the specifications for, and obtain proposals to furnish the City with the commodities, materials, articles, equipment and/or supplies specified in such requisitions, provided such are consonant with the provisions of the Charter. He shall make all purchases of supplies for the City. When an expenditure of the City for purchase of supplies is required by Article V, Section 5(a) of the City Charter to be let by bids, the Director of Purchasing shall advertise for, receive, open and present all bids to Council. The Director shall make no purchase except on authority of requisitions submitted by a department head or their designated representative and approved by the Mayor. Before any funds may be expended, the Director of Finance shall first certify that the City has sufficient funds to cover the purchase and that such funds have been lawfully appropriated or authorized.

(b) He shall store and distribute all supplies required by or purchased for the City. He shall inspect all supplies, articles, commodities, materials or equipment acquired for the City and determines their quantity, quality and conformation to specifications. When necessary he shall transfer from storeroom to storeroom or warehouse to warehouse within the City, supplies, commodities or materials and, upon approval by the Mayor, shall sell obsolete or surplus equipment, supplies, materials or articles, He shall cause adequate stock records to be kept which shall at all times disclose the number or amount of and the value of all items carried in storerooms or warehouses, and the receipt and cost of all such items.

(c) The Director shall cause an inventory to be taken of all items in storerooms or warehouses of the City under his supervision. He shall compare such inventory with the stock records of the same date, and shall furnish a certified copy thereof to the Mayor, the Director of Finance and Council. The Mayor may direct the Director of Purchasing to maintain other records when, in his judgment, such records are necessary for the protection of the City. All department heads shall submit to the Director of Purchasing annually an inventory of all municipal property in their care and control. It shall not be necessary to place valuations on the items in such inventory. (Ord. 2010-180. Passed 2-3-11.)

145.021 ADMINISTRATIVE ASSISTANT.

(EDITOR'S NOTE: Former Section 145.021 was repealed by Ordinance 2006-186, passed December 21, 2006.)

145.03 PREVAILING WAGE CERTIFICATION.

Each time the City solicits bids or enters into a contract the total overall purchase cost of which is estimated to be more than five thousand dollars (\$5,000) for the construction of a public improvement or to contract for the same by the direct employment of labor or any institution supported in whole or in part by public funds, the provisions of Ohio R.C. Chapter 4115 are applicable and the following certification must be completed by the bidder or contractor and must accompany a bid and become part of the contract. Failure of the bidder to complete the certification shall be deemed unresponsive and the bid shall be void.

State of Ohio
Prevailing Wage Provisions
Explanation and Procedure

In order to facilitate the administration of Ohio R.C. Chapter 4115 and to achieve the purpose of such Chapter, the City of Westlake is requiring that all bidders/contractors comply with the provisions of Ohio R.C. Chapter 4115.

Each time the City of Westlake enters into a contract the total overall project cost of which is estimated to be more than five thousand dollars (\$5,000) construction of a public improvement or to construct the same by the direct employment of labor or any institution supported in whole or in part by public funds, the provisions of Ohio R.C. Chapter 4115 are applicable.

The following contractor's certification must be completed or the bid/contract will be deemed nonresponsive and void.

This certification becomes part of the resultant contract.

State of Ohio
Prevailing Wage Provisions
Contractor's Certification

The bidder/contractor agrees to comply in all respects with the provisions of Ohio R.C. Chapter 4115.

Wage rates and fringe benefit payments contained in the attached schedule (see original Resolution 1977-158, passed September 15, 1977) shall be the minimum to be paid under a contract regulated by Ohio R.C. Chapter 4115.

Mechanics and laborers shall be paid a prevailing rate of wages as required in Ohio R.C. 4115.06.

The bidder/contractor is advised that the prevailing hourly rate of wages is subject to change by the Department of Labor and Industrial Relations during the term of contract and such change shall not be the basis of any claim by the contractor against the City of Westlake.

The contractor shall post in a prominent and accessible place at the contract site a legible statement of the schedule of wage rates specified in the contract for the various classifications of laborers, workers and mechanics employed, such statement to remain posted during the term of such contract. See Ohio R.C. 4115.07.

Each contractor and/or subcontractor must submit a certified copy of the complete payroll within two weeks after the initial pay date and supplemental reports for each month thereafter which shall exhibit, for each employee paid any wages, the employee's name, current address and social security number, the number of hours worked each day of the pay periods covered, the total hours for each week, the hourly rate of pay, the job classification, fringe benefit payments and deductions from wages. The same shall be submitted to the City of Westlake, 27216 Hilliard Boulevard, Westlake, Ohio, 44145, Attention: Prevailing Wage Coordinator. If the life of the contract is expected to be not more than four months from the beginning of performance by the contractor or subcontractor, each supplemental report shall be filed each week after the initial report. The certification of each payroll shall recite that the payroll is correct and complete and that the wage rates shown are not less than those required by contract. See Ohio R.C. 4115.071.

Contractor

By:

Title

(Res. 1977-158. Passed 9-15-77.)

145.04 AFFIRMATIVE ACTION CERTIFICATION.

All bidders on contracts in excess of two thousand five hundred dollars (\$2,500) for services, equipment and material suppliers or vendors, must complete and file with the bid the following Affirmative Action Certification. The failure of the bidder to complete and file an Affirmative Action Certification with his bid shall cause the bid submitted to be deemed nonresponsive and void.

Affirmative Action Certification
for
Equal Employment Opportunity

This is to certify that (name of bidder) has executed a written Equal Employment Opportunity Affirmative Action program in accordance with Titles VI and VII of the 1964 Civil Rights Act, Executive Order 11246, as amended, the Governor's Executive Order and the Equal Employment Opportunity Program of the City of Westlake, Cuyahoga County, Ohio.

If (name of bidder) is found to have the lowest and the best bid, we understand that under the provisions of the resultant contract we are obliged to take Affirmative Action to provide equal employment opportunity without regard to race, religion, color, sex, national origin or handicap.

(name and title), an authorized official of (name of bidder) is responsible for the implementation of this contractual obligation.

Official's signature _____
Date _____

This certification becomes part of the resultant contract.
(Ord. 1977-150. Passed 9-1-77.)

CHAPTER 147
Department of Public Service

147.01	Department established.	147.04	Duties; composition.
147.02	Director of Public Service.	147.05	Collective bargaining agreement.
147.03	Rules for Department.		

CROSS REFERENCES

Director's appointment; compensation - see CHTR. Art. IV, Sec. 2
Duties of Director - see CHTR. Art. IV, Sec. 5
State law provisions - see Ohio R.C. Ch. 737

147.01 DEPARTMENT ESTABLISHED.

Pursuant to the provisions of Article IV, Section 1(a) of the City Charter, there is hereby established a Department of Public Service.
(Ord. 1966-55. Passed 7-21-66.)

147.02 DIRECTOR OF PUBLIC SERVICE.

There is hereby established the position of Director of Public Service. The Director shall be appointed by the Mayor, as provided by Article IV, Section 2(a) of the City Charter. The Director of Public Service shall receive such compensation as determined by Council. The full-time Director shall work forty hours per week at times designated by the Mayor. All time shall be spent at City Hall unless the job requirements require his attendance at a place other than City Hall. In addition, the Director shall also attend, upon request of the Mayor or President of Council, meetings such as those of Council, the Planning Commission, the Board of Zoning Appeals, the Architectural Standards Board, and meetings or seminars sponsored by State, Municipal or Federal organizations, etc.
(Ord. 1998-136. Passed 5-7-98.)

147.03 RULES FOR DEPARTMENT.

The Director of Public Service is authorized to establish, amend, supplement and abolish rules and directives for the operation of the Department of Public Service.
(Ord. 1958-132. Passed 10-2-58.)

147.04 DUTIES; COMPOSITION.

(a) The Director of Public Service shall be the executive head of the Department of Public Service under the direction of the Mayor. He shall be responsible for the construction, maintenance and repair of public streets, grounds, sidewalks, parks, sewers and buildings of the City, the removal of snow, ice and debris from streets and public grounds, and the collection and disposal of rubbish, garbage and all other waste materials. Each of the other members and employees of the Department shall have such powers and perform such duties as may be required or directed by the Director.

(Ord. 2009-134. Passed 12-17-09.)

(b) The table of organization of the personnel in the Department of Public Service shall hereafter be as follows:

- (1) Operations Manager.
- (2) Facilities/Vehicle Manager.
- (3) Services Administrator.
- (4) Urban Forestry Manager.
- (5) One (1) Building Manager.
- (6) Four (4) Crew Chiefs.
- (7) Forty-two Service Workers.
- (8) Five Mechanics.
- (9) Dispatcher.

(Ord. 2008-10. Passed 1-17-08.)

147.05 COLLECTIVE BARGAINING AGREEMENT.

Council of the City of Westlake shall from time to time, enter into a collective bargaining agreement with various employees of the Department of Public Service under this chapter. The terms and provisions of the current collective bargaining agreement when in conflict with the terms and provisions of the various sections under this chapter shall take precedence over and control such conflicting provisions of this chapter.

(Ord. 1987-88. Passed 5-7-87.)

CHAPTER 149
Department of Buildings, Structures and Inspections

- | | |
|---|--|
| 149.01 Appointment of Director; conflict of interest.
149.02 Bond of Director.
149.03 Director's duties.
149.04 Department records; annual report. | 149.05 Assistant Director; appointment and removal.
149.06 Duties of Assistant.
149.07 Compensation of Assistant; mileage allowance.
149.08 Building Inspector.
149.09 Real Property Maintenance Officer. |
|---|--|

CROSS REFERENCES

- Established - see CHTR. Art. IV, Sec. 1
 Director's appointment; compensation - see CHTR. Art. IV, Sec. 2
 Director's duties; qualifications - see CHTR. Art. IV, Sec. 7

149.01 APPOINTMENT OF DIRECTOR; CONFLICT OF INTEREST.

The Department of Buildings, Structures and Inspections shall be headed by the Director of Inspections who shall be appointed by the Mayor, as provided by Article IV, Section 2(a) of the City Charter. Council shall establish the pay range for the compensation of the Director. Nothing contained herein shall prevent the person holding such office from also holding any other public office as Council may prescribe. The full-time Director of Inspections shall work forty hours per week at times designated by the Mayor. All time shall be spent at City Hall unless the job requirements require his attendance at a place other than City Hall. During his term of office he shall not be employed or engaged, directly or indirectly, in any building business or superintendence, or enter into any contract for building for others or for furnishing materials, plans or specifications for others within the City. In addition, the Director shall also attend, upon request of the Mayor, or President of Council, meetings such as those of Council, the Planning Commission, the Board of Zoning Appeals, the Architectural Standards Board, and meetings or seminars sponsored by State, Municipal or Federal organizations, etc.
 (Ord. 2010-180. Passed 2-3-11.)

149.02 BOND OF DIRECTOR.

The Director of Inspections, before assuming the duties of his office, shall execute a bond for twenty-five thousand dollars (\$25,000) to the City with such surety as the Mayor shall approve, conditioned upon the faithful performance of the duties of his office. The bond shall be for the benefit of any and all parties aggrieved by the acts or neglect of the Director or his employees.

(1958 Code Sec. 1301.02)

149.03 DIRECTOR'S DUTIES.

(a) The Director of Inspections shall be charged with, but not limited to, the survey and inspection of buildings and with the enforcement of the Building Code, Zoning Code, Property Maintenance Code and all other laws and ordinances relating to the erection, construction, alteration, repair, removal and safety of buildings, structures, heating apparatus, gas fittings, house drainage and plumbing, steam boilers, electric wiring, smoke prevention, fire escapes, and other fire protective devices. He shall pass upon all questions relating to the strength and durability of buildings and structures and the quality of materials and workmanship so far as such affect safety, shall examine and approve all plans and specifications submitted therefor before a permit shall be issued and shall sign all permits, certificates and notices required to be issued. He shall promptly acknowledge receipt of all communications, notices and reports pertaining to his department.

(b) The Director of Inspections and his assistants are empowered to enter all premises where structures or buildings are in the process of construction to demand the observance of the rules and regulations contained in the Building Code. In the event of default of compliance, he shall cause the work of construction to cease and shall cause the offenders or their representatives to abate all violations, subject to any court action.

(c) In any question of construction, alteration, addition or repair or in the use of any material not covered by the Building Code, the Director shall be the referee. However, in case of disagreement, the decision of the Board of Building Appeals shall be final.

(d) When the permit application, plans, drawings and specifications conform to the requirements of the Building Code and of the Zoning Code, the Director of Inspections shall fix the fee as provided and governed by the City rules and regulations, shall endorse his approval upon such applications and, upon the payment of such fee, he shall issue the permit to build.

(e) When the work for which any building permit has been issued is not being performed in conformity with the Building Code or with the detailed statement, plans, drawings or specifications upon which the permit was issued, such work must be suspended forthwith. It shall be the duty of the Director of Inspections to notify the owner or his agent that the work is being constructed in violation of the Building Code and that such work must be suspended forthwith. A written notice of the suspension of the work shall be posted upon such building or structure. No person shall perform any work on or about such structure or building until such notice has been rescinded by the Director.

(Ord. 2007-71. Passed 7-5-07.)

(f) The Director of Inspections shall have at least ten years' experience in the building trades or related occupations, and shall be certified by the State of Ohio Board of Building Standards to exercise enforcement authority, to approve plans and specifications, and to make inspections under the Ohio Building Code and shall, before assuming the duties of his office, execute a bond in such amount as may be fixed by Council.

(Ord. 2010-180. Passed 2-3-11.)

149.04 DEPARTMENT RECORDS; ANNUAL REPORT.

The Director of Inspections shall keep or cause to be kept, in a proper filing system, records of the location and character of every building operation for which a permit is issued.

Records shall be kept of all inspections and reports made. An annual report shall be made as directed by Council.

(Ord. 2070. Passed 8-7-41.)

149.05 ASSISTANT DIRECTOR; APPOINTMENT AND REMOVAL.

The position of Assistant Director of Inspections is hereby established. Such Assistant shall from time to time be appointed by the Mayor as found to be necessary. The appointment shall be for such periods of time as may appear necessary in order to provide adequate personnel to handle the necessary duties and functions of the Department of Buildings, Structures and Inspections. The Assistant when appointed shall serve either for a specified period of time as may be designated by the Mayor or for a continued period of time at the pleasure of the Mayor and he shall be subject to removal at any time by the Mayor.

(Ord. 1955-126. Passed 9-29-55.)

149.06 DUTIES OF ASSISTANT.

The Assistant Director of Inspections shall perform such duties as are prescribed for him by the Mayor or the Director of Inspections. In addition thereto, the Assistant Director of Inspections shall:

- (a) Assist the Director of Inspections in the following matters:
 - (1) Interpretation and enforcement of Building and Zoning Codes.
 - (2) Coordinate and assist in interdepartmental functions, such as Planning Commission, Board of Appeals, Law, and Fire; where departments overlap on matters relating to building and zoning ordinances.
 - (3) Review plans and specifications for new and existing residential, commercial, and industrial construction for compliance with zoning, building and planning rules and regulations.
 - (4) In the absence of the Director, he shall perform any and all duties required to be performed by the Director by virtue of any law or ordinance applicable and effective within the City.
- (b) Assist the Building Inspectors and Property Maintenance Officer in the following matters:
 - (1) Inspect site conditions and make field inspections during stages of construction.
 - (2) Determine Building Code compliance and assist with field-related problems and complaints.
 - (3) Coordinate communications between field inspectors and contractors to ensure all Building Department functions operate in an efficient manner.

(Ord. 1986-12. Passed 2-20-86.)

149.07 COMPENSATION OF ASSISTANT; MILEAGE ALLOWANCE.

The Assistant Director of Inspections shall receive compensation as prescribed by Council for the performance of the duties of his office.

The Assistant Director shall receive as additional compensation for services as such official, a sum authorized by Council for each mile of use of his personal motor vehicle in the performance of his duties as such official. Such amount shall be payable monthly upon presentation of a statement by the Assistant Director showing the total number of miles of operation of his vehicle during the month.

(Ord. 1955-126. Passed 9-29-55.)

149.08 BUILDING INSPECTOR.

- (a) There is hereby established the position of Building Inspector.
- (b) The duties of the Building Inspector shall include:
- (1) General building construction inspections, including plumbing, heating, sanitary and storm sewer inspection and zoning requirements;
 - (2) Investigation of complaints and violations of the Zoning or Building Code; and
 - (3) Perform such duties as may be assigned to the Building Inspector by the Director of Inspection, Mayor or the Assistant Director, including reviewing plans, specifications and prints and determining fees to be charged to applicants for permits.
- (c) The Building Inspector shall be employed full-time or part-time by the City as needed.
- (d) A full-time Building Inspector position shall be classified in the noncompetitive civil service classification. A part-time Building Inspector position shall be unclassified. The Building Inspector shall have a minimum of three years of related trades, general construction or prior building department experience with a certified building department. As a condition of employment, the Building Inspector at a minimum shall be certified by the State of Ohio, Department of Industrial Relations, Board of Building Standards or Health Department in one of the following areas:
- (1) Electrical Safety Inspector;
 - (2) Class III Building Inspector; or
 - (3) Plumbing Inspector.
- (e) This section shall prevail over Codified Ordinance Section 141.04(b) and any other section of the Codified Ordinances in conflict herewith. (Ord. 1995-54. Passed 3-2-95.)

149.09 REAL PROPERTY MAINTENANCE OFFICER.

- (a) There is hereby established the position of Real Property Maintenance Officer.
- (b) The duties of the Real Property Maintenance Officer shall be as follows:
- (1) He shall perform inspections of the exterior of all buildings and premises;
 - (2) He shall investigate complaints and violations of the Real Property Maintenance Code and Zoning Code;
 - (3) He shall enforce the provisions of the Real Property Maintenance Code and Zoning Code and when necessary coordinate efforts among the various departments to assist in the enforcement effort;
 - (4) He shall perform all those functions set forth in Chapter 1381 as are designated to be performed by the Real Property Maintenance Officer;
 - (5) He shall review and recommend changes in the Codes of the City to ensure the quality and value of the real property within the City;

(6) He shall perform such other duties as directed by the Mayor or Director of Inspections.

(c) The Real Property Maintenance Officer shall be employed full-time by the City.
(Ord. 1991-195. Passed 11-21-91.)

(d) The Real Property Maintenance Officer position shall be in the unclassified service of the City pursuant to Charter, Article IV, Section 12(c). He shall possess a bachelor's degree in a law-related field or have a minimum five years experience in law enforcement or public administration or building inspection experience. He shall possess the requisite communication skills and shall have ability to deal effectively with the public.
(Ord. 2001-30. Passed 3-1-01.)

CHAPTER 151
Parks and Recreation Commission

151.01 Establishment.	151.07 Duties and powers.
151.02 Purpose.	151.08 Organization.
151.03 Membership.	151.09 Quorum.
151.04 Compensation.	151.10 Annual report.
151.05 Meetings.	151.11 Funds.
151.06 Terms of members; vacancies.	

CROSS REFERENCES

Authority to establish - see CHTR. Art. IV, Sec. 1
State law provisions - see Ohio R.C. 755.14 et seq.
Park and recreation rules - see S.U. & P.S. TITLE FIVE
Notice of public meetings - see CHTR. Art. XI, Sec. 10

151.01 ESTABLISHMENT.

There is hereby established a Parks and Recreation Commission for the City pursuant to Article IV, Section 1 (b) of the City Charter. (Ord. 1987-269. Passed 12-17-87.)

151.02 PURPOSE.

(a) The purpose of the Parks and Recreation Commission is to plan and coordinate recreation activities within the City, to permit the most effective usage of personnel, equipment and facilities, not only to accommodate present recreational needs of residents but to provide for the anticipated expansion of recreational programs and facilities of the City to serve residents' future needs.

(b) It is the further purpose of the Commission to aid in the coordination of activities of City Board of Education and of volunteer organizations and to encourage and assist such organizations in carrying forward their specific programs for recreational purposes. (Ord. 1987-269. Passed 12-17-87.)

151.03 MEMBERSHIP.

(a) The Parks and Recreation Commission shall consist of five members appointed by the Mayor subject to confirmation of a majority of members of Council. Appointees shall be qualified electors of the City and shall reside in the City during their term of office. The terms of office of each appointee shall be four years except as hereinafter set forth in Section 151.06. The Mayor may in times of need appoint up to two additional special Commission members subject to confirmation of a majority of members of Council who shall only serve one 4 year term as a special Commission member.

(b) Three of the five members shall be appointed for a four-year term with the initial term expiring on December 31, 2014.

No Commission member shall serve for more than three consecutive four year terms or a total of more than twelve (12) consecutive years.

(c) Vacancies, existing by members resigning or for any other reasons for the unexpired term, shall be appointed by the Mayor subject to the confirmation of Council. Members of the Commission shall hold no other public office or employment in the City.

(d) The Mayor, Superintendent of Schools of the City Board of Education or his designee and the Director of Parks and Recreation and the chairman of the Recreation Committee of Council shall be an ex-officio, nonvoting member of the Committee. The Director shall attend all meetings of the Commission unless excused for cause.

(Ord. 2010-12. Passed 3-4-10.)

151.04 COMPENSATION.

Members of the Parks and Recreation Commission shall receive no compensation for services as members of the Commission.

(Ord. 1987-269. Passed 12-17-87.)

151.05 MEETINGS.

(a) The Parks and Recreation Commission shall hold meetings once per month. Meetings shall be at 7:00 p.m. on the second Wednesday of each month or such times as may be directed by the chairman. Other meetings may be held as needed. Meetings shall be held at the Municipal Golf Course facility unless another gathering place is selected by the Commission.

(b) All meetings shall be open to the public. Meeting notices and agendas shall be available at City Hall and Porter Public Library at least seventy-two hours prior to the date of such meeting. Minutes of each meeting shall be furnished to the Clerk of Council no later than ten days following such meeting.

(c) Any member who has an unexcused absence for three consecutive meetings shall be automatically terminated from the Commission and a successor shall be appointed for the unexpired term in accordance with the provisions of Section 151.03.

(Ord. 1988-86. Passed 3-17-88.)

151.06 TERMS OF MEMBERS; VACANCIES.

After initial appointment as provided in Section 151.03 all terms shall be for four years. Vacancies in the Parks and Recreation Commission occurring otherwise than by expiration of terms shall be for the unexpired term and shall be filled as provided in Section 151.03.

(Ord. 2010-12. Passed 3-4-10.)

151.07 DUTIES AND POWERS.

The Parks and Recreation Commission shall:

(a) Provide for its own organization.

(b) Formulate policies for conducting and regulating a recreational program on behalf of the City.

- (c) Advise with the Director of Parks and Recreation and recommend with respect to planning and organization, within the limitation of available funds, a year-round recreational program for residents of all ages, to promote the health, welfare, physical and mental well being of the residents, for wholesome utilization of their leisure time. (Ord. 1988-86. Passed 3-17-88.)
- (d) Fix reasonable fees and charges for participation by the public in such recreational activities that, in its opinion, are not susceptible to being offered on a free basis. Fees so established shall be forwarded to City Council for review within five days of passage by the Commission and will be effective sixty days after passage by the Parks and Recreation Commission unless objected to or amended by City Council prior to their effective date, or unless an earlier effective date is established by Council ratification or amendment of such fees. (Ord. 1998-181. Passed 11-5-98.)
- (e) Prepare and approve the proposed budget for recreational activities prior to the submission to the Mayor.
- (f) Act as advisors to the Mayor, Council, Director of Parks and Recreation and the Planning Commission for the short and long range planning and implementation of the acquisition, development and improvement of all physical park and recreation facilities, properties and equipment.
- (g) Assist volunteer organizations in the preparation and implementation of their recreational programs.
- (h) Coordinate all recreational programs under the auspices of the City Board of Education with the Board and the City.
- (i) All proposed changes and improvements to park and recreational facilities shall be submitted to the Commission for review and recommendations prior to submission to the Planning Commission. (Ord. 1997-30. Passed 2-20-97.)

151.08 ORGANIZATION.

A chairman, vice-chairman and secretary shall be elected by the Commission members in January of each year. Each officer shall serve in such capacity until December 31 of the year elected.

The chairman shall preside at all meetings. In the absence of the chairman, the vice-chairman shall reside. The secretary shall take minutes of meetings conducted. (Ord. 1987-269. Passed 12-17-87.)

151.09 QUORUM.

A quorum shall consist of three voting members. No formal action may be taken without three affirmative votes. (Ord. 1987-269. Passed 12-17-87.)

151.10 ANNUAL REPORT.

The Parks and Recreation Commission shall file a written report in such detail as Council may require of its activities and expenditures for the previous year. The annual report shall be submitted by February 15 for the previous year. (Ord. 1987-269. Passed 12-17-87.)

151.11 FUNDS.

Council shall appropriate such funds that it deems to be reasonably necessary to carry out the function and duties of the Parks and Recreation Commission. (Ord. 1987-269. Passed 12-17-87.)

CHAPTER 152
Department of Recreation

152.01	Establishment.	152.05	Other employees generally.
152.02	Director appointed; duties.	152.06	Recreation Center fees.
152.03	Assistant Recreation Director.	152.07	Other fees.
152.04	Other supervisory employees.		

CROSS REFERENCES

Authority to establish - see CHTR. Art. IV, Sec. 1
Clague Park - see S.U. & P.S. Ch. 941
Tri-City Park - see S.U. & P.S. Ch. 944

152.01 ESTABLISHMENT.

There is hereby created the Department of Recreation pursuant to Article IV, Section 1(a) of the Charter which Department shall oversee the recreational needs of the City, including, but not limited to, the Golf Course, Pool, and Recreation Center.
(Ord. 1998-122. Passed 5-21-98.)

152.02 DIRECTOR APPOINTED; DUTIES.

The Director of Recreation shall be appointed by the Mayor as provided by Article IV, Section 2(a) of the City Charter. Council shall fix the compensation of the Director. Nothing contained herein shall prevent the person holding such office from also holding any other public office as Council may prescribe. The Director shall be employed full-time. He shall work forty hours per week at times determined by the Mayor. All time shall be spent at the Recreation Department unless the job requirements require his attendance at a place other than the Recreation Department. In addition, the Director shall attend, upon the request of the Mayor or the President of Council, meetings such as those of Council, the Parks and Recreation Commission and meetings and seminars sponsored by the state, municipal or federal governments or organizations.

The Director of Recreation shall head the Department of Recreation. The Director shall supervise and exercise control over all employees of the Department. The Director shall be curator of and be responsible for all recreation facilities and properties with the cooperation and coordination of the Director of Public Service.
(Ord. 1998-122. Passed 5-21-98.)

152.03 ASSISTANT RECREATION DIRECTOR.

There is hereby created the position of Assistant Recreation Director who shall be appointed by the Mayor and shall serve under and assist the Recreation Director.

The Assistant Recreation Director shall be employed full-time and his hours shall be established by the Mayor. The Assistant Recreation Director shall be in the unclassified service of the City pursuant to Charter Article IV, Section 12(c). The compensation to be paid the Assistant Recreation Director shall be established by separate ordinance of Council.
(Ord. 1998-122. Passed 5-21-98.)

152.04 OTHER SUPERVISORY EMPLOYEES.

(a) The following additional full-time supervisory positions are hereby established and, due to their nature as assistants to the Director of Recreation, shall be in the unclassified service of the City pursuant to Charter Article IV, Section 12(c):

Center Manager
Assistant Center Manager
Front Desk Manager
Aquatics Manager
Assistant Aquatics Manager
Building Engineer
Fitness Wellness Exercise Program Supervisor
Assistant Fitness Manager
Golf Course Manager
Golf Course Superintendent
Assistant Golf Course Superintendent

(b) The compensation for all positions created herein shall be established by separate ordinance of Council and the job descriptions for each position kept on file in the Recreation Department. (Ord. 2001-3. Passed 1-4-01; Ord. 2006-71. Passed 6-1-06.)

152.05 OTHER EMPLOYEES GENERALLY.

The Department of Recreation shall also employ the following personnel:

Program Coordinator
Cashier
Three Recreation Center Building Custodians
Front Desk Clerk

(Ord. 2006-186. Passed 12-21-06.)

152.06 RECREATION CENTER FEES.

(a) Reasonable fees and charges for use of the Recreation Center shall be fixed by the Recreation Commission with Council's approval as established in Section 151.07(d). The Mayor or his designee shall have the flexibility and authority to modify the fee structure established to address special events or circumstances on a case by case basis. All modifications shall be in keeping with the spirit and intent of the established fees.

(b) The Director of Recreation shall, by March 1, 1999 and yearly thereafter, prepare and submit a report to the Recreation Commission and Council summarizing the number, type and financial impact of the fee modifications granted during the previous calendar year. Such report may also include suggested changes in the basic fee schedules.

(Ord. 1998-181. Passed 11-5-98.)

152.07 OTHER FEES.

The Director of Recreation shall establish fees for the consumption and use of concessions, supplies and equipment in connection with recreational activities within the City and shall submit said fees to the Mayor for approval.

(Ord. 2002-74. Passed 6-6-02.)

CHAPTER 157
Westlake Assistance and Service Commission

EDITOR'S NOTE: Former Chapter 157 was repealed by Ordinance 1999-217, passed November 18, 1999.

CHAPTER 159
Civil Service Commission

159.01 Employment and payment of physicians.

159.03 Examination fees.

159.02 Service not provided to school system.

CROSS REFERENCES

Civil Service - see Ohio Const. Art. XV, Sec. 10; Ohio R.C.
Ch. 124

Charter provisions - see CHTR. Art. IV, Sec. 12

159.01 EMPLOYMENT AND PAYMENT OF PHYSICIANS.

The Civil Service Commission is hereby authorized to appoint and employ two duly licensed physicians, one of whom may be a doctor of medicine and one of whom may be a doctor of osteopathy, for the conduct of all physical examinations which the Commission is authorized or required to give. The physician appointees shall be paid out of appropriations for the Civil Service Commission.

(Ord. 1958-108. Passed 7-3-58.)

159.02 SERVICE NOT PROVIDED TO SCHOOL SYSTEM.

Effective August 1, 1988 and continuing thereafter until otherwise ordered by Council, the Civil Service Commission is hereby instructed not to provide services to the Westlake Board of Education, Westlake School System and/or their employees.

(Ord. 1988-155. Passed 7-21-88.)

159.03 EXAMINATION FEES.

The Civil Service Commission is hereby authorized to contract for and establish compensation for administrators and monitors to provide services during the administration of civil service examinations. The rates shall be in the amount or in the range as follows:

- (a) Monitors: Forty-five dollars (\$45.00) per monitor per examination.
(Ord. 1998-112. Passed 4-16-98.)
- (b) Administrator: All entry-level examinations for the Police and Fire Departments - an amount of at least one hundred dollars (\$100.00) not to exceed two hundred dollars (\$200.00).
All examinations other than entry-level - Police and Fire Department examinations - an amount of at least fifty dollars (\$50.00) not to exceed one hundred dollars (\$100.00).
- (c) Compensation paid pursuant to this section shall be deemed to be for an independent contractual service.
(Ord. 1990-71. Passed 4-5-90.)

RULES OF THE CIVIL SERVICE COMMISSION

WESTLAKE, OHIO

The Civil Service Commission has the duty and authority to adopt and enforce rules for the classification of positions in the civil service of the City; for examinations and resignations therefor; for appointments, promotions, removals, transfers, layoffs, suspensions, reductions and reinstatements therein, and for standardizing positions and maintaining efficiency therein.

The Civil Service Commission shall have the opportunity to adopt rules to govern its proceedings and fulfill its duties hereunder and such rules may conflict with provisions of State Law and in such event, rules adopted by the Commission shall supersede provisions of State Law and shall be determinative and govern the Commission's proceedings.

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PREAMBLE

The purpose of the Westlake Civil Service Commission is to encourage the employment of competent civil employees, to render their civil position secure in a changing political scene and to promote their orderly advancement to positions of higher grade.

The following set of rules and regulations is thus prescribed and adopted under and by virtue of the authority conferred upon this Civil Service Commission of the City of Westlake, Ohio, by the Westlake Charter, the Constitution of the State of Ohio and the Revised Code of the State of Ohio.

RULE 1. ADMINISTRATION.**Section 1. SOURCE OF AUTHORITY AND ORGANIZATION.**

The authority granted to the Westlake Civil Service Commission is conferred upon it by the Westlake City Charter and the Constitution of the State of Ohio.

The Civil Service Commission shall be composed and organized as specified by Article IV, Section 1 and 12 of the Charter of the City of Westlake, Ohio.

Section 2. MEETINGS AND DESIGNATION OF OFFICERS.

The Civil Service Commission shall meet as often as necessary to properly discharge its duties and powers as required under the Westlake City Charter, the Ohio Constitution of the State of Ohio and Ohio Revised Code.

At least one annual meeting of the Civil Service Commission shall be held at City Hall on the second Tuesday of January. At the annual meeting, the Commission shall designate one of its members to act as Chairman for the ensuing year.

Upon the request of any member of the Commission, the Chairman, or in his absence another member of the Commission, shall call a meeting of the Commission.

At any meeting, two members of the Commission shall constitute a quorum and it shall require the affirmative vote of at least two members to adopt any action. In the absence of the Chairman at any meeting, the remaining members shall designate a temporary Chairman.

Unless otherwise determined by the Commission, the order of business and proceedings at all meetings of the Commission shall be governed by Robert's Rules of Order.

Section 3. NOTICE OF AMENDMENTS.

The Civil Service Commission shall not amend, repeal or adopt any new rule at the same meeting at which it is proposed. No final action to amend, repeal or supplement rules shall be taken in less than seven (7) days after its proposal at a regular scheduled or special meeting of the Commission and until after a public hearing, of which the Commission shall give notice by issuing an official bulletin to be posted in the City Building at least five days before the hearing in the office of the Commission. Amendments to the rules shall be furnished to any citizen upon request.

Section 4. CHAIRMAN.

The Commissioner who acts as Chairman shall call such meetings of the Commission as are necessary to transact the business and affairs of the Commission and preside at meetings of the Commission.

Section 5. COMMISSION CLERK.

A suitable person shall be appointed by the Civil Service Commission to act as the Commission Clerk. Such person shall serve at the will of the Commission, need not be a member of the Commission, may hold other municipal office or appointment, and shall receive remuneration as the City Council may determine and fix. The duties of the Commission Clerk shall be to take minutes of all meetings, prepare correspondence, and perform such other services as may be required by the Commission.

Section 6. INTER-OFFICE COMMUNICATIONS.

Transmitting of information between the Civil Service Commission, appointing authority and legislative and clerical functions of the City shall be formal communications. Requests for eligibles, etc., shall be by specific correspondence and the copies of City ordinances pertaining to the operations of the Commission shall be forwarded by the Clerk of Council to the Commission for its action.

RULE II. DEFINITIONS.**Section 1. CIVIL SERVICE.**

"Civil Service" shall include all offices and positions of trust or employment in the service of the City of Westlake.

Section 2. GENDER.

The masculine noun or pronoun as used herein shall include the feminine.

Section 3. UNCLASSIFIED SERVICE.

"Unclassified service" means all positions not specifically included in the classified service pursuant to Charter Article IV, Section 12 and Section 4 herein.
(Amended 4-5-07)

Section 4. CLASSIFIED SERVICE.

"Classified service" means full-time police officers, firefighters/paramedics and other full-time sworn members of the departments of police and fire pursuant to Charter Article IV, Section 12.
(Amended 4-5-07)

Section 5. POSITION CLASSIFICATION.

"Position classification" shall mean the arrangement of positions into classes including grades.

Section 6. MUNICIPAL SERVICE.

"Municipal service" shall include those positions in the classified civil service of the City of Westlake.

Section 7. POSITION.

"Position" when used by itself shall mean any specific full-time office, employment or job calling for the performance of certain duties, and for the exercise of certain responsibilities by one individual. (Amended 4-5-07)

Section 8. APPOINTING AUTHORITY.

"Appointing authority" shall mean the Mayor or his designee.

Section 9. EMPLOYEE.

"Employee" shall mean any person holding a position subject to appointment, removal, promotion or reduction by an appointing authority.

Section 10. REGULAR APPOINTMENT.

"Regular appointment" shall mean any appointment in the Civil Service to a position normally involving continuous year round service.

Section 11. REGULAR EMPLOYEE.

"Regular employee" shall mean an employee with a regular appointment who has successfully fulfilled his probationary period.

Section 12. PROBATIONARY PERIOD.

"Probationary period" shall mean the original period of paid employment of an initial appointment or a promotional appointment during which the ability and personal qualifications of the appointee are confirmed.

Section 13. PROVISIONAL APPOINTMENT.

"Provisional appointment" shall mean a temporary appointment made to a position in the classified service without competitive examination for no more than one hundred twenty days because a vacancy exists but there is no eligible list.

Section 14. TEMPORARY/EMERGENCY APPOINTMENT.

"Temporary/Emergency Appointment" shall mean a temporary appointment made to a position in the classified service without competitive examination for sixty (60) days made necessary by reason of sickness or disability of a regular employee or urgent or emergency needs of the City.

Section 15. NEW POSITION.

"New position" shall mean the creation of a position not previously in existence, by the City Council.

Section 16. APPLICANT.

"Applicant" shall mean any person applying for and/or taking an entrance or promotional examination.

Section 17. ENTRANCE EXAMINATION.

"Entrance examination" shall mean any examination given by the Civil Service Commission for the City of Westlake for an original appointment.

Section 18. PROMOTIONAL EXAMINATION.

"Promotional examination" shall mean an examination given by the Civil Service Commission of the City of Westlake to fill a vacancy to a classification superior to that held by the applicant.

Section 19. ELIGIBLE LIST.

"Eligible list" shall mean a list of names of persons who have been found qualified through suitable tests, for employment in positions of a specified position classification, arranged in the order of merit and from which certification for an original or promotional appointment is to be made.

Section 20. PROMOTION OR ADVANCEMENT.

"Promotion or advancement" shall mean a transfer made in accordance with the rules of the Civil Service Commission from a lower position classification to a higher position classification which may involve an increase in responsibilities and a change in classification title.

Section 21. TEMPORARY PROMOTION.

"Temporary promotion" shall mean an assignment, for sixty days, of an employee to a higher position classification with corresponding remuneration.

Section 22. ANNUAL LEAVE.

"Annual leave" shall mean the hours per year specified by Council for which remuneration will be paid for time not worked except for sick leave.

Section 23. SICK LEAVE.

"Sick leave" shall mean the hours not worked due to bona fide illness for which Council has authorized remuneration.

Section 24. LEAVE OF ABSENCE.

"Leave of absence" shall mean scheduled hours not worked, with prior approval by competent authority and without remuneration.

RULE III. CLASSIFICATION.**Section 1. CLASSIFICATION.**

Positions in the Civil Service of the City of Westlake shall be classified by the Commission in accordance with the Guidelines established by the Westlake City Council.

Section 2. JOB DESCRIPTIONS.

A "job description" shall be prepared for each position setting forth the position title, typical duties, responsibilities, and necessary qualifications. It shall set forth the factors and conditions which are essential characteristics of the position and also factors and conditions which separate it from other positions.

Section 3. NEW POSITIONS.

Whenever a new position is established or the duties and/or pay of existing positions are so changed that the old position no longer exists, the appointing authority shall so notify the Civil Service Commission. General pay increases do not fall within this category. The appointing authority shall prepare a new job description and pay rate and provide such other information as the Civil Service Commission may require.

RULE IV. OFFICIAL RECORDS.**Section 1. MINUTES.**

Under the direction of the Commission, the Clerk of the Civil Service Commission shall keep a minute record of such official actions of the Commission as are required under the law or under the rules of the Commission including the following:

- (a) All classified employees, including probationary, provisional and reinstatements.
- (b) Temporary promotions and assignments of employees to work other than that embraced by their classification.
- (c) Appeals from dismissal, demotion or suspension.
- (d) The list of eligible candidates for classified appointments together with the record of replacement and removals thereto.
- (e) Changes in the promotion classification of individual employees.
- (f) Examination schedules.
- (g) List of special examiners.
- (h) Transfers from one department to another.
- (i) A record of provisional appointments.
- (j) Annual reports.
- (k) Minutes of meetings.

Section 2. CLASSIFIED EMPLOYEE LIST.

On behalf of the Civil Service Commission, the Commission Clerk shall maintain a list showing the full name, title and rate of pay of all employees in the classified service.

No payroll or account for payment of wages or salary to any person in the classified service shall be certified or approved for payment by the Commission if such name has not been placed on the classified employee list in accordance with the provisions of this Section.

Section 3. EXAMINATION PAPERS.

The examination papers of those who have qualified shall be preserved until the expiration of the eligible list on which their names appear, but the examination papers of those who have failed to qualify may be destroyed after sixty days from the announcement of the outcome of the examination.

Section 4. JOB DESCRIPTIONS.

Job descriptions shall be kept of all civil service positions and shall include position classification, title, minimum qualifications, responsibilities, duties and references to the official classified employee list.

RULE V. APPLICATIONS.**Section 1. CITIZENSHIP.**

An applicant for a Civil Service examination must be a United States citizen or have legally declared his intention of becoming a United States citizen.

Section 2. RESIDENCY.

Upon regular appointment to the Westlake Fire Department, the firefighter-paramedic must maintain residence within the counties of Cuyahoga, Erie, Huron, Lorain, Medina, Summit, Lake, Geauga or Portage.

Section 3. AGE.

Unless otherwise provided in the notice of examination, no person will be admitted to an examination who is less than twenty-one years of age.

An applicant for examination for original appointment of a police officer or fire fighter must be at least twenty-one years of age and no person shall be eligible to receive an original appointment as a police officer or fire fighter on or after thirty-six years of age unless such person has, in the opinion of the Chief, commensurate police officer or fire fighter experience in which case the maximum age limit shall be increased in direct proportion to the commensurate experience, except that in no event shall anyone be eligible for an original appointment as a police officer or fire fighter on or after his/her fortieth birthday.

Section 4. BACKGROUND.

No question in any application shall in any way relate to the political or religious affiliation or to the racial or ethnic origin of the applicant. Nor shall any appointment, promotion or removal from the classified service be influenced in any manner by politics, religion, race, ethnic origin or gender of the applicant, unless the position, because of its duties, requires a person of a certain gender.

Section 5. EDUCATION.

No educational requirement shall be made a condition of taking an examination except in respect to professional or other positions where education and training are necessary to the performance of a specific job or professional pursuit or when such requirements are imposed by statute or federal regulations.

Section 6. EXAMINATIONS.

When the Commission determines it to be advisable, an applicant may be required to pass a physical examination, including drug and alcohol testing and/or a stress test before being placed on an eligibility list and/or before certification for appointment.

When in the judgment of the Commission, a psychological evaluation is desirable, an applicant may be required to submit to a psychological assessment. Such assessment may be required before being placed on an eligibility list and/or before certification of appointment as the Commission may deem advisable. When a psychological assessment is requested by the Commission, the Commission shall designate who will administer the assessment and the person or company so designated shall submit a full report on same to the Commission.

The results of the physical examination and/or psychological assessment shall be used solely to determine an applicant's eligibility for appointment and certification and shall not become a part of the applicant's grade resulting from examination for entry level applicants.

Section 7. MINIMUM QUALIFICATIONS FOR DRIVING SKILLS.

Any applicant for a position in the classified civil service which position requires the operation of motor vehicles shall meet the following minimum requirements prior to being appointed:

- (a) Shall not have more than six (6) points on the applicant's driving record within the last two (2) years under the State of Ohio point system for motor vehicle violations, Ohio R.C. 4507.40. If the applicant has not held an Ohio driver's license for at least two years prior to appointment, the offenses charged to such persons driving record in another state shall be assessed points for purposes of determining compliance with this requirement in accordance with Ohio's point system for motor vehicle violations, Ohio R.C. 4507.40.
- (b) The applicant shall not have had a conviction under any statute or ordinance for driving while under the influence of alcohol or drugs or driving with a prohibited alcohol concentration in one's blood, breath or urine or for operation of an automobile in willful or wanton disregard of the safety of persons or property within the last five (5) years.
- (c) The applicant shall, prior to appointment, obtain such Ohio driver's license as is required to lawfully operate the motor vehicle required for the position.

Section 8. APPLICATIONS FOR EXAMINATION.

Application blanks shall be furnished by the Commission.

All applications shall be completed in ink, signed and sworn or affirmed to and filed in the Office of the Commission.

Section 9. REJECTION OF AN APPLICATION.

The Civil Service Commission may reject any application for cause or refuse to examine an applicant and after examination, refuse to certify an applicant as eligible. The following reasons may be sufficient to reject an application, to refuse to examine an applicant, or to certify an applicant as eligible:

- (a) That the applicant lacks any of the minimum qualifications as set forth in the official class specification or job description or does not meet the physical requirements of the position to which he seeks appointment.
- (b) That the applicant is not within the prescribed age limits.
- (c) That the applicant has made false statements in his application of any material fact, or practiced or attempted to practice any deception or fraud in his application or in the examination in establishing his eligibility or securing his appointment.
- (d) That the applicant is addicted to the habitual use of intoxicating beverages or drugs, has been convicted of a crime, or who has been dismissed from previous employment for delinquency or misconduct.
- (e) That the applicant was previously in the Civil Service in the same or any type of employment and was removed for cause or did not resign in good standing.
- (f) That the applicant after notification did not promptly present himself at the time and place designated for examination.
- (g) That the application was not submitted by the established deadline or was incomplete when submitted or was not submitted in accordance with posted requirements.

RULE VI. EXAMINATIONS.**Section 1. NOTICE OF EXAMINATIONS.**

(a) Notice of competitive examinations shall be given through the local newspapers and by posting notices conspicuously in the Office of the Civil Service Commission, on the City Hall Bulletin Board and in such other places as may be deemed advisable, not less than two weeks prior to such examinations, except that thirty day notice is required for Police and Fire Department examinations.

(b) Notice of competitive promotional examinations to be held shall be given by posting of bulletins in the Office of the Civil Service Commission, on the City Hall Bulletin Board and in conspicuous places in the departments whose employees may be interested. Such notice shall be given not less than two weeks prior to the examination, except that thirty days notice is required for police and fire department examinations.

Section 2. TIME AND PLACE OF EXAMINATIONS.

Examinations may be held at such times and places as the Commission deems advisable and shall be administered under the direction of the Commission in accordance with Commission policy. Examinations may be postponed or canceled by order of the Commission. The Civil Service Commission shall refund application fees to all applicants when an examination is canceled.

Section 3. EXAMINATION FEES.

The Commission shall have the right and option to fix reasonable fees for the privilege of taking the entrance examinations. Said fees will be used to offset the cost of administering said examinations and shall be payable prior to examination. All fees collected shall be paid into the municipal depository.

Section 4. NUMBERS AS IDENTIFICATION.

The identity of all persons taking competitive assembled examinations shall be concealed from the examiner by the use of an identification number which shall be used on all examination papers. This number shall be used from the beginning of the examination until papers have been rated. Any paper bearing the name of the applicant or any other identification mark shall be rejected and the applicant so notified.

Section 5. SCOPE AND CONTENT OF ENTRANCE EXAMINATIONS.

Entrance examinations shall be practical in character and shall relate directly to those matters which fairly test the relative capacity of the person examined to discharge the practical duties of the position for which application is sought. No examination question shall relate in any way to the political or religious affiliation, racial or ethnic origin or gender of the applicant.

The examination held to establish a list of eligibles for any class shall consist of one or more of the following parts:

Oral Interview. This part may include a personal interview with all applicants. An oral test may also be used in examinations where a complete written test is unnecessary or impractical.

Training and Experience. This part shall be evaluated from the statements of education and experience contained in the application form or from such supplemental data as may be required.

Written Test. This part, when required, shall include a written demonstration designed to show the familiarity of applicants with the knowledge involved in the position to which they seek appointment.

Performance Test. This part, when required, shall include such tests related to performance and job related skills that measure the applicant's ability to handle a variety of workplace situations (i.e. assessment centers).

Physical Tests. This part, when required, shall consist of tests of bodily condition, muscular strength, agility and physical fitness. Such tests may be given weight and examination or may be used in excluding from further examinations applicants who do not measure up to the minimum required.

Other Tests. This part, when required, shall include tests to determine general intelligence, personality traits, aptitudes, physical and/or psychological fitness.

Section 6. PROMOTIONAL EXAMINATIONS.

Promotional examinations shall be competitive and practical in character and shall relate to those matters which will fairly test the relative capacity of the person examined to discharge the duties of the position for which promotion is sought.

Promotional examinations may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, physical fitness, psychological fitness and/or tests related to performance and job related skills that measure the applicant's ability to handle a variety of workplace situations (i.e. assessment centers).

Section 7. ADMITTING APPLICANTS TO EXAMINATIONS.

No applicant shall be admitted to any assembled examination after the advertised time for beginning such examination. When an applicant has completed his examination, submitted it to the person in charge, and left the examining room, the applicant will not be readmitted to the examining area, except by special permission of the person in charge, who, at his discretion may admit the applicant conditionally, subject to the final approval or disapproval or such readmission by the Commissioner unless the applicant notifies the Commission in writing at the time they submit their application that additional time is required and the Commission approves such request in writing.

Section 8. EXAMINATION TIME LIMITATIONS.

No applicant in any examination shall be given longer time on any subject than the time prescribed by the Commission when examination questions have been approved by the Commission.

Section 9. PROMOTIONAL EXAM CANDIDATE REVIEW POLICY.

After a promotional examination has been held and prior to the grading of such examination papers, each participant in said promotional examination shall have a period of five (5) days, exclusive of Saturdays, Sundays and holidays, to inspect the questions, the rating keys or answers to the examination and to file any protest he may deem advisable. These protests shall be in writing and shall remain anonymous to the Commission. All protests with respect to rating keys or answers shall be resolved by the Commission within a period of not more than five (5) days, exclusive of Saturdays, Sundays, and holidays, and its decision shall be final. If the Commission finds an error in the rating key or answer it shall publish a revised rating key within five (5) days of its finding of such error or errors. The revised rating key or answer shall then be available to participants for a period of five days, exclusive of Saturdays, Sundays, and holidays, subsequent to such determination of error or errors.

After the grading of such examination papers, any participant in the examination who deems his examination papers have been erroneously graded, shall have the right to appeal to the Commission within ten (10) days of notification of participant's score.

The above criteria apply to examinations created by the Civil Service Commission. Inspection shall not be permitted of standardized tests prepared by experts outside the state service, where such inspection would tend to reduce the validity of the test results.

RULE VII. RATING COMPETITORS.**Section 1. METHOD OF GRADING EXAMINATION.**

The total grade obtainable in each examination, except for additional credits, shall be 100%. In examinations composed of more than one part, the method of scoring or weighing shall be determined by the Commission. A flexible passing point may be used at the discretion of the Commission provided that the method of grading, under the flexible passing point is established prior to administering the written examination by the Commission. The passing grade for any examination shall be determined by the Civil Service Commission.

Section 2. ADDITIONAL CREDIT.

In the event an applicant for an original appointment to a position in the classified service receives a passing grade on his or her examination, he or she shall be entitled to receive an additional percentage of such, for a maximum credit of five percent (5%) unless otherwise provided in the notice of examination, if:

- (a) He or she was in the military service of the United States and was honorably discharged or returned to the inactive status as provided in the Ohio Revised Code, Section 124.23, he or she shall receive 1% per year or any part thereof for military time up to a maximum of 5% of passing grade.
- (b) An applicant who wishes credit for military service shall be required to furnish the Civil Service Commission by the testing date, proof of honorable discharge and length of service. Failure to do so shall result in no credit being given.
(Amended 1-8-08.)

Section 3. ADDITIONAL CREDIT APPLICABLE TO PROMOTIONAL EXAMS.

In the event that the applicant for a promotion receives a passing grade on his or her complete examination, he or she shall be entitled to an additional credit of no more than 5% of the grade for seniority, and 5% of the grade for education on each written part of the examination and shall be determined in the following manner:

- (a) For each year of service in the City, the applicant shall receive .33% credit per year up to a maximum of 5%. Only service in the City of Westlake shall be considered in computing seniority.
- (b) 5% for completion of a bachelor's degree or 3% for completion of an associate degree in criminal justice, business management, business administration or public management or related degree, for applicants taking the Police Chief's examination. 5% for completion of a bachelor's degree or 3% for completion of an associates degree in fire science, business management, business administration, public management or related degree, for applicants taking the Fire Chief's examination. (Amended 12-7-07.)

RULE VIII. ELIGIBILITY LISTS.**Section 1. POSTING OF LISTS.**

From the returns of each entrance and/or promotional examination, the Civil Service Commission shall prepare and keep open to the public inspection an eligible list of the persons who attained a passing grade in the examination and who are otherwise eligible. The actual grade of any applicant shall not be posted. Such persons shall take rank upon the eligible list on the order of their relative grades, including any additional credit.

Whenever it becomes necessary to hold a subsequent examination to obtain additional eligibles, the Commission may consolidate existing lists for the same class by rearranging the names of those eligible therein according to their grade. The person whose names appear on the existing list which is to be merged with a new list shall have the right to compete in the second examination. Those choosing not to compete in the second examination shall carry the same grade, but not necessarily the same ranking as in the first examination.

Section 2. IDENTICAL RANKING.

In the event that two or more applicants for a position have identical ratings after examination, testing and rules for additional credit as therein provided, are applied, then the applicant whose application was received first by the Commission shall have the higher ranking of the other applicants with identical ratings.

Section 3. DURATION OF LISTS.

The duration or eligibility of each entrance list and the names appearing thereon shall be fixed by the Commission at not less than one year and not more than two years. The term of the duration of the eligibility list commences on the date of certification of the list by the Commission, said date being in the minutes of the Civil Service Commission. Any list that has been in effect for more than one year may at the discretion of the Commission be terminated at any time in the public interest.

The term of eligibility of each promotional list and the names appearing thereon shall be fixed by the Commission for two years from the date of certification of the list by the Commission, said date being recorded in the minutes of the Civil Service Commission, be terminated at the end of two years without exception.

Section 4. NAMES NOT TO BE CERTIFIED FOR APPOINTMENT.

The name of any person appearing on an eligibility list shall not be certified for appointment if he:

- (a) Fails to report for an interview at the request of the Police or Fire Chief or the appointing authority, or if unable for good cause to attend such an interview, fails to arrange for an interview to take place within six days (Sundays and holidays excluded) from the date of the originally scheduled interview.
- (b) Fails to respond to a notice from the Civil Service Commission.
- (c) Declines an appointment without reason satisfactory to the Civil Service Commission.
- (d) He cannot be located by the postal authorities.
- (e) He does not pass to the satisfaction of the Civil Service Commission:
 - (1) A physical examination given by a doctor selected by the appointing authority.
 - (2) And when required, a psychological examination conducted by an approved professional as appointed.

The eligible person shall be notified to this effect unless his whereabouts are unknown. His name may again be certified from the eligibility list only after a thoroughly satisfactory explanation of the circumstances is made to the Commission.

Section 5. DISQUALIFICATION OF ELIGIBLES.

If at any time after the creation of an eligibility list, the Commission has reason to believe that any person whose name appears on any list is disqualified for appointment because of false statement made in his application, failure to provide all information as required, physical disability, or for other comparable reasons, such person shall be notified and given an opportunity to be heard. If such person fails to appear for a hearing, or upon being heard, fails to satisfy the Commission, his name shall be removed from such eligibility list.

Section 6. CHANGE OF ADDRESS.

Each person on an eligibility list shall file with the Commission written notice of any change of address, and failure to do so may be considered sufficient reason for not certifying his name to appointing authorities in the future appointments.

Section 7. REVOCATION OF LIST.

An eligibility list may be revoked and other examination ordered only when in the judgment of the Commission, such action is deemed advisable by reason or errors, fraud or obviously inappropriate standards prescribed in connection with any examination. All competitors in the first examination shall be notified and shall be eligible to compete in rescheduled examination without filing a separate application. No eligibility list shall be altered or revoked except upon written notice to all persons whose standing may be affected and upon an entry in the minutes of the Commission for the reasons for such alteration or revocation.

RULES IX. APPOINTMENT.**Section 1. CLASSIFIED SERVICE APPOINTMENTS.**

Appointments to all positions in the Classified Service that are not filled by promotion, transfer, or reduction, as provided by the Civil Service laws and the rules of the Civil Service Commission, shall be made only from those persons, whose names are certified to the appointing authority in accordance with the Civil Service laws and the rules of the Commission.

Section 2. NAMES TO BE CERTIFIED FOR ORIGINAL APPOINTMENT.

The Mayor or the appointing authority of the department in which the position in the Classified Service is to be filled shall notify the Commission of the fact and the Commission shall certify to the appointing authority the names and addresses of the ten (10) candidates standing highest on the eligibility list for the class or grade to which said position is classified, except that provisional appointments may be certified from a list established without competitive examination.

If the appointing finds with cause that none of the certified persons are suitable for appointment, the Commission, if it concurs, shall certify the next ten (10) names from the eligible list, provided the Commission may certify less than ten (10) names if ten (10) names are not available. When less than ten (10) names are certified to the appointing authority, appointment from that list shall not be mandatory.

In the event that an eligible list becomes exhausted, through inadvertence or otherwise, and until a new list can be created, or when no eligible list for such position exists, names may be certified from eligible lists which the Commission determined to be the most appropriate for the group or class in which the position to be filled is classified.

Section 3. PREFERENCE TO PERSONS FOR MILITARY SERVICE.

Every soldier, sailor, marine, coast guardsman, member of the auxiliary corps as established by Congress, member of the Army Nurse Corps or Navy Nurse Corps or Red Cross Nurse, who has served in the Army, Navy or Hospital Service of the United States, and such other military service as is designated by Congress of the selective service or similar constrictive acts as are in effect in the United States, who has been honorably discharged or separated under honorable conditions therefrom, and is a resident of Ohio and whose name appears on an eligible list for a position, shall be entitled to preference in original appointment to any such position in the Classified Service of the City of Westlake over all persons eligible for such appointments and standing on the list therefor with a rating equal to that of such member of the Armed Services.

Section 4. PROMOTION APPOINTMENTS.

Vacancies in the Classified Service shall be filled insofar as practicable by promotions. In all cases in which vacancies are to be filled by promotion, the Commission shall initially certify the appointing authority only the appropriate number of names of the persons having the highest rating. All examinations involving possible promotion shall be competitive. Suitable credits as determined by the Civil Service Commission may be given for education and seniority and may constitute part of the examination grade. Such examination credits shall adequately reflect the Commission's desire to fill vacancies by promotion insofar as practicable and to provide advancements to those in the Civil Service who are most meritorious.

(Amended 12-7-07.)

Section 5. PROMOTION OF POLICE OFFICER AND FIRE FIGHTER.

Vacancies in the position above the rank of firefighter or patrol officer shall be filled on competitive examination only. The certification of eligibles shall be the person achieving the highest passing grade. No person serving in the rank of firefighter in the Fire Department or patrol officer in the Police Department shall be eligible to take the promotional examination for Lieutenant in the Fire Department or Sergeant in the Police Department unless he shall have served at least three (3) years in the rank of firefighter or patrol officer, respectively. No person shall be eligible to take a promotional examination for the positions higher in rank than Lieutenant in the Fire Department or Sergeant in the Police Department unless the person shall have served at least twelve (12) months in that rank from which the promotion is to be made. In those cases where less than three are eligible and willing to take such examination, the twelve (12) month rule may be waived. Where an eligible list exists and a vacancy occurs which may be filled from such list, the vacancy shall be filled within forty-five (45) days from the date of such vacancy. Whenever a vacancy occurs in the Police or Fire Departments and no promotional eligible list exists for such rank, the Commission shall within one hundred twenty (120) days of such vacancy hold a competitive promotional examination [except in the case of paragraph 5.1 herein]. Upon certification; the vacancy shall be filled within forty-five (45) days.

Section 5.1 PROMOTIONAL EXAMINATION FOR POLICE CHIEF AND FIRE CHIEF.

(a) Vacancies in the position of Police Chief and Fire Chief shall be filled by competitive examinations only. No person serving in the Fire or Police Departments shall be eligible to take the promotional exam for Chief of their respective Department unless they have served at least two (2) years in their respective Department in the rank of Lieutenant or above.

(b) Notwithstanding the rules established in Sections 4 and 5 herein, whenever a vacancy in the position of Fire Chief or Police Chief shall exist, the examination/selection process shall be closed and competitive unless the number of internal candidates is insufficient to justify closed competition, in which case, the promotional examination/selection process shall be open and competitive in character as set forth as follows:

The examination process for police and fire chief shall be open and competitive if any one of the four factors applies;

- (1) Less than 4 internal candidates apply for the examination, or
- (2) Less than 3 internal candidates successfully complete and pass the written portion of the examination, or
- (3) Less than 3 internal candidates successfully complete and pass the assessment portion of the examination, or
- (4) The Mayor petitions the Commission to provide for an open and competitive examination based on the Mayor's determination, provided to the Commission in writing, that it would be in the public interest to do so and the Commission concurs with the Mayor.

(c) A retest shall be required if factors (2) and (3) of subsection (b) herein apply. An internal candidate who fails to successfully complete and pass either the written or assessment part of the examination shall not be permitted to re-take any subsequent examination deemed necessary as the result of subsection (b)(2) and (3) herein.

(d) No person, not currently a rank and file member of the Westlake Police Department, shall be permitted to take the examination for Police Chief unless they have completed at least 5 years in grade as a Captain or above and has served at least 10 years as a career member of an organized police department of comparable or larger size as the current Westlake Police Department. Applicants for examinations shall possess and supply upon application a copy of their current Ohio Peace Officers certification. Outside applicants shall comply with all other qualifications established by the Charter, Codified Ordinances and Civil Service Rules as to applicants for promotional examinations.

(e) No person, not currently a rank and file member of the Westlake Fire Department, shall be permitted to take the examination for Fire Chief unless they have completed at least 5 years in grade as a Captain or above and have at least 10 years experience in fire suppression or fire prevention as a career member of an organized fire department of comparable or larger size as the current Westlake Fire Department. Applicants for the examination shall possess and supply upon application a copy of their current State of Ohio firefighter's certification and State of Ohio paramedic certification. Outside applicants shall comply with all other qualifications established by the Charter, Codified Ordinances and Civil Service Rules as to applicants for promotional examinations.

(f) Effective January 1, 2017, a bachelors of police administration, criminal justice, business management, business administration, public management or related degree in the field of study shall be required of any candidate internally or from outside the Department who applies for the position of Police Chief. Effective January 1, 2017, a bachelors of fire science, business management, business administration, public management or related degree in the field of study shall be required of any candidate internally or from outside the Department who applies for the position of Fire Chief. Proof of degree shall be provided to the Clerk at the time of application for the examination. (Amended 12-7-07)

Section 6. LIMITATION OF CERTIFICATION.

A person certified from an eligible list more than three times to the same appointing authority to the same or similar position may be omitted from future certification to such appointing authority provided that certification from temporary appointment shall not be counted as one of such certifications.

Section 7. ADDITION OF APPOINTEES TO ROSTER.

When the appointing authority has filled a vacancy or position from the certified eligible list or from applications for noncompetitive positions, the appointing authority shall forthwith report to the Commission the name of such appointee, the title of the position, the duties and responsibilities of the position, the salary and compensation thereof and such other information as the Commission may require in order to keep its roster.

No payroll or account for payment of wages or salary to any person in the classified service shall be certified or approved for payment by the Commission if such name has not been placed on the official roster in accordance with the provisions of these Civil Service Rules.

Section 8. PROBATIONARY PERIOD.

The probationary period for police officer shall be for a period of one year beyond the date of employment or state certification, whichever is the latest. The probationary period for a firefighter shall be for a period of two years beyond the date of employment or state certification for firefighter and EMP, whichever is the latest. No appointment for promotion for police and fire shall be final until the appointee has satisfactorily served a one year probationary period.

Service as a provisional appointee in the same and similar class shall be included in the probationary period.

Section 9. REMOVAL DURING PROBATION.

If in the opinion of the appointing authority, the service of a probationary employee is unsatisfactory, with the approval of the Civil Service Commission, the appointing authority may discharge the employee at any time during his probationary period after completion of one half of his probationary term. If the appointing authority decides to remove or reduce a probationary employee, his written communication to the Commission shall state the reasons for such decision.

If, during the probationary period, an original appointee is found unsatisfactory and is dismissed by the appointing authority, the Civil Service Commission may return his name to its original position on the eligible list from which it was selected or to a list of lower classification, or none, as the Commission may determine in the best interest of the City.

If, during the probationary period for a promotional appointment, the appointee is found to be unsatisfactory, he may be returned to his former permanent position or have his name placed at the head of the eligibility list of a comparable classification as the Civil Service Commission may determine.

Section 10. PROVISIONAL AND EMERGENCY APPOINTMENTS AND PROMOTIONS.

(a) **Provisional Appointments.** Whenever there are urgent reasons for filling a vacancy in any position and the Civil Service Commission is unable to certify the appointing authority a list of persons eligible for appointment, the appointing authority may nominate a person to the Commission for provisional appointment. The person may be appointed provisionally until a selection and regular appointment can be made. Such provisional appointment shall continue in force only until appointment can be made from eligible lists prepared within one hundred twenty (120) days from the date of vacancy.

(b) **Temporary Appointments.** In case of an emergency, a temporary appointment or promotion may be made no longer than sixty (60) days. Such emergency shall be deemed to exist when the appointing authority so notifies the Commission and such fact is duly recorded in the minutes of the Commission. Emergencies requiring successive temporary appointments shall not be made except as follows: (i) certified sickness or disability of a regular employee that creates an emergency and will be deemed to exist only when such fact is confirmed by a physician of the Commission's choice; and (ii) military leave of a regular employee creates an emergency where the employee is involuntarily called to active duty for a national or state emergency pursuant to Section 167.17 of the Codified Ordinances for a period in excess of sixty (60) days.

(c) Unless there is some unusual reason why the same ought not to be done for the benefit of the service, the appointment to a temporary position shall be made only from the classification or grade immediately below the classification or grade in which the temporary vacancy exists.

(d) The acceptance or refusal by an eligible of a provisional or temporary appointment or promotion shall not affect his standing on the eligible list for permanent employment and/or promotion.

Section 11. OUTSIDE EMPLOYMENT.

Full-time employees of the City may engage in such part-time or occasional employment or occupation outside of their regular working hours as will not interfere with the efficient performance of their duties for the City and as may be formally approved by the appointing authority under whom they are employed.

A member of the Fire Department or the Police Department shall have no employment other than that involved in his position in the City service, except by express approval of the appointing authority and department head. Violation of this provision shall render such employee liable to thirty days suspension for the first offense and discharge for such second offense.

RULE X. TRANSFERS, REINSTATEMENT, LEAVES OF ABSENCE, AND LAYOFFS.

Section 1. TRANSFERS.

A person holding a position in the classified service may be transferred with the consent of the Commission, to a similar position in another office, department or institution having the same pay and similar duties; but no transfer shall be made to a position in another class or to a position for which original entrance requires an examination involving essential tests or qualifications difference from those required for original entrance to the position held by such person. No transfer shall be made to a position carrying a salary different from or higher than that of the position from which the transfer is requested.

Section 2. REINSTATEMENTS OF FIRE FIGHTERS OR POLICE OFFICERS.

Any person holding an office or position under the classified service in the Fire Department or the Police Department who is separated therefrom due to injury or physical disability incurred in the performance of duty shall be reinstated immediately, or one suffering injury or physical disability incurred other than in the performance of duty may be reinstated, at the Mayor's discretion, upon filing with the Chief of the Fire Department or the Chief of the Police Department, a written application for reinstatement, to the office or position he held at the time of such separation, after passing a physical examination showing that he has recovered from the injury or other physical disability. The physical examination shall be made by a licensed physician designated by the City within two weeks after application for reinstatement has been made, provided such application for reinstatement is filed within five years from the date of separation from the Department, and further provided that such application shall not be filed after the date of service eligibility retirement.

Any person holding an office or position under the classified service in the Fire Department or the Police Department, who resigns therefrom, may, at the Mayor's discretion, be reinstated to the rank of fire fighter or police officer, upon the filing of a written application for reinstatement with the Chief of the Fire Department or Chief of the Police Department, and upon passing a physical examination disclosing that the person is physically fit to perform the duties of the office of fire fighter or police officer, the application for reinstatement shall be filed within one year from the date of resignation. Any person reinstated pursuant to the authority of this paragraph shall not receive credit for seniority earned prior to resignation and reinstatement, and shall not be entitled to reinstatement to a position above the rank of fire fighter or patrol officer, regardless of the position the person may have held at the time of his resignation.

Section 3. LEAVE OF ABSENCE WITHOUT PAY.

With the consent of the Commission, the appointing authority may grant a leave of absence without pay to an employee in the classified service for a period not to exceed one year, and upon the expiration of such leave of absence, such employee may be reinstated. If the employee is a provisional appointee, the leave of absence, if granted, is subject to the establishment of an eligible list and terminates automatically if an eligible list for said position is established during the period of leave of absence. All such leaves of absence granted by appointing authorities shall be referred to the Commission promptly for approval, in order that the civil service status of such absentees may be protected in accordance with Section 123:1-34-01 of the Ohio Administrative Code.

Section 4. ABSENCE WITHOUT LEAVE REINSTATEMENT.

Absence from duty without leave for any time will be considered neglect of duty and good cause for dismissal. Absence from duty without leave for ten consecutive calendar days shall be deemed a resignation from the service by the absentee upon report of such absence by the appointing authority and the resignation shall be entered upon the records of the Civil Service Commission. However, if at any time within thirty days thereafter the person so absenting himself shall make satisfactory explanation to the Commission of the cause of his absence, he may be reinstated to his position.

Failure to report after a leave has expired or has been disapproved or revoked and cancelled by the Commission shall be considered neglect of duty and cause for discharge. However, if an employee so discharged shall show to the satisfaction of the Commission that such failure to report was excusable, the Commission may then order his reinstatement.

Section 5. LAYOFF PROCEDURE.

This Section was repealed on January 29, 2002 in its entirety. (The lay off procedure established in the employee's applicable Collective Bargaining Agreement shall be utilized for lay offs.)

Section 6. LAYOFF OR REDUCTION IN THE POLICE AND FIRE DEPARTMENTS.

This Section was repealed on January 29, 2002 in its entirety. (The lay off procedure established in the employee's applicable Collective Bargaining Agreement shall be utilized for lay offs.)

Section 7. ESTABLISHMENT OF LAY OFF LISTS.

This Section was repealed on January 29, 2002 in its entirety. (The lay off procedure established in the employee's applicable Collective Bargaining Agreement shall be utilized for lay offs.)

Section 8. PHYSICAL EXAMINATIONS.

Whenever in the judgment of the Commission physical qualifications are of importance, the person transferring, being reinstated or returning from a leave of absence, sickness or layoff, shall be required to pass a physical examination and be certified as qualified in such respect before assuming his duties.

RULE XI. REDUCTIONS, SUSPENSIONS AND REMOVAL.**Section 1. TENURE OF OFFICE.**

The tenure of every officer or employee in the classified service of the City of Westlake shall be during good behavior and efficient service and no such officer or employee shall be reduced in pay or position, suspended or removed, except for incompetence, inefficiency, discourteous treatment of the public, neglect of duty, violation of Sections 124.01 to 124.64 of the Ohio Revised Code or the rules of the Commission, or any other failure of good behavior, or any other actions of misfeasance, malfeasance or nonfeasance in office.

Section 2. ORDER OF REDUCTION, SUSPENSION OR REMOVAL.

In any case of reduction, suspension for more than three working days, or removal of the Police Chief, Fire Chief or Assistant Fire Chief the appointing authority shall furnish such person with a copy of the order of reduction, suspension or removal, which order shall state the reasons for such reduction, suspension or removal. Such order shall be filed with the Commission.

In the event of an order of removal, the person may request, within three working days following the filing of such an order, an informal hearing before the appointing authority to present evidence or give reasons why the order of removal is not justified. Within three days following the hearing, the appointing authority's decision shall be filed with the Commission.

Within ten days following the filing of an order of reduction or suspension, or within ten days following the filing of the appointing authority's decision affirming or modifying an order of removal, the person may file an appeal in writing with the Commission. The Commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear such appeal within thirty days from and after the date of its filing with the Commission, and may affirm, disaffirm or modify the judgment of the appointing authority.

In case of removal or reduction in pay for disciplinary reasons, either the appointing authority or the person may appeal the decision of the Commission to the Court of Common Pleas in accordance with the procedure provided by Section 119.12 of the Ohio Revised Code.

Section 3. SUSPENSION, DEMOTION OR REMOVAL IN THE POLICE AND FIRE DEPARTMENTS.

This Section was repealed on January 29, 2002 in its entirety. (The procedure established in the employee's applicable Collective Bargaining Agreement shall be followed for all discipline, including, suspension, demotion or removal.)

Section 4. DISCIPLINARY SUSPENSION.

This Section was repealed on January 29, 2002 in its entirety. (The procedure established in the employee's applicable Collective Bargaining Agreement shall be followed for disciplinary suspensions.)

Section 5. FAILURE TO RETURN.

An employee who fails to return to duty within three working days after the completion of a valid cancellation of a leave of absence without pay without explanation to the appointing authority Department Head or applicable Chief may be removed from the service. An employee who fails to return to service from a leave of absence without pay and is subsequently removed from the service is deemed to have a termination date corresponding to the starting date of the leave of absence without pay.

Section 6. FALSIFICATION OF APPLICATION.

Falsification of any statement in the application for examination shall be considered dishonesty and sufficient cause for removal.

RULE XII. HEARING PROCEDURE.**Section 1. TIME OF HEARING AND NOTIFICATION.**

Upon receipt from an employee or officer in the classified service of the City of Westlake of a timely written appeal from an order of removal, reduction in pay or position, or suspension for more than three working days, the Commission shall set a time and place to hear such appeal and shall notify the appropriate appointing authority, as well as the employee or his representative.

Section 2. AMENDMENTS TO ORDERS.

Amendments to the orders of removal, reduction in pay or position or suspension for more than three working days may be made by the appointing authority at any time, provided the employee and his representative, if any, receive copies of the amended order prior to ten calendar days before the time set for the hearing as provided herein.

Section 3. HEARING PROCEDURE.

In the hearing of such appeals, the order of procedure shall be as follows:

- (a) The appointing authority taking action affecting the employee shall present evidence in the support of the charges and specifications.
- (b) The employee affected shall then present such evidence as he may wish to refute such charges.
- (c) The appointing authority may offer evidence in rebuttal. The Commission may, in its discretion hear arguments.

Section 4. RULES OF EVIDENCE AND REPRESENTATION BY COUNSEL.

The production of evidence in the hearing of appeals and the Commission decision thereof shall be governed in general by the rules of evidence, proof and burden of proof applied by courts in civil cases. The appellee and appellant may be represented by counsel.

Section 5. RESIGNATION BEFORE FINAL ACTION.

The acceptance of the resignation of a person discharged by the appointing authority before final action by the Commission will be considered a withdrawal of the charges. Notice of such resignation shall be immediately submitted to the Commission. The resignation of the employee shall be entered upon the records of the Commission and the proceedings dismissed without judgment.

Section 6. WITNESS FEE.

Each witness before the City of Westlake Civil Service Commission shall receive the following fees:

- (a) Twelve dollars (\$12.00) for each full-day's attendance and six dollars (\$6.00) for each half-day's attendance before the Civil Service Commission.
- (b) As used in this section, "full-day's attendance" means a day or evening on which a witness is required to be present at proceedings during more than one half of the worker's daily shift regardless of whether he actually testifies; "half-day's attendance" means a day or evening on which a witness is required or requested to be present at proceedings during less than one-half of the worker's daily shift regardless of whether he actually testifies.
- (c) The Civil Service Commission is hereby granted the discretion to assess witness fees against an unsuccessful party in a proceeding before it if in its best judgment such an assessment is proper and justified.

RULE XIII. POLITICAL ACTIVITY.**Section 1. POLITICAL ACTIVITY.**

No employee in the civil service shall in any manner be concerned in giving, soliciting and receiving any assessment or contribution for any political party or activity or for any candidate for public office, nor shall he take any active part in political movements or political campaigns, nor act as an officer in any political organization. This shall not interfere with the right of each employee to vote as he pleases and to express freely his opinions. Proof of this violation of this section shall be sufficient grounds for summary dismissal of the employee.

RULE XIV. WAIVER OF RULES.**Section 1. PROCEDURES.**

In specific cases where, in the judgment of the Civil Service Commission, it is in the interest of the public service, any rule herein adopted may be waived by the unanimous vote of the Commission. Such action, with the reasons therefor, shall be entered into the minutes of the Civil Service Commission.

(The next printed page is page 84GG.)

CHAPTER 161
Department of Planning and Economic Development

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| 161.01 Establishment. | 161.05 Clerk of Commissions. |
| 161.02 Director of Planning and Economic Development. | 161.06 Other employees generally. |
| 161.03 Assistant Director of Planning. | |
| 161.04 Economic Development Manager. | |

CROSS REFERENCES

Planning Commission - see CHTR. Art. 4, Sec. 9
Authority to establish - see CHTR. Art. 4, Sec. 1

161.01 ESTABLISHMENT.

Pursuant to the authority of the Charter, Article IV, Section 1(a), there is hereby established the Department of Planning and Economic Development.
(Ord. 1994-100. Passed 2-16-95.)

161.02 DIRECTOR OF PLANNING AND ECONOMIC DEVELOPMENT.

The Department of Planning and Economic Development shall be headed by the Director of Planning and Economic Development who shall be responsible for the administration and implementation of plans and programs for the comprehensive and orderly development of the City. The Director shall be responsible for the development, maintenance, periodic update and administration of the City's Guide Plan, Planning and Platting Code and Zoning Code. The Director shall provide guidance to the Mayor, Council, boards and commissions regarding the future public and private development within the City:

- (a) The Director shall be a full-time employee appointed by the Mayor subject to confirmation by the Council. The Director shall have a Bachelor or Masters Degree in City Planning, Urban Studies or related field, with at least five years experience in the City Planning and Zoning Administration and shall be a member in good standing of the American Institute of Certified Planners.
(Ord. 1994-100. Passed 2-16-95.)
- (b) The Director shall work forty hours per week at times designated by the Mayor and shall work at City Hall unless the job requirements require his attendance at a place other than City Hall.
(Ord. 1998-136. Passed 5-7-98.)
- (c) The Director shall coordinate and assist in interdepartmental review of subdivision and development plans with the Directors of other affected Departments. The Director shall review all plans submitted to the Department, conduct conferences with owners or developers and necessary department heads before presentation to

the Planning Commission to ascertain if such plats and plans comply with all relevant City ordinances and that all necessary plans, plats and other documents required by City Code are presented to the Planning Commission. The Director shall attend all regular and special meetings of the Planning Commission and shall review and make recommendations concerning all matters submitted for consideration of such Commission. The Director shall attend such meetings of Council and such other committees, boards and commissions as deemed necessary and desirable by the Mayor or Council President.

- (d) The Director shall have charge of all staff within the Department and charge of all programs and projects that will facilitate the orderly and comprehensive development of the City in order to preserve and improve the quality of life and economic well being of the City. The Director shall develop and implement policies, programs, plans and strategies for the retention, expansion and location of businesses, offices and industries in the City in a well planned manner consistent with the current Charter of the City and in conformity with the goals and objectives of the City Guide Plan.
(Ord. 1994-100. Passed 2-16-95.)

161.03 ASSISTANT DIRECTOR OF PLANNING.

(a) There is hereby established the position of Assistant Director, who shall be a full time employee appointed by the Mayor. The person filling the position of Assistant Director shall possess a minimum of a Bachelor Degree in Planning, Urban Studies or equivalent and at least two years experience in planning and/or zoning administration. In lieu of a Bachelor Degree in Planning or a related field, the person must have eight years experience in planning and/or zoning administration.

(b) The duties of the Assistant Director shall include assisting the Director of Planning and Economic Development in the professional planning and administrative functions of the Department. The duties of the Assistant Director shall include:

- (1) Assist the Director in the administration of the Zoning Code.
- (2) Assist in the review of subdivision, development and sign plans to determine compliance to the Planning and Platting Code and Zoning Code.
- (3) Review construction plans to determine compliance to the approved development plans and inspect developments under construction and as-built as to their compliance to the Zoning Code, approved development plans and conditions established by the Planning Commission and Council.
- (4) Assist in responding to inquiries from the public regarding development regulations and development projects.
- (5) Assist in updating, developing and implementation of the City Guide Plans and other planning studies involving the future development and redevelopment of the City.
- (6) Collect, organize and analyze demographic data to assist in the planning and zoning activities of the Department.

(c) The Assistant Director may perform the duties of the Director in his/her absence, when so appointed.

(d) The compensation to be paid to the Assistant Director shall be established by Council. (Ord. 2008-65. Passed 4-3-08.)

161.04 ECONOMIC DEVELOPMENT MANAGER.

(a) There is hereby established the position of Economic Development Manager, who shall be a full-time employee appointed by the Mayor. The person filling the position shall possess a minimum of a Bachelor Degree in Planning, Business/Public Administration, Economics, Marketing, Finance or related field plus five years professional experience in public and/or private economic development or a Master's Degree in Planning, Business/Public Administration, Economics, Finance or a related field and three years of professional experience in public and/or private economic development.

(b) The duties of the Economic Development Manager shall be to assist the Director of Planning and Economic Development in developing, administering and implementing economic development programs and projects to enhance the economic sustainability of the City.

(c) The duties of the Economic Development Manager shall include:

- (1) Assist the Director in the administration of various economic development programs and projects of the Department.
- (2) Develop and recommend strategies, plans, programs and solutions to address the City's economic well being, sustainability and fiscal strength in the marketplace.
- (3) Administer business incentive programs, assists in completing applications and negotiating agreements with businesses and completes reporting requirements.
- (4) Assist in programs for business retention and expansion activities.
- (5) Collect, organize and analyze economic data to assist in the economic development activities of the department.

(d) The Economic Development Manager may perform the duties of the Director in his/her absence, when so appointed.

(e) Any other duties as assigned by the Director of Planning or the Mayor.

(f) The compensation to be paid to the Economic Development Manager shall be established by Council. (Ord. 2008-65. Passed 4-3-08.)

161.05 CLERK OF COMMISSIONS.

(a) There is hereby established the position of Clerk of Commissions who shall be an employee of the Department of Planning and Economic Development under the direction and supervision of the Director of Planning and Economic Development.

(b) The Clerk of Commissions shall act as the Clerk of the Planning Commission, Board of Zoning Appeals and Board of Building Appeals. The Clerk shall attend all meetings thereof as required by such bodies and shall perform such clerical, stenographic and secretarial work as required, including the taking and preparation of the minutes of all meetings.

(c) The Clerk of Commissions shall act as the Administrative Assistant to the Director of the Department of Planning and Economic Development. The Clerk shall be responsible for all filing, typing, word processing, photocopying and recordkeeping as required by the Department and the Boards and Commission. As the Administrative Assistant, the Clerk shall supervise clerical and secretarial staff working in the Department.

(d) The Clerk shall accept plats, plans, applications, fees and correspondence to the Department, Commission and Boards. The Clerk shall prepare necessary notifications, legal advertisements and agendas for the Boards and Commission as required.

(e) The Clerk shall perform such other clerical and secretarial duties as may be requested by the Boards, Commission, Director or Mayor.
(Ord. 2008-65. Passed 4-3-08.)

161.06 OTHER EMPLOYEES GENERALLY.

The Department of Planning and Economic Development shall also employ the following personnel:

- (a) Part-time Economic Development Assistant.
(Ord. 2008-65. Passed 4-3-08.)

CHAPTER 163
Industrial Commission

EDITOR'S NOTE: Provisions relating to the Industrial Commission are to be found in Chapter 1103 of the Planning and Platting Code.

CHAPTER 166
Community Improvement Corporation

166.01 Purpose; designation of agency.	166.02 Agreement and plan for development.
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CROSS REFERENCES

Community Improvement Corporations - see Ohio R.C. 1724.01 et seq.
Community Urban Redevelopment Corporations - see Ohio R.C. 1728.01 et seq.

166.01 PURPOSE; DESIGNATION OF AGENCY.

Pursuant to the provisions of Ohio R.C. 1724.10, Council hereby finds and determines that it is the policy of this City to promote the health, safety, morals and general welfare of its inhabitants through the designation of a community improvement corporation as the agency and instrumentality of this City for the industrial, commercial, distribution and research development in this City. The Westlake Community Improvement Corporation, a community improvement corporation organized as a nonprofit corporation in the manner provided in Ohio R.C. Chapter 1724, is hereby designated as the agency and instrumentality of this City for the industrial, commercial, distribution and research development in this City.
(Ord. 1976-58. Passed 5-20-76.)

166.02 AGREEMENT AND PLAN FOR DEVELOPMENT.

The Mayor and Clerk of Council are hereby authorized to enter into an Agreement and Plan of Industrial, Commercial, Distribution and Research Development with the Westlake Community Improvement Corporation in substantially the form and containing the provisions attached to original Ordinance 1976-58, passed May 20, 1976, incorporated herein and made a part of this section as if the same were fully set forth herein. The terms and provisions of such Agreement and Plan are hereby confirmed in all respects insofar as they embody and constitute the Plan of Industrial, Commercial, Distribution and Research Development for this City under Ohio R.C. 1724.10.
(Ord. 1976-58. Passed 5-20-76.)

CHAPTER 167
Employees Generally

EDITOR'S NOTE: Compensatory and collective bargaining provisions are not codified herein since they are covered by contract and/or are subject to frequent change.

167.01	Blanket bond.	167.16	Collective bargaining agreement.
167.02	Mileage and expense allowances. (Repealed)	167.17	Military leave.
167.03	Application of rules.	167.18	Attendance at schools or meetings; reimbursement of travel expenses. (Repealed)
167.04	Sick leave.	167.19	Jury duty.
167.05	Vacations; accumulation of time.	167.20	Family and medical leave policy.
167.06	Holidays.	167.21	Indemnification of City officials and employees.
167.07	Retirement. (Repealed)	167.22	Wage Continuation Plan.
167.08	Merit raises for hourly employees.	167.23	Employee Incentive Program.
167.09	Hospital and medical insurance.	167.24	Director Incentive Award Program.
167.10	Overtime.	167.25	Life insurance.
167.11	Pay periods.	167.26	Employment of retired governmental employees.
167.12	Wage increases.	167.99	Penalty.
167.13	Work week for City employees.		
167.14	Longevity.		
167.15	Equal Employment Opportunity Program.		

CROSS REFERENCES

Council to establish compensation - see CHTR. Art. III, Sec. 3

Oath of office - see CHTR. Art. XI, Sec. 7; Ohio R.C. 3.22, 733.68

Bonds - see Ohio R.C. 733.69 et seq.

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

Director of Finance's bond - see ADM. 135.01

Civil Service Commission - see ADM. Ch. 159

167.01 BLANKET BOND.

(a) Notwithstanding any provision of other ordinances and resolutions to the contrary, the Director of Finance shall procure and pay annual premiums for a blanket surety bond in the amount of twenty-five thousand dollars (\$25,000) from any duly authorized corporate surety, covering full time officers, clerks and employees of the City and such other employees as the Director of Finance deems necessary. (Ord. 1998-133. Passed 5-7-98.)

(b) The provisions hereof shall not be deemed to apply to any officer, clerk or employee who is, by the City Charter or controlling State statute, required to execute or file an individual surety bond to qualify for office or employment.

(c) The blanket surety bond shall indemnify against losses through:

- (1) The failure of the officers, clerks and employees covered thereunder to faithfully perform their duties or to account properly for all moneys or property received by virtue of their positions or employment; and
- (2) Fraudulent or dishonest acts committed by the officers, clerks and employees covered thereunder.

(d) Any blanket bond shall be approved as to form by the Director of Law and as to sufficiency of the surety thereon by the officer authorized to require such bond or by Council. The premium of any such blanket bond shall be paid as provided in Ohio R.C. 3929.17. (Ord. 1975-61. Passed 5-15-75.)

167.02 MILEAGE AND EXPENSE ALLOWANCES.

(EDITOR'S NOTE: Former Section 167.02 was repealed by Ordinance 2001-178, passed December 20, 2001.)

167.03 APPLICATION OF RULES.

(a) The rules and benefits contained in this chapter, unless otherwise stated, are applicable to all employees of the City.

(b) The Mayor and all department heads and assistants, full or part-time, shall be entitled to the same sick leave, vacation and holiday benefits as any employee in their department.

(c) Where benefits to be received depend upon the length of service, any continuous service prior to January 1, 1990, accrues to such employee's benefit.
(Ord. 1992-84. Passed 5-21-92.)

(d) The amount of sick leave, holiday, vacation and retirement pay entitlements applicable to part-time employees shall be prorated according to the hours worked.
(Ord. 1998-14. Passed 1-15-98.)

(e) Seasonal employees shall not be entitled to any of the benefits provided in this chapter, except they shall participate in any retirement plan mandated by the State of Ohio.

(f) All employees except part-time employees, seasonal employees, members of Council and members of the boards and commissions shall be considered full-time employees and shall be scheduled to work forty hours per week unless otherwise expressly provided in a collective bargaining agreement or other written employment agreement.
(Ord. 1992-84. Passed 5-21-92.)

(g) All newly hired full-time employees shall have their personal hours prorated based upon the date of hire during the first calendar year of employment.
(Ord. 1998-24. Passed 2-5-98.)

167.04 SICK LEAVE.

- (a) (1) Cumulative Sick Leave. Sick leave shall be cumulative at the rate of four and six-tenths hours for every eighty hours worked up to a maximum allowable total of 2,500 hours. No further credit or payment for sick leave shall be given to any employee after such employee has earned and accumulated 2,500 hours of sick leave except as hereinafter provided.
- (2) Non-Cumulative Sick Leave. After March 1, 1998, an employee who has accumulated the maximum allowable 2,500 hours of cumulative sick leave shall be entitled to additional non-cumulative sick leave each calendar year at the rate of four and six-tenths hours for every eighty hours worked. Except as hereafter provided, unused non-cumulative sick leave shall be forfeited at the end of each calendar year. One-quarter of an employee's unused non-cumulative sick leave shall be paid to the employee annually in December. In lieu of such payment, an employee may elect by written notice provided to the Director of Finance on or before November 30, to have, once an employee has reached the maximum 2,500 hours, one-quarter of his/her unused non-cumulative sick leave converted to personal time, which personal time shall be taken in the following calendar year, and if not so fully used, the remainder of such personal time shall be forfeited.

(b) Sick leave may be used, upon approval of the department head, for absence due to personal illness, injury or exposure to a contagious disease which could be communicated to other employees, and for absence due to illness, injury or death in the employee's immediate family. For the purposes of this subsection "immediate family" means spouse, children, mother, father, mother-in-law and father-in-law. In the event of death, "immediate family" shall also include grandparents, grandchildren, brothers, sisters, aunts and uncles. (Ord. 2001-74. Passed 5-3-01.)

(c) Any employee who transfers from any other public agency of the government to the City shall be credited with the portion of his accumulated sick leave up to the maximum permitted by City ordinance. Credit upon re-employment of an employee shall be as provided in Ohio R.C. 124.38.

(d) A doctor's certificate may be required at the discretion of the department head.

(e) The employee shall be paid at straight time for the number of hours he would have worked on the day granted as sick leave. (Ord. 1992-31. Passed 3-5-92.)

(f) Each employee of the City with at least ten or more years of services with the City shall receive payment based on the employee's rate of pay, upon termination of employment with the City, transfer to another governmental agency or retirement, an established percentage of the employee's accrued but unused cumulative sick leave, based upon a maximum accrual of 2,500 hours in accordance with the following schedule:

(1)	10 years	50%
(2)	17 years	60%
(3)	20 years	68%
(4)	25 years	75%

If the termination, transfer, etc., occurs prior to December, said employee also shall be entitled to receive that sum he/she would have been paid in December of the year of termination, transfer, etc., for any unused noncumulative sick leave as set forth in subsection (a)(2) hereof.

When an employee entitled to payment under this section terminates his employment, transfers to another governmental agency or retires under the Public Employees Retirement System or the Police and Fire Disability and Relief Fund, the Director of Finance shall give written notice to each such employee affected within fifteen days of such termination, transfer or retirement.

If an employee, eligible for payment or transfer of accumulated unused sick leave, as the case may be, and pursuant to this section, does not apply to the City within 120 days after receipt by such employee of written notice of eligibility for payment or transfer of accumulated unused sick leave, the Director of Finance shall make payment to such employee in the amount as heretofore provided in this section. (Ord.2001-74. Passed 5-3-01.)

167.05 VACATIONS; ACCUMULATION OF TIME.

(a) Effective January 1, 1992, the Director of Finance is hereby authorized to account for the hourly accumulation of earned vacation time on the bi-weekly payroll check of every City employee. Earned vacation time on an hourly basis shall be accumulated and taken by all City employees on the following basis: (Ord. 2001-74. Passed 5-3-01.)

(1) Forty hour employees.

- A. 3.08 hours per two-week pay period for each pay of continuous service up to and including the 60th month.
- B. 4.62 hours per two-week pay period for each pay of continuous service after the 60th month and up to and including the 120th month. (Ord. 1998-133. Passed 5-'7-98.)

- C. 6.16 hours per two-week pay period for each pay of continuous service after the 120th month and up to and including the 180th month.
 - D. 6.77 hours per two-week pay period for each pay of continuous service after the 180th month and up to and including the 204th month.
 - E. 7.70 hours per two-week pay period for each pay of continuous service after the 204th month and up to and including the 300th month.
 - F. 9.23 hours per two-week pay period for each pay of continuous service after the 300th month.
(Ord. 2001-74. Passed 5-3-01.)
- (2) Less than forty hour employees. Employees who work less than a 40-hour week will accrue vacation hours pro-rated on the basis of a 40-hour week.
(Ord. 1993-52. Passed 3-18-93.)
- (3) Scheduling and accumulation of unused time.
- A. All regular full-time and regular part-time employees shall be entitled to time off for vacation as set forth in this section and shall be entitled to use vacation time earned upon its accounting and posting by the Director of Finance as set forth herein.
 - B. In all departments, vacation time off shall be scheduled with the department head. Scheduling of vacation time shall be coordinated so as to avoid disruption of necessary City services and functions of the specific department.
 - C. Employees entitled to vacation time off shall file their vacation time request with their department head in accordance with departmental procedures established and dates designated by such department head.
 - D. If more than one employee in a specific department requests the same time or days off for such vacation and if such time off or scheduling would effect the efficiency of the department, the employee with the most seniority shall have a preference in scheduling subject to the discretion of the department head.
 - E. All vacation hours earned shall be taken in time off, as it is mandatory that employees take their vacations. No employee shall be paid additional compensation for vacation time not used except as otherwise provided by the Codified Ordinances.
 - 1. No employee shall be permitted to accumulate more in vacation time than they could earn in two years of continuous employment. Any vacation time accumulated in excess of such limit shall be forfeited if not used by the employee.
 - 2. Notwithstanding the foregoing, upon the recommendation of the department head, the Mayor may approve an extension of one year for the purpose of the utilization of excess accumulated vacation time for the following reasons: inability to use such vacation time during the calendar year because of sickness or conflict with medical leave or because of the inability of the employee to use such accumulated vacation because of City work scheduling or emergencies within their department.
(Ord. 1998-178. Passed 12-17-98.)

(b) The Director of Finance is hereby authorized to pay each City employee at the termination of his employment the accumulated vacation time to which he is entitled. Hourly employees shall be paid by multiplying the number of accumulated hours of earned vacation time, times their hourly rate. Salaried employees shall be paid their number of accumulated hours of earned vacation time, times their normal number of work hours per year divided into their yearly salary. (Ord. 1993-52. Passed 3-18-93.)

167.06 HOLIDAYS.

(a) Paid holidays shall be New Year's Day, Martin Luther King Day, Presidents' Day, Good Friday, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, Christmas Day, Memorial Day and an additional number of personal hours to make a total of one hundred hours of paid holiday and personal hours per year. (Ord. 2011-119. Passed 9-1-11.)

(b) Police, Fire and Service are exempt from this section.

(c) Regular part-time employees receive the following 5 days off with the normal part-time pay: New Year's Day, Independence Day, Labor Day, Thanksgiving and Christmas.

(d) Regular part-time and full-time hourly paid employees shall be paid for the hours that would have been scheduled for that day had it been worked. Holiday compensation shall not exceed eight hours or the time scheduled, whichever is lesser.

(e) To be eligible for holiday pay, an employee shall have worked the regularly scheduled work day immediately preceding and following the holiday, or have been on an approved sick leave, personal day, or vacation day or on an off-duty or nonworking day.

(t) If an employee is required to work on a paid holiday and has accumulated forty hours in that week (including holiday hours), he shall be paid his overtime rate of pay for all hours worked on the holiday in addition to holiday pay. (Ord. 1997-177. Passed 10-2-97.)

(g) All full-time dispatchers of the Westshore Dispatch Center shall be entitled to the following eight holidays, with pay, or in lieu of those days shall be entitled to an alternate day off: New Year's Day; Martin Luther King Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; the Friday after Thanksgiving Day; and Christmas Day. To be eligible for holiday pay, an employee shall have worked the regularly scheduled workday immediately preceding and following the holiday, or have been on an approved sick leave, or have been in an active pay status or on an off-duty day and thirty-six personal hours yearly. (Ord. 2011-119. Passed 9-1-11.)

167.07 RETIREMENT.

(EDITOR'S NOTE: Former Section 167.07 was repealed by Ordinance 1998-133, passed May 7, 1998.)

167.08 MERIT RAISES FOR HOURLY EMPLOYEES.

Merit raises may be given an employee from time to time in such amounts as recommended by the department head and approved by the Mayor up to the maximum rate of pay authorized by ordinance. (Ord. 1982-74. Passed 6-3-82.)

167.09 HOSPITAL AND MEDICAL INSURANCE.

(a) Effective August 1, 2007, the Mayor, the directors of departments, the Civil and Criminal Assistant Law Directors (except Civil Assistant Law Director II) and all full-time employees not represented by a collective bargaining agreement, shall receive hospital and medical insurance health benefits. Employees who elect to be covered shall be required to select from the two employee contribution levels as identified in the City of Westlake's Master Health Insurance Plan. Employees shall be required to notify the Director of Purchasing of their selection by July 31, 2007, on a form supplied by the Office of the Director of Purchasing. The selection made shall continue in effect until such time as the employee separates from employment with the City or February 28, 2010, whichever is earlier. Once the selection is made, it cannot be changed. Employees who fail to make a selection by the date identified above shall be assigned a contribution level by the Director of Purchasing. (Ord. 2011-9. Passed 2-17-11.)

(b) Wellness Program: In order to promote wellness among City employees, and members of their families so as to encourage a healthier work force, all full-time employees identified in paragraph (a) above shall be entitled to join the Westlake Recreation Center at a fifty percent (50%) discount off the regular established resident rates. (Ord.2007-95. Passed 7-19-07.)

167.10 OVERTIME.

(a) "Overtime" for the purpose of this section, means all hours worked by an employee in excess of forty hours per week. (Ord. 1987-193. Passed 9-3-87.)

(b) No elected official, department head, assistant department head, or person in a supervisory position shall be eligible for or entitled to overtime unless otherwise agreed to in writing by the Mayor. (Ord. 1998-133. Passed 5-7-98.)

(c) An employee shall be paid time and one-half such employee's hourly rate for every hour worked in excess of forty hours per week. Where an employee's normal workweek consists of less than forty hours, the regular hourly rate shall be paid to such employee up to forty hours per week. The hourly rate of employees on salary, for the purposes of this section, shall be computed by dividing the employee's normal week times fifty-two into the amount of his salary per year.

(d) No employee shall be permitted to work overtime unless such employee has been ordered to do so by the director of the department for which he or she works.

(e) Payment for overtime to each employee shall be paid with his regular pay for the period in which it was worked. (Ord. 1987-193. Passed 9-3-87.)

167.11 PAY PERIODS.

The Director of Finance is hereby authorized to pay each and every employee of the City, either elected or appointed, except members of Council, bi-weekly, beginning June 1, 1975, on every other Friday.

(Ord. 1975-69. Passed 6-5-75.)

167.12 WAGE INCREASES.

The Director of each department of the City, where there is indicated a minimum and a maximum salary or hourly rate to be paid, shall have the discretion to recommend an increase in an employee's salary or hourly rate. Each employee will receive such increase provided that the increase in the salary or hourly rate is approved by the Mayor, and subject further to the condition that Council has appropriated sufficient moneys in the various payroll accounts to provide for such increases.

(Ord. 1982-74. Passed 6-3-82.)

167.13 WORK WEEK FOR CITY EMPLOYEES.

Council hereby approves of the work periods effective January 1, 1985, for the City employees as required by the Fair Labor Standards Act, which work periods were established by the Mayor on December 30, 1974:

<u>City Employees</u>	<u>Work Period (days)</u>
Policeman	28
Fire- fighters	28
All other employees	7

(Ord. 1987-193. Passed 9-3-87.)

167.14 LONGEVITY.

Any employee who received a longevity payment in December of 2011 shall continue to receive future annual payments on or around December 1st of each year in the same amount as received in December of 2011 until the employee retires, resigns or otherwise separates from employment with the City. Such amounts shall be prorated for the year any such individual ceases to be employed by City. (Ord. 2012-19. Passed 3-1-12.)

167.15 EQUAL EMPLOYMENT OPPORTUNITY PROGRAM.

(a) The Equal Employment Opportunity Program is hereby approved and accepted. A copy of the program is available from and on file with the Human Resources Coordinator and all department heads.

(b) The City has been and will continue to administer all terms and conditions of employment including, but not limited to: recruitment, hiring, appointments, promotion, compensation, benefits, transfers, training and educational opportunities, without regard to race, color, religion, sex, national origin, age, ancestry or disability, provided said disability does not prevent the performance of the essential duties required of the position and cannot be reasonably accommodated.

(c) The City of Westlake shall continue to recruit, hire and develop the best-qualified persons available for the jobs involved, basing its decisions upon merit and job-related qualifications.

(d) The Human Resources Coordinator will be responsible for implementing and monitoring the City's Equal Employment Opportunity Program.

(e) A copy of the EEO Policy and Program will be issued to all employees.

(f) The EEO Policy will be posted in conspicuous places in City buildings and at City-run facilities. (Ord. 2003-136. Passed 6-19-03.)

167.16 COLLECTIVE BARGAINING AGREEMENT.

Council shall from time to time enter into a collective bargaining agreement with various employees within the City. The terms and provisions of the current collective bargaining agreement when in conflict with the terms and provisions of the various sections under this chapter shall take precedence over and control such conflicting provisions of this chapter. (Ord. 1987-89. Passed 5-7-87.)

167.17 MILITARY LEAVE.

(a) All full-time hourly employees and all annual salaried employees shall be granted leave of absence from their respective positions without loss of pay for the time they are performing service in the uniform services, as defined herein, for periods of up to thirty days in each calendar year in which they are performing service in the uniform services.

(b) "Service in the uniform services" means the performance of duty, on a voluntary or involuntary basis in the uniform service, under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, in performance of duty or training by a member of the Ohio Militia pursuant to Ohio R.C. Chapter 5923. "Service in the uniform services" includes also the period of time for which a person is absent from their position of the City for the purposes of an examination to determine the fitness of the person to perform any duty described in this section. "Uniform services" means the armed forces of the United States of America, the Ohio organized militia when engaged in active duty for training, inactive duty for training or full-time National Guard Duty, the Commission Corps of the Public Health Service and any other category of persons designated by the President of the United States in time of war or national emergency.

(c) The Director of Finance is authorized to pay any such employee during their active military duty leave of absence. In the event an employee is entitled to additional compensation under subsection (f) hereof, each such employee, within thirty days of return from such active military duty leave of absence shall submit military documentation to the Director of Finance indicating the gross amount of base military pay that was received by the employee during the authorized leave of absence. The employee may then remit to the Director of Finance the gross amount of base military pay received or have that amount deducted from subsequent regular City pays, if the employee's net regular City pay is sufficient to cover the amount to be deducted in not more than two regularly scheduled City pay periods.

(d) As used in this section, "calendar year" means the year beginning on the first day of January and ending on the last day of December.

(e) The City will comply with Ohio law, federal law and applicable regulations regarding pension contributions and related benefits for employees on military leave.

(f) Any employee of the City eligible under this provision who is involuntarily called to active duty for a national or state emergency by order of the President of the United States, Congress of the United States, the Governor of the State of Ohio, or the legislature of the State of Ohio shall be granted a leave of absence for the duration of such involuntary active duty. Upon recommendation of the Mayor and approval by resolution of City Council, such employee may continue to receive the benefits as set forth in subsection (c) hereof for an additional period not to exceed 365 calendar days and during such period shall continue to accumulate vacation, longevity and sick leave credit and be entitled to all other relevant benefits, during the period of such leave of absence as recommended by the Mayor and approved by Council. Reinstatement rights and other rights shall be in accordance with relevant provisions of federal law and their companion rules and regulations.
(Ord. 2001-14. Passed 5-3-01.)

167.18 ATTENDANCE AT SCHOOLS OR MEETINGS; REIMBURSEMENT OF TRAVEL EXPENSES.

(EDITOR'S NOTE: Former Section 167.18 was repealed by Ordinance 2001-178, passed December 20, 2001.)

167.19 JURY DUTY.

Every employee who is summoned as a juror in a municipal, state or federal court shall receive a leave of absence with pay upon the following conditions:

- (a) The employee shall notify his/her department head as soon as possible upon receipt of the summons for jury duty;
- (b) Upon request, the employee shall present to the department head a copy of the jury summons or other warrant for appearance on jury duty and/or sufficient proof of jury service; and
- (c) The employee shall remit to the City any and all remuneration received by the municipal, state or federal court for services on jury duty.

The provisions of this section shall not affect the employee's vacation, sick leave or any other benefits that he/she would receive under the provisions of other ordinances or collective bargaining agreements. (Ord. 1993-217. Passed 10-21-93.)

167.20 FAMILY AND MEDICAL LEAVE POLICY.

(a) Pursuant to the Family and Medical Leave Act of 1993, the City hereby establishes the Westlake Family and Medical Leave Policy.

(b) Any employee who works in the City's employ for at least twelve months and accumulates at least 1,250 hours of work during that twelve months is eligible and may receive up to twelve (12) work weeks of unpaid leave during any twelve-month period for one of the following reasons:

- (1) Birth of a son or daughter;
- (2) Placement of a son or daughter with the employee for adoption or foster care;
- (3) To care for a spouse, son, daughter, parent if said relative has a serious health condition. (For example, an illness, injury, impairment, physical or mental condition that involves in-patient care in a medical facility or continuing treatment by a health care provider); and
- (4) Because of a serious health condition that makes the employee unable to perform the functions of his/her job.

(c) The maximum of twelve (12) work weeks unpaid leave is allowed. All benefits, other than compensation, shall remain in effect during the twelve (12) work weeks unpaid leave, but shall not accrue during any unpaid leave.

(d) The eligible employee shall substitute all earned personal and vacation leave for all or part of the unpaid leave provided for in subsections (b)(1) through (4) herein. Earned sick leave shall be substituted for all or part of the unpaid leave provided for in subsections (b)(3) and (b)(4) herein but under no condition shall the paid or unpaid leave combined exceed twelve (12) work weeks.

- (1) Exception: Civil service employees may elect to substitute all earned sick leave for all or part of the unpaid leave provided for in subsection (b)(1) to (4) hereof. (Ord. 2004-173. Passed 11-4-04.)

(e) Most eligible employees will be restored to the position of employment held by the employee when the Family and Medical Leave Act leave commenced or be restored to an equivalent position with equivalent employment benefits, pay and other terms and conditions.

Denial of the restoration to the same or equivalent position to a highly compensated salaried employee (in the top ten percent (10%) of employees) will be permitted where the denial is necessary to prevent substantive and grievous economic injury to the operations of the City. The employee will be notified by the City of its intent to deny restoration and the basis for denial. (Ord. 1994-235. Passed 11-3-94.)

(f) All eligible employees requesting leave shall do so at least thirty (30) days prior to taking the leave or as soon as they are aware of the need and provide the Law Department with a completed Request for Leave Form. A Response to the Leave Request will be forwarded to the employee to sign as well as the Department director and Mayor. Employees may be requested to report periodically on his/her status during leave period. (Ord. 2004-173. Passed 11-4-04.)

(g) In the case of a serious health condition where the City doubts the validity of the certification of the serious health condition, the City shall request the employee to obtain a second opinion from a health care provider of the City's choice at the City's cost.

(h) Any intermittent or reduced leave schedule requested under subsections (b)(1) or (2) must be mutually agreed to between the employee and the City. Intermittent or reduced leave may be requested under subsections (b)(3) and (4) above when medically necessary. The City may require the employee requesting intermittent or reduced leave to transfer temporarily to an available, comparable alternative position for which the employee is qualified, that better accommodates the requested leave. (Ord. 1994-235. Passed 11-3-94.)

(i) A doctor's release may be required if the employee is returning from leave of one week or longer.

(1) Exception: A release is not required if on intermittent leave. (Ord. 2004-173. Passed 11-4-04.)

(j) Should the employee fail to return to active duty at the expiration of the leave, the employee shall be required to pay the cost of any premium paid by the City to maintain the employee's health coverage during any period of unpaid leave except under the following conditions:

- (1) The continuation, recurrence, or onset of a serious health condition that entitles the employee to leave to care for a child, parent, or spouse with a serious health condition, or if the employee is unable to perform the functions of the position due to his/her own serious health condition; or
- (2) Other conditions beyond the employee's control that prevent him/her from returning to work. (Ord. 1994-235. Passed 11-3-94.)

(k) "Work week", as used herein, means Sunday through Saturday, and not work days. The fact that a holiday may occur within the work week taken as FMLA Leave has no effect; the week is counted as a week of FMLA Leave. The twelve month period shall be calculated based on a fixed twelve month leave year beginning on the employee's anniversary date. (Ord. 2004-173. Passed 11-4-04.)

167.21 INDEMNIFICATION OF CITY OFFICIALS AND EMPLOYEES.

(a) Council declares that it is the policy of the City to indemnify all elected and appointed officials and employees of the City in their official capacities from any claim of liability for loss to persons or property or damage for injury or death as a result of any good faith act or omission of the officer or employee within the scope of their official duties or responsibilities.

(b) This section does not extend the City's power of indemnification beyond what is permitted in the Ohio Revised Code.

(c) All claims of liability must first be processed through the City's insurance carrier for coverage determinations. (Ord. 1996-102. Passed 7-9-96.)

167.22 WAGE CONTINUATION PLAN.

Should a non-bargaining unit employee have an injury while performing his duties and be certified by a qualified medical provider that he is medically unable to work, the employee may, at his option, enter into a wage continuation agreement with the City. The wage agreement will allow the employee to continue to receive his regular rate of pay and benefits without charge to leave time, in lieu of the State of Ohio Bureau of Worker's Compensation loss time benefits, up to a maximum of sixty work days per injury, and maximum of 360 work days in the employee's lifetime service with the City. In order to qualify for a Wage Continuation Plan, the injury must have resulted in a minimum of five scheduled work days in which the employee was certified by a qualified medical provider as being unable to work. The employee must also apply for and receive an allowed medical-only claim from the Bureau of Worker's Compensation for the specific on-the-job injury.

If the employee enters into a wage continuation plan and the injury is subsequently denied by the Industrial Commission of Ohio, and the employee has exhausted all appeals, then the employee must reimburse the time advanced to the employee through the use of accrued and/or future benefit hours, including sick time, vacation time and personal hours. (Ord. 2004-13. Passed 2-19-04.)

167.23 EMPLOYEE INCENTIVE PROGRAM.

There is hereby created an Employee Incentive Program whereby the City will pay the sum of fifty dollars (\$50.00) per month to all full-time employees not represented by a collective bargaining agreement, the Mayor, Directors and Civil and Criminal Assistant Law Directors who have not missed more than one (1) hour in a stated one (1) month period other than for a funeral for the immediate family, as described in Section 167.04(b), scheduled vacation or personal time. The first one (1) month period as set forth hereunder shall begin with the first day of September, 2004, and payments provided for hereunder shall be made quarterly beginning in December, 2004. (Ord. 2004-128. Passed 9-16-04.)

167.24 DIRECTOR INCENTIVE AWARD PROGRAM.

There is hereby created a Director Incentive Program for the directors of various departments, the assistant directors, other senior administrative personnel as designated by the Mayor, the Police and Fire Chiefs, and supervisory Council staff members for the purpose of rewarding outstanding performance and innovative ideas by those employees which contribute significantly to the improvement of services to the residents of the City. The Mayor or the President of Council, as appropriate, are authorized to make such individual awards as they may determine are appropriate, subject only to the limit established by Council for the total of all such awards in an amount not to exceed thirteen thousand dollars (\$13,000) or in an amount as may be annually established by resolution of Council. (Ord. 2002-14. Passed 2-21-02.)

167.25 LIFE INSURANCE.

The City will provide each full-time employee of the City not represented by a collective bargaining agreement, the Mayor, Directors and Civil and Criminal Directors of Law, with term life insurance in the amount of twenty-five thousand dollars (\$25,000).
(Ord. 2004-132. Passed 9-16-04.)

167.26 EMPLOYMENT OF RETIRED GOVERNMENTAL EMPLOYEES.

(a) Henceforth, in regard to the compensation of an elected official who, within one hundred eighty (180) days prior to the filing date for the next general municipal election for the position held by the elected official, retires from the position which he holds and seeks re-election to such position, such compensation shall be reduced on a dollar for dollar basis by the amount of any pension the elected official receives from the Ohio Public Employees Retirement System. If the elected official had made a decision to receive a lump sum distribution from the pension plan, the amount of the reduction shall be what the maximum annual pension amount would have been. (Ord. 2011-52. Passed 6-16-11.)

(b) Henceforth from the date of this section, in regard to the compensation of a newly hired employee who is not a member of a collective bargaining unit and who has retired from employment with any federal, state or local governmental entity and is receiving or has applied for a governmental retirement benefits, such compensation shall be reduced on a dollar for dollar basis by the amount of any pension the employee receives from a federal, state or local governmental entity, excepting social security and military pension payments, unless the compensation reduction is waived in whole or in part as requested by the Mayor and approved by Council. If the newly hired employee had elected to receive a lump sum distribution from the pension plan, the amount of reduction shall be what the maximum annual pension amount would have been. (Ord. 2011-53. Passed 6-16-11.)

(c) Henceforth from the date of this Ordinance, in regard to the hiring of a new employee who will be a member of a collective bargaining unit and who has retired from employment with any federal, state or local governmental entity and is receiving or has applied for governmental retirement benefits other than disability benefits, the hiring of such employee shall only be upon request of the Mayor with the approval of Council.
(Ord. 2011-54. Passed 6-16-11.)

167.99 PENALTY.

Whoever violates any provision of Section 167.02(b) is guilty of a misdemeanor of the first degree.

CHAPTER 169
Community Services Department

169.01 Director appointed; duties.
169.02 Assistant Director.

169.03 Other personnel.

CROSS REFERENCES

Authority to establish - see CHTR. Art. IV, Sec. 1

169.01 DIRECTOR APPOINTED; DUTIES.

The Director of the Community Services Department shall be appointed by the Mayor. Council shall fix the compensation of the Director. The Director shall work forty hours per week at times designated by the Mayor. All time shall be spent at the Community Services Department unless the job requirements require attendance at a place other than the Department. In addition, the Director shall attend, upon the request of the Mayor or the President of Council, meetings such as those of the City Council, Planning Commission, Board of Zoning Appeals, Architectural Standards Board, and meetings or seminars sponsored by State, municipal or Federal organizations, etc.

The Director of the Community Services Department shall possess a license in social work or counseling. The Director shall supervise and exercise control over all employees of the Department. The Director shall be responsible for the planning, development and supervision of all Department programs, activities and services. The Director shall be responsible for the building and grounds of the Westlake Senior Center at Meadowood.
(Ord. 1999-239. Passed 12-2-99; Ord. 2004-2. Passed 1-15-04.)

169.02 ASSISTANT DIRECTOR.

There is hereby established the position of Assistant Director, who shall be a full-time employee appointed by the Mayor. The Assistant Director shall possess a license or be in the process of obtaining licensure in social work or counseling. The Assistant Director shall be in the unclassified service of the City pursuant to Charter IV, Section 12.

The duties of the Assistant Director shall include assisting the Director of the Community Services Department in the professional and administrative functions of the Department. The Assistant Director shall perform the duties of the Director in his/her absence. The compensation to be paid to the Assistant Director shall be established by separate ordinance of Council. The Assistant Director shall perform other such duties as may be assigned by the Mayor and/or the Director of the Community Services Department.

(Ord. 1999-239. Passed 12-2-99; Ord. 2004-2. Passed 1-15-04.)

169.03 OTHER PERSONNEL.

The following additional positions are hereby established and shall be in the unclassified service of the City pursuant to Charter IV, Section 12(c):

Two (2) Program/Activity Planners - Full-time
Program/Activity Planners - Part-time
Transportation Coordinators - Part-time
Office Clerks - Part-time
Maintenance Persons - Part-time
Driver - Full-time
Drivers - Part-time
Youth Coordinator - Part-time

(Ord. 2007-88. Passed 7-5-07.)

The compensation for all positions included herein shall be established by separate ordinance of Council and the job descriptions for each position kept on file in the Community Services Department.

(Ord. 1999-239. Passed 12-2-99; Ord. 2004-2. Passed 1-15-04.)

CHAPTER 171
Litter Control Board

171.01 Duties; members.

171.02 Grant Program Manager.

CROSS REFERENCES

Removal of litter - see Ohio R.C. 731.51 et seq.

Litter control - see Ohio R.C. Ch. 1502

Littering prohibited - see GEN. OFF. 521.04

171.01 DUTIES; MEMBERS.

(a) There is hereby established a Litter Control Board whose duties include but are not limited to the following to:

- (1) Provide recommendations and direction to the administration of the City in developing program goals and objectives.
- (2) Make recommendations concerning the selection of a Grant Program Manager.
- (3) Advise the administration of the City concerning the implementation of the program.
- (4) Provide an opportunity for public input into the grant application and program development process.

All of the foregoing shall be done consistent with the applicable sections of Ohio R.C. Chapter 1501 and any amendments thereto.

(b) The local Litter Control Board shall consist of five members who shall serve without compensation for a period of three years:

- (1) Mayor;
- (2) Chief of Police;
- (3) Either the Superintendent of Schools or any assistant Superintendent of Schools;
- (4) Two members from the public appointed by the Mayor who shall, as nearly as possible, represent such interests as industry, labor, commerce, agriculture and conservation.
(Ord. 1982-109. Passed 9-2-82.)

171.02 GRANT PROGRAM MANAGER.

(a) There is hereby established the position of Manager for the Litter Control Grant Program.

(b) The Manager for the Litter Control Grant Program shall be a temporary employee in the non-competitive classified service whose duties shall be as directed by the Mayor and the Litter Control Board, including but not limited to the following; to:

- (1) Carry out the duties as directed by the Implementation Grant.
- (2) Have the ability to provide awareness of program requirements and educational tools to the school boards and various age groups.
- (3) Provide administrative functions in accordance with program requirements, including budgeting, expenditures, support items, including quarterly progress report data.
- (4) Be responsible for all activities relative to "Clean Up Ohio Day" and other functions of this type.
- (5) Provide assistance to the Grants Coordinator in developing the 1984 grant application in accordance with program baseline data and the community's selected activities.
- (6) Have typing ability.
- (7) Assist the Board in providing technical data in support of program requirements and grant conditions.
- (8) Assist the Board in developing a comprehensive multi-year litter control program.
- (9) Carry out the requirements of the Litter Control Board as far as other program functions, including containment, recycling and contract removal.
- (10) Assist the Board in coordinating law enforcement efforts to develop ordinances consistent with Ohio law.

(c) The Litter Control Program Manager shall be compensated in an amount designated by the Mayor and approved by Council.
(Ord. 1983-56. Passed 6-2-83.)

CHAPTER 173
Juvenile Diversion Commission

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| 173.01 Establishment.
173.02 Powers and duties.
173.03 Rules and regulations. | 173.04 Magistrate; appointment and duties.
173.05 Records. |
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CROSS REFERENCES

Authority to establish - see CHTR. Art. IV, Sec. 1
 Notice of public meetings - see CHTR. Art. XI, Sec. 10;
 ADM. Ch. 109

173.01 ESTABLISHMENT.

There is hereby established a Juvenile Diversion Commission which shall consist of five members, all residents for the City, and appointed by the Mayor with confirmation by a majority of the members of Council provided for in the Charter. Each member shall serve for a term of two years. Further, the Chief of Police shall appoint one police officer as Advisory Officer who shall serve as personal representative of the Mayor at the pleasure of the Mayor. Any vacancy shall be filled in the same manner as for an original appointment.
 (Ord. 2000-169. Passed 12-7-00.)

173.02 POWERS AND DUTIES.

The Juvenile Diversion Commission shall meet as necessary, at least once a month, for the purpose of hearing cases referred to it by the Division of Police.
 (Ord. 2000-169. Passed 12-7-00.)

173.03 RULES AND REGULATIONS.

A chairperson shall be elected by a majority vote of the members of the Juvenile Diversion Commission at the first meeting of each calendar year. Consistent with the purpose and intent of the powers and duties set forth in this chapter, the Commission shall adopt procedural rules and regulations including, but not limited to, the Rules and Regulations of the Cuyahoga County Juvenile Court Community Diversion Program.
 (Ord. 2000-169. Passed 12-7-00.)

173.04 MAGISTRATE; APPOINTMENT AND DUTIES.

The Mayor shall recommend, for appointment by the Cuyahoga County Juvenile Court, at least one Magistrate to serve with the Juvenile Diversion Commission. The court-appointed Magistrate shall be an attorney in good standing with the Supreme Court of the State of Ohio and shall serve at the pleasure of the Mayor and the Cuyahoga County Juvenile Court. The Magistrate shall hear cases referred to him by the Cuyahoga County Juvenile Court. The Magistrate shall conduct such hearings in a manner consistent with the Rules and Regulations of the Cuyahoga County Juvenile Court Community Diversion Program.
(Ord. 2000-169. Passed 12-7-00.)

173.05 RECORDS.

All records generated by the Community Diversion Program, the Magistrate and the Commission shall be kept by the Westlake Police Department and in accordance with applicable law and juvenile court rules.
(Ord. 2000-169. Passed 12-7-00.)

CHAPTER 177
Westlake Tree Commission

177.01	Establishment.	177.04	Powers and duties.
177.02	Term of office.	177.05	Operation.
177.03	Compensation.		

CROSS REFERENCES

Authority to establish - see CHTR. Art. IV, Sec. 1
Notice of public meetings - see CHTR. Art. XI, Sec. 10;
ADM. Ch. 109
Trees and weeds - see S.U. & P.S. Ch. 949
Tree regulations - see P. & Z. Ch. 1137

177.01 ESTABLISHMENT.

There is hereby established a Westlake Tree Commission which shall consist of five members, all residents of the City, and appointed by the Mayor with confirmation by a majority of the members of Council as permitted by Article IV of the Charter. The Director of Public Service and the City Forester shall be Ex-Officio members of the Westlake Tree Commission and shall attend the Commission meetings. (Ord. 1992-181. Passed 11-19-92.)

177.02 TERM OF OFFICE.

The term of the members shall be two years, except that the term of two of the members appointed to the first Commission shall be for only one year. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed in the same manner as for an original appointment. A member may be removed by the Mayor with the consent of Council. (Ord. 1992-181. Passed 11-19-92.)

177.03 COMPENSATION.

Members of the Westlake Tree Commission shall serve without compensation. (Ord. 1992-181. Passed 11-19-92.)

177.04 POWERS AND DUTIES.

The Westlake Tree Commission shall meet as necessary to study, investigate, develop, update annually and oversee the administration of a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and other public areas. Such plans shall be submitted to the Director of Public Service and the City Forester for review and approval. Thereafter, the plans shall be presented annually to Council and, upon acceptance and approval by Council, shall constitute the official Comprehensive City Tree Plan for the City. The Westlake Tree Commission, when requested by Council or the Mayor, shall make a study and report its findings and recommendations on any special question coming within the scope of its work. Additionally, the Westlake Tree Commission may advise and consult with the Director of Public Service and the City Forester as to issues of administration of the Comprehensive Tree Plan. (Ord. 1992-181. Passed 11-19-92.)

177.05 OPERATION.

The Westlake Tree Commission shall choose its own officers, make its own rules and regulations and keep a record of its proceedings. Except to the extent that the rules and regulations adopted by the Westlake Tree Commission are in conflict therewith, the Westlake Tree Commission shall conduct its affairs in accordance with Robert's Rules of Order. (Ord. 1992-181. Passed 11-19-92.)

CHAPTER 179
Records Commission

179.01 Establishment.
179.02 Functions.

179.03 Compensation.

CROSS REFERENCES

Authority to establish - see CHTR. Art. IV, Sec. 1
Custody of City documents and records - see ADM. 123.03
State law provisions - see Ohio R.C. 149.39

179.01 ESTABLISHMENT.

There is hereby established a Records Commission composed of the Mayor, as Chairman, the Finance Director, the Law Director, the Director of Engineering and one municipal officer or citizen named by the Mayor. The Commission shall appoint a secretary, who may or may not be a member of the Commission and who shall serve at the pleasure of the Commission. The Commission may employ an archivist to serve under its direction.
(Ord. 1992-180. Passed 1-21-93.)

179.02 FUNCTIONS.

(a) The function of the Records Commission shall be to review records and disposal lists submitted by the municipal offices and to develop and implement a records disposal program. The disposal lists shall contain those records which have been microfilmed or no longer have administrative, legal or fiscal value to the City or citizens. Such records may be disposed by the Commission pursuant to procedure hereinafter outlined.

(b) The Records Commission shall approve all one-time records disposal (RC-1 Forms) and schedules of records retention and disposition (RC-2 Forms) in an open meeting under Ohio R.C. 121.22. Such forms shall be signed by the Mayor as Chairman of the Commission and sent, together with lists of municipal records approved for disposal, to the Ohio Historical Society to determine if any of the records are of continuing historical value. The Ohio Historical Society shall then forward the same to the Auditor of State for approval.

(c) When City records have been approved for a one-time records disposal or a schedule of records retention is initially approved by the Records Commission, the Ohio Historical Society shall be informed and shall be given an opportunity, for a period of sixty days, to select, for its custody or disposal, such public records as it considers to be of continuing historical value. If the Auditor of State disapproves of the action by the Commission, in whole or in part, he or she shall so inform the Commission within a period of sixty days, and such records shall not be destroyed.

(d) A properly approved schedule of records retention (RC-2 Form) shall constitute continuing authority to dispose of records when the schedule retention period has expired. The Commission may at any time review any schedule it has previously approved, and for good cause shown may revise that schedule.

(e) Prior to actual disposal of any records, a certificate of records disposal (RC-3 Form) shall be sent to the Ohio Historical Society and then to the Auditor of State a minimum of fifteen business days before the proposed disposal or destruction date.
(Ord. 2004-88. Passed 6-17-04.)

179.03 COMPENSATION.

The Mayor, Finance Director, Law Director and Director of Engineering shall receive no additional compensation for serving on the Records Commission. The other member of the Commission shall serve at the pleasure of the Mayor and shall receive no compensation for such service.

(Ord. 1992-180. Passed 1-21-93.)

CHAPTER 181 Travel Expenses

EDITOR'S NOTE: Pursuant to Ordinance 2010-23, the provisions of Chapter 181, Travel Expenses, which authorize the expenditure of City funds for travel are hereby temporarily suspended for the calendar year 2010, for all out of town travel, including attendance at seminars, meetings, conferences and similar events. The suspension includes not only attendance fees for the event, but also, mileage, meals, lodgings and other miscellaneous living expenses associated with out of town travel. "Out of town travel" means travel by any method to a location in excess of 150 miles outside of the limits of the City of Westlake or to a location which requires an overnight stay.

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| <p>181.01 Reimbursement of travel expenses.</p> <p>181.02 Reimbursement for meal expenses.</p> <p>181.03 Reimbursement of lodging expense.</p> | <p>181.04 Reimbursement of miscellaneous living and business expenses.</p> <p>181.05 Reimbursement for conferences, including seminars and workshops.</p> <p>181.06 Knowingly making false statement.</p> |
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181.01 REIMBURSEMENT OF TRAVEL EXPENSES.

- (a) Authority for Travel.
- (1) In City. All travel within the City must be necessary for carrying out normal City functions.
 - (2) Out of City. All travel outside of the City requires the prior approval of the department head.
 - (3) Travel to seminars, workshops and conferences. Travel to seminars, workshops and conferences requires the prior approval of the department head.
- (b) Reimbursement for Travel.
- (1) Except as provided in the next paragraph, travel will be reimbursed using the travel expense report. The report must be signed by the employee and approved by the department head.
 - (2) Reimbursement for mileage and associated parking fees can be submitted using the request for mileage reimbursement. The report must be signed by the employee and approved by the department head.
- (c) Transportation Expenses.
- (1) Travel by City-owned vehicle. Travel by a City-owned vehicle is encouraged for all trips. Reimbursement is authorized for incurred expenses necessary to the efficient and safe operation of the vehicle. This includes reimbursement for gasoline and oil, if a City credit card is not available.

- (2) Travel by privately owned vehicle. Travel by a privately owned vehicle is authorized only if the owner is insured under a policy of liability insurance that provides for a minimum \$12,500 because of injury to or death of one person, \$25,000 because of injury to or death of two or more persons, and \$7,500 because of injury to property of others in any one accident. Reimbursement is authorized at the rate allowed by the Internal Revenue Service for tax purposes. No reimbursement shall be allowed for mileage commuting to and from the place of residence to work. No reimbursement shall be allowed for travel between the offices and facilities physically located within the limits of the City.
Individuals receiving a mileage allowance shall only be reimbursed for mileage involving approved travel out of the City of Westlake except inspectors who may use their personal vehicles for City inspections within the City limits.
- (3) Travel by common carrier. Travel by common carrier is authorized at the lowest available regular rate. Employees are encouraged to take advantage of super saver fares for air travel. If a super saver is only available if travel is started one day early, or requires the stay of one extra day, travel for the additional day is authorized provided that the savings in fare offsets the lodging cost of the extra day.
- (4) Car rental. Reimbursement is authorized for car rental only if car rental is more economical than any other mode of transportation or if the employee's destination is not easily accessible by any other available mode of transportation. Advance approval for car rental is required.
- (5) Miscellaneous transportation expenses. Reimbursement is authorized for parking charges, road tolls and other reasonably incurred transportation expenses directly related to authorized travel. These expenses shall be listed separately on the travel expense report.
- (6) Required receipts for transportation expenses. Detailed itemized receipts are required for all service expenses incurred in connection with the operation of City-owned vehicles; all common carrier expenses; and all miscellaneous transportation expenses exceeding ten dollars (\$10.00). An exception to the receipt requirement shall be allowed where a receipt is normally not available, such as a toll road, metropolitan bus, taxicab, ferry and subway. (Ord. 2001-178. Passed 12-20-01.)

181.02 REIMBURSEMENT FOR MEAL EXPENSES.

(a) Meal Expenses for Travel. Except for conference and business meals that are described below, meals will be reimbursed only when overnight lodging is required. Reimbursements for meals, including a fifteen percent (15%) tip, for overnight travelers is authorized at a maximum of sixty dollars (\$60.00) per day. The sixty dollars (\$60.00) shall be allocated as follows:

- (1) Fifteen dollars (\$15.00) for breakfast;
- (2) Fifteen dollars (\$15.00) for lunch; and
- (3) Thirty dollars (\$30.00) for dinner.

Detailed itemized receipts are required for meals only if the cost exceeds ten dollars (\$10.00). There shall be no reimbursement for alcohol and/or alcoholic beverages. (Ord. 2009-91. Passed 7-16-09.)

(b) Conference Meals. If the registration fee for a conference includes meals, the maximum reimbursement rate shall be reduced as follows:

- (1) By fifteen dollars (\$15.00), if breakfast is included;
- (2) By fifteen dollars (\$15.00), if lunch is included;

- (3) By thirty dollars (\$30.00), if dinner is included;
- (4) If more than one meal is included, the appropriate amounts shall be deducted from the daily rate.

(c) Business Meals. Reimbursement is authorized for the cost of business meals and a fifteen percent (15%) tip, including the cost of attending functions of professional organizations.

(d) Meals in High Cost Areas. If travel is required to high cost areas, such as the east coast, Washington D.C., Chicago, Los Angeles, Atlanta, etc. the full day reimbursement rate shall be increased as approved by the Mayor.

Requests for a higher maximum daily rate must be approved by the Mayor prior to travel. (Ord. 2001-178. Passed 12-20-01.)

181.03 REIMBURSEMENT OF LODGING EXPENSE.

It is expected that an employee will use accommodations appropriate to the nature of the business trip and consistent with the employee's normal standard of living.

Lodging required by approved travel shall be provided at a rate not in excess of single room rate, regardless of the room actually occupied, except when two or more employees are traveling together.

Detailed itemized receipts are required for all lodging expenses. (Ord. 2001-178. Passed 12-20-01.)

181.04 REIMBURSEMENT OF MISCELLANEOUS LIVING AND BUSINESS EXPENSES.

(a) Reimbursement is authorized for reasonable miscellaneous living expenses including laundry, dry cleaning, postage and other expenses, if the employee is in travel status for more than one week including a weekend.

(b) Reimbursement for business telephone expenses and other business expenses is authorized regardless of the length of stay. Reimbursement is authorized for one personal telephone call for each day of travel, subject to the approval of the Mayor.

(c) Miscellaneous living and business expenses shall be listed separately on the travel expense report. Employees are encouraged to use the City credit card for such expenses.

(d) Detailed itemized receipts are required for miscellaneous living and business expenses, including gratuities for porter, housekeeping, taxi, etc., exceeding ten dollars (\$10.00). (Ord. 2001-178. Passed 12-20-01.)

181.05 REIMBURSEMENT FOR CONFERENCES, INCLUDING SEMINARS AND WORKSHOPS.

Reimbursement is authorized for conference registration fees and conference expenses as follows:

- (a) Registration Fees. Conference registration fees may be paid directly by the City in advance of the conference. If the registration fee includes any meals, the traveler shall not be reimbursed for those same meals as provided under Section 181.02(a) and (b).
- (b) Conference Meals. Meals that are not included in the registration fee but are an integral part of the conference may be reimbursed at actual cost provided the cost was approved on the travel request. Meals are considered an integral part of the conference when the meals are provided as an organized group activity for all conference participants.

- (c) Conference Lodging. Lodging at the conference site may be authorized at actual cost, providing the cost was shown on the travel request. Reimbursement for lodging includes taxes, if the hotel will not accept the City's tax-exempt registration number. Employees should request that the tax be waived, if possible.
- (d) Required Receipts for Conference Expenses. Detailed itemized receipts are required for conference registration fees, conference meals not included in a registration fee and conference lodging.
- (e) Mileage Reimbursement. Mileage reimbursement to and from the conference to work is authorized. If the employee goes to a conference directly from his/her residence, mileage reimbursement is authorized only for the mileage that exceeds the distance required to commute from the residence to work. For example, if an employee who lives six miles from work drives ten miles to a conference, the employee will be reimbursed for four miles. If the mileage to or from a conference is less than the mileage to or from work, there will be no reimbursement.
(Ord. 2001-178. Passed 12-20-01.)

181.06 KNOWINGLY MAKING FALSE STATEMENT.

Knowingly submitting any substantially false claim for reimbursement under this chapter shall be grounds for disciplinary action which may include termination of employment.
(Ord. 2001-178. Passed 12-20-01.)

CHAPTER 183
Equipment, Services and Personnel Policies

183.01	Policy on use of City cell phones.	183.05	Use of computers and internet.
183.02	Policy on use of City credit cards.	183.06	Use of the City's internet access.
183.03	Policy on use of City vehicles.	183.07	Reward points.
183.04	Frequent flyer miles.	183.99	Penalty.

183.01 POLICY ON USE OF CITY CELL PHONES.

(a) Cell phones are provided based on authorization of the Mayor to certain City employees for use for public business in the interest of the citizens of Westlake.

(b) The Mayor shall establish a system that requires directors or department heads to regularly review users so that designated employees demonstrate a need for cellular phones to increase efficiency and effectiveness in serving the public.

(c) The Mayor shall establish a system where department heads review as appropriate cellular phone bills to ensure their use in accordance with this section.

(d) Employees assigned cell phones shall reimburse the City for any personal calls where those calls cause the City's bill for that phone to be increased as a consequence of exceeding allocated free minutes on the plan, roaming charges, long distance charges, and any other charges above and beyond the regular monthly service charge for such phone. Personal use of a cell phone is not prohibited but use exceeding de minimus use or that causes additional costs above and beyond the regular monthly service charge shall be reimbursed to the City by the employee. (Ord. 2004-121. Passed 9-2-04.)

183.02 POLICY ON USE OF CITY CREDIT CARDS.

(a) A City credit card is to be used for expenses related to the business of the City of Westlake only.

(b) No personal expenses shall be charged to the City credit card and should an accidental charge of a personal expense occur, the employee shall immediately notify the Director of Finance and make arrangements for reimbursement together with such notification. (Ord. 2004-121. Passed 9-2-04.)

183.03 POLICY ON USE OF CITY VEHICLES.

(a) The Mayor shall establish a policy for the use of City vehicles which shall include, but not be limited to, all the components set forth below and shall determine where such vehicles are assigned and what uses are permitted.

(b) Categories of use:

- (1) Twenty-four (24) hour use authorized: Twenty-four (24) hour use of City vehicles shall be authorized for the Mayor, the Chief of Police, the Chief of Fire, and the Director of Public Service. In addition to the previous positions, the Mayor shall be authorized to designate such other individuals entitled to this use as may be consistent with the IRS Code and Regulations.
- (2) Home to City Hall use: Individuals designated in this category by the Mayor shall be entitled to drive City vehicles from City Hall to their place of residence with the authority to make short temporary stops on the way to and from City Hall. Upon reaching their place of residence, the vehicle shall not be used until returning to City Hall on the next work day.
- (3) Use from City Hall or Auto Pool: This use shall permit employees designated to pick up a City vehicle from City Hall or a pool of vehicles for use during their scheduled work day, including overtime and emergency response activities, and to return such vehicle to the place of origin at the conclusion of their work activity. De minimus personal use during the work day is permitted incidental to business use.

(c) The Mayor is hereby authorized to establish use categories and assignments for use of vehicles as may be required to carry into effect the purpose and intent of this provision of the Codified Ordinances. (Ord. 2004-121. Passed 9-2-04.)

183.04 FREQUENT FLYER MILES.

It is hereby declared that frequent flyer travel rewards points accumulated on two or less air trips per year is de minimus and no action need be taken by the employee. In the event that an employee travels more than two (2) times per where they would acquire frequent traveler rewards points, they will arrange for central pooling of those points if it is possible to do so. If such central pooling cannot be accomplished, the employee is directed not to identify a frequent reward program on that travel reservation so as to personally accumulate such points. (Ord. 2004-121. Passed 9-2-04.)

183.05 USE OF COMPUTERS AND INTERNET.

(a) Computers, fax machines, electronic mail and internet access are provided for the conduct of public business and no commercial use thereof is permitted.

(b) De minimus personal use of City computers for faxes, internet access for email and other such uses are permitted but must not interfere with the employee's conduct of their daily business. The employee shall insure that the City incurs no cost or expense as a result of personal use of any such equipment. (Ord. 2004-121. Passed 9-2-04.)

183.06 USE OF THE CITY'S INTERNET ACCESS.

(a) Use of the City's internet access to visit adult sites, gambling sites or other similar web sites is absolutely prohibited and may result in discipline including termination.

(b) Use of email or internet activity is not personal, confidential or subject to any privacy consideration. All internet and email activity shall avoid offensive conduct, demeaning or disruptive conduct and activity that is inconsistent with the City's Equal Employment and Workplace and Harassment Policies.

(Ord. 2004-121. Passed 9-2-04.)

183.07 REWARD POINTS.

It is hereby declared that all commercial reward points accumulated in conjunction with City funded purchases will be centrally pooled if it is possible to do so. If such central pooling cannot be accomplished, the employee is directed not to use their reward card when the purchase is being made so as to personally accumulate such points.

(Ord. 2007-113. Passed 7-5-07.)

183.99 PENALTY.

Knowingly or intentionally violating any provision contained herein shall be grounds for disciplinary action which may include termination of employment.

(Ord. 2004-121. Passed 9-2-04.)

CHAPTER 185
Westshore Central Dispatch Center

185.01 Establishment and composition; probationary period.
185.02 Clothing issuance.
185.03 Original hires; physical and age requirements.

185.04 Hearing and physical examinations.
185.05 Powers and duties of the Supervisor; Acting Supervisor.

185.01 ESTABLISHMENT AND COMPOSITION; PROBATIONARY PERIOD.

(a) There is hereby established the Westshore Central Dispatch Center as a department reporting to the Westshore Council of Governments and administratively under the control of the City of Westlake to provide fire and emergency medical services (EMS) dispatch for the Cities of Bay Village, Fairview Park, Rocky River, Westlake and any other cities which may elect to join pursuant to the Westshore Council of Governments' cooperative agreement authorized pursuant to Ordinance 2004-115.

Funds will be established and held by Westshore Council of Governments to collect operating funds from participating cities and pay for the cost of operation, maintenance, initial equipment and other needs to continue and maintain the daily operations of the center and any other costs as may be necessary for the efficient operation of the center.
(Ord. 2005-132. Passed 9-15-05.)

(b) The Westshore Central Dispatch Center shall consist of such personnel as set forth herein:

- (1) One Supervisor.
 - (2) One Assistant Supervisor.
 - (3) Up to three Senior Dispatchers, who shall be appointed by the Supervisor from the general full-time dispatcher pool.
 - (4) Up to ten Full-time Dispatchers.
 - (5) Up to ten Part-time Dispatchers.
- (Ord. 2005-146. Passed 10-20-05.)

(c) Members of the Westshore Central Dispatch Center shall receive the compensation determined by the Westshore Council of Governments and as established by ordinance of the City of Westlake. The Supervisor and the Assistant Supervisor shall be subject to call for the performance of duties of their positions on a twenty-four hour per day basis. If the Supervisor or Acting Supervisor declares a General Emergency, every member shall be subject to call for the performance of duties of his/her position on a twenty-four hour per day basis.

(d) Active full-time and part-time dispatchers shall be hired for a probationary period of twenty-four months.

(e) The Supervisor, Assistant Supervisor and all dispatchers shall be certified Emergency Medical Dispatchers and shall maintain such certification during the entire length of their employment. Pursuant to department policies and procedures as established by the Supervisor, the requirement to maintain the emergency medical dispatch certification may be waived for a specified period by the appointing authority.
(Ord. 2005-132. Passed 9-15-05.)

185.02 CLOTHING ISSUANCE.

Each member of the Westshore Central Dispatch Center who is hired will be issued his initial set of uniforms. Uniform items will be replaced as needed at the discretion of the Supervisor.

Any member who resigns or is terminated before the end of his first year with the Westshore Central Dispatch Center will be charged in his final paycheck an amount equivalent to purchase price of the uniforms initially issued. Any member who resigns or is terminated before the end of probationary period but after completing his first year with the Westshore Central Dispatch Center will only be charged for any replacement clothing issued during employment.
(Ord. 2005-132. Passed 9-15-05.)

185.03 ORIGINAL HIRES; PHYSICAL AND AGE REQUIREMENTS.

(a) All original hires or promotions hereafter made in the Westshore Central Dispatch Center, shall be made in a manner provided by the Westshore Council of Governments' agreement and the Charter, ordinances and employment policies of the City of Westlake.

(b) Hiring may be made conditioned upon certification by a licensed physician acceptable to the appointing authority that the duties of the position to which he may be hired and is capable of performing will not render him a substantial physical risk in such a position. No person shall be eligible for an original hire unless he has attained the age of eighteen years.
(Ord. 2005-132. Passed 9-15-05.)

185.04 HEARING AND PHYSICAL EXAMINATIONS.

A hearing and physical examination shall be required of all members of the Westshore Central Dispatch Center upon promotion to a higher position. The Supervisor or Appointing Authority may require a member of the Westshore Central Dispatch Center to undergo a physical examination at any other reasonable time, for the purpose of determining if such member's physical or related bodily condition will enable him to continue as a member of the Westshore Central Dispatch Center. (Ord. 2005-132. Passed 9-15-05.)

185.05 POWERS AND DUTIES OF THE SUPERVISOR; ACTING SUPERVISOR.

(a) The Supervisor shall oversee the Westshore Central Dispatch Center, and shall devote his full time to the duties of such office. He shall be on active duty in performance of the duties of his office not less than forty hours per week, subject to lawful vacations and sick leaves, and shall remain on call for the performance of the duties of his office on a twenty-four hour per day basis. In addition, the Supervisor shall also attend meetings, upon the request of the Mayor, President of Council, or Westshore Council of Governments, including, but not limited to, Council, Committee, Westshore Council of Governments and meetings or seminars sponsored by state, municipal or federal organizations.

During any period of absence or the inability of the Supervisor to perform his duties while on vacation or sick leave or for other proper reason, the Assistant Supervisor shall exercise the authority of the Supervisor as Acting Supervisor.

The Supervisor shall have such authority as is necessary for the efficient discharge of the duties of the Westshore Central Dispatch Center. The Supervisor shall make, alter and promulgate all rules and regulations, policies and procedures with respect to and governing the Center as it is established herein. Such rules and regulations, policies and procedures shall not be repugnant to any agreements of the Westshore Council of Governments, or Local, State or Federal laws. (Ord. 2005-132. Passed 9-15-05.)

**TITLE SEVEN - Judicial
Chap. 189. Municipal Court.**

**CHAPTER 189
Municipal Court**

EDITOR'S NOTE: There are no sections in Chapter 189. This chapter has been established to provide a place for cross references and any future legislation. The provisions of Ohio R.C. 1901.01 established a Municipal Court for the City of Rocky River which has jurisdiction within the corporate limits of Westlake. The powers and duties of the Court are as provided in Chapter 1901 of the Ohio Revised Code.

CROSS REFERENCES

Power to establish schedule of fees and costs - see Ohio
R.C. 1901.26
Bond for Court Clerk - see Ohio R.C. 1901.31(d)
Bond for Bailiff - see Ohio R.C. 1901.32(A)
Record of traffic violations - see Ohio R.C. 4513.37

TITLE NINE - Taxation

- Chap. 191. Admissions Tax.
 Chap. 193. Earned Income Tax.
 Chap. 195. Excise Tax on Hotel Accommodations.
 Chap. 197. Motor Vehicle License Tax.

**CHAPTER 191
 Admissions Tax**

191.01	Definitions.	191.05	Certificate of Registration; fee, term and posting.
191.02	Amounts to be levied.	191.06	Temporary amusement; Certificate and joint liability.
191.03	Admissions exempt from tax.	191.07	Rules and regulations.
191.04	Tax collection and remittance; liability and delinquency.	191.99	Penalty.

CROSS REFERENCES

Power to levy - see CHTR. Art. VI, Sec. 3
 Department of Finance - see ADM. Ch. 135
 Earned income tax - see ADM. Ch. 193

191.01 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

- (a) "Admission charge," in addition to its usual and ordinary meaning, includes a charge made for season tickets or subscriptions, a cover charge or a charge made for use of seats and tables, reserved or otherwise, and similar accommodations; a charge made for food and refreshments in any place where any free entertainment, recreation or amusement is provided; a charge made for rental or use of equipment or facilities for purposes of recreation or amusement, and where the rental of the equipment or facilities is necessary to the enjoyment of the privileges for which a general admission is charged, the combined charge shall be considered as the admission charge; and a charge made for parking where the amount of the charge is determined according to the number of passengers in a vehicle.

- (b) "Director of Finance" means the Director of Finance of the City.
- (c) "Place" includes, but is not restricted to, theatres, dance halls, amphitheatres, auditoriums, stadiums, athletic pavilions and fields, baseball and athletic parks, circuses, sideshows, swimming pools, outdoor amusement parks and such attractions as merry-go-rounds, ferris wheels, dodgems, roller coasters and observation towers.
- (d) "Person" means any individual, receiver, assignee, firm, copartnership, joint venture, corporation, company, joint stock company, association, society or any group of individuals acting as a unit, whether mutual, co-operative, fraternal, nonprofit or otherwise.
(Ord 3516. Passed 9-4-47.)

191.02 AMOUNTS TO BE LEVIED.

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

- (a) A tax of three percent on the amounts received for admission to any place, including admission by season ticket or subscription.
- (b) A tax of three percent on the excess of the amounts received for tickets or cards of admission to theatres, operas and other places of amusement, sold at newsstands, hotels and places, other than the ticket offices of such theatres, operas or other places of amusement, over and above the amounts representing the established price therefor at such ticket offices. Such tax shall be returned and paid in the manner provided in Section 191.04 by the person selling the ticket.
- (c) A tax of three percent on the amount received for admission to any public performance for profit at any roof garden, cabaret or other similar entertainment in case the charge for admission is in the form of a service charge or cover charge or other similar charge.
- (d) A tax of three percent on the amount received as annual membership dues by every club or organization maintaining a golf course; and a tax of three percent on greens fees collected by golf courses either under club or private ownership.
(Ord. 3516. Passed 9-4-47.)

191.03 ADMISSIONS EXEMPT FROM TAX.

No tax shall be levied under this chapter with respect to any admission, all the proceeds of which inure:

- (a) Exclusively to the benefit of religious, educational or charitable institutions, societies or organizations, if no part of the net earnings thereof inure to the benefit of any private stockholder or individual.

- (b) Exclusively to the benefit of persons in the military or naval forces of the United States, or of National Guard organizations, reserve officer associations or posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized in the State, and if no part of their net earnings inure to the benefits of any private stockholder or individual.
- (c) Exclusively to the benefit of persons who have served in the armed forces of the United States and are in need.
- (d) Exclusively to the benefit of members of the Police or Fire Departments of any municipal corporation, or the dependents or heirs of such members.
- (e) Exclusively to the benefit of the general revenue fund of the City or exclusively to the benefit of any fund of the City under the control of the Recreation Board.
- (f) Exclusively to the benefit of the Board of Education of the City or any public or parochial school or department thereof.

However, the exemption from the tax as provided by this section shall not be allowed in case of admissions to wrestling matches, prize fights, or boxing, sparring or other pugilistic matches or exhibitions, nor to any institution, society or organization which does not control the sale of the admissions to the event for which exemption is claimed, nor shall any exemption be allowed when talent, services or other items are compensated for on a percentage basis, if such percentage basis results in a payment in excess of the flat rate ordinarily charged for the same talent, services or other items.

(Ord. 1956-72. Passed 4-19-56.)

191.04 TAX COLLECTION AND REMITTANCE; LIABILITY AND DELINQUENCY.

Any person receiving any payment on which a tax is levied under this chapter shall collect the amount of the tax imposed from the person making the admission payment. The tax required to be collected under this chapter shall be deemed to be held in trust by the person required to collect the same until paid to the Director of Finance as herein provided. Any person required to collect the tax imposed by this chapter who fails to collect the same, or having collected the same, fails to remit the same to the Director of Finance in the manner prescribed by this chapter, whether such failure be the result of his own act or acts or conditions beyond his control, shall nevertheless be personally liable to the City for the amount of such tax, and shall, unless the remittance be made as herein required, be guilty of a violation of this chapter.

The tax imposed hereunder shall be collected at the time the admission charge is paid by the person seeking admission to any place and shall be reported and remitted by the person receiving the tax to the Director of Finance in semiannual installments and remittances therefor on or before January 10 and July 10 of each calendar year hereafter, in each case for the six-month prior period in which the tax is collected or received. Payment or remittance of the tax collected may be by check, unless otherwise required by the Director of Finance. Payment by check shall not relieve the person collecting the tax from liability for payment and remittance of the tax to the Director of Finance unless the check is honored and is in the full and correct amount.

The person receiving any payment for admissions shall make out a return upon such forms and setting forth such information as the Director of Finance may require, showing the amount of the tax upon admissions for which he is liable for the preceding semiannual or other tax period, and shall sign and transmit the same to the Director of Finance with a remittance for the amount. The Director of Finance may in his discretion require verified annual returns from any person receiving admission payments, setting forth such additional information as he may deem necessary to correctly determine the amount of tax collected and payable.

Whenever any theatre, circus, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature, of which the Director of Finance shall be the judge, the Director may require the report and remittance of the admissions tax immediately upon the collection of the same, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions, or at such other times as the Director shall determine. Failure to comply with any requirement of the Director of Finance as to report and remittance of the tax as required shall be a violation of this chapter.

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

If the tax imposed by this chapter is not paid when due, there shall be added as part of the tax, interest at the rate of one percent per month from the time when the tax became due until the same is paid.

(Ord. 1956-72. Passed 4-19-56.)

191.05 CERTIFICATE OF REGISTRATION; FEE, TERM AND POSTING.

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

(Ord. 3516. Passed 9-4-47.)

191.06 TEMPORARY AMUSEMENT; CERTIFICATE AND JOINT LIABILITY.

Whenever a Certificate of Registration is obtained for the purpose of operating or conducting a temporary or transitory amusement, entertainment or exhibition by persons who are not the owners, lessees or custodians of the building, lots or place where the amusement is to be conducted, the tax imposed by this chapter shall be reported and remitted as provided in Section 191.04 by the owner, lessee or custodian, unless paid by the person conducting the place. The applicant for a Certificate of Registration for such purpose shall furnish with the application therefor the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted. Such owner, lessee or custodian shall be notified by the Director of Finance of the issuance of the Certificate and the joint liability for collection and remittance of the tax.

(Ord. 3516. Passed 9-4-47.)

191.07 RULES AND REGULATIONS.

The Director of Finance shall have power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied. A copy of the rules and regulations shall be published by posting them for fifteen days in the places designated in Section 123.01(b) before they shall become effective. Copies shall be made available in the office of the Director of Finance. Failure or refusal to comply with any such rules and regulations shall be deemed a violation of this chapter.

Until such time as rules and regulations are promulgated under this section, the rules and regulations of the Department of Taxation, State of Ohio, relating to admission taxes in effect on August 31, 1947, except as the same may conflict with the provisions of this chapter, shall be deemed to be the rules and regulations hereunder.

(Ord. 3516. Passed 9-4-47.)

191.99 PENALTY.

Whoever, being a person charged by this chapter with the duty of collecting or paying the taxes imposed by this chapter, willfully fails or refuses to charge and collect or to pay such taxes, or to make return to the Director of Finance as required by this chapter, or to permit the Director or his duly authorized agent to examine his books and other records in or upon any premises where the same are kept to the extent necessary to verify any return made, or to ascertain and assess the tax imposed by this chapter if no return was made, or to maintain and keep his books and records for three years or such other time as may be required by the Director of Finance, shall be guilty of a minor misdemeanor.

CHAPTER 193
Earned Income Tax

<p>193.01 Purpose.</p> <p>193.02 Definitions.</p> <p>193.03 Administrator.</p> <p>193.04 Association.</p> <p>193.05 Board of Review.</p> <p>193.06 Business.</p> <p>193.07 Corporation.</p> <p>193.08 Employee.</p> <p>193.09 Employer.</p> <p>193.10 Fiscal year.</p> <p>193.11 Gross receipts.</p> <p>193.12 Net profits.</p> <p>193.13 Nonresident.</p> <p>193.14 Nonresident unincorporated business entity.</p> <p>193.15 Person.</p> <p>193.16 Place of business.</p> <p>193.17 Resident.</p> <p>193.18 Resident unincorporated business entity.</p> <p>193.19 Taxable income.</p> <p>193.20 Taxable year.</p> <p>193.21 Taxpayer.</p> <p>193.22 Rate and income taxable.</p> <p>193.23 Effective period.</p> <p>193.24 Method of determination.</p> <p>193.25 Sales made in the City.</p> <p>193.26 Total allocation.</p> <p>193.27 Rentals.</p> <p>193.28 Operating loss carry-forward.</p> <p>193.29 Sources of income not taxed.</p> <p>193.30 When return required to be made.</p> <p>193.31 Form and content of return.</p> <p>193.32 Extension of time for filing returns.</p> <p>193.33 Consolidated returns.</p> <p>193.34 Amended returns.</p> <p>193.35 Payment of tax on filing of return.</p> <p>193.36 Collection at source.</p> <p>193.37 Declarations of income not collected at source.</p> <p>193.38 Filing of declaration.</p>	<p>193.39 Form of declaration.</p> <p>193.40 Payment to accompany declaration.</p> <p>193.41 Annual return.</p> <p>193.42 Interest on unpaid tax.</p> <p>193.43 Penalties on unpaid tax.</p> <p>193.44 Exceptions.</p> <p>193.45 Abatement of interest and penalty.</p> <p>193.46 Violations.</p> <p>193.47 Limitation on prosecution.</p> <p>193.48 Failure to procure forms not excuse.</p> <p>193.49 Unpaid taxes recoverable as other debts.</p> <p>193.50 Refunds of taxes erroneously paid.</p> <p>193.51 Amounts of less than one dollar.</p> <p>193.52 Tax credit.</p> <p>193.53 Claim for credit.</p> <p>193.54 Disbursement of funds collected.</p> <p>193.55 Duty to receive tax imposed.</p> <p>193.56 Duty to enforce collection.</p> <p>193.57 Authority to make and enforce regulations.</p> <p>193.58 Authority to arrange installment payments.</p> <p>193.59 Authority to determine amount of tax due.</p> <p>193.60 Authority to make investigations.</p> <p>193.61 Authority to compel production of records.</p> <p>193.62 Refusal to produce records.</p> <p>193.63 Confidential nature of information obtained.</p> <p>193.64 Taxpayer required to retain records.</p> <p>193.65 Authority to contract for central collection facilities.</p> <p>193.66 Authority of the Administrator.</p> <p>193.67 Duty to approve regulations and to hear appeals.</p> <p>193.68 Right of appeal.</p> <p>193.69 Board of Review established.</p> <p>193.70 Separability.</p> <p>193.71 Collection of tax after termination of chapter.</p> <p>193.99 Penalty.</p>
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CROSS REFERENCES

Power to levy - see Ohio Const. Art. XVIII, Sec. 3; Chtr.
Art. VII, Sec. 3
Municipal income taxes - see Ohio R.C. Ch. 718
Department of Finance - see ADM. Ch. 135
Admissions tax - see ADM. Ch. 191

193.01 PURPOSE.

To provide funds for the purposes of general municipal functions of the City, to pay costs of constructing, improving and repairing streets, roads and highways, storm sewers, storm water retention basins and other drainage facilities and water lines and principal of and interest on bonds and notes issued for any of those purposes and to pay costs of constructing, operating and maintaining the new Recreation Center and parks and other recreational facilities and principal of and interest on bonds and notes issued for any of those purposes, there is hereby levied a tax on all salaries, wages, commissions and other compensations, and on net profits as hereinafter provided. (Ord. 1995-44. Passed 11-16-95.)

193.02 DEFINITIONS.

For the purposes of this chapter, the terms, phrases, words and their derivatives shall have the meanings given in the next succeeding sections. The singular shall include the plural, and the masculine shall include the feminine and the neuter.
(Ord. 1967-63. Passed 6-21-67.)

193.03 ADMINISTRATOR.

"Administrator" means the individual designated by the Mayor to administer and enforce the provisions of the City income tax.
(Ord. 1967-63. Passed 6-21-67.)

193.04 ASSOCIATION.

"Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
(Ord. 1967-36. Passed 6-21-67.)

193.05 BOARD OF REVIEW.

"Board of Review" means the Board created by and constituted as provided in Section 193.69.
(Ord. 1967-63. Passed 6-21-67.)

193.06 BUSINESS.

"Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding however, all nonprofit corporations which are exempt from the payment of Federal income tax.
(Ord. 1967-63. Passed 6-21-67.)

193.07 CORPORATION.

"Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency.
(Ord. 1967-63. Passed 6-21-67.)

193.08 EMPLOYEE.

"Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
(Ord. 1967-63. Passed 6-21-67.)

193.09 EMPLOYER.

"Employer" means an individual, partnership, association, corporation, government body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation.
(Ord. 1967-63. Passed 6-21-67.)

193.10 FISCAL YEAR.

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
(Ord. 1967-63. Passed 6-21-67.)

193.11 GROSS RECEIPTS.

"Gross receipts" means the total income from any source whatever.
(Ord. 1967-63. Passed 6-21-67.)

193.12 NET PROFITS.

"Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners.
(Ord. 1967-63. Passed 6-21-67.)

193.13 NONRESIDENT.

"Nonresident" means an individual domiciled outside the City.
(Ord. 1967-63. Passed 6-21-67.)

193.14 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City.
(Ord. 1967-63. Passed 6-21-67.)

193.15 PERSON.

"Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
(Ord. 1967-63. Passed 6-21-67.)

193.16 PLACE OF BUSINESS.

"Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance. (Ord. 1967-63. Passed 6-21-67.)

193.17 RESIDENT.

"Resident" means an individual domiciled in the City. (Ord. 1967-63. Passed 6-21-67.)

193.18 RESIDENT UNINCORPORATED BUSINESS ENTITY.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City. (Ord. 1967-63. Passed 6-21-67.)

193.19 TAXABLE INCOME.

"Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter. (Ord. 1967-63. Passed 6-21-67.)

193.20 TAXABLE YEAR.

"Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and in the case of a return for fractional part of a year, the period for which such return is required to be made. (Ord. 1967-63. Passed 6-21-67.)

193.21 TAXPAYER.

"Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax. (Ord. 1967-63. Passed 6-21-67.)

193.22 RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in Section 193.01 shall be imposed at the rate of one and one-half percent (1 ½%) per year for the period beginning January 1, 1996, and ending on December 31, 2020, at the rate of one and three-eighths percent (1 3/8%) per year for the period beginning January 1, 2021, and ending on December 31, 2022, and thereafter at the rate of one percent (1%) per year upon the following:

- (a) On all salaries, wages, commission and other compensation earned on and after January 1, 1996, by residents of the City.
- (b) On all salaries, wages, commissions and other compensation earned on and after January 1, 1996, by non-residents of the City for work done or services performed or rendered within the City.
- (c) (1) On the portion attributable to the City of the net profits earned on and after January 1, 1996, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

- (2) On the portion of the distributive share of the net profits earned on and after January 1, 1996, of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City.
- (d) (1) On the portion attributable to the City of the net profits earned on and after January 1, 1996, of all non-resident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the City whether or not such unincorporated business entity has an office or place of business in the City.
- (2) On the portion of the distributive share of the net profits earned on and after January 1, 1996, of a resident partner or owner of a non-resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City.
- (e) On the portion attributable to the City of the net profits earned on and after January 1, 1996, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City whether or not such corporations have an office or place of business in the City.
(Ord. 2006-72. Approved by voters 11-7-06.)

193.23 EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1996.
(Ord. 1995-44. Passed 11-16-95.)

193.24 METHOD OF DETERMINATION.

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

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

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

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

- (b) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.
(Ord. 1967-63. Passed 6-21-67.)

193.25 SALES MADE IN THE CITY.

As used in Section 193.24(c) "sales made in the City" means:

- (a) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.
- (b) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
- (c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside of the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
(Ord. 1967-63. Passed 6-21-67.)

193.26 TOTAL ALLOCATION.

Add together the percentages determined in accordance with Section 193.24(a), (b) and (c) or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentage referred to in Section 193.24.

A factor is applicable even though it may be allocable entirely in or outside the City.
(Ord. 1967-63. Passed 6-21-67.)

193.27 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 193.22 (c), (d) and (e), only if and to the extent that the rental ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.
(Ord. 1971-197. Passed 12-16-71.)

193.28 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1967, allocable to the City may be applied against the portion of the profit of succeeding tax years allocable to the City, until exhausted but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.
(Ord. 1967-63. Passed 6-21-67.)

193.29 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 payment 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 or indebtedness, interest on Federal obligations, items of income already taxed by the State from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except such income from the operation of a business.
- (j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes. (Ord. 1967-63. Passed 6-21-67.)

193.30 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 30 of the year following the effective date of this chapter, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period.

(Ord. 1971-197. Passed 12-16-71.)

193.31 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 chapter on such earnings and profits; and
- (c) Such other pertinent statements, information returns or other information as the Administrator may require.

(Ord. 1967-63. Passed 6-21-67.)

193.32 EXTENSION OF TIME FOR FILING RETURNS.

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

(Ord. 1967-63. Passed 6-21-67.)

193.33 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 or 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.

(Ord. 1967-63. Passed 6-21-67.)

193.34 AMENDED RETURNS.

(a) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations or both, contained in Sections 193.49 to 193.53. 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.

(Ord. 1967-63. Passed 6-21-67.)

193.35 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 193.36, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 193.37, or 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 193.52 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 chapter may have such overpayment applied against any subsequent liability hereunder, or, at his election, indicated on the return, and such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded. (Ord. 1971-197. Passed 12-16-71.)

193.36 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 at its then applicable percentage of the gross salaries, wages, commission or other compensation due by the employer to the employee and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Such returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.

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

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter. (Ord. 1993-22. Passed 5-6-93.)

(e) The officer or employee having control or supervision of or charged with the responsibility of filing the return and making the payment shall be personally liable for failure to file the return or pay the tax due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes due. (Ord. 1996-252. Passed 12-19-96.)

193.37 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned during the current tax year, together with the estimated tax due thereon, less the amount withheld within the City and less tax credit allowed in Section 193.52, unless the entire taxable income is subject to withholding within the City, pursuant to Section 193.36. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than one hundred dollars (\$100.00), no declaration or payment of estimated tax is required. (Ord. 1996-253. Passed 12-19-96.)

193.38 FILING OF DECLARATION.

(a) The declaration required by Section 193.37 shall be filed on or before April 30 of each year during the effective period set forth in Section 193.23 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period. (Ord. 1967-63. Passed 6-21-67.)

193.39 FORM AND DECLARATION.

(a) The declaration required by Section 193.37 shall be filed upon a form furnished by, or obtainable from, the Administrator. As provided in Section 193.37 credit shall be taken for City tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality in accordance with the provisions of Section 193.52.

(b) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein. (Ord. 1971-197. Passed 12-16-71.)

193.40 PAYMENT TO ACCOMPANY DECLARATION.

Such declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year and on or before the last day of the first month of the succeeding year following the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates. (Ord. 1974-16. Passed 2-7-74.)

193.41 ANNUAL RETURN.

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 193.35. However, any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(Ord. 1971-197. Passed 12-16-71.)

193.42 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of six percent per year or fraction thereof.

(Ord. 1971-197. Passed 12-16-71.)

193.43 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 193.42, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

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

(Ord. 1971-197. Passed 12-16-71.)

193.44 EXCEPTIONS.

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

(Ord. 1967-63. Passed 6-21-67.)

193.45 ABATEMENT OF INTEREST AND PENALTY.

Either the Administrator or the Board of Review may abate penalty or interest, or both, for good cause shown.

(Ord. 1971-197. Passed 12-16-71.)

193.46 VIOLATIONS.

No person shall:

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

- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (i) Give to an employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and date thereof;
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld, or to knowingly give the Administrator false information; or
- (k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.
(Ord. 1967-63. Passed 6-21-67.)

193.47 LIMITATION ON PROSECUTION.

All prosecutions under this section must be commenced within the period stipulated in Ohio R.C. 718.06.

193.48 FAILURE TO PROCURE FORMS NOT EXCUSE.

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return or declaration, from filing such form or from paying the tax.
(Ord. 1967-63. Passed 6-21-67.)

193.49 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.

Except in the case of fraud, or omission of a substantial portion of income subject to this tax, or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later; provided, however, in those cases in which a commissioner of Internal Revenue and the taxpayer have executed a waive of the Federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.
(Ord. 1967-63. Passed 6-21-67.)

193.50 REFUNDS OF TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later.
(Ord. 1967-63. Passed 6-21-67.)

193.51 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 1967-63. Passed 6-21-67.)

193.52 TAX CREDIT.

(a) When the taxable income of a resident of the City is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to 100 percent of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the City by the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event a City resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return.

(Ord. 1971-197. Passed 12-16-71.)

193.53 CLAIM FOR CREDIT.

Any claim for credit for income taxes paid another municipality on the same income taxable hereunder, or claim for or assignment of any refund due to the credit provided for herein, must be filed with the Administrator on or before December 31 of the year following that for which such credit is claimed; provided that, in the case such claim for reciprocity refund has been assigned to the municipality of residence, such municipality of residence shall file a claim for refund with the Administrator of the City on or before January 31 following. Failure to file such claim for reciprocity credit or refund, or assignment thereof, within the time prescribed herein shall render such credit, claim for refund or assignment null and void.

(Ord. 1967-63. Passed 6-21-67.)

193.54 DISBURSEMENT OF FUNDS COLLECTED.

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

- (a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
- (b) Second, the amount produced by the three-eighths percent (3/8%) increase in the income tax for the purpose of providing funds to pay costs of constructing, improving and repairing streets, roads and highways, storm sewers, storm water retention basins and other drainage facilities and water lines and principal of and interest on bonds and notes issued for any of those purposes, first approved by the electors on May 4, 1993, and renewed by the electors on November 7, 2006, shall be placed in a special fund or funds and used only for those purposes.
- (c) Third, the amount produced by the one-eighth percent (1/8%) increase in the income tax for the purpose of providing funds to pay costs of constructing, operating and maintaining the new Recreation Center and parks and other recreational facilities and principal of and interest on bonds and notes issued for any of those purposes, approved by the electors on November 7, 1995, shall be placed in a special fund or funds and used only for those purposes.
- (d) The balance remaining after payment of the expenses referred to in subsection (a) hereof and the allocation provided for in subsections (b) and (c) hereof shall be deposited in the General Fund for municipal purposes.

(Ord. 2006-72. Approved by voters 11-7-06.)

193.55 DUTY TO RECEIVE TAX IMPOSED.

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

(Ord. 1967-63. Passed 6-21-67.)

193.56 DUTY TO ENFORCE COLLECTION.

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

(Ord. 1967-63. Passed 6-21-67.)

193.57 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

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

(Ord. 1967-63. Passed 6-21-67.)

193.58 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

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

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 193.46 and 193.49 shall apply.

(Ord. 1967-63. Passed 6-21-67.)

193.59 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

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

(Ord. 1967-63. Passed 6-21-67.)

193.60 AUTHORITY TO MAKE INVESTIGATIONS.

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

(Ord. 1967-63. Passed 6-21-67.)

193.61 AUTHORITY TO COMPEL PRODUCTION OF RECORDS.

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

(Ord. 1967-63. Passed 6-21-67.)

193.62 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 193.99(a).

(Ord. 1967-63. Passed 6-21-67.)

193.63 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. No person shall divulge such information.

(Ord. 1967-63. Passed 6-21-67.)

193.64 TAXPAYER REQUIRED TO RETAIN RECORDS.

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

(Ord. 1967-63. Passed 6-21-67.)

193.65 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The Board of Trustees of the Regional Income Tax Agency, organized by the Regional Council of Governments, is hereby authorized to administer and enforce the provisions of this chapter as the agent of the City, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of such Agency through the Administrator of such Agency. However, the Administrator of such Agency shall have no authority to abate penalties or interest provided for in Section 193.43.

(Ord. 1971-197. Passed 12-16-71.)

193.66 AUTHORITY OF THE ADMINISTRATOR.

In the event the Mayor, on behalf of the City, enters into an agreement with any other municipal corporation to act as agent of the City for the purpose of administering the income tax laws of the City and of providing a central facility for the collection of the income tax, as provided in Section 193.65, then all or a part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation.

(Ord. 1967-63. Passed 6-21-67.)

193.67 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.

All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.
(Ord. 1967-63. Passed 6-21-67.)

193.68 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.
(Ord. 1967-63. Passed 6-21-67.)

193.69 BOARD OF REVIEW ESTABLISHED.

A Board of Review, consisting of the Director of Finance, the Director of Law, or an Assistant Director of Law designated by him, and a member of Council to be elected by that body, is hereby created. The Board shall select, each year for a one year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 193.63 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.
(Ord. 1967-63. Passed 6-21-67.)

193.70 SEPARABILITY.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.
(Ord. 1967-63. Passed 6-21-67.)

193.71 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 193.46 to 193.51.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 193.30 and 193.36 as though the same were continuing. (Ord. 1967-63. Passed 6-21-67.)

193.99 PENALTY.

(a) Whoever violates any of the provisions of Section 193.46 is guilty of a misdemeanor of the first degree for each offense.

(b) Whoever violates Section 193.63 is guilty of a misdemeanor of the first degree. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City who violates Section 193.63 shall be guilty of an offense punishable by immediate dismissal.

CHAPTER 195
Excise Tax on Hotel Accommodations

<p>195.01 Definitions.</p> <p>195.02 Imposition of tax and rate.</p> <p>195.03 Transient guest to pay tax; proof of exemption.</p> <p>195.04 Refund of illegal or erroneous payments.</p> <p>195.05 Records; inspections; destruction.</p> <p>195.06 Returns required; procedure; forfeit for failure to file.</p> <p>195.07 Liability of guest; assessment; petition for reassessment; surcharges.</p>	<p>195.08 Four-year limitation for assessments; exceptions.</p> <p>195.09 Tax to be paid by transient guest; false evidence of tax exempt status prohibited.</p> <p>195.10 Vendor to collect tax; rebate prohibited.</p> <p>195.11 Return must be filed; procedure in a failure to file.</p> <p>195.12 Personal liability of corporate officers or employees.</p> <p>195.13 Intent.</p> <p>195.14 Separability.</p> <p>195.99 Penalty.</p>
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CROSS REFERENCES

Excise tax on lodging transactions - see Ohio R.C. 505.56,
5739.01(B), 5739.02(C)
Hotels and restaurants - see Ohio R.C. Ch. 3731

195.01 DEFINITIONS.

As used in this chapter:

- (a) "Hotel" means hotel, motel, motor inn and every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (b) "Transient guest" means a person occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.
- (c) "Vendor" means the person who is the owner or operator of the hotel and who furnishes the lodging.
- (d) "Excise tax" means the tax levied by the City on transactions by which lodging by a hotel is or is to be furnished to transient guests.

- (e) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the State and its political subdivisions, and combinations of individuals of any form.
- (f) "Director of Finance" or "Finance Director" means the Director of Finance of the City.
(Ord. 1978-133. Passed 3-15-79.)

195.02 IMPOSITION OF TAX AND RATE.

Commencing July 1, 1979, for the purpose of providing revenue with which to meet the needs of the City for the use of the General Revenue Fund of the City, an excise tax is hereby levied on transactions by which lodging by a hotel is or is to be furnished to transient guests. The tax is three percent of the amount paid or to be paid by the transient guest for the lodging. The tax applies and is collectible at the time the lodging is furnished, regardless of the time when the amount paid for lodging is paid. The tax does not apply to lodging furnished to the State or any of its political subdivisions.

For the proper administration of this chapter and to prevent evasion of the tax, it is presumed that all lodging furnished by hotels, motels and motor inns in the City to transient guests is subject to the tax until the contrary is established.
(Ord. 1978-133. Passed 3-15-79.)

195.03 TRANSIENT GUEST TO PAY TAX; PROOF OF EXEMPTION.

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

If the transaction is claimed to be exempt, the transient guest must furnish to the vendor, and the vendor must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed that the tax applies.

(Ord. 1978-133. Passed 3-15-79.)

195.04 REFUND OF ILLEGAL OR ERRONEOUS PAYMENTS.

The Finance Director shall refund to vendors the amount of taxes paid illegally or erroneously or paid on any illegal or erroneous assessment where the vendor has not reimbursed himself from the transient guest. When such illegal or erroneous payment or assessment was not paid to a vendor but was paid by the transient guest directly to the Finance Director or his agent, he shall refund the tax to the transient guest.

Applications shall be filed with the Finance Director on the form prescribed by him, within ninety days from the date it is ascertained that the assessment or payment was illegal or erroneous. However, in any event an application for refund must be filed with the Finance Director within four years from the date of the illegal or erroneous payment of the tax. On filing of the application, the Finance Director shall determine the amount of refund due and certify the amount. The Finance Director shall draw a warrant for such certified amount to the person claiming such refund, and he shall make such payments from the General Fund.

(Ord. 1978-133. Passed 3-15-79.)

195.05 RECORDS; INSPECTION; DESTRUCTION.

Each vendor shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and other pertinent documents. If the vendor furnishes lodging not subject to the tax, the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be opened during business hours to the inspection of the Finance Director and shall be preserved for a period of four years, unless the Finance Director, in writing, consents to their destruction within that period, or by order requires that they be kept longer. (Ord. 1978-133. Passed 3-15-79.)

195.06 RETURNS REQUIRED; PROCEDURE; FORFEIT FOR FAILURE TO FILE.

Each vendor shall, on or before the twentieth day of each month, make and file an excise tax return for the preceding month, on forms prescribed by the Tax Commissioner, showing the receipts from furnishing lodging, the amount of tax due from the vendor to the City for the period covered by the return and such other information as the Finance Director believes necessary for the proper administration of this chapter. The Finance Director may extend the time for making and filing returns. Returns shall be filed by mailing them to the Finance Director, together with payment of the amount of tax shown to be due thereon.

The Finance Director may authorize vendors whose tax liability is not such as to merit monthly returns, as determined by the Finance Director upon the basis of administrative costs to the City, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

The Finance Director shall stamp or otherwise mark on each return the date it is received by him and shall also show thereon, by stamp or otherwise, the amount of payment received with the return. Any vendor who fails to file a return under this chapter shall, for each day he so fails, forfeit and pay into the City Treasury the sum of one dollar (\$1.00).

The Finance Director, if he deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payment to be made for other than monthly periods. The return shall be signed by the vendor or his authorized agent. (Ord. 1978-133. Passed 3-15-79.)

195.07 LIABILITY OF GUEST; ASSESSMENT; PETITION FOR REASSESSMENT; SURCHARGES.

If any vendor collects the tax imposed by or pursuant to this chapter and fails to remit the tax to the City as prescribed, he shall be personally liable for any amount collected which he failed to remit. The Finance Director may make an assessment against the vendor based upon any information in the Finance Director's possession.

If any vendor fails to collect the tax or any transient guest fails to pay the tax imposed by or pursuant to this chapter on any transaction subject to the tax, such vendor or transient guest shall be personally liable for the amount of the tax applicable to the transaction. The Finance Director may make an assessment against either the vendor or the transient guest, as the facts may require, based upon any information in his possession.

An assessment against a vendor in cases where the tax imposed by or pursuant to this chapter has not been collected or paid, shall not discharge the transient guest's liability to reimburse the vendor for the tax applicable to such transaction.

In each case the Finance Director shall give to the vendor or transient guest an assessed written notice of the assessment. The notice may be served upon the vendor or transient guest assessed personally or by registered or certified mail. An assessment issued against either, pursuant to the provisions of this chapter, shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any vendor or transient guest for the tax due on a particular transaction if the tax has actually been paid by another.

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

Unless the vendor or transient guest, to whom the notice of assessment is directed, files within thirty days after service thereof, either personally or by registered or certified mail, a petition in writing, verified under oath by the vendor, transient guest or his authorized agent having knowledge of the facts, setting forth with particularity the items of assessment objected to, together with the reasons for objections, the assessment shall become conclusive and the amount thereof shall be due and payable, from the vendor or transient guest so assessed, to the Finance Director. When a petition for reassessment is filed, the Finance Director shall assign a time and place for the hearing of the petition and shall notify the petitioner thereof by registered or certified mail, but the Finance Director may continue the hearings from time to time if necessary.

A surcharge of fifteen percent shall be added to the amount of every assessment made under this chapter. The Finance Director may adopt and promulgate rules and regulations providing for the remission of surcharges added to assessments made under this chapter.

When any vendor or transient guest files a petition for reassessment as provided in this chapter, the assessment made by the Finance Director, together with penalties thereon, shall become due and payable within three days after notice of the finding made at the hearing has been served, either personally or by registered or certified mail, upon the party assessed.

(Ord. 1978-133. Passed 3-15-79.)

195.08 FOUR-YEAR LIMITATION FOR ASSESSMENTS; EXCEPTIONS.

No assessment shall be made or issued against a vendor or transient guest for any tax imposed by or pursuant to this chapter more than four years after the return date for the period in which the lodging was furnished or more than four years after the return for such period is filed, whichever is later. This section does not bar an assessment:

- (a) When the Finance Director has substantial evidence of amounts of taxes collected by a vendor from the lodging of transient guests which were not returned to the City; or
- (b) When an assessed vendor failed to file a return as required.
(Ord. 1978-133. Passed 3-15-79.)

195.09 TAX TO BE PAID BY TRANSIENT GUEST; FALSE EVIDENCE OF TAX EXEMPT STATUS PROHIBITED.

No transient guest shall refuse to pay the full and exact tax as required by this chapter. No transient guest shall present false evidence to the vendor indicating that the lodging as furnished is not subject to the tax.

(Ord. 1978-133. Passed 3-15-79.)

195.10 VENDOR TO COLLECT TAX; REBATE PROHIBITED.

No vendor shall fail to collect the full and exact tax as required by this chapter. No vendor shall refund, remit or rebate to a transient guest, either directly or indirectly, any of the tax levied pursuant to this chapter, or make in any form of advertising, verbal or otherwise, any statements which might imply that he is absorbing the tax, or paying the tax for the transient guest by an adjustment of prices, or furnishing lodging at a price including the tax, or rebating the tax in any other manner.

(Ord. 1978-133. Passed 3-15-79.)

195.11 RETURN MUST BE FILED; PROCEDURE IN A FAILURE TO FILE.

(a) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false or fraudulent return, report or statement, or aid or abet another in the filing of any false or fraudulent return, report or statement.

(b) If any vendor required to file monthly returns under this chapter fails, in two consecutive months or in three or more months within a twelve-month period, to file such returns when due or to pay the tax thereon, or if any vendor authorized by the Finance Director to file returns at less frequent intervals fails on two or more occasions within a twenty-four month period, to file such returns when due or to pay the tax due thereon, the Finance Director may require such vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one year, as determined by the Finance Director from a review of returns or other information pertaining to such vendor, which amount shall in no event be less than one hundred dollars (\$100.00). The security may be in the form of an advance tax payment to be applied to pay the tax due on subsequent returns, or a corporate surety bond satisfactory to the Finance Director, conditioned upon payment of the tax due within the returns from the vendor. The security must be filed within ten days following the vendor's receipt of the notice from the Finance Director of its requirements.

A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this chapter. (Ord. 1978-133. Passed 3-15-79.)

195.12 PERSONAL LIABILITY OF CORPORATE OFFICERS OR EMPLOYEES.

If any vendor corporation required to file returns and to remit tax due to the City under the provisions of this chapter fails for any reason to make such filing or payment, any of its officers or employees having control or supervision of or charged with the responsibility of filing returns and making payments shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit tax due. The sum due for such liability may be collected by assessment in the manner provided in this chapter. (Ord. 1978-133. Passed 3-15-79.)

195.13 INTENT.

It is the intent of this chapter to levy an excise tax of three percent on transactions by which lodging by a hotel, motel or motor inn is or is to be furnished to transient guests as referred to and authorized by Ohio R.C. 5739.02(C). Accordingly, this chapter shall be construed to effectuate that purpose and so as to be consistent with any requirement of law compliance with which is a prerequisite to the validity of the tax intended to be levied hereby. (Ord. 1978-133. Passed 3-15-79.)

195.14 SEPARABILITY.

If any sentence, clause, section or part of this chapter or any tax imposed as specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 1978-133. Passed 3-15-79.)

195.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for a first offense. For each subsequent offense such person shall, if a corporation, be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or if an individual or a member of a partnership, firm or association, be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or imprisoned not more than sixty days, or both. (Ord. 1978-133. Passed 3-15-79.)

CHAPTER 197
Motor Vehicle License Tax

197.01 Levy.

CROSS REFERENCES

Authority to levy - see Ohio R.C. 4504.171

197.01 LEVY.

Pursuant to Ohio R.C. 4504.172 and for the purpose of paying the costs and expenses of enforcing and administering the tax levied by this chapter, to supplement revenue already available and that may become available to this City under Ohio R.C. 4504.04, 4504.06, 4504.17 or 4507.171 and to provide additional revenue for the purposes set forth in those sections; and without regard to any tax being levied pursuant to Ohio R.C. 4504.06, 4504.17 or 4504.171, or received pursuant to Ohio R.C. 4504.04; and in addition to the tax levied by Ohio R.C. 4503.02, 4503.07 and 4503.18, there is hereby levied a tax upon the operation of motor vehicles in the district of registration of which as defined in Ohio R.C. 4503.10, is in this City. The tax shall be at the rate of five dollars (\$5.00) per motor vehicle for each year while the tax is in effect, shall be in addition to the taxes at the rates specified in Ohio R.C. 4503.04 and 4503.16, shall be applicable to motor vehicle registrations for the registration year beginning January 1, 1988 and shall continue in effect until repealed.

(Ord. 1988-133. Passed 6-18-88.)