

CODIFIED ORDINANCES OF ST. BERNARD

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

- Chap. 101. Codified Ordinances.
- Chap. 103. Official Standards.
- Chap. 105. Wards and Boundaries.

TITLE THREE - Legislative

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

TITLE FIVE - Administrative

- Chap. 131. Mayor.
- Chap. 133. Auditor.
- Chap. 135. Treasurer.
- Chap. 137. Director of Law.
- Chap. 139. Department of Public Safety.
- Chap. 141. Police Department.
- Chap. 143. Fire Department.
- Chap. 145. Department of Public Service.
- Chap. 147. Board of Health.
- Chap. 149. Recreation Board.
- Chap. 151. Civil Service Commission.
- Chap. 153. Building Commissioner.
- Chap. 157. Engineer.
- Chap. 159. Employment Provisions.

TITLE SEVEN - Judicial

- Chap. 171. Mayor's Court.

TITLE NINE - Taxation

- Chap. 181. Income Tax.
- Chap. 183. Motor Vehicle License Tax.

TITLE ELEVEN - Renewal and Redevelopment

- Chap. 191. General Plan Urban Renewal.
- Chap. 192. Scattered Site Urban Renewal.
- Chap. 193. Relocation Assistance.
- Chap. 195. Rent Supplementation.
- Chap. 197. Restoration of Blighted Premises.

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Chap. 101. Codified Ordinances.

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CHAPTER 101 Codified Ordinances

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

See sectional histories for similar State law

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

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

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

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

Ordinances and resolutions - see ADM. Ch. 123

Rules of construction for offenses and penalties - see GEN. OFF. 501.04

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of St. Bernard, Ohio, 1996, 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 Hamilton 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 St. Bernard, 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 103
Official Standards

103.01 Official song.

CROSS REFERENCES

State standard of time - see Ohio R.C. 1.04

State legal holidays - see Ohio R.C. 1.14, 5.20 et seq.

103.01 OFFICIAL SONG.

The song "Our Land - St. Bernard" written by Mr. Harry Meyer shall be adopted as the official song for the City.

(Ord. 12-1974. Passed 6-6-74.)

CHAPTER 105
Wards and Boundaries

105.01 Division into wards.
105.02 First ward.
105.03 Second ward.

105.04 Third ward.
105.05 Fourth ward.

CROSS REFERENCES

Division into wards - see Ohio R.C. 731.06
Voting precincts - see Ohio R.C. 3501.18

105.01 DIVISION INTO WARDS.

The City is subdivided into four wards which are equal in number to the members of Council who are hereafter to be elected from the wards according to law. The four wards are hereby revised to reflect the current population of the City and pursuant to the data generated by the block counts of the Federal Census. The boundaries shall be such as are hereinafter set forth and are so fixed so that each ward shall contain as nearly as practicable an equal number of inhabitants. (Ord. 26-2000. Passed 6-15-00.)

105.02 FIRST WARD.

The First Ward contains all of that territory bounded and described as follows: beginning at the northern most point of the City, then westwardly along the north end western corporation line following the corporation line to a point in the center line of Vine Street where the corporation line first meets Vine Street in the southwestern part of the corporation line, then northward along the center line of Vine Street to its intersection with the center line of Lawrence Street, then northwestwardly along the center line of Lawrence Street to its intersection with the center line of Baker Avenue, then eastwardly along the center line of Baker Avenue to its intersection with the center line of Baker Place, then northwardly along the center line of Baker Place to its intersection with the center line of Phillips Avenue, then eastwardly along the center line of Phillips Avenue to its intersection of the center line of Vine Street, then southwestwardly along the center line of Vine Street to its intersection with Church Street, then eastwardly along the center line of Church Street to its intersection with Kemper Avenue, then northwardly along the center line of Kemper Avenue to its intersection with East Ross Avenue, then westwardly along the center line of East Ross Avenue to its intersection with City Park Drive (Ross Park Entrance), then northwardly along the center line of City Park Drive (Ross Park Entrance) to its intersection with Clay Street, then westwardly along the center line of Clay Street to its intersection with Vine Street, then northwardly along the center line of Vine Street to a point where Vine Street is crossed by the Interstate 75 overpass, then eastwardly along the center line of Interstate 75 to a point where Interstate 75 crosses the corporation line along the northeast part of the corporation line, then westwardly following along the corporation line, then following the corporation line northwardly and westwardly along the northern corporation line to the northmost point of the City and the place of beginning. (Ord. 26-2000. Passed 6-15-00.)

105.03 SECOND WARD.

The Second Ward contains all that territory bounded and described as follows: beginning at a point on the northern corporation line where it is intersected by Interstate 75 at a point in the center line of Interstate 75, then southwestwardly along the center line of Interstate 75 to a point where Interstate 75 crosses over Vine Street, then southwardly along the center line of Vine Street to its intersection with Clay Street, then westwardly along the center line of Clay Street to its intersection with City Park Drive (Ross Park Entrance), then southwardly along the center line of City Park Drive (Ross Park Entrance) to its intersection with East Ross Avenue, then eastwardly along the center line of East Ross Avenue to the intersection of Kemper Avenue, then southwardly along the center line of Kemper Avenue to the intersection of Church Street, then eastwardly along the center line of Church Street extending past the end of the street along the southside of St. Mary's Cemetery and continuing eastwardly along the corporation line along the south side of St. Mary's Cemetery to the east corporation line, then northwardly and westwardly continuing along the corporation line to point on the northern corporation line where it is intersected by Interstate 75 at a point in the center line of Interstate 75 and the place of beginning.

(Ord. 26-2000. Passed 6-15-00.)

105.04 THIRD WARD.

The Third Ward contains all of that territory bounded and described as follows: beginning at the southeastern corner of the City along East Mitchell Avenue, then westwardly along the southern corporation line of the City to its intersection with the center line of Tower Avenue, then northwardly along the center line of Tower Avenue to its intersection with the center line of Church Street, then eastwardly along the center line of Church Street, extending past the end of the street, to a point on the south side of St. Mary's Cemetery where it meets the perpendicular extended line of the nearer eastern corporation line, then southwardly along the eastern corporation line to the southeastern corner of the City and the place of beginning.

(Ord. 26-2000. Passed 6-15-00.)

105.05 FOURTH WARD.

The Fourth Ward contains all of that territory bounded and described as follows: beginning at a point on the southern corporation line where it is intersected by tower avenue extended, then westwardly along the corporation line to its intersection with the western corporation line, and the intersection of Vine Street and Mitchell Avenue, then northwardly along the center line of Vine Street to its intersection with the center line of Lawrence Street, then northwestwardly along the center line of Lawrence Street to its intersection with the center line of Baker Avenue, then eastwardly along the center line of Baker Avenue to its intersection with the center line of Baker Place, then northwardly along the center line of Baker Place to its intersection with the center line of Phillips Avenue, then eastwardly along the center line of Phillips Avenue to its intersection of the center line of Vine Street, then southwestwardly along the center line of Vine Street to its intersection with Church Street, then eastwardly along the center line of Church Street to its intersection with Tower Avenue, then southwardly along the center line of Tower Avenue extended to a point in the southern corporation line and the place of beginning.

(Ord. 26-2000. Passed 6-15-00.)

TITLE THREE - Legislative

Chap. 121. Council.

Chap. 123. Ordinances and Resolutions.

**CHAPTER 121
Council**

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|---------------|---|---------------|---------------------------------------|
| 121.01 | Salary reduction for absence from meeting; exception. | 121.06 | Motions. |
| | RULES OF COUNCIL | 121.07 | Publication of minutes. |
| 121.02 | President's powers and duties; ordinances and resolutions. | 121.08 | Approval of City expenditures. |
| 121.03 | Members' duties and privileges; quorum. | 121.09 | Elections. |
| 121.04 | Meetings; order of business. | | |
| 121.05 | Committees: established; appointment; powers and duties. | | |

CROSS REFERENCES

Release of Treasurer's liability for loss of funds - see Ohio R.C. 131.18 et seq.
 General powers - see Ohio R.C. 715.03, 731.47
 To establish sewerage rates - see Ohio R.C. 729.49
 Composition - see Ohio R.C. 731.01, 731.06
 Qualifications - see Ohio R.C. 731.02, 731.44
 Election and term - see Ohio R.C. 731.03, 733.09
 Clerk - see Ohio R.C. 731.04
 President pro tempore - see Ohio R.C. 731.04, 733.08
 Legislative powers - see Ohio R.C. 731.05
 Powers as to salaries and bonds - see Ohio R.C. 731.07 et seq., 731.49 et seq.
 Vacancy - see Ohio R.C. 731.43
 Meetings - see Ohio R.C. 731.44, 731.46
 Rules and journal - see Ohio R.C. 731.45
 President - see Ohio R.C. 733.07 et seq.
 Hearings against delinquent officers - see Ohio R.C. 733.35 et seq.
 Misconduct - see Ohio R.C. 733.72 et seq.
 Contract interest - see Ohio R.C. 733.78, 2919.08 et seq.
 Power to establish auxiliary police unit - see Ohio R.C. 737.051
 Wards - see ADM. Ch. 105
 Bonds for President and Clerk - see ADM. 159.03

121.01 SALARY REDUCTION FOR ABSENCE FROM MEETING; EXCEPTION.

A proportionate reduction in salary shall be made for the nonattendance of any member of Council at any regular or special meeting of Council; however, two-thirds of the members elected to Council may excuse any member from attendance at any regular or special meeting, and when so excused no reduction in salary shall be made for such nonattendance. (Ord. 38-1929. Passed 11-29-29.)

RULES OF COUNCIL**121.02 PRESIDENT'S POWERS AND DUTIES; ORDINANCES AND RESOLUTIONS.**

(a) The President, or in his absence the President pro tem, shall take the Chair at the hour appointed for Council to meet and shall immediately call the members to order. The roll shall then be called, and the Clerk of Council shall enter on the minutes the names of the members present at each meeting. In the absence of a quorum at the hour appointed for the meeting, the members may, by a majority vote of the members present, take a recess of a period of not more than one hour, and direct the Sergeant-at-Arms or any police officer to proceed after absent members.

(b) In case of the absence of the President and the President pro tem, the Clerk of Council shall call Council to order; and the roll having been called and a quorum found to be present, Council shall then proceed to elect a President pro tem, for that meeting, or until the appearance of the President or President pro tem, the votes of a majority of the members of Council present, being necessary to a choice.

(c) All ordinances or resolutions shall be presented in writing and on the passage of each ordinance or resolution the vote shall be taken by 'yeas' and 'nays' and entered upon the journal, but this shall not apply to the ordering of an election, or direction by Council to any board or officer to furnish Council with information as to the affairs of any department or office.

No bylaw, ordinance or resolution of a general or permanent nature; granting a franchise; creating a right; involving the expenditure of money; levying a tax; or for the purchase, lease, sale or transfer of property, shall be passed, unless it has been fully and distinctly read on three different days, and with respect to any such bylaw, ordinance or resolution, there shall be no authority to dispense with this rule, except by a three-fourths vote of all members elected to Council, taken by yeas or nays, on each bylaw, resolution or ordinance, and entered on the journal.

No ordinance shall be passed by Council without the concurrence of a majority of all members elected thereto. It shall not be in order for members to explain their votes during the call of the 'yeas' and 'nays'. Other questions are to be stated and put by the Chair, who shall declare all votes; but in doubtful cases a rising vote is to be taken.

(d) Emergency ordinances or measures must, upon a ye and nay vote, receive the vote of two-thirds of all members elected to Council and the reasons for the necessity shall be set forth in one section of the ordinance or other measure.

(e) Either the President or President pro tem, in the absence of the President, may at any time call any member to the Chair, the substitution not to continue beyond adjournment.

(f) The Chair shall preserve decorum, and decide all questions of order, subject to appeal to Council. In case of an appeal being taken, the question shall be: "Shall the decision of the Chair stand as the decision of Council?" If any member transgresses the rules of Council, the Chair shall, or any member may, call him to order, in which case he shall take his seat, unless he is permitted to explain.

(g) All questions are to be stated and put by the Chair, who shall declare all votes, after the Clerk of Council has announced the number of each side, except in case of a viva-voce vote, the result of which the Chair shall declare without reference to the Clerk. In case of a rising vote the Chair shall count and announce the vote. If there is doubt about a viva-voce vote, the Chair may direct, or any member may call for a division of Council, which shall be taken by a rising vote.

(h) Either the President, President pro tem or chairman of the meeting may call any other member to take his place in the Chair, the substitution not to continue beyond adjournment. "The Chair" means the person presiding, either the President, President pro tem or chairman of the meeting. (Ord. 3-1943. Passed 3-4-43.)

121.03 MEMBERS' DUTIES AND PRIVILEGES; QUORUM.

(a) A majority of all the members elected shall be a quorum to do business, but a less number may adjourn from day to day and compel attendance of absent members in such manner and prescribe such penalties as provided by ordinance.

(b) Every member, when about to discuss a question or make a motion, shall respectfully address the presiding officer as Mr. President, who shall pronounce the name of the member entitled to the floor. He shall then confine himself to the question under debate and avoid all personalities.

(c) No member shall be allowed to speak more than once upon any one subject until every member desiring to speak has spoken, nor more than twice upon any one subject, or for a longer time than five minutes, unless permitted by the President of Council.

(d) Emergency ordinances or measures necessary for the immediate preservation of the public peace, health or safety shall go into immediate effect. The emergency ordinances or measures must, upon a ye and nay vote, receive the vote of two-thirds of all members elected to Council, and the reasons for the necessity shall be set forth in one section of the ordinance or other measure.

(e) Any member may demand the division of a question under consideration, when the sense will not admit thereof.

(f) Any member may demand a call of the roll upon the yeas and nays on any question before Council at any time before the negative has been put. It shall not be in order for members to explain their votes during the call of yeas and nays.

(g) Any member shall have the liberty to dissent from or protest against any ordinance, resolution or order of Council, and have the reason or reasons for his dissent entered upon the minutes. The dissent must be in writing expressed in respectful language, and shall be presented to Council not later than the next regular meeting after the meeting of which the ordinance, resolution or order was passed.

(h) No member shall be permitted to leave Council while it is in session without the consent of a majority of those present.
(Ord. 3-1943. Passed 3-4-43.)

121.04 MEETINGS; ORDER OF BUSINESS.

(a) Regular meetings of Council shall be held on first and third Thursday evenings of each calendar month, commencing at 8:00 p.m. sharp. If any first or third Thursday falls on a legal holiday, or if New Year's Day, January 1st; Washington's Birthday, February 22nd; Decoration Day, May 30th; July 4th; Labor Day or Christmas, December 25th; falls on any first or third Thursday, or should Christmas or New Year's Day fall on Sunday, then the regular meeting shall be held on Monday evening following at 8:00 p.m. sharp, or such other date as Council by majority vote may agree upon.

(b) Special meetings of Council may be called by the Mayor, in the manner prescribed in Ohio R. C. 731.46 or any three members of Council. The special meetings may be called by giving at least twelve hours' notice to each member served personally or left at his usual place of residence. The notice shall be served by the Clerk of Council or a police officer.

(c) At regular meetings, the minutes of the preceding meeting shall be read unless the reading shall be dispensed with by the consent of a majority of the members present, and if no objection is made, it shall be approved, and Council shall then proceed to business in the following order:

- (1) Confirmation of appointments;
- (2) Elections;
- (3) Reports and communications from City officers to be presented by the Chair;
- (4) Reports of the standing committees in the order established in Section 121.05(a);
- (5) Report of the Committee of the Whole;
- (6) Petitions and communications and the offering of original resolutions, orders and ordinances;
- (7) Unfinished business;
- (8) New business;
- (9) Address Council;
- (10) Adjournment.

(d) The above order of business shall not be departed from except by suspension of these rules.

(e) Any special order of business may be taken up at the appointed time. (Ord. 3-1943. Passed 3-4-43.)

121.05 COMMITTEES: ESTABLISHED; APPOINTMENT; POWERS AND DUTIES.

(a) The following committees of Council are hereby established: Finance; Service; Safety; Public Improvement; Transportation and Highway; Laws, Contracts and Claims; Business and Industry. (Ord. 51-1970. Passed 10-1-70.)

(b) All committees shall be appointed by the President or President pro tem unless otherwise ordered by Council. The first named on a committee shall be the chairman of the committee.

(c) Upon any reference being made to a standing committee, the Clerk of Council shall transmit to the chairman thereof all papers and necessary information relative thereto, and upon their receipt the chairman of the committee shall call a meeting without unnecessary delay, to take action upon the reference, and report on the communication not later than the second regular meeting after receiving the same.

(d) The Mayor, President of Council, Director of Public Safety, Director of Public Service and City Auditor may call a special meeting of any committee or committees of Council by giving at least twelve hours' notice to each member served personally or left at his usual place of residence. Each notice shall be served by the Clerk of Council or a police officer.

(e) When any reference is made to a committee with instructions to report at a stated time, should the committee not be prepared to report at such time, the matter so referred shall be considered, and reported back without recommendation, unless further time is granted by Council.

(f) The reports of all committees shall be in writing, signed by a majority of the committee, and the papers referred shall be returned with the report. Nothing in this rule shall be construed to prevent the instruction of minority reports.

(g) Standing committees shall consist of three members.
(Ord. 3-1943. Passed 3-4-43.)

121.06 MOTIONS.

(a) When a motion is made and seconded, it shall be stated by the President before debate. Any motion must be reduced to writing if the President or any member requires it, and it shall not be withdrawn without consent of Council.

- (b) When a question is before Council no motion shall be entertained unless it is:
- (1) To adjourn.
 - (2) To lay on the table.
 - (3) For the previous question.
 - (4) To postpone either indefinitely or to a specified time.
 - (5) To refer.
 - (6) To amend.

The motion shall have precedence in the order abovementioned.

(c) A motion to adjourn shall always be in order, except on immediate repetition, when a member has the floor, when the previous question has been ordered or when Council is voting.

(d) If a motion to adjourn is made while any question is pending, and the motion is carried, the question cannot again be considered unless it is reintroduced in the usual way.

(e) A motion to lay on the table shall not be amendable or debatable; if the motion prevails the consideration of the subject cannot be resumed except as unfinished business, without the consent of two-thirds of the members present.

(f) A motion to postpone must be amended as to time, but precludes debate on the main question. An indefinite postponement is equivalent to a rejection of the proposition

(g) Any member voting with the prevailing side of any question may move to reconsider the same, and the motion may be seconded by any member, but a motion to reconsider having been once made and lost, shall not be renewed. This is a privilege motion and may precede all other questions, and can be considered at any time after the pending business is disposed of. A majority of those present may reconsider any vote.

(h) The first reading of an ordinance proposed shall be for information, and, if an objection is made to the ordinance the question shall be: "Shall the proposition be rejected?" An objection to an ordinance shall take precedence over a motion to dispense with the rule requiring ordinances to be read on three different days.

(i) After a second reading no amendment shall be in order. Upon the third reading the question shall be upon the final passage, which must be determined by 'yea' and 'nay' vote by rollcall. No ordinance, resolution or bylaw requiring more than one reading shall be passed through its several readings together, except by a separate suspension of the rules for each such ordinance, resolution or bylaw.

(j) Ordinances or resolutions authorizing the expenditure of money shall have the approval of the Finance Committee, together with any other committee recommending the same, which approval shall be endorsed on the ordinance or resolution, and if they are presented without such approval, they shall be referred without debate to the Finance Committee.

(k) All new questions shall be appropriately referred without debate unless a majority of Council dispenses with this rule.
(Ord. 3-1943. Passed 3-4-43.)

121.07 PUBLICATION OF MINUTES.

The Clerk of Council is hereby authorized to publish the minutes of the public meetings of Council twice a month and to have the publication delivered to each family of the City at their request. (Ord. 9-2003. Passed 3-20-03.)

121.08 APPROVAL OF CITY EXPENDITURES.

All City expenditures in excess of ten thousand dollars (\$10,000) shall require Council approval by ordinance.
(Ord. 13-1999. Passed 4-1-99.)

121.09 ELECTIONS.

Where Council is authorized by State law to conduct an election to fill an office or position, the following rules shall govern such election.

- (a) Motion to Elect. The election process shall begin by a motion calling for an election to fill the specific office or position.
- (b) Nomination. Upon a motion to open nominations, the Chair shall call for nominations to fill the office or position. Nominations shall be made from members of Council. No second nomination is required. No person shall be elected to a specific office or position unless first nominated. After every member of Council has had the opportunity to nominate, a motion to close nominations will close the nomination process.
- (c) Vote. The vote on the nominations to fill the specific office shall be made with a call of the roll.
- (d) Majority. A majority vote of the members of Council is required for a nominee to be so elected. In case of a tie, the President of Council shall cast the tie-breaking vote.
- (e) Finality. The Chair shall declare the election final when one nominee receives a majority vote. The newly elected shall immediately take possession of their office or position.
(Ord. 4-1992. Passed 2-20-92.)

CHAPTER 123
Ordinances and Resolutions

123.01 Posting ordinances; location.

CROSS REFERENCES

Style - see Ohio R.C. 731.17
 Subject and amendment - see Ohio R.C. 731.199
 Authentication - see Ohio R.C. 731.20
 Publication in book form - see Ohio R.C. 731.23
 Adoption of technical codes - see Ohio R.C. 731.231
 Posting - see Ohio R.C. 731.25
 Initiative and referendum - see Ohio R.C. 731.28 et seq.
 Emergency measures - see Ohio R.C. 731.30
 As evidence - see Ohio R.C. 731.42
 Adoption - see ADM. 121.02, 121.06(h) et seq.

123.01 POSTING ORDINANCES; LOCATIONS.

(a) Whenever the publication of ordinances, resolutions, statements, orders, proclamations, notices and reports is required by law or by ordinance, the publication shall be made by posting the same at the places or locations designated for a period as may be required by law or ordinance.

(b) The following places or locations in the City are designated as the most public places or locations in the City for the posting of ordinances, resolutions, statements, orders, proclamations, notices and reports required by law or ordinance to be published:

- (1) St. Bernard Square Bus Stop;
- (2) Vine Street and Washington Avenue;
- (3) Bertus Street Park;
- (4) Greenlee Avenue and Jefferson Avenue;
- (5) Sullivan Avenue and Delmar Avenue.
(Ord. 42-1975. Passed 6-2-75.)

TITLE FIVE - Administrative

- Chap. 131. Mayor.
- Chap. 133. Auditor.
- Chap. 135. Treasurer.
- Chap. 137. Director of Law.
- Chap. 139. Department of Public Safety.
- Chap. 141. Police Department.
- Chap. 143. Fire Department.
- Chap. 145. Department of Public Service.
- Chap. 147. Board of Health.
- Chap. 149. Recreation Board.
- Chap. 151. Civil Service Commission.
- Chap. 153. Building Commissioner.
- Chap. 157. Engineer.
- Chap. 159. Employment Provisions.

CHAPTER 131 Mayor

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

CROSS REFERENCES

- Removal from office - see Ohio R.C. 3.07 et seq.
- Veto powers - see Ohio R.C. 731.27
- Election and term - see Ohio R.C. 733.02
- General powers - see Ohio R.C. 733.03, 733.30 et seq.
- Appointment of municipal officers - see Ohio R.C. 733.05
- Acting mayor - see Ohio R.C. 733.07
- Vacant - see Ohio R.C. 733.08
- General duties - see Ohio R.C. 733.30 et seq.
- Reports to Council - see Ohio R.C. 733.32, 733. 41
- Protest of excessive expenditures - see Ohio R.C. 733.33
- Charges against delinquent officers - see Ohio R.C. 733.34 et seq.
- Disposition of fines and other moneys - see Ohio R.C. 733.40
- Bond - see ADM. 159.03
- Mayor's Court- see ADM. Ch. 171

CHAPTER 133
Auditor

133.01 Use of Revenue Sharing Funds.

133.02 Deputy Auditor.

CROSS REFERENCES

Uniform Bond Law - see Ohio R.C. Ch. 133
Uniform Depository Act - see Ohio R.C. Ch. 135
Treasury Investment account - see Ohio R.C. 731.56 et seq.
Election and term - see Ohio R.C. 733.10
Merger of certain offices - see Ohio R.C. 733. 11
Books and accounts - see Ohio R.C. 733.11 et seq.
Duty as to receiving bids - see Ohio R.C. 733.18
Deputy auditor - see Ohio R.C. 733.19
Seal - see Ohio R.C. 733.20
Appropriation and expenditures - see Ohio R.C. 5705.41

133.01 USE OF REVENUE SHARING FUNDS.

Any future entitlement funds received by the City shall be put into the General Revenue Sharing Fund to be used for transportation.
(Ord. 76-1974. Passed 11-21-74.)

133.02 DEPUTY AUDITOR.

The Auditor is hereby authorized to appoint a Deputy Auditor who, in the absence or disability of the Auditor, shall perform the duties of the Auditor.
(Ord. 41-1989. Passed 8-17-89.)

CHAPTER 135
Treasurer

135.01 Investment and depository policy.

CROSS REFERENCES

Loss of funds; release of liability - see Ohio R.C. 131.18 et seq.
 Uniform Depository Act - see Ohio R.C. Ch. 135
 Election and term - see Ohio R.C. 733.42
 Accounts - see Ohio R.C. 733.43, 733.45 et seq.
 Powers and duties - see Ohio R.C. 733.44
 Annual report to Council - see Ohio R.C. 733.45
 Bond - see ADM. 159.03

135.01 INVESTMENT AND DEPOSITORY POLICY.

(a) There is hereby established a City of St. Bernard Investment Advisory Committee. This committee shall consist of the following City officials: Mayor, Law Director, Treasurer and Auditor.

(b) The following “City of St. Bernard Investment and Depository Policy” is hereby adopted as follows:

The City of St. Bernard Investment and Depository Policy is designed to cover all monies under the control of the City of St. Bernard and those monies and funds that comprise the core investment portfolio. The Investing Authority of the City of St. Bernard shall reside with the Treasurer, subject to approval and direction of the City of St. Bernard Investment Advisory Committee. Notwithstanding the policies detailed below, Chapter 135 of the Ohio Revised Code will be adhered to at all times by the Investing Authority and the Investment Advisory Committee.

- (1) Objectives and guidelines. The following investment objectives will be applied in the management of the City of St. Bernard’s funds:
- A. The primary objective shall be the preservation of capital and protection of principal while earning investment interest.
 - B. In investing public funds, the Treasurer will strive to achieve a fair and safe average rate of return on the investment portfolio over the course of budgetary and economic cycles taking into account state law, safety considerations and cash flow requirements.
 - C. The investment portfolio shall remain sufficiently liquid to enable the Treasurer to meet reasonable anticipated operating requirements.
 - D. The investments portfolio should be diversified in order to avoid incurring potential losses regarding individual securities which may not be held to maturity, whether by erosion of market value or change in market conditions.

- E. Investments shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived.
 - F. Bank account relationships will be managed in order to secure adequate services while minimizing costs. Deposits should be concentrated in single accounts except where audit control considerations dictate otherwise.
- (2) Authorized financial institutions and dealers. U.S. Treasury and Agency securities purchased outright shall be purchased only through financial institutions located within the State of Ohio or through “primary securities dealers” as designated by the Federal Reserve Board.
- A. Repurchase Agreements shall be transacted only through banks located within the State of Ohio with which the Treasurer has signed a Master Repurchase Agreement as required in Ohio R.C. Chapter 135.
 - B. Certificates of Deposit shall be transacted through commercial banks or savings and loans with FDIC or FSLIC coverage which are located within the State of Ohio and qualify as eligible financial institutions under Ohio R.C. Chapter 135.
 - C. A list of authorized institutions and dealers shall be maintained with the investing authority. Additions and deletions to this list shall be made when deemed in the best interest of the investing authority.
- (3) Maturity. To the extent possible, the Treasurer will attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow requirement, the Treasurer will not directly invest in securities maturing more than up to five years from the date of purchase.
- (4) Derivatives. Investments derivatives and in stripped principal or interest obligations of eligible obligations are strictly prohibited. A derivative means a financial instrument or contract or obligation whose value or return is based upon or linked to another asset or index, or both, separate from the financial instrument, contract, or obligation itself. Additionally, any security, obligation, trust account or instrument that is created from an obligation of a federal agency or instrumentality or is created from both is considered a derivative instrument.
- (5) Allowable investments. The Treasurer may invest in any instrument or security authorized in Ohio R.C. Chapter 135 as amended. A copy of the appropriate Ohio R.C. section will be kept with this policy.
- (6) Collateral. All deposits shall be collateralized pursuant to Ohio R.C. Chapter 135.
- (7) Reporting. The investing authority shall establish and maintain an inventory of all obligations and securities acquired by the investing authority. The inventory shall include the description of the security, type, cost, par value, maturity date, settlement date, and coupon rate. The investing authority shall produce a monthly portfolio report detailing the current inventory of all obligations and securities, and all transactions during the month, income received and investment expenses paid, and the names of any persons effecting transactions on behalf of the investment authority.

(8) Committee Meetings.

- A. The investment advisory committee will meet at least once every quarter to review the portfolio in terms of security, type, risk and investment return. The Treasurer shall be responsible for maintaining records of all investments and deposits and preparing reports that summarize recent market conditions, economic conditions, economic developments and anticipated investments for the investment advisory committee meeting.
- B. Pursuant to Ohio R.C. Chapter 135, all brokers, dealers, and financial institutions initiating transactions with the investment authority by giving advice or making investment policy, or executing transactions initiated by the investment authority, must acknowledge their agreement to abide by the investment policy's content by signing a copy of this Investment and Depository Policy (as attached). Such agreement shall be kept on file by the Treasurer of this policy. (Ord. 35-1996. Passed 9-5-96.)

CHAPTER 137
Director of Law

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

CROSS REFERENCES

Election and term - see Ohio R.C. 733.49
Qualifications - see Ohio R.C. 733.51 et seq.
Annual report to Council - see Ohio R.C. 733.62
Counsel for City school board - see Ohio R.C. 3313.35
Bond - see ADM. 159.03
Urban renewal contracts - see ADM. 191.09, 191.11

CHAPTER 139
Department of Public Safety

139.01 Code Assistance Officer.

139.02 School guards.

139.03 Property disposition.

**139.04 Police Officer and Firemen
Pension Fund Pick-Up Plan.**

CROSS REFERENCES

Contracts - see Ohio R.C. 733.27 et seq., 737.02 et seq.

Appointment of Director - see Ohio R.C. 737.01

General duties of Director and records - see Ohio R.C. 737.02 et seq.

Director to appoint and remove auxiliary police officers - see Ohio R.C.
737.051

Classification of police and fire personnel - see Ohio R. C. 737.10, 737.13

Police Department - see ADM. Ch. 141

Fire Department - see ADM. Ch. 143

Bond of Director - see ADM. 159.03

139.01 CODE ASSISTANCE OFFICER.

(a) The full-time position of Code Assistance Officer is hereby established as a position in the Safety Department. The Code Assistance Officer shall be responsible for effecting a code enforcement and assistance program, and shall cooperate and work closely with the various City departments in implementing an effective program. He shall advise, assist and encourage property owners in bringing substandard properties into compliance with the various codes in effect in the City.

(b) This position is to be filled as an original civil service appointment with the Safety Director as the appointing authority.

(c) The present Code Assistance Officer shall continue to serve under his present contract until the full-time position authorized by this section is filled pursuant to civil service law.

(d) The Code Assistance Officer shall receive the same applicable benefits as received by regular full-time City employees.
(Ord. 32-1977. Passed 6-2-77.)

139.02 SCHOOL GUARDS.

The Director of Public Safety is authorized to employ special police, as needed, for the purpose of protecting school children at dangerous intersections in the City.
(Ord. 10-2003. Passed 4-3-03.)

139.03 PROPERTY DISPOSITION.

The Safety Director shall be responsible for the disposition of all lost, abandoned, stolen, seized and forfeited property held by the Police Department. The disposition of such property shall be subject to the following conditions:

- (a) Property (including coins or currency) which has been lost, abandoned, stolen or lawfully seized or forfeited to the Municipality, and which is in the custody of the Police Department, shall be safely kept pending the time it is disposed of pursuant to this section.
- (b) The Police Department shall make a reasonable effort to locate the persons entitled to possession of property in its custody, and notify them in writing when and where the property may be identified and claimed. In the absence of evidence recognizing persons entitled to custody, it is sufficient notice to advertise its existence in a newspaper of general circulation in the County, briefly describing the nature of the property in custody and inviting persons to view and establish their right to it.
- (c) A person loses any right he may have to possession of property which was the subject of or was used in a conspiracy or attempt to commit an offense, other than a traffic offense, and such person has been judicially determined to be a conspirator, accomplice or offender with respect to the offense, or when in light of the nature of the property or the circumstances of the person, it is unlawful for him to acquire or possess it.
- (d) Unclaimed and forfeited property in the custody of the Police Department shall be disposed of as follows:
 - (1) Property which consists of drugs shall be destroyed under the supervision of the Safety Director or placed in the custody of the Secretary of the Treasury of the United States for disposal or use for medical or scientific purposes under applicable Federal law.
 - (2) Property consisting of firearms and dangerous ordnance adaptable to and suitable for police work may be given to the Police Department for that purpose.
 - (3) Firearms suitable for sporting use which are antiques, museum pieces, or collector items may be sold at public auction pursuant to subsection (d)(7) hereof. All other firearms and dangerous ordnance, weapons, and cutlery shall be destroyed with evidence of destruction certified to the Safety Director.
 - (4) Property consisting of obscene materials shall be destroyed.

- (5) Property adaptable to and suitable for use by any City department or division can be converted to such City use upon proper determination by the Safety Director and not less than 180 days after its initial retention by the Police Department, and after notice of such conclusion has been published once per week for a period of three weeks in a newspaper of general circulation in the County.
 - (6) Coins or currency for which the rightful owner cannot be determined and for which no claims have been registered, shall be deposited in the General Fund of the City within thirty days after a preponderance of the evidence indicates that the rightful owner cannot be determined.
 - (7) All other unclaimed or forfeited property shall be sold at public auction not less than 180 days after its initial retention by the Police Department, and after notice of such public auction has been published once per week for a period of three weeks in a newspaper of general circulation in the County.
- (e) The proceeds from police held property disposed of pursuant to this section shall be placed in the General Fund of the City after the costs of conducting the auction are deducted.
 - (f) This section does not apply to the collection, storage or disposal of abandoned junk motor vehicles. This section shall not be construed to rescind or restrict the authority of the Police Department to keep and dispose of lost, abandoned, stolen, seized or forfeited property under any other applicable ordinance.
 - (g) This section is adopted pursuant to the provisions of Ohio R.C. 2933.41. (Ord. 25-1981. Passed 9-3-81.)

139.04 POLICE OFFICER AND FIREMEN PENSION FUND PICK-UP PLAN.

(a) Effective March 30, 1985, the full amount of the statutorily required contribution to the Police and Firemen's Disability and Pension Fund of the State of Ohio shall be withheld from the gross pay of each full-time police officer and fireman of the City of St. Bernard who is a member of the Police and Firemen's Disability and Pension Fund and shall be "picked up" (assumed and paid to the Police and Firemen's Disability and Pension Fund of Ohio) by the City of St. Bernard. This "pick up" by the City shall be designated as public employee contributions and shall be in lieu of contributions to the Police and Firemen's Disability and Pension Fund of Ohio by each such police officer or fireman. No person subject to this "pick up" shall have the option of choosing to receive the statutorily required contribution to the Police and Firemen's Disability and Pension Fund instead of having it "picked up" by the City of St. Bernard.

(b) The City through its proper officers shall, in reporting and making remittance to the Police and Firemen's Disability and Pension Fund, report that the police and firemen's contribution for each person subject to their "pick up" has been made by the City in lieu of contributions to such Police and Firemen's Disability and Pension Fund by each such person and such contributions are designated as public employee contributions. (Ord. 18-1985. Passed 3-21-85.)

CHAPTER 141
Police Department

141.01 Personnel.
141.02 Investigator.

141.03 Outside employment.
141.04 Dissemination of Megan's Law Notices.

CROSS REFERENCES

Distribution of obscenity statutes by Attorney General - see Ohio R.C. 109.40
 Assistance of State Criminal Bureau - see Ohio R.C. 109.51 et seq.
 Forwarding fingerprints and other data to State Criminal Bureau - see Ohio R.C. 109.58 et seq.
 Peace officer training having certificate required for permanent employment - see Ohio R.C. 109.77
 Original appointment; probationary period and age - see Ohio R.C. 124.27, 124.30, 124.41
 Promotions - see Ohio R.C. 124.31, 124.44
 Police chief suspension - see Ohio R.C. 124.34, 124.40
 Reductions, suspensions and removals - see Ohio R. C. 124.34 et seq., 737.12
 Sick leave - see Ohio R. C. 124.38
 Civil service application - see Ohio R.C. 737.051, 737.10, 737.11
 Police protection contracts - see Ohio R.C. 505.441, 737.04
 Composition and control - see Ohio R.C. 715.05, 737.05
 Auxiliary police unit - see Ohio R.C. 737.051, 737.06
 Police Chief - see Ohio R.C. 737.06
 Hours and leave - see Ohio R.C. 737.07
 Appointment of emergency patrolmen - see Ohio R.C. 737.10
 General duties - see Ohio R.C. 737.11
 Police Pension and Disability Fund - see Ohio R.C. Ch. 742
 Police officer may arrest on view - see Ohio R.C. 2935.03, 2935.05, 2935.07

141.01 PERSONNEL.

The maximum authorized complement of members of the Police Department shall be as determined by the Director of Public Safety and shall not exceed the following:

1 Chief
 5 Lieutenants
 13 Patrolmen

(Ord. 34-2000. Passed 8-17-00.)

141.02 INVESTIGATOR.

(a) There is hereby established in the Police Department, the position of Investigator. The position shall be filled by appointment according to Ohio civil service laws.

(b) The duties of the Investigator shall be to investigate crimes and offenses against property or persons, including crimes and offenses involving juveniles, committed or suspected to have been committed within the City, or within the surrounding communities if it is within the scope of the Police Department to investigate; to assist in the gathering of evidence for possible subsequent use in criminal prosecution, using all investigative equipment and techniques that are now or may become available to the City; and to perform such other duties as shall be determined and assigned to him by the Chief of Police.
(Ord. 15-1957. Passed 4-4-57.)

141.03 OUTSIDE EMPLOYMENT.

No employee in the Police Department shall engage in or be employed in any regular occupation or employment outside of his regular employment in the Police Department, except as herein otherwise provided. Any employee desiring to engage in any outside occupation or employment shall first submit a written request to the Chief of the Department, setting forth the nature of the proposed outside occupation or employment, the name of his proposed employer, if any, the proposed schedule of hours to be worked and the proposed place of employment. The Chief shall then submit the written request to the Director of Public Safety, who shall determine whether or not the request shall be granted.
(Ord. 14-1956. Passed 3-1-56.)

141.04 DISSEMINATION OF MEGAN'S LAW NOTICES.

(a) Within seventy-two hours of receiving a Section 2950.11 Notice, the St. Bernard Police Department shall deliver a copy of the Notice to the occupant of each residential dwelling unit, commercial or other unit within a 1000 feet radius of the address of the residence of the sexual predator or habitual sex offender as the said address is set forth in the Notice. The Notice shall also be delivered within any additional geographical area or areas adopted by the Ohio Attorney General. Such delivery may be accomplished by hand carrying and/or by mailing a copy to, or conspicuously posting a copy at each such dwelling, commercial or other unit.

(b) The Notice, as required to be delivered from subsection (a) above, shall only be delivered to those residential dwelling units commercial or other units located within the boundaries of the City of St. Bernard. When the required Notice area extends beyond the boundaries of the City of St. Bernard the St Bernard Police Chief shall provide the information to the proper authorities in the neighboring community.

(c) Nothing herein shall be construed to create any liability on the part of the City or its employees and agents in any civil action to recover damages for injury, death or loss to person or property allegedly caused by any act or omission relating to this section.
(Ord. 10-1999. Passed 3-18-99.)

CHAPTER 143
Fire Department

143.01 Personnel.**143.02 Outside employment.**

CROSS REFERENCES

Original appointment; probationary period and age - see Ohio R.C. 124.27, 124.30, 124.42
 Promotions - see Ohio R.C. 124.31, 124.45 et seq.
 Fire chief suspension - see Ohio R.C. 124.34, 124.40
 Reductions, suspensions and removals - see Ohio R.C. 124.34 et seq., 737.12
 Sick leave - see Ohio R.C. 124.38
 Civil service application - see Ohio R.C. 737.10, 737.11
 Volunteer Firemen's Dependents Fund - see Ohio R.C. Ch. 146
 Fire protection contracts - see Ohio R.C. 307.05, 505.44, 717.02
 Composition and control - see Ohio R.C. 715.05, 737.08, 737.21
 Schooling, buildings and equipment - see Ohio R.C. 715.05, 737.23 et seq.
 Fire chief - see Ohio R.C. 737.09
 Appointment of emergency firemen - see Ohio R.C. 737.10
 General duties - see Ohio R.C. 737.11
 Hours and leave - see Ohio R.C. 737.21, 4115.02
 Gas masks for firemen; requirements - see Ohio R.C. 3737.31

143.01 PERSONNEL.

(a) The maximum authorized complement of members of the Fire Department shall be as determined by the Director of Public Safety and shall not exceed the following:

- 1 Chief
- 4 Captains
- 4 Lieutenants
- 3 Engineers
- 18 Firefighters

(b) The Fire Chief, subject to the approval of the Safety Director, shall designate which of the Captains shall serve as Fire Prevention Captain.

(c) The Firefighter-Paramedic Program shall be under the direct supervision of the Fire Chief. (Ord. 33-1999. Passed 8-19-99.)

143.02 OUTSIDE EMPLOYMENT.

No employee in the Fire Department shall engage in or be employed in any regular occupation or employment outside of his regular employment in the Fire Department, except as herein otherwise provided. Any employee desiring to engage in any outside occupation or employment shall first submit a written request to the Chief of the Department, setting forth the nature of the proposed outside occupation or employment, the name of his proposed employer, if any, the proposed schedule of hours to be worked, and the proposed place of employment. The Chief shall then submit the written request to the Director of Public Safety, who shall determine whether or not the request shall be granted.
(Ord. 14-1956. Passed 3-1-56.)

CHAPTER 145
Department of Public Service

145.01	Public Service Director.	145.05	Personnel.
145.02	Forty-hour week.	145.06	Bus drivers.
145.03	Clerk-Stenographer.	145.07	Minibus drivers.
145.04	Commissioner of Streets.		

CROSS REFERENCES

Compulsory service connections - see Ohio R.C. 729.06, 743.23, 743.37
 Management and control of sewerage system - see Ohio R.C. 729.50 et seq.
 Contracts - see Ohio R.C. 733.22 et seq., 735.05 et seq.
 Appointment of Director - see Ohio R.C. 735.01
 General duties of Director and records - see Ohio R.C. 735.02
 Assistants - see Ohio R.C. 735.04
 Public building supervision - see Ohio R.C. 735.10 et seq.
 Management and control of cemeteries - see Ohio R.C. 759.09 et seq.
 Bond of Director - see ADM. 159.03
 Urban renewal project duties - see ADM. 191.11

145.01 PUBLIC SERVICE DIRECTOR

The Department of Public Service shall be administered by a Director of Public Service. The Director shall be appointed by the Mayor and need not be a resident of the City at the time of his appointment but shall become a resident thereof within six months after his appointment unless such residence requirement is waived by ordinance. He shall perform such duties and have such powers as are provided by the laws of the State and ordinances of the City. His salary shall be payable monthly, and he shall give a bond, conditioned according to law, with good and sufficient sureties, to be approved by the Mayor.
 (Ord. 38-1929. Passed 11-29-29.)

145.02 FORTY-HOUR WEEK.

A forty-hour work week is established for hourly rated employees in the Public Service Department and Street Department of the City. The various employees in the Departments shall work such hours and such shifts, not to exceed forty hours per week, as shall be assigned by the Director of Public Service.

(Ord. 49-1955. Passed 12-15-55.)

145.03 CLERK-STENOGRAPHER.

There is established in the Public Service Department the position of clerk-stenographer. The duties of the position shall be those implied by the title and those other duties as may be assigned from time to time by the Director of Public Service.

(Ord. 33-1957. Passed 9-5-57.)

145.04 COMMISSIONER OF STREETS.

(a) The Commissioner of Streets shall be appointed by the Mayor and shall head the Service Department under the direction of the Director of Public Service. He or she shall be an elector of the municipality. The position shall remain in the unclassified service. Vacancies in office shall be filled by the Mayor.

(b) This section merely renames the position of St. Bernard Street Commissioner to Commissioner of Streets and no longer requires confirmation of Council.

(c) All reference to Street Commissioner shall now be referred to as Commissioner of Streets and all budgeting, financing, appropriations or ordinances referring to Street Commissioner and the position itself shall be in effect and held valid except that the title will now be changed.

(Ord. 8-1993. Passed 12-18-93.)

145.05 PERSONNEL.

In addition to those positions provided for elsewhere in this chapter, the Department of Public Service shall consist of personnel as provided by Council.

145.06 BUS DRIVERS.

The positions of full-time bus drivers in the City are hereby transferred to the Service Department and are hereby designated as classified civil service positions.

(Ord. 53-1975. Passed 7-3-75.)

145.07 MINIBUS DRIVERS.

(a) There are hereby established within the St. Bernard Transit System the part-time positions of minibus driver as more specifically set forth hereinafter. These positions are to be filled by appointment by the Service Director. The requirements, conditions, qualifications and terms for such positions shall be prescribed by the Service Director. The Service Director is hereby authorized to employ a sufficient number of such part-time drivers to provide minibus service during regularly scheduled hours. No overtime pay shall be paid for hours worked on Saturdays and Sundays unless such hours are in addition to forty hours already worked in the respective week by the respective driver.

(b) The part-time bus drivers authorized by this section shall be appointed by the Service Director according to law as soon as practicable.

(Ord. 5-1977. Passed 2-3-77.)

CHAPTER 147
Board of Health

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|---------------|---|---------------|---|
| 147.01 | Establishment. | 147.09 | Appointment of Commissioner, and other personnel. |
| 147.02 | Confirmation of members by Council. | 147.10 | Record of proceedings and diseases. |
| 147.03 | Removal of member for absence from meetings. | 147.11 | Duties of employees. |
| 147.04 | Certification of appointments. | 147.12 | Appointment of Registered Sanitarians and public nurses. |
| 147.05 | Mayor to be president ex-officio. | 147.13 | Eligibility as officer or physician. |
| 147.06 | President pro-tem meetings. | 147.14 | Board to make regulations. |
| 147.07 | Regular meetings. | | |
| 147.08 | Special meetings. | | |

CROSS REFERENCES

Composition, term and quorum; Mayor to be president - see Ohio R.C. 3709.05
 Union with general health district - see Ohio R.C. 3709.07
 Contracts with other cities or health districts - see Ohio R.C. 3709.08 et seq.
 President pro tempore and meetings - see Ohio R.C. 3709.12
 Appointment of Health Commissioner, clerks and nurses - see Ohio R.C. 3709.14 et seq.
 Orders, regulations and emergency measures - see Ohio R.C. 3709.20

147.01 ESTABLISHMENT.

There is hereby established a Board of Health to consist of such members and perform such duties as provided by State law.
 (Ord. 10-1936. Passed 3-25-36.)

The Board of Health shall have the power to exercise its functions independently of a general health district, its Board of Health or legislative authority.

147.02 CONFIRMATION OF MEMBERS BY COUNCIL.

All appointments of members to serve as members of the Board of Health shall be certified or transmitted to Council by the Mayor immediately after making the appointments with the request that the same be confirmed by Council.

The certification of appointment made by the Mayor to Council shall specifically state the name of the person appointed; and it shall clearly state the date on which the appointment shall begin and the term for which the appointment is made.

No appointment as provided herein by the Mayor shall be valid unless confirmed by Council. (Ord. 10-1936. Passed 3-25-36.)

147.03 REMOVAL OF MEMBER FOR ABSENCE FROM MEETINGS.

Should any member of the Board be absent from three consecutive regular meetings, the Mayor, with the approval of Council, may remove the member from the Board, declare the office of the member vacant and appoint a successor for the unexpired term of the member so removed. (Ord. 10-1936. Passed 3-25-36.)

147.04 CERTIFICATION OF APPOINTMENTS.

Appointments made by the Mayor to the Board of Health shall be certified to the Board of Health immediately thereafter by the Clerk of Council. (Ord. 10-1936. Passed 3-25-36.)

147.05 MAYOR TO BE PRESIDENT EX-OFFICIO.

The Mayor shall be president of the Board of Health by virtue of his/her office. (Ord. 10-1936. Passed 3-25-36.)

147.06 PRESIDENT PRO-TEM MEETINGS.

The Board of Health shall elect one of their number president pro-tem. He/she shall preside in the absence of the Mayor, and shall do and perform all duties incumbent upon the president. (Ord. 10-1936. Passed 3-25-36.)

147.07 REGULAR MEETINGS.

The Board shall meet for the transaction of business at least once each calendar month, and at such other times as may be necessary for the prompt and thorough transaction of its business. (Ord. 10-1936. Passed 3-25-36.)

147.08 SPECIAL MEETINGS.

Special meetings of the Board shall be called by the president or three members thereof in the manner provided by law. (Ord. 10-1936. Passed 3-25-36.)

147.09 APPOINTMENT OF COMMISSIONER, AND OTHER PERSONNEL.

The Board of Health shall appoint, for whole or part time service, a Health Commissioner and may appoint such public health nurses, clerks, physicians, registered sanitarians and other persons as they deem necessary. (Ord. 10-1936. Passed 3-25-36.)

147.10 RECORD OF PROCEEDINGS AND DISEASES.

The secretary or clerk of the Board shall keep a full and accurate record of the proceedings of the Board together with a record of diseases reported to the Health Commissioner and upon termination of his/her office shall turn over to his successors, books, records, papers and other matters belonging to the Board. The records shall be kept as are required by the State Director of Health, and such forms shall be used as he/she may prescribe. (Ord. 10-1936. Passed 3-25-36.)

147.11 DUTIES OF EMPLOYEES.

The Board of Health shall designate the duties of the Health Commissioner and such other public health nurses, clerks, physicians, registered sanitarians or other persons appointed or employed by it.

(Ord. 10-1936. Passed 3-25-36.)

147.12 APPOINTMENT OF REGISTERED SANITARIANS AND PUBLIC NURSES.

The Board may also appoint as many registered sanitarians as in its opinion the public health and sanitary conditions of the City may require; these persons shall have the general police powers and be known as "sanitarians". The Board may also appoint as many registered nurses for public health nurse duty, as in its opinion, the public health and sanitary conditions of the City require. These persons shall be registered nurses and shall be known as public health nurses. The Board of Health may determine the maximum number of sanitarians and public health nurses to be appointed.

(Ord. 10-1936. Passed 3-25-36.)

147.13 ELIGIBILITY AS OFFICER OR PHYSICIAN.

The Board shall determine and fix the salaries of its employees but no member of the Board of Health shall be appointed as a health officer or ward physician, or other employee of the Board. (Ord. 10-1936. Passed 3-25-36.)

147.14 BOARD TO MAKE REGULATIONS.

The Board of Health may make such orders and regulations as it deems necessary for its own government, for the public health, the prevention of diseases, and the prevention, abatement or suppression of nuisances. Orders and regulations not for the government of the Board but intended for the general public should be adopted, advertised, recorded and certified as are ordinances of municipalities. However, in cases of emergency caused by epidemic or infectious disease, or conditions or events endangering the public health, the Board may declare the orders and regulations to be an emergency measure and the orders and regulations shall become immediately effective without advertising, recording and certifying.

(Ord. 10-1936. Passed 3-25-36.)

CHAPTER 149
Recreation Board

149.01	Established.	149.05	Personnel.
149.02	Composition and term of office.	149.06	Rules adopted.
149.03	Powers.		
149.04	Recreation Director's annual report.		

CROSS REFERENCES

Bond for Recreation Director - see ADM. 159.03
Municipal swimming pool - see S. U. & P. S. Ch. 931

149.01 ESTABLISHED.

There is hereby established a Recreation Board for the City.
(Ord. 19-1936. Passed 4-9-36.)

149.02 COMPOSITION AND TERM OF OFFICE.

The Recreation Board shall consist of five persons, two of whom shall be members of the Board of Education or members appointed by the Board of Education. The other members of the Board shall be the Public Service Director and two members appointed by the Mayor with the consent of Council. All members of the Board shall be residents of the City and shall serve for terms of five years, except that the members first appointed shall be appointed for such terms that the term of one member shall expire annually thereafter.

Members of the Board shall serve without pay. Vacancies in the Board, occurring otherwise than by expiration of term, shall be for the unexpired term and shall be filled in the same manner as original appointments.

149.03 POWERS.

The members of the Recreation Board shall elect their own chairman and secretary, and select all other necessary officers to serve for a period of one year and may employ such persons as may be needed. The Board shall have authority to supervise and maintain playgrounds, playfields, gymnasiums, swimming pools and other recreational activities in the City. As authorized by law, the Board shall have the power to adopt rules and regulations for the conduct of all business within its jurisdiction.

(Ord. 10-1943. Passed 4-15-43.)

149.04 RECREATION DIRECTOR'S ANNUAL REPORT.

On or about December 1 of each year, the Recreation Director shall submit to Council a written report embodying the scope of the recreational program conducted under his supervision during that calendar year, or portion thereof in which he was employed. The report shall also include the proposed recreational program for the succeeding calendar year, and shall specify any additional costs, facilities or equipment desired to carry the proposed recreational program into effect. (Ord. 32-1955. Passed 9-1-55.)

149.05 PERSONNEL.

The Recreation Department shall consist of personnel as provided by Council.

149.06 RULES ADOPTED.

The rules attached to original Ordinance 28-1984 entitled "Rules Of The Public Recreation Board Of The City Of St. Bernard" are hereby approved and adopted by Council, and are given the full force and effect of law.
(Ord. 28-1984. Passed 6-7-84.)

CHAPTER 151
Civil Service Commission

151.01	Rules of Commission.	Rule XIII	Transfers.
Rule I	Civil service and collective bargaining.	Rule XIV	Layoff and recall.
Rule II	Definitions.	Rule XV	Performance records.
Rule III	Organization and duties.	Rule XVI	Political activity.
Rule IV	Official records.	Rule XVII	Reduction or demotion.
Rule V	Classification.	Rule XVIII	Disciplinary action.
Rule VI	Applications for examinations.	Rule XIX	Appeal to Commission; hearings and action.
Rule VII	Entrance examination.	Rule XX	Public notice of regular and special meetings.
Rule VIII	Continuous examinations.	Rule XXI	Amendments to rules.
Rule IX	Eligible lists.		
Rule X	Appointments to classified service.		
Rule XI	Probation.		
Rule XII	Promotional examinations.		

CROSS REFERENCES

Civil Service - see Ohio Const., Art. XV, Sec. 10
 Civil Service Law - see Ohio R.C. Ch. 124
 Civil Service Commission - see Ohio R.C. 124.40
 Application to police and fire personnel - see Ohio R.C. 737.051,
 737.10, 737.11

151.01 RULES OF COMMISSION.

The following are the St. Bernard Civil Service Commission rules:

RULE I
CIVIL SERVICE AND COLLECTIVE BARGAINING

These rules shall apply to the civil service of the City of St. Bernard and the St. Bernard City School District to the extent that these rules are not superseded by collective bargaining agreements lawfully entered pursuant to Ohio R.C. Chapter 4117.

RULE II DEFINITIONS

Section 1. The term “civil service” includes all offices and positions of trust or employment, whether unclassified, classified, permanent, provisional, seasonal, emergency or temporary, in the service of the City of St. Bernard and the Board of Education of the St. Bernard School District. (ORC 124.01(A), 124.011)

Section 2. The term “unclassified service” comprises the following positions, which shall be exempt from all examinations.

- a. All officers elected by popular vote or persons appointed to fill vacancies in such offices;
- b. The members of all boards and commissions and all heads of departments appointed by the Mayor, including the Safety and Service Directors, excluding the Chiefs of the Police and Fire Departments;
- c. Such employees of the City Council as are engaged in legislative duties;
- d. All superintendents, assistant superintendents, business managers, administrative officers, principals, instructors, teachers, and other employees as are engaged in educational or research duties connected with the public school system;
- e. Two (2) secretaries, assistants, or clerks, and one personal stenographer for all elective officers, for each of the principal appointive executive officers, boards, or commissions, except the Civil Service Commission;
- f. The deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals, or holding a fiduciary relationship to such principals;
- g. Student employees of the Board of Education or the City of St. Bernard (co-ops included);
- h. Such unskilled labor positions as the Commission may find impracticable to include within the classified service.
(ORC 124.11(A))

Section 3. The term “classified service” comprises all positions in the service of the City and Board of Education not specifically included in the unclassified service. The “classified service” consists of two (2) classes, designated as the competitive class and the unskilled labor class. (ORC 124.11(B))

Section 4. The term "appointing authority" means the officer, board or commission having the power of appointment to or removal from positions in any office or department.
(ORC 124.01(D))

Section 5. The term “class” or “classification” means a group of positions established under these rules sufficiently similar in respect to duties, responsibilities and qualification requirements to be designated by the same descriptive title.

Section 6. The term “classification series” means any group of classification titles that have the identical name but different numerical designations or any group established by the Commission and through which an employee may reasonably expect to be promoted or which show a logical relationship to each other as one moves up the salary scale.
(ORC 124.01(I), 124.14(A))

Section 7. The term “permanent employee” means any employee in the civil service who has been regularly appointed after serving a probationary period to a position normally involving continuous year round service.

Section 8. The term “provisional employee” means any employee temporarily filling a position without competitive examination pending the establishment of an eligible list.
(ORC 124.247, 124.271)

Section 9. The term “seasonal employee” means any employee in the classified service whose services are not required continuously throughout the year, but recurs in each successive calendar year. No person shall be appointed as a seasonal employee except by certification from the Civil Service Commission from an eligible list established for the classification.

Section 10. The term “emergency employee” means any employee whose services are required in case of an emergency for a period not to exceed thirty (30) calendar days. Appointment may be made without reference to an existing list or these rules.
(ORC 124.30)

Section 11. The term “temporary employee” or “interim employee” means any employee appointed for a specific period not to exceed six (6) months for a special project; or one who is replacing a regular employee on leave.
(ORC 124.30)

Section 12. The term “new position” means a position created through the authorized addition to an organization unit of a position not previously existing or a position created through an authorized change by the Civil Service Commission in classification.

Section 13. The term “eligible list” means a list of names of persons who have been found qualified, through suitable tests, for employment in positions allocated to a specified class, arranged in rank order according to an appropriate grading system.

Section 14. The term “related list” means the determination that there is a similar eligible list that can be used to fill a vacancy when the eligible list for the classification in question has expired and a new list for that class has not yet been established.

Section 15. The term “promotion” means a job reassignment made in accordance with these rules from a lower class to a higher class involving an increase in responsibilities, a change in classification title, and the application of a higher salary scale.

Section 16. The term “employing unit” is used in connection with promotional examinations and the eligible lists resulting therefrom as well as in layoff and displacement actions. As explained in Rule XIV, layoffs and displacements are made, when necessary, in a given layoff jurisdiction within an employing unit and classification series. The City of St. Bernard and the Board of Education each constitute a separate layoff jurisdiction. An employing unit is an agency within a layoff jurisdiction as determined by the Civil Service Commission.

Section 17. The "unskilled labor class" means that group of unskilled laboring positions for which no prior experience or training is required and for which a competitive examination is not practicable.

RULE III ORGANIZATION AND DUTIES

Section 1. The Civil Service Commission shall consist of three residents of the City appointed by the Mayor pursuant to Ohio R.C. 124.40(A).

Whenever the membership of the Commission changes, the Commission shall elect a Chairman and a Vice Chairman. The Commission shall meet monthly. Special meetings may be called from time to time. A quorum shall be two members. All actions must be approved by a majority of those present. In the event of a tie vote, the matter shall be tabled until the full Commission can convene and vote.

Section 2. Powers and Duties of the Commission. The Commission shall direct the administration and enforcement of the State Civil Service Law and of its own rules. The Commission shall:

- a. Prescribe, amend and enforce rules governing itself;
- b. Prescribe, amend and enforce rules for:
 - (1) Classification of positions,
 - (2) Appointment, promotions, transfers, layoffs, suspensions, reductions, reinstatements and removals from civil service positions, and
 - (3) Maintaining and keeping records of the efficiency of officers and employees;
- c. Advertise, prepare, conduct and grade all competitive and non-competitive exams for positions in the classified civil service, and to contract for examination services with outside examiners;
- d. Prepare or amend job descriptions (including specifications, duties, responsibilities, requirements and desirable qualifications);
- e. Classify new positions and reclassify existing positions as appropriate;

- f. Maintain a journal, open to public inspection, recording all of its proceedings and of the vote of each of its members upon every action taken;
- g. Keep records of all applications for employment, and of all action taken, including examinations;
- h. Prepare eligible lists containing the names of persons qualified for appointment to positions in the classified civil service;
- i. Prepare and maintain, open to public inspection, a complete roster of all persons in the classified service with address, date of appointment, compensation, title, nature of duties and date of termination;
- j. Hear appeals of employees in the classified service from final decisions of appointment authorities relative to reduction in pay or position, job abolishments, layoff, suspension, discharge and re-assignment; and
- k. Subpoena and require the attendance and testimony of witnesses and the production of documentary evidence pertinent to any matter which it has authority to investigate or hear.
(ORC 124.40, 124.03, 124.04, 124.09, 124.14, 124.20)

Section 3. Civil Service Secretary: The Civil Service Secretary (hereinafter referred to as Secretary) is subject to the direction and control of the Commission, and shall, subject to the approval of the Commission, serve as the principal administrative officer of the Commission, exercising such powers as are required to fulfill this responsibility, including supervision of its office and the preparation of examination schedules, the determination of an applicant's eligibility for examination based on minimum qualifications, the holding of examinations, the certification of eligibles, the keeping of records, and the preparation of regulations prescribing the detailed procedure to be followed in the administration of these rules and in carrying on the routine of business. The Secretary is the legal custodian of the Commission's property, papers and records. The Secretary shall recommend the names of special examiners for appointment by the Commission. The Secretary shall maintain the official minutes of the Commission and shall have such authority to take action on routine civil service matters as is delegated by the Commission and recorded in the minutes of the Commission.
(ORC 124.03(D), 124.04(J))

Section 4. Official Signatures: The Chairman of the Commission, or in his/her absence or incapacity, the Vice Chairman, together with the Secretary, shall sign the minutes of the official acts of the Commission.

Section 5. Appearance Before Commission: Whenever an individual or group has a matter which may require the consideration or decision of the Commission, such individual or group shall first confer with the Secretary, who shall make the necessary arrangements to bring such matters before the Commission in regular session.

RULE IV OFFICIAL RECORDS

Section 1. Commission Minutes: The Secretary shall keep a minute record of such official actions of the Commission as are required under these rules. The Commission's minutes shall record the following matters:

- a. Temporary promotions, provisional, emergency and seasonal appointments;
- b. Appeals from dismissal, demotion or suspensions of more than three (3) days, or any length in case of police and fire;
- c. Separation of employee failing to qualify at end of probationary period;
- d. Reinstatement of former classified employees to their positions, and placement of names on and removal of names from eligible lists;
- e. Changes in the classification of individual employees or in the content of the official class specifications;
- f. Approval of, or changes in, examination schedules;
- g. Transfers from one department to another;
- h. Exemptions from competitive examination in the case of special or exceptional appointments;
- i. Certification from eligible lists;
- j. Result lists of examinations;
- k. Maintenance of layoff and recall lists.

Section 2. Official Roster: The Secretary shall maintain an official roster showing the names, addresses, titles, dates of appointment, compensation, nature of duties, changes in classification, and date of termination of all employees in the classified service.

Section 3. Other Records: The Secretary shall oversee the maintenance of the official classifications, efficiency records, files of examination papers, correspondence, and other data. 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 result of the examination, with the approval of the City Records Commission, the Auditor of State and the Ohio Historical Society, pursuant to Ohio R.C. 149.32 and 149.39.

RULE V CLASSIFICATION

Section 1. Classification Plan: The classes of positions described in the Classification Plan as adopted by the Commission with such modifications as may be made thereto from time to time in accordance with these rules, shall constitute the official classification plan for all positions in the service of the City of St. Bernard, the St. Bernard Health District, and the Board of Education. No person shall be employed or regularly assigned to work under any title not appropriate to the duties to be performed.

Section 2. Class Specifications: The Commission shall maintain a record showing for each class established the class title, classification series (if any), the duties performed, and the responsibilities involved in each class, the minimum qualifications to be required of applicants seeking appointment, and the rate of compensation as established by City ordinance. The official copy of such specifications shall be endorsed with the date of adoption and the signature or initials of the Chairman of the Commission or an employee authorized to make such endorsement. All amendments to the specifications adopted under these rules shall be similarly endorsed. The official class specifications shall be open to the public at all times during business hours.

Section 3. Specifications Interpreted: The specifications of classes of positions in the classification plan are hereby declared to have the following force and effect:

- a. They are descriptive and explanatory and are not restrictive. The use of a particular expression or illustration as to duties, qualifications or other attributes shall not be held to exclude others not mentioned if such others are similar in kind or quality, nor to limit the power of appointing authorities to modify or alter the detailed tasks involved in the duties of any position. When a substantial change of duties is made, except for a temporary period or by the addition of duties that are incidental to the main employment, such change shall be reported to the Commission with a view to a possible reclassification of the position.
- b. In determining the allocation of a given position, the specifications shall be considered as a whole. Consideration shall be given to the general duties and responsibilities, the examples of duties cited, the minimum entrance qualifications, and relationships to other classes as affording an inclusive picture of the employment the class is intended to embrace. Any example cited, taken with reference to the general duties statement and the qualifications required, shall not be construed as finally determining whether a position shall be included within the class.
- c. Although they may not be mentioned in the specifications, certain qualifications which should properly apply to practically all positions, such as residence, suitable age, honesty, sobriety, industry, and good physical condition, are taken for granted. The Commission may prescribe minimum age requirements for applicants for appointment to particular classes.

Section 4. Allocation of Positions to Classes: Each position in the civil service shall be classified by the Civil Service Commission by allocation to the appropriate class and classification series (if any). The allocation of positions in the unclassified service but controlled through compensation ordinances or resolutions on the part of the City Council, independent board or commission shall be as determined after conference with the appointing authorities involved. The allocation of any position to the appropriate class shall involve the adoption of the class title for all positions in the class in payroll records, in requests to the Commission for the certification of eligibles, and in all similar employment processes and documents.

Section 5. Dual Classifications: In special cases where it is determined by the appointing authority, with the approval of the Commission, that it is frequently and regularly necessary for an employee to perform duties which are not within the sphere of his/her classification, such employee may be appointed to a classification which does encompass such duties, and still retain the old classification. The selection of employees for such dual classifications shall be by the process of competitive examination if the position is considered to be of a higher level than the original position. Any full-time vacancy in the higher classification shall be filled by the employee in the same department or division holding a dual classification with the greatest length of service in the dual classification, provided, no employee shall be made full time in the higher class, unless the last rating or the average of the last two ratings was not lower than eighty percent (80%).

Section 6. Classification of New Positions: Whenever a new classified position is established, the appointing authority shall report such fact to the Civil Service Commission and transmit a comprehensive description of the duties. The Commission may investigate the actual or suggested duties and qualification requirements and shall classify the position by allocating it to its appropriate class in accordance with the classification plan.

Section 7. Reclassification of Positions: The Civil Service Commission reserves the right to initiate and conduct investigations of positions in the classified service as such inquiry becomes necessary, and to propose changes in classification when the facts are considered to warrant such action. In this connection, the Commission may at any time secure from the appointing authority or employees involved, new statements of the duties and responsibilities of the positions under consideration. The appointing authority and employees concerned shall have an opportunity to be heard before the revised classification is approved by the Commission. Whenever the allocation of a position to a new or different class has been authorized, the Commission, after conferring with the appointing authority concerned, shall determine whether the position of a new class shall continue to be held by the incumbent of the position of the old class through examination or otherwise, or be filled through a competitive examination. If the position which was reclassified is not to be filled by the incumbent, he/she shall retain his/her classified status and shall be placed in another position in his/her classification, or may exercise displacement rights pursuant to Rule XIV.

Section 8. Transfer of Unclassified Employee to Classified Service: Whenever by reason of reorganization of one or more departments, divisions or bureaus of the City service, one or more employees in the unclassified service are not needed or their positions are abolished in such unclassified service, they or any of them, with the approval of the chief appointing authority and the Civil Service Commission, may be transferred to positions with similar duties in the classified service, in the same or other department, division or bureau. Only employees who have occupied such unclassified service positions for two years or more may be so transferred to the classified service; provided further that no such transfer shall be made to a position occupied by a regularly appointed employee in the classified service or to a position for which an employee is on a preferred eligible list by reason of layoff.

Section 9. Unskilled Labor Class. The Civil Service Commission may establish an eligible list for appointment to unskilled labor positions within the City service. Ranking on such list shall be according to experience, qualifications, minimum age requirements, residence, physical capacity to perform the work, and such tests as the Commission deems appropriate. In cases where ratings are equal, priority in time of application shall determine the order of names on the eligibility. The Commission may supplement the list on a periodic or continuing basis and may at any time fix an expiration date for such list which shall not be sooner than six months from the date such expiration date is fixed.
(ORC 124.11(B)(2))

Section 10. Amendment of Classification Plan: The Commission, as it may from time to time deem necessary and after conference with the appointing authorities involved, establish new classes, abolish, merge or divide existing classes and amend the class specifications to meet changing conditions.

RULE VI APPLICATIONS FOR EXAMINATIONS

Section 1. Notice of Examination: The Commission shall give notice of entrance examinations by advertisement in a newspaper of general circulation and by posting notices conspicuously in the offices of the Commission, at City Hall and elsewhere as may be deemed advisable, not less than two weeks prior to such examination. The Commission shall post notice of promotional examinations in the division, department or agency affected. The head of the division, department or agency shall notify each employee eligible for a promotional examination. The notice shall specify the closing date for applications and the date, time and place of the examination. Applications for entrance examinations shall not be available until after the examination has been posted and the announcement has appeared in the newspaper. The Commission need not give notice of special examinations for positions in connection with which there is substantial difficulty in obtaining qualified applicants and for which continuous examinations are found necessary.
(ORC 124.23, 124.25)

Section 2. Application to be Made in Person: Applicants must fill out their application forms completely in person in ink. All applicants shall sign and swear to or affirm the truth of the information provided on the application. Applicants must file the application at City Hall in the offices of the Commission, or with the City Clerk, or as otherwise authorized on the examination announcement, not later than the date specified in the announcement of the examination. Falsification of information on an application shall be grounds for removal from the examination process and removal from city service.
(ORC 124.25)

Section 3. Citizenship: All applicants must be citizens or intending citizens of the United States or legal aliens authorized to be employed.
(ORC 124.22; 8 U.S.C. §274A.)

Section 4. Residency. All applicants must be residents of St. Bernard or signify in writing their intention to become, upon appointment, a resident of St. Bernard as may be required by City ordinance. Persons must become residents of Ohio upon appointment.

Section 5. Commission to Rule on Age Requirements:

- a. Original appointment as police officer. No person shall be eligible to receive an original appointment as a police officer unless she/he is at least twenty-one (21) but not more than thirty-four (34) years of age. The maximum age provision shall be in effect until January 1, 1994, unless extended by State or Federal law. (ORC 124.41; 4112.02(P)(4), (5); 29 U.S.C. §623(i), 630(k).)
- b. Original appointment as firefighter. No person shall be eligible to receive an original appointment as a firefighter unless she/he is at least eighteen (18) but not more than thirty (30) years of age. The maximum age provision shall be in effect until January 1, 1994, unless extended by State or Federal law. (ORC 124.42, 4112.02(P)(4), (5); 29 U.S.C. §623(i), 630(j))
- c. Original appointment to all other positions. The Commission shall not establish any other maximum age limits on original or promotional appointments. The Commission may establish minimum ages for compliance with child labor, safety and other laws.

Section 6. Commission to Rule on Educational Requirements: The Commission may establish educational and certification requirements as a condition of taking an examination only for professional and other positions for which such requirements are expressly imposed by statute or Federal requirements, or where such requirements are necessary to the performance of a job. (ORC 124.22)

Section 7. Rejection of Applicant: The Commission may reject any applicant for cause, among which the following shall be sufficient:

- a. That the applicant lacks any of the minimum qualifications set forth in the official classification specification;
- b. That the applicant is not within the prescribed age limits;
- c. That the applicant is unable to perform the job-related functions of the position to which appointment is sought or is using illegal drugs; (42 U.S.C. §12112(c)(2)(B))
- d. That the applicant has been convicted of a crime that would adversely affect his/her performance in the position to which appointment is sought; has been guilty of infamous or notoriously disgraceful conduct; or has been dismissed from previous employment for flagrant delinquency or misconduct;
- e. That the applicant has made a false statement in the application with regard to any material fact;
- f. That the applicant was previously in the classified service in the same or any other type of employment and was removed for cause or did not resign in good standing;
- g. That the applicant after notification did not promptly present himself/herself at the time and place designated for the examination;

- h. That the Commission has rejected the applicant within the past six months for any examination because of poor work record; or has rejected the applicant for the same or similar classification for failing to meet the minimum qualifications set forth in the official announcement, unless the applicant has accrued the required qualifications during that period;
- i. That the applicant failed, withdrew, or was disqualified from an examination for the same or similar classification within the preceding six months.

The Commission shall notify an applicant of the rejection and shall advise the applicant of the right to appeal to the Commission.
(ORC 124.25)

Section 8. The decision of the Commission on an appeal from a determination of eligibility for examination under this Rule VI shall be final and the applicant shall have no further right of appeal under Ohio R.C. 124.34 and 2506.01, any other Ohio statute, any St. Bernard ordinance or any other provision of these rules.

Section 9. Postponement and Cancellation of Examinations: Any examination may be postponed or cancelled at the discretion of the Commission. Each applicant shall be notified of the postponement or cancellation. The Commission shall determine the method of notification.

Section 10. Fees: No fees shall be charged for any examination.

Section 11. The Commission shall make reasonable accommodations for disabled persons to allow full access to the examination process.

RULE VII ENTRANCE EXAMINATION

Section 1. Examinations to be Practicable: All examinations shall be practicable in character, and shall relate directly to those matters which will fairly test the relative capacity of the person examined to discharge the particular duties of the class of positions to which appointment is sought. Such examination may include an evaluation of such factors as education, training, capacity, knowledge, manual dexterity, and physical or psychological fitness. Where minimum or maximum requirements are established for any examination, they shall be specified in the examination announcement.

Section 2. Content of Examinations: The examinations shall consist of one or more of the following parts:

- a. Written Test. This test will assess applicants' knowledge related to the class of positions to which they seek appointment, their ability in the use of English, the range of their general information, and/or their general educational attainments. A formal thesis upon one or more subjects may be required.

- b. Oral Interview. The Commission will schedule a personal interview with applicants for classes of positions where ability to deal with others, to meet the public, or other personal qualifications are to be determined. An oral interview may be conducted by an appointing authority upon authorization of the Commission. An oral test may also be used when a written test is unnecessary or impracticable.
- c. Performance Tests. This part will test actual performance of tasks within the job description of the class of positions being tested or reasonable substitutes for such tasks.
- d. Physical Tests.
 - (1) Police Officers and Firefighters. Not more than 120 days prior to the date of an appointment to police officer or firefighter, the Commission will schedule a physical examination by a licensed physician. The physician shall test and report on the applicant's (a) cardiovascular and pulmonary condition and (b) physical ability to perform the duties of a police officer or firefighter, as appropriate. This examination shall be job-related and consistent with business necessity.
(ORC 124.41, 124.42; 42 U.S.C. §12112(c)(2)(B), (c)(4)(A))
 - (2) Other positions. For all other positions, after the appointing authority selects a candidate but prior to appointment the Commission will schedule a physical examination by a licensed physician. The physician shall test and report on the candidate's physical ability to perform the duties of the position she/he occupies. If the physician reports that the candidate is unable to perform the duties, then the candidate shall be removed from the eligibility list. (42 U.S.C. §12112(c)(2)(B), (c)(4)(A))
- (3) Pass-Fail. If an applicant fails to meet the minimum standards required, the Commission will exclude the applicant from further examination as disqualified.
- e. Mental (Psychological) Tests. This part will assess mental alertness, intelligence, personality, mental health, the general capacity of applicants to adjust their thinking to new problems and conditions of life, and/or to ascertain special character traits and aptitudes. The Commission will schedule any psychological examination by a licensed psychologist or psychiatrist.
- f. Polygraph Test. The Commission may schedule a polygraph test. The polygrapher will report on the applicant's truthfulness, and, or responses to questions asked prior to the polygraph test.
- g. Training, Experience and Background. This part will assess the applicant's education, experience and background. The Commission may investigate the truth of applicant's statements as to their training and experience and determine the rating accordingly. (ORC 124.23)

Section 3. Method of Rating Examinations: Each part of the examination, except the physical examination, shall be separately rated and the proficiency of each competitor in each part rated on a scale of 100 for the maximum possible attainment (excluding veteran's credits) and seventy (70) for the required minimum rating (or for passing), or any other maximum and minimum score as may be fixed by the Commission. The method of obtaining the average percentage of an examination shall be as follows: multiply the rating obtained in each part by the relative weight of that part; add the products and divide the sum of the products by the sum of the relative weights; the quotient thus obtained will be the average grade for that examination. Because the physical examination is a prerequisite, its weight is zero. The Commission may decline to publish the scores of candidates failing to qualify but shall retain all records of such scores. (ORC 124.26(A))

Section 4. Minimum Grades on Each Section: The Civil Service Commission may, prior to the examination, determine a minimum grade for any part or parts of an examination. Any candidate who fails to attain at least this minimum grade shall be considered to have failed the examination, and shall not be examined on any further parts, if any are planned. In the event that a pre-determined minimum grade so reduces the number of candidates as to substantially eliminate competition, the Commission may change the minimum grade, or retest all of the candidates on that part of the examination.

Section 5. Veteran's Preference: A candidate shall receive veterans credit on an entry level examination for the classified service, provided the candidate has received a passing grade in the examination and meets all of the following requirements:

- a. Served in the military for at least one day on active duty.
- b. Presents a certificate of service or honorable discharge, or record of transfer to reserve duty.
- c. Must be an Ohio resident as of the closing date of the examination.

Veterans must submit all documents verifying their status when filing an application or at the time of the examination. Upon presentation of a certificate of service or honorable discharge, a veteran shall receive additional credit of twenty percent (20%) of his/her total grade earned in the examination, provided a minimum passing score was achieved. (ORC 124.23)

Section 6. Inspection of Examination Papers: Applicants may inspect their examination papers within fifteen (15) days after the results of that examination are approved by the Civil Service Commission. Applicants shall, as a minimum, be given their answer sheets to inspect. Any other examination material shall be available for inspection only after the Commission has determined its availability will not threaten the security of reuse of the examination. Applicants may review their papers only once for a maximum time period of two hours. Applicants may not remove from the review session any exam papers or answer sheets, or take notes, or make copies or reproductions of any portion of the examination papers or any portion of the answer sheets. Fire Department personnel may inspect examination papers in accord with Ohio R.C. 124.45.

RULE VIII CONTINUOUS EXAMINATIONS

Section 1. Commission to Determine: Whenever the Commission determines that applicants are not available in sufficient numbers to justify holding assembled examinations, or whenever the Commission deems it advisable for other reasons, it may authorize its staff to conduct examinations for such classes on a continuous basis. Such examinations shall be continuous at certain regularly established times, until determined otherwise by the Commission. Continuous examinations may be held without previous advertisement.

Section 2. Eligible Lists: An eligible list created as a result of a continuous examination shall be used in accordance with the regular certification procedure as described in Rule X. However, the provisions of Rule IX, Section 1, shall not be construed to apply to such eligible lists.

RULE IX ELIGIBLE LISTS

Section 1. Posting of Lists: From the results of each examination, the Civil Service Commission shall prepare and keep open to public inspection an eligible list of the persons whose average grade in the examination for the class is not less than the minimum score fixed by the Commission and who are otherwise eligible. Such persons shall be notified and take rank upon the eligible list in the order of their relative grades without reference to priority of the time of examination. If a veteran, after receiving the twenty percent (20%) additional credit under Rule VII, Section 5, ties the mark of a non-veteran, the veteran shall receive priority in rank. Ties among two or more veterans or among two or more non-veterans will be broken by the Secretary assigning higher rank to the applicant who filed the application first.
(ORC 124.26, 124.27)

Whenever it becomes necessary to hold a subsequent examination in order to obtain additional eligibles, the Commission may consolidate existing lists for the same class by rearranging the eligible names therein according to their grades. Each person whose name appears on the existing list which is to be merged with a new list shall have an opportunity to compete in the second examination, provided he/she meets the qualifications required for the new examination. Standing on the eligible list then shall be determined by the grade on the subsequent examination.

Section 2. Duration of Lists: The term of eligibility of each list and the names appearing thereon shall be fixed by the Commission at not less than one year nor more than two (2) years.

Section 3. Transfer to Lower Class: The name of any eligible candidate may, at the discretion of the Commission, and upon his/her written request, be transferred to the eligible list for a lower class requiring qualifications of the same general character. The eligible candidate shall be ranked thereon according to his/her grade.

Section 4. Removal from List: If any person on an eligible list fails to report, or arrange within three (3) days after the time of certification (Saturdays, Sundays and holidays excepted) for an interview with an appointing authority, or fails to respond to a notice from the Commission, or declines an appointment without reasons satisfactory to the Commission or cannot be located by the postal authorities, the Commission shall remove him/her from the eligible list. The eligible shall be notified to this effect unless his/her whereabouts are unknown. The name may be reinstated on the eligible list only in case a thoroughly satisfactory explanation of the circumstances is made to the Commission. In case an eligibles name appears on more than one list, a permanent appointment to a position in one class shall cause his/her name to be removed from other eligible lists for similar classes the salary of which is equal or lower. If the eligible list in question has resulted from a promotional examination, resignation from the service shall be cause for removal from the eligible list.

Section 5. Disqualification of Eligibles and Employees on Layoff Lists: If at any time after the creation of an eligible list or layoff list, the Commission has reason to believe that any person whose name appears on any list is disqualified for appointment or recall because of any of the following listed reasons developed subsequent to the examination or any layoff, such person shall be notified and given an opportunity to be heard. If such person fails to appear for hearing, or upon being heard, fails to satisfy the Commission, that person's name shall be removed from the appropriate list.

- a. Incapacity, either physical or mental.
- b. Error disclosed in computing test scores.
- c. False statements made on the application.
- d. Personal activity in violation of the rules of the Civil Service Commission and Ohio R.C. 124.57 (see Rule XVI).
- e. Any other similar reasons.

Section 6. Change of Address: Each person on an eligible list shall file with the Commission written notice of any change of address, and failure to do so may cause that person's name to be removed from the list.

Section 7. Revocation of List: An eligible list may be revoked and another examination ordered only when in the judgment of the Commission such action is deemed advisable on account of errors, fraud, or obviously inappropriate standards prescribed in connection with any examination. All competitors in the first examination shall be given an opportunity to compete and a new eligible list shall be established. No eligible list shall be altered or revoked except upon written notice to all persons whose standing may be affected and upon an entry of the reasons for such alteration or revocation in the minutes of the Commission.

Section 8. Classified Employees Competing on Open Examinations: A permanent employee who passes an open examination for a grade or class in which a position is vacant in the department in which he/she is serving at the time of the examination shall be appointed to the position before an eligible list is prepared. When more than one permanent, classified employee from the department passes the examination for the vacant position, the Commission shall prepare a preferential eligible list consisting only of these employees. No permanent employee shall, under this section, be appointed to a vacant position in any employing unit that is not the unit in which he was serving at the time of the examination.

Section 9. Provisional Employees Competing on Open Examinations: A provisional employee who completes at least six (6) months of service or his/her probationary period, whichever is longer, and who passes a non-competitive or competitive examination for a grade or class in which he/she is serving as a provisional at the time of the examination shall be appointed to the position before an eligible list is prepared. No provisional employee shall, under this section, be appointed to a grade or classification that is not the grade or classification in which he/she was serving at the time of the examination.

RULE X APPOINTMENTS TO CLASSIFIED SERVICE

Section 1. Certification Process: Upon receiving a written request for certification, the Commission shall schedule polygraphs, background investigations and physical examinations (as appropriate under Rule VII) for the persons standing highest on the appropriate eligible list. If all three (3) eligibles pass the polygraph and background examination, then the Commission will certify them to the appointing authority. If no list for the position exists, names may be certified from a related list providing the salary is approximately the same and the qualifications are similar. If more than one vacancy is to be filled, the number of names to be certified shall be determined in the following manner:

From 1 to 4 vacancies, add 2 to the number of vacancies.

From 5 to 8 vacancies, add 4 to the number of vacancies.

From 9 to 12 vacancies, add 6 to the number of vacancies.

From 13 to 16 vacancies, add 8 to the number of vacancies.

The Commission may certify fewer than three (3) names if three (3) names are not available. However, when fewer than three (3) names are certified to an appointing authority, appointment is not mandatory and certification from a related list or a new examination may be secured. No person shall be certified from an eligible list more than four (4) times to the same appointing authority for the same or a similar position except at the request of said appointing authority, provided that certification for temporary appointment shall not be counted as one of such certifications.

- a. **Certification of Seasonal Employees for Permanent Positions:** When a department which employs seasonal employees has a permanent vacancy in a class in which seasonal persons are employed, this permanent vacancy shall be filled by the seasonal employee of that department who has the highest layoff score as computed in accordance with Rule XIV, at the time the requisition is received. When a department has a permanent vacancy and does not employ seasonal employees in this classification, the three (3) seasonal employees with the highest layoff scores in other departments will be certified unless a promotional examination is ordered.
- b. **Notice of Certification:** When the Commission certifies the eligibles to the appointing authority, the Commission shall also mail the eligibles a notice to report for an interview with the appointing authority.
- c. **Review of Examination Papers by Appointing Officer:** Any appointing authority or an authorized representative can examine the papers of applicants.
- d. **Cancellation of Certifications:** If at any time after eligibles have been certified by the Commission at the request of an appointing authority, said appointing authority decides not to fill the vacancy, or decides to fill the vacancy by other methods which comply with law, the Commission shall cancel the certification, notify the eligibles, and record the action taken and the reasons therefor.

Section 2. Appointment Process: Appointing authorities shall fill open positions with one of the persons certified by the Commission. If the appointing authority is filling more than one position at the same time, the following procedure will apply: The appointing authority must fill the first opening from one of the first three (3) candidates on the list and then strike the selection from the list. The appointing authority must then fill the second opening from the top three (3) names on the list. This process will continue until all openings are filled.

The date on which the appointing authority signs the appointment form is the official appointment date regardless of the actual starting date of the employment. All applicable service credit will accrue from the actual starting date of employment.

Section 3. Types of Appointment:

- a. **Permanent Appointments:** Appointing authorities should fill positions by permanent appointment whenever possible. However, conditions may warrant other types of appointments, as listed below.
- b. **Provisional Appointments:** Whenever there are urgent reasons for filling a vacancy and the Commission is unable, upon requisition, to certify a list of persons eligible for appointment after a competitive examination, the appointing authority may, with the approval of the Commission, nominate a qualified person for provisional appointment. Such a provisional appointment shall continue in force only until regular appointment can be made from an eligible list which shall be prepared by the Commission within 180 calendar days thereafter.

- c. **Emergency Appointments:** In case of an emergency which requires the employment of extra persons without delay, an appointing authority may disregard these rules. In no case shall such an appointment continue longer than thirty (30) calendar days, and in no case shall successive appointments follow directly upon one another. Appointing authorities shall promptly report all emergency appointments with reasons therefor to the Commission, which reserves the right to inquire into the nature of the emergency.
- d. **Temporary Appointments:** Whenever a department requires temporary assistance because of a special project or temporary increase in the workload, an appointing authority can make temporary assignments from an appropriate eligible list for the duration of such unusual work. If an employee is off duty without pay and must be replaced, a temporary appointment can be made for the duration of the leave of absence. An eligible's accepting or rejecting a temporary appointment shall not affect his/her standing on the eligible list nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent permanent appointment.
- e. **Student Employees:** With the approval of the Commission, the Board of Education may appoint students of the public school district as student employees to any position for which they are qualified without regard to these rules. Appointing authorities in the City service may with Commission approval arrange with recognized colleges or universities for the appointment of regular full-time students to City positions without regard to the examination process, where such employment is in furtherance of their educational training.
- f. **Exemption from Competition:** In case of a vacancy in a position in the classified service where peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can best be filled by a selection of some designated person of high and recognized attainments in such qualities, the Commission may suspend the provisions of the statute requiring competition in such case, but no suspension shall be general in its application to such positions, and all such cases of suspension shall be recorded in the minutes of the Commission with the reasons for the same.

Section 4. Reinstatement of Former Employees:

- a. If a permanent employee has resigned in good standing, the Commission may, within one year of such assignment, place the former employee on an appropriate eligible list in accordance with the grade received in the original examination.
- b. If a permanent employee has resigned without delinquency, the appointing authority may reinstate the employee at any time within one year from the date of such separation, provided there are no employees of the department who have been laid off and whose names appear on the preferred or layoff list for the class. The appointing authority shall send notice of such reinstatement to the Commission for its approval.

- c. Sworn employees of the Police and Fire Departments may not be reinstated above the rank of patrol officer and firefighter, and only after passing the physical examination required by Ohio R.C. 124.41 or 124.43.
(ORC 124.50)

RULE XI PROBATION

Section 1. The Civil Service Commission shall establish probationary periods for original appointments where a collective bargaining agreement does not provide a probationary period.

- a. All appointments shall be for a probationary period fixed by the Commission in accordance with Ohio R.C. Chapter 124; provided, that when a new appointee is accepted conditionally by the examining physician, the Commission may extend the probationary period up to the maximum period permitted by law for the purpose of providing ample time for re-evaluation of the appointee's physical condition. No appointment or promotion shall be deemed finally made until the appointee has satisfactorily served his/her probationary period. Service performed as a provisional employee shall be included in the probationary period.
(ORC 124.27)
- b. **Illness during Probation:** If a probationary employee is absent because of illness or injury for a substantial portion of the probationary period, the Commission may extend the probationary period by the number of working days missed.
- c. **Probationary Report:** Within ten (10) working days before the end of the probationary period, or at the time of probationary separation if more than ten (10) days prior to the end of the probationary period, the appointing authority shall furnish the Commission with a performance report indicating whether the performance is satisfactory. If the appointing authority's decision is to remove the appointee, his/her communication to the Commission shall indicate the reason for such decision.
- d. **Removal of Employee:** Any probationary employee may be removed, without right of appeal to the Commission, after having worked sixty (60) days or one-half of the probationary period, whichever is greater.
(ORC 124.27)

A probationary employee may be removed for cause earlier in the probationary period, but in such case shall be given a formal notice of dismissal or demotion and shall have the right to appeal to the Commission in accordance with Rule XIX.

Any employee failing to qualify in his/her probationary period shall be ineligible for any civil service examination for a period of two (2) years, unless, in the judgment of the Commission, the cause of his/her removal will not affect usefulness in some other type of employment.

Section 2. The Commission shall fix probationary periods for promotional appointments according to the same standards and procedures as set forth in Section 1.b. of this Rule X shall apply.

Section 3. Resumption of Position:

- a. Any employee removed from a promotional appointment during the probationary period shall have the right to resume the position from which he/she was promoted.
- b. Any employee accepting another position in a different agency as a result of a promotion from an open competitive examination list may, during the promotional probationary period, with the consent of the Commission and his/her former department head, have the right to resume the position from which he/she was promoted.

Section 4. Dual Classifications: If an employee is promoted to serve in a higher classification in addition to retaining his/her original classification, and it is expected that he/she will work only part-time in such higher classification, the Commission, upon application of the appointing authority, may establish a probationary period for such service in terms of actual working days; but in no case shall such probationary period be longer than that of a regularly employed person in the same classification.

**RULE XII
PROMOTIONAL EXAMINATIONS**

Section 1. Commission to Rule on Promotional Examinations: Vacancies in positions above the lowest rank or grade of any category in the classified service shall be filled insofar as practicable by the promotion of employees in the civil service.
(ORC 124.31)

Promotions shall in every case involve a definite change in duties and an increase in responsibilities, and shall not be made merely for the purpose of effecting an increase in compensation.

- a. Police. Provided there are two incumbents eligible and willing to compete, the examination for sergeant in the Police Department shall be open only to police officers in the City of St. Bernard, and the examination for chief shall be open only to sergeants in the City of St. Bernard, all subject to the provisions of this Rule XII.
- b. Firefighters. Provided there are two incumbents eligible and willing to compete, the examinations for engineer and lieutenant in the Fire Department shall be open only to firefighters in the City of St. Bernard, for captain, only to lieutenants and for chief only to captains, all subject to the provisions in this Rule XII.
(ORC 124.45)
- c. Service Department. All examinations in the Service Department shall be completely open to classified employees unless the Commission determines otherwise.
- d. Board of Education. All examinations in the School District shall be completely open to classified employees of the school district unless the Commission determines otherwise.

Section 2. Rejection of Applicant: The Commission may, subject to appeal to the Commission, reject any applicant for cause, among which the following shall be sufficient:

- a. The applicant's last performance rating was less than eighty-five percent (85%);
- b. An applicant with an eighty-five percent (85%) rating has been reprimanded or received greater discipline since the last rating, but only after a hearing and written notice to the applicant of the reason;
- c. An applicant with a rating higher than eighty percent (80%) has received discipline greater than a reprimand since the last rating, but only after hearing and notice as above;
- d. For Police Department promotions, the applicant has not served at least twelve (12) months in the next lower ranks
- e. For Fire Department promotions, if to the rank(s) immediately above regular firefighter, if the applicant has not served twenty-four (24) months in the rank, or if to the rank of captain or chief, if the applicant has not served twelve (12) months in the next lower rank.

Section 3. Examination Date for Uniformed Police and Fire: Whenever a vacancy occurs in a promoted rank in the Police and Fire Departments and no eligible list for such rank exists, the Commission shall hold a competitive promotional examination within sixty (60) days of such vacancy. (ORC 124.44, 124.48)

Section 4. Announcement of and Application For Examination: The procedures in Rule VI, Sections 1, 2, and 6 shall apply.

Section 5. Content of Promotional Examinations: All promotional examinations shall be practicable in character and shall relate directly to those matters which will fairly test the relative capacity of the person examined to discharge the particular duties of the class of positions to which promotion is sought. Each promotional examination shall consist of the following parts:

- a. One or more of the following tests:
 1. Written Test. This test will assess the competitor's knowledge related to the class of positions to which they seek appointments, their ability in the use of English, the range of their general information, and/or their general educational attainments. A formal thesis upon one or more subjects may be required.
 2. Mental Tests. This part will assess personality, mental health, mental alertness, intelligence, the general capacity of applicants to adjust their thinking to new problems and conditions of life, and/or to ascertain special character traits and aptitudes.
 3. Performance Test. This part will test actual performance of tasks within the job description of the class of positions being tested or of reasonable substitutes for such tasks.

Whenever a position requires two (2) or more distinct skills or bodies of knowledge, the Commission may devise a separate test on each such separate skill or body of knowledge and determine a minimum grade for each part of the examination. Any candidate who fails to attain at least this minimum grade shall be considered to have failed the examination and shall not be examined on any further parts, if they are planned.

- b. Efficiency. If the competitor achieves at least the minimum passing score, then the Commission shall grant credit for efficiency, as determined by the Commission, based on the competitor's most recent performance ratings. In the Fire Department, this credit shall be ten percent (10%) of the competitor's efficiency rating for the last year.

(ORC 124.31, 124.44, 124.45)

- c. Seniority. If the competitor achieves at least the minimum passing score, then the Commission shall grant credit for seniority based on continuous classified service within the State of Ohio.

Continuous service is hereby defined as that not broken by dismissal or resignation without reinstatement. Seniority credit is not given for service as an unclassified, temporary, student, emergency, provisional, seasonal or federally funded employee. (ORC 124.31, 124.44, 124.45)

An employee whose City service is interrupted only by a layoff under Rule XIV, or by a resignation followed by a reinstatement under Rule X, shall receive credit for service prior to layoff or resignation. However, uniformed police and fire personnel are not entitled to seniority credit for service prior to a resignation.

(ORC 124.50)

An employee whose City service is interrupted only by military service shall receive credit for seniority on the basis of combined City and military service.

(ORC 124.29)

The Commission shall grant employees seniority credit which shall not exceed ten percent (10%) as follows: for the first four years of service, one percent (1%) the total grade attainable shall be added to the final grade; for each of the next ten years of such service, six-tenths percent (0.6%) of the total grade attainable shall be added to the final grade. (ORC 124.31)

For employees in the Fire Department, the Commission shall grant seniority credit only for service in the St. Bernard Fire Department.

(ORC 124.45)

If two (2) or more candidates receive the same final grade on a promotional examination, including seniority credit, the candidate with the greatest seniority will be ranked highest. If two (2) competitors were appointed on the same day, rank on the original eligible list determines relative seniority.

Section 6. Inspection of Examination Papers: The procedures in Rule VII, Section 6 shall apply. Fire Department examinations may only be inspected prior to the grading and within five (5) regular work days. (ORC 124.45)

Section 7. Eligible Lists: From the results of each examination, the Commission shall prepare and keep open to public inspection an eligible list. The procedures in Rule IX shall apply unless inconsistent in the context of promotions.

Section 8. Promotional Appointments in the Police and Fire Departments: Upon receiving a written request for certification, the Commission shall certify to the appointing authority the name of the person receiving the highest rating and the appointing authority shall appoint the person so certified within ten (10) days for the Fire Department or within thirty (30) days for the Police Department. (ORC 124.44, 124.46, 124.48)

Section 9. Other promotional appointments: Upon receiving a written request for certification, the Commission shall certify to the appointing authority the names of the three (3) persons having the highest ratings. (ORC 124.31)

Section 10. Promotion without Examination: The Commission recognizes the following exceptional situations in which it may authorize the promotion without competition of an eligible employee:

- a. If a vacancy exists in a classification requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational character, and the appointing authority establishes in writing to the satisfaction of the Commission that only one subordinate employee of the department has such qualifications, promotion may be approved under Ohio R.C. 124.30(B).
- b. If a position has been established with advanced approval of the Commission for the purpose of training an employee for promotion to a higher position, and the selection of the incumbent of the training position has been made with due regard for the requirements of the higher position, the Commission may, on recommendation of the appointing authority, approve such promotion without examination upon completion of suitable training. Such advance requests will not be considered favorably unless an examination has been held in an effort to fill the position at the proper classification; and unless the training position is the only one of its classification in the division.

Section 11. Temporary Promotions: An interim or temporary appointment to a higher position made necessary by reason of sickness, disability, or other absence of a regular employee may be authorized without examination by the Commission upon the written request of an appointing authority who shall set forth full information regarding such a request. All such temporary promotions shall continue only during such period of sickness or disability and shall be recorded in the minutes of the Commission.

RULE XIII TRANSFERS

Section 1. Inter-Departmental Transfers: Any employee in the classified service who has served the required probationary term may be transferred with the approval of the Commission from a position in one department to a position of the same class in another department, upon the approval of the heads of the two (2) departments concerned, and with the consent of the employee to be transferred, without an additional probationary period. Where the good of the service demands, a transfer may be made upon request of the head of a department to which the employee is to be transferred without the approval of the head of the department from which such transfer is to be made.

Section 2. Assignment of Other Work: Any employee in the classified service may be assigned to work other than that described in the specifications of his/her classification but of the same general level of responsibility, for a period not exceeding thirty (30) days, without notice to the Commission. Such an assignment shall involve no change in compensation. No person shall be assigned for more than thirty (30) days on duties other than those implied by his/her class title unless the employee has qualified through competitive examination and is appointed in accordance with these rules. (ORC 124.32, 124.33)

RULE XIV LAYOFF AND RECALL

Section 1. Layoff Jurisdictions: The City of St. Bernard, the St. Bernard Health District, and the Board of Education each constitute a separate layoff jurisdiction. Layoff, displacement, and recall procedures shall apply only within the jurisdiction affected by the layoff. (ORC 124.326)

Section 2. Procedure for Layoff in Non-Uniformed Classifications: When it becomes necessary, through lack of work or funds or abolishment of jobs, to reduce the number of employees, the appointing authority will determine in which classifications layoffs will occur and the number of employees to be laid off within each class. The department head shall file a statement of rationale and supporting documentation with the Civil Service Commission. In carrying out such layoffs, the appointing authority will follow the procedures set forth in the following sections. (ORC 124.321, 124.322)

Section 3. Order of Layoff and Displacement: Whenever a layoff is necessary, first temporary, then intermittent, then part-time, then seasonal, and then full-time employees shall be laid off in the following order:

- a. Employees serving provisionally who have not completed their probationary period after appointment;
- b. Employees serving provisionally who have satisfactorily completed their probationary period after appointment;
- c. Employees appointed from certified eligible lists or who are classified and who have not completed their probationary period after appointment;
- d. Employees appointed from certified eligible lists or who are classified and who have successfully completed their probationary period after appointment.

Displacement, sometimes known as "bumping", is the substitution of an employee in a higher classification for an employee in a lower classification as a result or in lieu of layoff.

An employee may not displace another employee in a lower classification unless the former is qualified to perform the job duties of the lower classification. If an employee is not qualified to displace another employee in a lower classification or if no employee is left to be displaced, then the former employee shall be laid off.

Questions regarding an employee's qualification to perform a lower level job will be resolved by the Civil Service Commission.

Within each employee classification the employee having the fewest retention points is to be laid off or displaced first. The employee with the next fewest retention points is to be laid off or displaced second, and so on until all necessary layoffs or displacements have occurred in that classification. Then the appointing authority will proceed to the next lower classification in the classification series. In cases of identical retention points, the employee having the least seniority in terms of actual date of hire and based on the most recent period of uninterrupted service will be laid off or displaced first.

An employee who is to be laid off or displaced may displace the employee with the fewest retention points in the next lower classification in the classification series as long as the former has more retention points than the latter. Otherwise the former employee must look to successively lower classifications and to the employee with the fewest retention point in each class until the employee can find someone with fewer retention points to displace. If the employee cannot do so, he/she must be laid off.

Employees shall notify the appointing authority of their intention to exercise their displacement rights, within five (5) days after receiving notice of layoff.
(ORC 124.321, 124,323, 124.324)

Section 4. Calculation of Retention Points: Retention points include both length of service and efficiency.

- a. Length of continuous service credit will be determined as follows: Credit for a complete month of service will be given for any calendar month in which an employee is employed. Each employee is to receive two (2) seniority points for each completed month of uninterrupted service. Authorized leaves of absence such as military leave or personal leave without pay shall not be considered as an interruption of service nor shall the fact that some employees only work a ten (10) month year while others work a twelve (12) month year, however, only ten (10) months of service will be credited. Seniority points will not be given for services as a student, temporary or emergency employee nor for service as an Emergency Employment Act or public service employee or other similar type of employee. Service shall be considered to be interrupted when an employee:
1. Quits or resigns. However, if resignation is followed by reinstatement within one year, credit for uninterrupted service prior to resignation will be given, but no credit will be given for the time between resignation and reinstatement.
 2. Is discharged for just cause.
 3. Is laid off for a period of more than twelve (12) consecutive months. If an employee is laid off and recalled, credit for continuous service prior to layoff will be given but no credit will be given for the time the employee was actually laid off.

Next determine the employee with the greatest number of points in the classification series which will then be given the equivalent of 100. Compute the equivalent score for every other employee in the classification series. For example, if the person with the greatest seniority had 196 points, that score would then become 100. If the next highest score was 170, that score would become 86.73 by dividing 170 by 196. This process would continue until every score was converted as shown into a 1 to 100 scale. Then multiply each score by .9 to determine the final length of service credit.

- b. Efficiency credit will be determined as follows using either the average point value of the employees two (2) most recent annual evaluations, or the most recent annual evaluation if the employee has only one such report. The point value of each evaluation will be determined according to the following table or one that is comparable:

Excellent	100
Very Good	90
Satisfactory	80
Improvement Needed	70
Unsatisfactory	0

After determining the efficiency rating for each employee, multiply that score by 0.1 to determine the final efficiency credit.

- c. Add the final length of service credit and the final efficiency credit to derive each employee's final retention points. (ORC 124.325)

Section 5. Procedure for Recall: The Commission shall place laid off employees on an appropriate layoff list, ranked by retention points. Employees shall be recalled in order starting at the top of the list.

An employee who is laid off will retain reinstatement rights for a period of one year from the layoff date. During this one-year period, the City or the Board shall not hire nor promote anyone into the classification or classification series of layoff until all laid off employees are reinstated or decline the position when it is offered. However, an employee may not be recalled to a position in the classified service for which the employee is not qualified. Questions regarding an employee's qualifications to perform the duties of such a position will be resolved by the Civil Service Commission.

Vacancies which occur in the classification of layoff shall be offered to the appropriate employee who shall accept the offer in writing within five (5) days of notification before the position is offered to the next eligible employee.

Any employee accepting recall to the same classification and same civil service status from which the employee was laid off or displaced shall be removed from all layoff lists.

Any employee declining recall to a vacancy in the same classification and same civil service status from which the employee was laid off or displaced shall:

- a. Be removed from all layoff lists if the vacancy was in the employing unit from which he/she was laid off or displaced; or
- b. Be removed only from the City-wide layoff list and remain on the employing unit layoff list if the vacancy was in a different employing unit from the one in which he/she was laid off or displaced.

An employee who does not exercise his/her option to displace shall only be entitled to recall in the classification from which the employee was displaced or laid off.

An employee who declines recall to a classification lower in the classification services than the classification from which the employee was laid off or displaced, shall thereafter only be entitled to recall to a classification higher, up to and including the classification from which the employee was laid off or displaced.

Any employee recalled under this section shall not serve a probationary period upon recall except that an employee laid off during an original or promotional probationary period shall begin a new probationary period.

Any employee reinstated within one year shall retain all previously accumulated seniority.

Section 6. Appeal Procedure: Any employee may appeal a layoff or a displacement which is the result of a layoff to the Civil Service Commission. The appeal shall be filed or postmarked no later than ten (10) days after receipt of notice of layoff or after the date the employee is displaced.

Section 7. Layoff and Recall Procedures for Police and Fire Departments: Whenever it becomes necessary to reduce the uniformed force in the Police or Fire Departments, the employee with the least continuous service shall be the first laid off. When a position above the rank of police officer or firefighter is abolished, the employee whose position is abolished shall displace the employee with the least amount of time in grade in that rank and the displaced employee shall be demoted to the next lower rank and the employee with the least time in grade in the next lower rank shall be demoted, provided there is no vacancy, and so on down until the employee with the least time in grade in the lowest rank has been reached who shall be laid off. If a position is reestablished or a vacancy in any classification occurs within three (3) years, the laid off employee with the greatest continuous service shall be reappointed.

RULE XV PERFORMANCE RECORDS

Section 1. Efficiency Ratings: Each appointing authority shall rate the job performance of each employee in the classified service once each year on forms prescribed by the Civil Service Commission unless another period is approved by the Commission. Dually-classified employees shall be rated separately on their performance in each classification. The appointing authority shall counsel each employee concerning his/her efficiency rating.

Section 2. Disciplinary Action for Inefficiency: Any case of failure of a classified employee to perform assigned duties in a satisfactory manner shall be cause for disciplinary action.

RULE XVI POLITICAL ACTIVITY

Section 1. General Statement: Employees in the classified service are prohibited by Ohio R.C. 124.57 from engaging in political activity.

For purposes of this Rule, the "classified service" includes persons serving in either certified or provisional status and includes employees who are on an authorized leave of absence.

Herein, "political activity" and/or "politics" means partisan activities and refers to campaigns and elections involving primaries, partisan ballots and/or partisan candidates.

Section 2. Permitted Activities:

- a. Registering to vote and voting;
- b. Expressing opinions, either oral or written;
- c. Contributing to political candidates or organizations;
- d. Circulating petitions on legislation relating to their employment;
- e. Attending political rallies that are open to the general public;
- f. Resigning nominating petitions;
- g. Displaying political pictures in their homes;
- h. Wearing political badges or buttons, or displaying political stickers on their private automobiles.

Section 3. Prohibited Activities:

- a. Participating in a partisan election as a candidate for office;
- b. Declaring candidacy for an election office which is filled by partisan election;
- c. Circulating nominating petitions;
- d. Holding an elected or appointed office in any political organization;
- e. Accepting appointment to any office normally filled by election;
- f. Campaigning by writing for publications, by distributing political material or by making speeches on behalf of a candidate for elective office;
- g. Soliciting contributions for any political party or candidate;
- h. Soliciting the sale of or selling political party tickets;
- i. Engaging in activities at the political polls, such as soliciting votes;
- j. Acting as recorder, checker, watcher, or challenger of any party or faction;
- k. Engaging in political caucuses.

Section 4. Enforcement: An employee who engages in any of the activities listed in Section 3 is subject to removal from his/her position. The appointing authority may initiate such removal action in accordance with the usual procedures cited in Ohio R.C. 124.34. The Attorney General, the Director of the Department of Administrative Services or Hamilton County Prosecutor may also institute action where the law has been violated.

Section 5. Political Activity of Employees in the Unclassified Service: Employees in the unclassified service, who serve at the pleasure of the appointing authority and are not subject to competitive examination, may engage in political activity, unless specifically prohibited by Federal or State constitutional or statutory provisions.

RULE XVII REDUCTION OR DEMOTION

Section 1. Voluntary Demotion: An employee may, with the agreement of the appointing authority and the approval of the Commission, transfer to a vacant position in a lower class which she/he is qualified to fill.

Section 2. Involuntary Demotion for Physical Incapacity: When an employee becomes medically (physically or mentally) incapacitated for the performance of the duties of his/her position, the appointing authority, with approval of the Commission, can transfer the employee to a vacant position in a lower class which she/he is qualified to fill and medically capable of filling. The employee first shall be notified in writing of such demotion and have an opportunity to file an explanation. Complete facts regarding such a change in classification shall be reported to the Commission in the same manner as set forth in appeals to the Commission (Rule XIX).

When the medical incapacity ends, the demoted employee may request re-promotion. The demoted employee must pass a physical examination administered by the City physician, or by a licensed physician designated by the applicable public employees retirement board, showing that the employee has recovered from the disability or incapacity.
(ORC 124.32, 4112.02(A); 42 U.S.C. §12111 to 12117)

RULE XVIII DISCIPLINARY ACTION

Section 1. Reduction, Suspension and Dismissal: The tenure of every employee shall be during good behavior and efficient service and no such employee shall be reduced in pay or classification, suspended, or dismissed except for incompetency, inefficiency, dishonesty, substance abuse, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of the rules of the Civil Service Commission, or any other failure of good behavior, or any other acts of misfeasance, malfeasance nor nonfeasance in office.

In any case of reduction, suspension of more than three (3) working days, or dismissal, the appointing authority shall furnish the employee with a copy of the order of reduction, suspension or dismissal, which order shall state the reasons therefor. Such order shall be filed with the Commission.

Section 2. Reprimands: An appointing authority may reprimand any employee for cause. The appointing authority shall maintain a written record of oral reprimands and a copy of written reprimands.

Section 3. Suspensions: An appointing authority may suspend any employee without pay for disciplinary purposes. The employee shall be furnished with a written statement of facts and whenever possible shall be given time within which to file an explanation with the appointing authority.

If the suspension is for a period of three (3) days or less, the employee has no right of appeal to the Commission. An employee may appeal a suspension of more than three (3) working days in the same manner as set forth in appeals to the Commission (Rule XIX).
(ORC 124.34)

Any suspension of uniformed personnel of the Police or Fire Departments may be appealed to the Commission.

Section 4. Demotion for Disciplinary Reasons: An appointing authority may demote an employee from his/her classification to a lower related classification for purposes of discipline. Such demoted employee shall have the right of appeal to the Commission from such action by the appointing authority, in the same manner as set forth in appeals to the Commission (Rule XIX).

Section 5. Removal: An appointing authority may remove an employee for cause as set forth in Ohio R.C. 124.34, or for an accumulation of acts of lesser consequences. Copies of written reprimands which show warnings have been given on an accumulation of acts of lesser consequences should be kept. Also, grounds for dismissal are:

- a. The failure of an employee to pay or adjust private financial obligations other than the filing of a bankruptcy action under federal law, garnishment for child support under Ohio R.C. Chapter 3113, or any single garnishment, under 15 U.S.C. Section 1674 or Ohio R.C. 2716.05, after being given an opportunity to do so by cooperation with the proper authorities, shall constitute a failure of good behavior for which the employee may be dismissed.
- b. Any employee who is absent from duty without permission is guilty of neglect of duty and/or insubordination and may be dismissed.
- c. Absence from duty by an employee for three (3) consecutive working days without an explanation within that period, or failure to return from leave of absence after the leave has expired or been revoked, shall in each case be deemed a resignation.

If within ten (10) days after the last day of actual work the employee shall furnish to the appointing authority a satisfactory explanation of the absence, the entry of resignation may, on recommendation of the appointing authority and with the approval of the Commission, be set aside.

The suspension or discharge of an employee will not become effective until the appointing authority has held a pre-disciplinary hearing at the agency level to permit the employee to present matters in his/her defense and has sent written notice of suspension or discharge to the employee. The written notice must state the reasons or grounds for such suspension or discharge together with specifications and facts as will enable said employee to be placed fairly upon his defense. A copy of the notice of suspension or discharge, including specifications, must be filed with the Commission prior to the effective date of the action taken, with the exception of suspensions pending formal disciplinary action.

RULE XIX APPEAL TO COMMISSION; HEARINGS AND ACTION

Section 1. Appeal to Commission and Notice of Hearing: An employee may appeal an order of dismissal, demotion, suspension in excess of three days (see special provision for police and fire under Rule XVIII, Section 2) by filing a notice of appeal with the Civil Service Commission. The notice of appeal must be in writing and filed not later than ten (10) days after the order of dismissal, demotion, or suspension has been filed by the appointing authority with the Civil Service Commission. Upon receipt of such an appeal, the Commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, such appeal within thirty (30) days after the time-stamped date of receipt of the written appeal. Written notice shall be given to the appellant and to the appointing authority of the time and place of hearing of the appeal.

The Commission may appoint a Trial Board, consisting of one, two (2) or three (3) members, providing that at least one of the members shall be a member of the Commission who shall act as Chairperson. The Trial Board may hear appeals of any matter within the jurisdiction of the Commission, and shall recommend its disposition to the Commission. Determination of an appeal is not final until reviewed and acted upon by the full Commission. The Commission may alter, amend, affirm or reverse the recommendation of the Trial Board, or may order a rehearing of the appeal.

Section 2. Appeal Proceedings: Hearings shall be open to the public. The proceedings shall be as informal as is compatible with the requirements of justice. The Secretary shall furnish to the Commission official documents comprising the record of appeal, the notice of appeal, a copy of the notice of disciplinary action, pertaining to the appellant, and a copy of the appellant's civil service employment record, including past disciplinary actions if any. The Commission shall hear evidence upon the charges and specifications as filed with it by the appointing authority. No material amendments of or additions to said charges or specifications will be considered by the Commission.

- a. Order of Proof: The order of proof shall be as follows: The appointing authority shall present its evidence in support of the charges. The appellant shall then produce such evidence as he/she may wish to offer in his/her defense. The parties in interest may then offer rebuttal evidence. The Commission in its discretion may hear arguments.
- b. Evidence and Counsel: The admission of the evidence shall be governed by the rules applied by the courts in civil cases. The Commission shall have the power to subpoena and require the attendance of witnesses; to subpoena the production of pertinent documents; and to administer oaths. The appointing authority may be represented by the Law Director or other legal counsel. The appellant may also be represented by legal counsel.
- c. Failure of Parties to Appear. If the employee shall fail to appear at the time fixed for the hearing, the Commission shall hear the evidence and render judgment thereon. If the appointing authority shall fail to appear at the time fixed for the hearing, and if no evidence is offered in support of its charge or charges, the Commission may render judgment as by default or may hear evidence offered by the removed employee and render judgment thereon. The Commission shall forthwith notify the appointing authority and the removed employee of its judgment.
- d. Decision Rendered: The Commission shall, after due consideration, render its judgment affirming, disaffirming or modifying the action of the appointing authority. The decision rendered shall be officially recorded in the minutes and copies shall be forwarded to the appellant and to the appointing authority. The decision of the Commission shall include a statement that an appeal may be filed with the Common Pleas Court pursuant to Ohio R.C. 124.34.

Section 3. Resignation Before Decision: The acceptance by an appointing authority of the resignation of a person discharged before final action on the part of the Commission will be considered a withdrawal of the charges, and the separation of the employee concerned shall be recorded as a resignation not in good standing and the proceedings shall be dismissed without judgment.

Section 4. Compensation When Appeal is Sustained: Whenever the dismissal, demotion or suspension of an employee is disapproved by the Commission and a reinstatement ordered, the employee involved may, as determined by the Commission, receive the pay he/she lost because of such dismissal, demotion or suspension, provided the appeal hearing has not been delayed for the convenience of the appellant and/or his/her representative.

Section 5. An employee who is dismissed for misconduct or delinquency or who resigns while not in good standing shall be removed from all eligible lists, unless, in the judgment of the Commission, the cause of his/her dismissal or resignation under charges will not affect the possibility of his/her usefulness in some other type of employment.

**RULE XX
PUBLIC NOTICE OF REGULAR AND
SPECIAL MEETINGS**

Notice of the time and place of regularly scheduled meetings and special meetings of the Civil Service Commission shall be posted at the main office of the Civil Service Commission, City Hall, 110 Washington Avenue, St. Bernard, Ohio 45217.

Special meetings of the Civil Service Commission shall not be held unless twenty-four hours advance notice is given to the news media that have requested notification. In the event of an emergency requiring immediate official action, the member(s) calling such emergency meeting shall notify the news media that have requested notification immediately of the time, place and purpose of such meeting. To request notification, the news media shall submit a written request to the Civil Service Commission at its office. Such request shall include the name and address of the news media making the request and a telephone number for use by the Civil Service Commission. The notification required by this rule shall be made by telephone call to the number included in the news media request. The responsibility for keeping the required information current shall be that of the news media making the request.

Any person who wishes to obtain advance notification of all meetings at which any specific type of public business is to be discussed shall submit a written request for such notification to the Civil Service Commission at its office. Such request shall include the name and address and telephone number of the person making the request and shall be accompanied by the payment of a reasonable fee for such notification, as determined by the Civil Service Commission. Notification shall be made by mailing a copy of the agenda or a notice of the time, place and purpose of the meeting to the person requesting notification, except in the event of a special meeting such notification may be made by telephone call. The responsibility for keeping the required information current shall be that of the person making the request.

RULE XXI
AMENDMENTS TO RULES

Section 1. Notice of Amendments: No amendment of these rules shall be made by the Civil Service Commission nor shall any rule be repealed nor any new rule adopted at the same meeting at which it is proposed. No final action to amend, repeal or supplement a rule shall be taken in less than seven (7) days after its proposal. Copies of proposed amendments shall be available to any citizen upon request, and copies of amendments shall be furnished each appointing authority.

CHAPTER 153
Building Commissioner

153.01 Appointment; qualifications.

153.02 Plumbing Commissioner.

CROSS REFERENCES

Bond - see ADM. 159.03

Building permits in urban renewal project areas - see ADM. 191.13

Ohio Basic Building Code - see BLDG. Ch. 1301

Hamilton County Building Code - see BLDG. Ch. 1305

153.01 APPOINTMENT; QUALIFICATIONS.

There is hereby established the office of Building Commissioner. The Building Commissioner shall assume the duties of Home Improvement Program (HIP) Inspector. The position is to be filled by appointment of the Code Assistance Officer and the Safety Director. (Ord. 13-2002. Passed 2-21-02.)

153.02 PLUMBING COMMISSIONER.

There is hereby established the office of Plumbing Commissioner, who shall be a resident and elector of the City and have at least five years' experience in plumbing. He shall hold office until the expiration of the term of the Mayor appointing him and until his successor is duly appointed and qualified.

He shall perform such duties as are required by the laws of Ohio and the ordinances of the City. (Ord. 5-1942. Passed 1-15-42.)

CHAPTER 157

Engineer

EDITOR'S NOTE: At the present time the City contracts for engineering services. There are no sections in Chapter 157. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

To approve plats; inspection of streets and assistance - see Ohio R.C. 711.08, 711.191
Civil engineer - see Ohio R.C. 733.80
General duties - see Ohio R.C. 735.32
Assistants - see Ohio R.C. 735.33
Registration as a professional engineer - see Ohio R.C. Ch. 4733

CHAPTER 159
Employment Provisions

<p>159.01 Definitions.</p> <p>159.02 Reserved.</p> <p>159.03 Bonds.</p> <p>159.04 Reimbursement of travel expenses.</p> <p>159.05 Longevity for full-time employees.</p> <p>159.06 Entitlement to leave.</p> <p>159.07 Longevity pay.</p> <p>159.08 Sick leave and injury leave to be separate.</p> <p>159.09 Determination of vacation and longevity; vacation schedule.</p> <p>159.10 Personal nonliability of squadmen.</p> <p>159.11 Duplication of Medicare payments.</p>	<p>159.12 Termination of medical insurance coverage if State coverage provided.</p> <p>159.13 Employee PERS pick-up plan.</p> <p>159.14 Residency.</p> <p>159.15 Alcohol/Drug Abuse Policy.</p> <p>159.16 Sexual harassment.</p> <p>159.17 Establishing additional benefits for certain full time employees.</p> <p>159.18 Establishing additional benefits for certain permanent part-time employees.</p> <p>159.19 Compensation of elected and appointed officials.</p> <p>159.20 Paid military leave benefits.</p>
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CROSS REFERENCES

Welfare - see Ohio Const., Art. II, §34
 Workmen's Compensation - see Ohio Const., Art. II, §35; Ohio R.C. Ch. 4123
 Wages and hours on public works - see Ohio Const., Art. II, §37; Ohio R.C. Ch. 4115
 Deductions for labor dues and savings - see Ohio R.C. 9. 41, 9.43
 Deductions for municipal income tax - see Ohio R.C. 9.42
 Public Employee's Retirement System - see Ohio R.C. Ch. 145
 Expenses for attendance at conference or convention - see Ohio R.C. 733.79
 Deductions for hospital service plan - see Ohio R.C. 1739.15
 Strikes by public employees - see Ohio R.C. Ch. 4117
 Leave for military training - see Ohio R.C. 5923.05

159.01 DEFINITIONS.

(a) **Employee:** An individual who performs work for the City and is duly authorized to receive compensation as reported to the IRS and who has designated the municipality as his or her employer for tax purposes.

(b) **Full-time employee:** Means an employee whose regular hours of duty total at least 80 hours in a pay period.

(c) **Permanent part-time employees:** Means any person holding a position that requires working a regular schedule of 26 consecutive biweekly pay periods or any other regular schedule of comparable consecutive pay periods which is not limited to a specific season or duration and such person does not work more than 37 hours per week on average.

(d) **Part-time employee:** Means an employee whose regular hours of duties are less than 80 hours pay period and who does not work a regular schedule of 26 consecutive biweekly pay periods or any other regular schedule of comparable consecutive pay periods. It includes student help, intermittent, temporary, seasonal, interim, or individuals covered by personal service contracts.

(e) **Employee Organization:** Means any labor or bona fide organization in which public employees participate and which exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms and other conditions of employment.

(f) **Contractual Employee:** Means an employee who is represented by an employee organization and the various terms and conditions of employment are determined by the current labor contract or collective bargaining agreement.

(g) **Non-contractual Employee:** Means an employee who is not represented by an employee organization.

(h) **Department Head:** An employee of the municipality in charge of an established department.

(i) **Interim Employee:** Means an employee who is employed for an indefinite period of time, fixed by the length of absence of another employee due to sickness, disability, or approved leave of absence. Such appointment shall continue only during such period of sickness, disability, or approved leave of absence.

(j) **Intermittent Employee:** Means an employee who works an irregular schedule which is determined by the fluctuating demands of the work and is not predictable and is generally characterized as requiring less than one thousand hours per year.

(k) **Seasonal Employee:** Means an employee who works a certain regular season or period of each year performing some work or activity limited to that season or period of the year.

(l) **Temporary Employee:** Means an employee who works for a limited period of time, fixed by the appointing authority for a period not to exceed six months.

(m) **Longevity:** Is the uninterrupted period of time or duration that an employee has remained in continuous employment with the City.

(n) **Vacation Leave:** A period of exemption for work granted to an employee where the employee receives compensation for the period of time exempt for work.

(o) **Sick Leave:** Is the number of days or time approved for an employee where his or her absence from work is permitted and the employee is paid his or her normal compensation. Sick leave shall only be applied and approved due to personal illness, injury, or exposure to contagious disease.

(p) **Paid Time Off:** Additional period of time or additional compensation based on the number of hours worked other than vacation time that employee may accumulate when permitted as set forth in this chapter. Paid time off must be used as time off. (Ord. 25-2000. Passed 7-6-00.)

159.02 RESERVED.

(EDITOR'S NOTE: This section is reserved for future legislation.)

159.03 BONDS.

The following officials and employees shall execute bonds as respectively indicated.

Mayor	\$ 1,500
President of Council	1,000
Clerk of Council	1,000
Auditor	10,000
Treasurer	5,000
Law Director	1,000
Public Service Director	2,500
Public Safety Director	1,000
Chief of Police	1,000
Clerk	1,000
Civil Service Commission Secretary	1,000
Building Commissioner	1,000
Plumbing Commissioner	1,000
Tax Commissioner	1,500
Commissioner of Streets	1,000
Recreation Director	2,000
Secretary to the Mayor	1,000
Urban Redevelopment Director	25,000
Urban Redevelopment Project Manager	5,000
Urban Redevelopment Project Secretary	1,000
Manager, Swimming Pool	2,000
Cashiers, Swimming Pool	2,000
Check Room Attendants, Swimming Pool	1,000.

159.04 REIMBURSEMENT OF TRAVEL EXPENSES.

Each trip by a City official or employee in connection with official business shall be authorized by the Department Head. (Ord. 25-2000. Passed 7-6-00.)

159.05 LONGEVITY FOR FULL-TIME EMPLOYEES.

(a) In addition to annual vacation leave, all non-contractual full time employees of the City other than the Fire Department are granted extra days based on length of service on the following basis:

- (1) Five years service but not exceeding ten years, two extra days;
- (2) Ten years service but not exceeding fifteen years, four extra days;
- (3) Fifteen years service but not exceeding twenty years, six extra days;
- (4) Twenty years service but not exceeding twenty-five years, ten extra days;
- (5) Twenty-five years or over, twelve extra days.

(b) In addition to annual vacation leave, all non-contractual full-time employees of the Fire Department are hereby granted tours of duty based on length of service on the following basis:

- (1) Five years service but not exceeding ten years, one tour of duty;
- (2) Ten years service but not exceeding fifteen years, two tours of duty;
- (3) Fifteen years service, but not exceeding twenty years, three tours of duty;
- (4) Twenty years service, but not exceeding twenty-five years, five tours of duty;
- (5) Twenty-five years and over, six tours of duty.

The scheduling of such additional tours of duty shall be as directed and approved by the Safety Director.

(c) For the purpose of computing the time of longevity for the extra days for each forthcoming year, the following rules shall be applied: An individual shall be eligible for the extra days if his or her anniversary date for five years, ten years, fifteen years, twenty years or twenty-five years, falls within the forthcoming year between January 1 and December 31. (Ord. 25-2000. Passed 7-6-00.)

159.06 ENTITLEMENT TO LEAVE.

No non-contractual employee of the City shall be entitled to any leave or paid time off whatsoever granted in this chapter until after the expiration of six months of uninterrupted service.

(Ord. 25-2000. Passed 7-6-00.)

159.07 LONGEVITY PAY.

(a) Commencing December 21, 1985, longevity pay for non-contractual, full-time employees in the compensation ordinance, and permanent part-time employees in the Transportation Department and the Municipal Recreation Center:

<u>Years of Service</u>	<u>Amount</u>
After 5	\$250.00
After 10	365.00
After 15	480.00
After 20	595.00
After 25	710.00

(b) All longevity pay when permitted under this section, as set forth in subsection (a) above, shall be figured on the basis of the calendar year beginning on January 1, and payments shall be made during each calendar year at the convenience of the Auditor. Any such employee whose employment terminates during any calendar year shall be paid on a pro-rata basis for the portion of the year so employed.

(c) This section shall remain in effect for those City employees hired on or before March 3, 1994, who would be entitled to receive this benefit. The longevity pay benefit as set forth herein shall not be available and shall be repealed as to all non-contractual full-time employees in the compensation ordinance, and permanent part time employees in the Transportation Department and the Municipal Recreation Center hired after March 3, 1994. (Ord. 25-2000. Passed 7-6-00.)

159.08 SICK LEAVE AND INJURY LEAVE TO BE SEPARATE.

The accumulated sick leave time and accumulated injury on the job time provided for herein shall be considered as separate and distinct benefits. In no case, shall an employee be entitled to charge sick leave time against accumulated injury on the job time, or to charge injury on the job time against accumulated sick leave time, except with the approval of the responsible administrative officer. (Ord. 31-1955. Passed 9-1-55.)

159.09 DETERMINATION OF VACATION AND LONGEVITY; VACATION SCHEDULE.

(a) All annual vacations and extra days for longevity shall be figured on the basis of the calendar year beginning on January 1. Annual leave shall not be cumulative and therefore must be taken in the year that the annual vacation and extra days shall have accrued. In special and meritorious cases where to so limit the annual leave during any one calendar year would work a peculiar hardship, it may be extended at the discretion of the Public Safety Director or the Public Service Director in their respective departments. Further, the Public Safety Director or Public Service Director shall determine whether or not an individual is entitled to the status of being in the class of one who has served an uninterrupted period as hereinbefore provided. (Ord. 37-1975. Passed 5-15-75.)

(b) The Public Service Director, Chief of Police and Fire Chief shall designate the time within the year for the vacations of the individual employees in their respective departments, and file a vacation schedule for the employees with the Auditor on or before March 1 of each year and conform with the schedule as far as practicable. In the event changes are made in the schedule, the Auditor shall be notified of the changes. (Ord. 42-1975. Passed 6-5-75.)

159.10 PERSONAL NONLIABILITY OF SQUADMEN.

Any claim or suit brought against any member or employee of the Department of Public Safety, arising from or because of any action or inaction by such employee in the scope of his employment as a member of an emergency squad or other emergency unit on a medical assignment, operated by the Department and subsequent to the effective date hereof, shall be defended by the Director of Law until the final termination of the proceedings therein. The City shall save such member or employee of the Department harmless from personal liability or any judgment resulting from such claim or suit defended by the Director of Law.

159.11 DUPLICATION OF MEDICARE PAYMENTS.

The Auditor is hereby authorized and directed to discontinue Medicare reimbursement payments where a duplication of payments exists. (Ord. 48-1976. Passed 11-4-76.)

159.12 TERMINATION OF MEDICAL INSURANCE COVERAGE IF STATE COVERAGE PROVIDED.

The Auditor is hereby authorized and directed to discontinue any medical insurance coverage where there is coverage provided by the State of Ohio pension funds and systems upon proper notification and explanation to all affected retirees and/or dependents. (Ord. 46-1984. Passed 1-24-85.)

159.13 EMPLOYEE PERS PICK-UP PLAN.

(a) Effective March 30, 1985, the full amount of the statutorily required contribution to the Public Employees Retirement System of Ohio shall be withheld from the gross pay of each person who is a full-time employee of the City of St. Bernard who is a member of the Public Employees Retirement System of the State of Ohio and shall be "picked up" (assumed and paid to the Public Employees Retirement System of Ohio) by the City of St. Bernard. This "pick up" by the City shall be designated as public employee contributions and shall be in lieu of contributions to the Public Employees Retirement System of Ohio by each such person or employee. No person subject to this "pick up" shall have the option of choosing to receive the statutorily required contribution to the Public Employees Retirement System of Ohio instead of having it "picked up" by the City of St. Bernard.

(b) The City through its proper officers shall, in reporting and making remittance to the Public Employees Retirement System of Ohio, report that the public employee's contribution for each person subject to their "pick up" has been made by the City in lieu of contributions to such Public Employees Retirement System of Ohio by each such person and such contributions are designated as public employee contributions.
(Ord. 13-1985. Passed 3-21-85.)

(c) See the current Fire Department bargaining agreement for provisions covering the Fire Department bargaining unit.

159.14 RESIDENCY.

(a) All persons hereafter appointed to positions of employment in the City service shall be residents of the City of St. Bernard at the time of their appointment, or shall, within six months of completion of the probationary period become residents of St. Bernard and shall continue to maintain their primary place of residence within the City at all times during their continued service with the City.

(b) All persons now holding positions of employment in the City service and residing within the City shall continue to maintain their primary place of residence within the City at all times during their continued service with the City.

(c) All persons now holding positions of employment in the City service not residing within the City shall, within six months of the date of passage of this section establish and maintain their primary place of residence within the City, and continue to maintain such residency during their continued service with the City.

(d) Residency within the City shall be a qualification for appointment and a continuing qualification for the duration of City employment. Any employee who fails to maintain City residency shall automatically forfeit their position of employment.
(Ord. 9-2003. Passed 3-20-03.)

159.15 ALCOHOL/DRUG ABUSE POLICY.

The City hereby adopts as its alcohol/drug policy to comply with Federal Regulations the City of St. Bernard Service Department Alcohol/Drug Abuse Policy for employees with Commercial Driver's License as attached to Ordinance 19-1996.
(Ord. 19-1996. Passed 6-6-96.)

159.16 SEXUAL HARASSMENT.

The City of St. Bernard hereby adopts the sexual harassment policy attached to Ordinance 13-1998 as set forth therein. (Ord. 13-1998. Passed 3-5-98.)

159.17 ESTABLISHING ADDITIONAL BENEFITS FOR CERTAIN FULL TIME EMPLOYEES.

(a) The Chief of Police shall receive the same benefits as are bargained for in any current Police Department collective bargaining agreement for the following benefits:

- (1) Holidays
- (2) Vacation Leave: regular and seniority
- (3) All Sick Leave Provisions
- (4) Funeral Leave
- (5) Recuperation Leave (Injury Leave)
- (6) Education & Training
- (7) Longevity Pay
- (8) All Insurance Benefits: Health, Cancer, Dental/Optical, Life
- (9) Uniforms
- (10) Vehicle Reimbursement

(b) The Fire Chief shall receive the same benefits as are bargained for in any current Fire Department collective bargaining agreement for the following benefits:

- (1) Holidays
- (2) Injury Leave
- (3) Longevity Pay
- (4) Lump Sum Terminal Leave Benefits
- (5) Retirement Contribution Pick-Up
- (6) Tuition Assistance
- (7) Uniforms
- (8) All Insurance Benefits: Medical, Life, Cancer, Dental/Optical
- (9) Vehicle Reimbursement

(c) The Fire Chief shall earn vacation leave, seniority vacation leave and sick leave at the same rate as the Chief of Police. However, the Fire Chief shall be able to use, accumulate and/or cash in upon retirement, those vacation and sick days in accordance with any current Fire Department collective bargaining agreement.

(d) The Service Director, Commissioner of Streets, Auditor, Tax Commissioner, Code Assistance Officer, Health Nurse, Records Clerk, Auditor's Clerk, Mayor's Clerk, Planning & Development Department Clerk, Police Department Clerk, Tax Commissioner's Clerk and HIP Inspector shall receive the same benefits as are bargained for in any current Service Department collective bargaining agreement for the following benefits:

- (1) Holidays
- (2) Sick Leave
- (3) Sick Leave Conversion at Retirement
- (4) Vehicle Reimbursement
- (5) Education Benefits
- (6) Longevity Pay
- (7) Medical Insurance
- (8) Dental/Optical Plan
- (9) Life Insurance
- (10) Cancer Insurance
- (11) Vacation Leave/Seniority
- (12) Injury Leave.

(Ord. 25-2000. Passed 7-6-00; Ord. 40-2004. Passed 10-7-04.)

159.18 ESTABLISHING ADDITIONAL BENEFITS FOR CERTAIN PERMANENT PART-TIME EMPLOYEES.

(a) The following permanent part time employees

- (1) Transportation
 - A. Dispatchers
 - B. Drivers
- (2) Police Dispatchers

shall earn .02 hours of paid time off for each hour of work performed on the job.

(b) The maximum amount of time accumulated per calendar year of comp time shall be limited to a maximum of forty (40) hours.

(c) The amount of paid time off earned by each eligible employee per year must be used during the year that it was earned or during the year immediately following. No employee may accumulate more than eighty (80) hours of paid time off at any one time.

(d) Any employee who reaches the eighty (80) hour maximum limit will no longer accumulate additional paid time off until the employee's balance of paid time off is reduced below the eighty (80) hour limit.

(e) The utilization of all paid time off shall be scheduled at least twenty four (24) hours in advance of the time to be used as paid time off, and all such scheduled utilization must be approved by the Department Head.

(f) The paid time off earned must be used as time off and not used as a pay out.
(Ord. 25-2000. Passed 7-6-00.)

159.19 COMPENSATION OF ELECTED AND APPOINTED OFFICIALS.

(a) The compensation of City of St. Bernard certain elected and appointed officials shall be amended as follows:

Elected:

Council Members	7.64%	of Hamilton County Commissioners
President of Council	8.35%	of Hamilton County Commissioners
Mayor	19.09%	of Hamilton County Commissioners
Auditor	81.14%	of Hamilton County Commissioners
Treasurer	7.88%	of Hamilton County Commissioners
Law Director	25.77%	of Hamilton County Commissioners

Appointed:

Clerk of Council	7.64%	of Hamilton County Commissioners
Commissioner of Streets	69.69%	of Hamilton County Commissioners
Safety Director	9.07%	of Hamilton County Commissioners
Service Director	81.14%	of Hamilton County Commissioners
Tax Commissioner	81.14%	of Hamilton County Commissioners

(b) The pay of such officials shall be established on the 1st day of each year in conjunction with the above percentages of the salaries of the Hamilton County Commissioners, which are established by the State Legislature of the State of Ohio. In the event that Hamilton County Commissioners have pay adjustments during a calendar year, the City of St. Bernard elected officials' corresponding adjustment, whether it be upward or downward, shall take place on January 1 of the succeeding year.

(c) The Council hereby determines that, by indexing the rate of pay for City of St. Bernard elected and appointed officials to the Hamilton County Commissioners pay, which is established by the legislature of the State of Ohio, the Council is relating the economic status of the City of St. Bernard to the regional economy of Hamilton County and the general economic well being of the State of Ohio regarding future compensation increases or decreases. (Ord. 5-2005. Passed 2-17-05.)

159.20 PAID MILITARY LEAVE BENEFITS.

(a) As is required by Ohio R.C. 5923.05, permanent City employees who are members of the Ohio organized militia or members of other reserve components of the armed forces of the United States, including the Ohio national guard, are entitled to leave of absence from their respective positions without loss of pay for the time they are performing service in the uniformed services, for periods of up to one month, for each calendar year in which they are performing service in the uniformed services.

As used in this section:

- (1) "Calendar year" means the year beginning on the first day of January and ending on the last day of December.
- (2) "Month" means twenty-two eight-hour work days or one hundred seventy-six hours within one calendar year.
- (3) "Permanent public employees" and "uniformed services" have the same meanings as in Ohio R.C. 5903.01.

(b) Except as otherwise provided in subsection (d) hereof, any permanent City employee who is entitled to the leave provided under subsection (a) hereof, and who is called or ordered to the uniformed services for longer than a month, for each calendar year in which the employee performed service in the uniformed services, because of an executive order issued by the president of the United States, because of an act of congress, or because of an order to perform duty issued by the governor pursuant to Ohio R.C. 5919.29 is entitled, during the period designated in the order or act, to a leave of absence and to be paid, during each monthly pay period of that leave of absence. The difference between the permanent public employee's gross monthly wage or salary as a permanent public employee and the sum of the permanent public employee's gross uniformed pay and allowance received that month.

(c) In order to receive such compensation, an employee shall be required to submit to the Auditor all documentation from the government as may be required by the Auditor to determine the date active duty begins and proper documentation establishing the gross monthly uniformed pay and allowances. The Auditor is further authorized to provide the employee any other benefit, including but not limited to health benefits, vacation pay and sick leave that the employee would have been entitled to had they not been activated.

(d) No permanent public employee shall receive payments under subsection (b) hereof if the sum of the permanent public employee's gross uniformed pay and allowances received in a pay period exceeds the employee's gross wage or salary as a permanent public employee for that period or if the permanent public employee is receiving pay under subsection (a) hereof.

(e) Each permanent City employee who is entitled to leave provided under subsection (a) hereof shall submit to the Mayor the published order authorizing the call or order to the uniformed services or a written statement from the appropriate military commander authorizing that service, prior to being credited with that leave.

(f) This section is not intended to change any other benefits or obligations required by Ohio R.C. 5923.05 except as specifically outlined above.
(Ord. 19-2004. Passed 6-17-04.)

TITLE SEVEN - Judicial
Chap. 171. Mayor's Court.

CHAPTER 171
Mayor's Court

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

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

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

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

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

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

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

CROSS REFERENCES

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

TITLE NINE - Taxation

Chap. 181. Income Tax.

Chap. 183. Motor Vehicle License Tax.

**CHAPTER 181
Income Tax**

181.01 Purpose.	181.11 Collection of unpaid taxes and refunds of overpayments.
181.02 Definitions.	181.12 Violations and penalties.
181.03 Imposition of tax.	181.13 Board of Review.
181.04 Effective period.	181.14 Information by landlords.
181.05 Return and payment of tax.	181.15 Credit for tax paid to another municipality, Economic Development District or county.
181.06 Collection at source.	181.16 Saving clause.
181.07 Declarations.	181.17 Repeal.
181.08 Appointment and duties of Tax Commissioner.	
181.09 Investigative powers of Tax Commissioner; penalty for divulging confidential information.	
181.10 Interest and penalties.	

CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII, §3

Payroll deductions - see Ohio R.C. 9.42

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

Bond for Tax Commissioner - see ADM. 159.03

181.01 PURPOSE.

To provide funds for municipal purposes there shall be and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits and other taxable income as hereinafter provided.

(Ord. 46-2004. Passed 12-16-04.)

181.02 DEFINITIONS.

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

- (a) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.
- (b) "Association" means a partnership, limited partnership, S corporation or any other form of unincorporated enterprise, owned by one or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in Section 181.13 hereof.
- (d) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency.
- (f) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which, whenever he is absent, he intends to return. A taxpayer has only one domicile, even though he may have more than one residence.
- (g) "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.
- (h) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (i) "Fiscal Year" means an accounting period of twelve (12) months ending on any day other than December 31st.
- (j) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (k) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports or other documents shall accept for filing a generic form of such a return, report or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality's- prescribed returns, reports or documents.
- (l) "Gross receipts" means total income of taxpayers from whatever source derived.
- (m) "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

- (n) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends or other income arising from the ownership, sale, exchange or other disposition of intangible property including, but not limited to, investments, deposits, money or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (o) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (p) "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical sub-network known as the World Wide Web.
- (q) "Limited liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (r) "Municipality"/"Municipal Corporation" means City of St. Bernard, Ohio.
- (s) "Net Profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Division (F) of Section 181.03 hereof, required to be reported on Schedule C, Schedule E or Schedule F.
- (t) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
- (u) "Nonresident" means an individual domiciled outside the Municipality.
- (v) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
- (w) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
- (x) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual.
- (y) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
- (z) "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of:
 - (1) The owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to;
 - (2) The total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
- (aa) "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (bb) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities and any other entity.

- (cc) "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.
- (dd) "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
- (ee) "Qualified plan" means a retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.
- (ff) "Qualifying wages" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A)(2) of the Ohio Revised Code.
- (gg) "Resident" means an individual domiciled in the Municipality.
- (hh) "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business situs is within the Municipality.
- (ii) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
- (jj) "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report or other document for or on behalf of the taxpayer.
- (kk) "Rules and Regulations" means the Rules and Regulations as set forth in this Chapter.
- (ll) "Schedule C" means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (mm) "Schedule E" means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (nn) "Schedule F" means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (oo) "S corporation" means a corporation that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (pp) "Tax Commissioner" means the person appointed to administer St. Bernard's Income Tax Ordinance, and to direct the operation of the St. Bernard Income Tax Department, or the person executing the duties of the Tax Commissioner of the City of St. Bernard, Ohio so designated and appointed by the Mayor.
- (qq) "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Chapter.
- (rr) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (ss) "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

- (tt) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying Subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying Subchapter S subsidiary.

The singular shall include the plural and the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.
(Ord. 46-2004. Passed 12-16-04.)

181.03 IMPOSITION OF TAX.

(a) Basis of Imposition. Subject to provisions of Section 181.16 hereof, an annual tax, shall be, and is hereby levied on and after July 1, 2005, at the rate of two and one-tenth percent (2.1%) per annum upon the following:
(Ord. 2-2005. Passed 1-6-05.)

- (1) On all qualifying wages, including sick and vacation pay, other compensation, commissions, and other taxable income earned or received by residents of the Municipality.
- (2) On all qualifying wages, including sick, vacation and severance pay, other compensation, commissions, and any pay as part of an employee buyout or wage contribution plan or other taxable income earned or received by non-residents for work done or services performed or rendered, in the Municipality.
- (3) A. On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality.
B. On the portion of the distributive- share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity by the municipality or any other municipality at the same or a higher rate.
- (4) A. On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from sales made, work done or services performed or rendered, and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality.
B. On the portion of the distributive share- of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity by the municipality or any other municipality at the same or higher rate.

- (5) On the portion attributable to the Municipality of the net profits earned -by all corporations that are not pass-through entities from sales made, work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.
- (6) On all income received as gambling winnings as reported on IRS form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes, and lottery winnings.

(b) Business Both In and Outside the Municipality. This Section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in subsection (d) hereof, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- (1) Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
 - A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period, to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer, and the value of such property shall be determined by multiplying the annual rental thereon by eight.
 - B. Salaries, wages and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to salaries, wages and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code.
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
 - D. Adding together the percentages determined in accordance with subsections (b)(1)A., B., and C. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentages used in deriving such total.

1. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.
 2. Provided, however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Commissioner, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.
- (c) As used in subsection (b) hereof, "Sales Made In a Municipal Corporation" mean:
- (1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
 - (2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
 - (3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (d) Except as otherwise provided in subsection (e) hereof, net profit from rental activity not constituting a business or profession shall be subject to tax only by reason of their location within the municipal corporation where the property generating the net profit is located.
- (e) This Section does not apply to individuals who are residents of the Municipality and, except as otherwise provided in Section 718.01 of the Ohio Revised Code, the Municipality may impose a tax on all income earned by residents of the Municipality to the extent allowed by the United States Constitution.
- (f) Net Operating Loss (NOL).
- (1) The portion of a net operating loss sustained in any taxable year, apportioned to the Municipality, may be applied against the portion of the profit of succeeding tax years, apportioned to the Municipality, until exhausted, but in no event for more than five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
 - (2) The portion of a net operating loss sustained shall be apportioned to the Municipality in the same manner as provided herein for apportioning net profits to the City of St. Bernard.

- (3) The Tax Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.
- (4) The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carryforward loss deduction to the surviving or new taxpayer.
- (5) The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in subsection (f) hereof. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

(g) Consolidated Returns.

- (1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
- (2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

(h) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:

- (1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits and qualified retirement plans as defined by the Internal Revenue Service.
- (2) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
- (3) Compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.
- (4) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
- (5) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (6) Alimony.
- (7) Compensation for damage to property by way of insurance or otherwise.
- (8) Interest and dividends from intangible property.
- (9) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).

- (10) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.
- (11) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
- (12) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
- (13) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipality income tax.
- (14) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.
- (15) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Municipality tax from that compensation.
- (16) Compensation paid to an employee of a transit authority, regional transit authority or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
- (17) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:
 - A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - B. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.

- (18) The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except the City of St. Bernard may tax the following, subject to Chapter 5745 of the Ohio Revised Code:
- A. The income of an electric company or combined company;
 - B. The income of a telephone company.
- As used in Division (F)(17) of this Section, "combined company", "electric company", and "Telephone Company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.
- (19) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under division (B)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.
- (20) An S corporation shareholder's distributive share of net profits or losses of the S corporation.
- (21) Generally the above noted items in this Section are the only forms of income not subject to the tax. Any other income, benefits or other forms of compensation shall be taxable.
(Ord. 46-2004. Passed 12-16-04.)

181.04 EFFECTIVE PERIOD.

The tax imposed by this Chapter shall be levied, collected and paid with respect to all income and net profits, subject to the tax, earned during the period beginning January 1, 2005. All prior years shall be subject to the tax imposed on all income and net profits by the regulations then in effect. All penalties and enforcement regulations shall also remain in effect for prior years.
(Ord. 46-2004. Passed 12-16-04.)

181.05 RETURN AND PAYMENT OF TAX.

(a) Effective April 15, 2005 for the 2004 filing year, then, on or before April 15th of each year thereafter, every resident subject to the provisions of Section 181.03 hereof, paragraph (a) through (h) inclusive, of the ordinance shall, except hereinafter provided, make and file with the Tax Commissioner a Municipal tax return on a form prescribed by and acceptable to the Tax Commissioner, whether or not a tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation, and other taxable income of a nonresident employee, and paid by him or them to the Tax Commissioner may accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such, qualifying wages, commissions, other compensation, and other taxable income.

(b) How Filed A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the municipal return, regardless of whether their federal and state returns were filed separately or jointly. If a joint city return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

(c) Tax Returns – Form and Content The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner, or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Municipality's prescribed return, and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

(d) The return shall set forth:

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

(e) Extensions.

- (1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a municipal income tax return by filing a copy of the taxpayer's federal extension request with the St. Bernard Tax Department. Any taxpayer not required to file a federal income tax return may request an extension for filing a St. Bernard Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.
- (2) The Tax Commissioner may deny a taxpayer's request for extension if the taxpayer:
 - A. Fails to timely file the request; or
 - B. Fails to file a copy of the federal extension request (if applicable); or
 - C. Owes the Municipality any delinquent income tax or any penalty, interest or other charge for the late payment or non-payment of income tax; or
 - D. Has failed to file any required income tax return, report or other related document for a prior tax period.

- (3) The granting of an extension for filing a municipal income tax return does not extend the due date as provided in this Section for payment of the tax; hence penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 181.10 hereof. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period, provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Commissioner shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.
- (f) Payment With Returns.
- (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due. However, credit shall be allowed for:
- A. Any portion of the tax so due shall have been deducted at the source, pursuant to the provisions of Section 181.06 hereof; and
 - B. Any portion of said tax which shall have been paid by the taxpayer, pursuant to the provisions of Section 181.07 hereof; and
 - C. Credit to the extent allowed by Section 181.15 hereof, for tax paid to another municipality.
- (2) Subject to the limitations contained in Section 181.05 hereof, of this Tax Code, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Tax Code, may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.
- (g) Amended Returns.
- (1) Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 181.11 and 181.15 hereof. The Tax Commissioner shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's St. Bernard tax liability, such taxpayer shall make and file an amended St. Bernard return showing income subject to the Municipality 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.

(h) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Commissioner, or his authorized representative, to file the items required by this paragraph. (Ord. 46-2004. Passed 12-16-04.)

181.06 COLLECTION AT SOURCE.

(a) Withholding by Employer Each employer within, or doing business within the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in Section 181.03 hereof on those qualifying wages, due by such employer to each such employee and shall beginning the first quarter of 2005, on or before the fifteenth (15th) day of the month following such withholding, make a return and pay to the Tax Commissioner the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the Rules and Regulations prescribed by the Tax Commissioner. 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. Nothing in this Section prohibits an employer from withholding tax on a basis greater than qualifying wages.

(b) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

- (c) (1) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.
- (2) The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(d) So long as the taxes withheld by an employer for the Municipality during the measurement period are less than two hundred dollars (\$200.00) per month, payments shall be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Tax Commissioner. The Tax Commissioner may revoke the approval of quarterly filing and payments whenever the Tax Commissioner has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case; the employer must begin to file in accordance with this section.

(e) Frequency of Payments Where taxes withheld equal or exceed two hundred dollars (\$200.00) per month, payments will be made monthly by the 15th day of the month following the end of each month. All other employers will remit quarterly the amounts withheld.

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

(g) Any person who is required to withhold tax from salaries and wages shall pay all such tax to the Municipality in accordance with the provisions of this Section. In the event taxes withheld from employees are not paid to the Municipality in accordance with the provisions of this Section, all officers, members, managers, employees and trustees having control or supervision of, or charged with the responsibility of filing the return and making payment, are jointly and severally personally liable for the tax not returned or paid to the Municipality, as well as any related interest and penalties, and are also liable under the provisions of Section 181.12 hereof. The dissolution, termination or bankruptcy of a corporation, limited liability company or business trust does not discharge an officer's, member's, manager's, employee's or trustee's liability for a failure of the corporation, limited liability company or business trust to file returns or pay said taxes.

(h) Withholding Return; List of Employees Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of -compensation paid during the year, and the amount of municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28th following the end of such calendar year.

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

(j) Domestic Servants No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.
(Ord. 46-2004. Passed 12-16-04.)

181.07 DECLARATIONS.

(a) Requirement for Filing. Every person who anticipates any taxable income which is not subject to Section 181.06 hereof, or who engages in any business, profession, enterprise or activity resulting in income subject to the tax imposed by Section 181.03(a) (4 & 5) hereof, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to this Municipality in accordance with Sections 181.06, 181.03(a)(4&5) hereof, such person need not file a declaration.

(b) Dates for Filing.

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

(c) Forms -- Credit for Tax Withheld or Paid Another Community.

- (1) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Commissioner, or on an acceptable generic form, and credit shall be taken for the municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.07(c) and 181.15 hereof, a credit may be taken for tax to be withheld and remitted to another taxing municipality.
- (2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
- (3) For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax, and at least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th) and thirteenth (13th) months after the beginning of the taxable year.
- (4) For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax, and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth (6th), ninth (9th) and twelfth (12th) months after the beginning of the taxable year.
- (5) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.
- (6) On or before the fifteenth (15th) day of the fourth (4th) 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 municipality shall be paid therewith in accordance with the provisions of Section 181.05 hereof.

- (7) An entity (individual, corporate or association) may pay 100% of the prior year's tax in four equal installments in the current year and avoid any underpayment of estimated tax penalty.
- (d) Amended Declaration.
- (1) A declaration may be amended at any time.
 - (2) In the event that 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.
- (e) Annual Return Required. On or before the fifteenth (15th) day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 181.05 hereof. (Ord. 46-2004. Passed 12-16-04.)

181.08 APPOINTMENT AND DUTIES OF TAX COMMISSIONER.

- (a) (1) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this Chapter in the manner prescribed herein, and to keep an accurate record thereof, and to report all monies so received.
- (2) It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of six (6) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.
- (b) The Tax Commissioner is hereby charged with the enforcement of the provisions of this Chapter, including the interpretation and enforcement of the Rules and Regulations set forth in Sections 181.21 through 181.30 hereof, 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.
- (c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the Municipality from the taxpayer, and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- (d) Subject to the consent of a majority of the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this Tax Code.
- (e) Upon the demonstration and documentation of good cause, the Tax Commissioner shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter and the Rules and Regulations.
(Ord. 46-2004. Passed 12-16-04.)

**181.09 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER;
PENALTY
FOR DIVULGING CONFIDENTIAL INFORMATION.**

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

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

(c) The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this Section, or with an order or subpoena of the Tax Commissioner authorized hereby, shall be deemed a violation of this Chapter, punishable as provided in Section 181.12 hereof.

(d) Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed or the taxes required to be withheld are paid.

(e) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter shall be confidential, and no person shall disclose such information except in accordance with a proper judicial order, or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this Chapter. The Tax Commissioner of the municipal corporation may furnish copies of returns filed under this Chapter to the Internal Revenue Service and to the State Tax Commissioner.

(f) Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both.

(g) In addition to the above penalty, any employee of the Municipality who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
(Ord. 46-2004. Passed 12-16-04.)

181.10 INTEREST AND PENALTIES.

(a) All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Tax Code and remaining unpaid five (5) days after they become due shall bear interest at the rate of one (1%) per month.

(b) In addition to interest as provided in subsection (a) hereof, penalties are hereby imposed as follows based on the tax remaining unpaid after it becomes due:

- (1) For failure to pay taxes due, other than taxes withheld, one and one-half percent (1½%) per month or fraction thereof, or fifty dollars (\$50.00), whichever is greater.
- (2) For failure to remit taxes withheld or required to be withheld from employees, three percent (3%) per month or fraction thereof, or fifty dollars (\$50.00), whichever is greater.
- (3) Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, fifty dollars (\$50.00).
- (4) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a return and paid the total tax on or before the end of the month following the end of the taxable year; ten percent (10%) of the difference between ninety percent (90%) of the actual tax for the year and the amount paid through withholding and declaration.
- (5) No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.
- (6) Except in the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax.

The percentages herein specified when used shall apply from the first month of delinquency.

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; 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 (3) months after the final determination of the federal tax liability.

(d) Computed penalties of less than five dollars (\$5.00) for a first violation shall not be assessed. However, notification to the taxpayer of a first time violation will be made.

(e) Upon recommendation of the Tax Commissioner, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest concerning an item of income or expense, the Board may nevertheless abate penalty or interest, or both.
(Ord. 46-2004. Passed 12-16-04.)

181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) 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. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported, or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Tax Commissioner shall be extended one (1) year from the time of the final determination of the federal tax liability.

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

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

(d) Amounts of less than five dollars (\$5.00) shall not be collected or refunded.
(Ord. 46-2004. Passed 12-16-04.)

181.12 VIOLATIONS AND PENALTIES.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
- (2) Knowingly make an incomplete, false or fraudulent return; or
- (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner; or
- (5) Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine their employer's books, records, papers and federal income tax returns; or
- (6) Fail to appear before the Tax Commissioner and to produce their employer's books, records, papers, W-2's or federal income tax returns upon order or subpoena of the Tax Commissioner; or
- (7) Refuse to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits; or

- (8) Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
- (9) Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and municipal tax withheld, or to knowingly give the Tax Commissioner false information; or
- (10) Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Commissioner; or
- (11) Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 181.07 hereof; or
- (12) Fail as an officer, member, manager, employee or trustee to cause the tax withheld from the qualifying wages of the employees pursuant to this Chapter to be paid to the Municipality in accordance with the provisions of Section 181.06 hereof; or
- (13) 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;

for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense and shall be fined not more than one hundred dollars (\$100.00); on a second offense within two years after the first offense, such person is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both, for each offense; on each subsequent tax code violation within two years after the first offense such person is guilty of a misdemeanor of the third degree, and punished as provided for herein.

(b) All prosecutions under this Section must be commenced within the time specified in Ohio R. C. 718.12.

(c) The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.

(d) Statute of Limitations.

- (1) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.
- (2) Prosecutions for an offense made punishable under this Chapter, shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense. (ORC 718.12).

(e) The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.

(f) The term "person" as used in this Section shall, in addition to the meaning prescribed in Section 181.02(bb) hereof, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

(g) An authority who issues a license or permit may deny issuance of an original license or permit, prohibit subsequent assignment of a license or revoke an existing license or permit for failure to comply with the provisions of this chapter.
(Ord. 46-2004. Passed 12-16-04.)

181.13 BOARD OF REVIEW.

(a) A Board of Review consisting of three (3) members, the City Law Director, the City Auditor and a resident of St. Bernard to be appointed by the Mayor and approved by Council, is hereby created and shall be maintained to hear appeals. A majority of the members of the Board shall constitute a quorum. Any hearing by the Board shall be conducted privately and the provisions of Section 181.09 hereof, with reference to the confidential character of information required to be disclosed by this Chapter shall apply to such matters as may be heard before the Board on appeal.

(b) All rules and regulations and amendments or changes thereto which are adopted by the Tax Commissioner, under the authority conferred by this Chapter, must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the City Law Director, and shall be open to public inspection. The Board shall hear and pass on appeals from any ruling or decision of the Tax Commissioner, and, at the request of the taxpayer or Tax Commissioner, is empowered to substitute alternate methods of apportionment.

(c) Whenever the Tax Commissioner issues a decision regarding an income tax obligation that is subject to appeal as provided in this Section, or in an ordinance or regulation of the Municipality, the Tax Commissioner shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision, and of the manner in which the taxpayer may appeal the decision.

(d) Any person who is aggrieved by a decision of the Tax Commissioner and who has filed with the Municipality the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Commissioner has issued the decision.

(e) The imposition of penalty and interest as prescribed in the Codified Ordinance of the Municipality is not a sole basis for an appeal.

(f) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.

(g) The Board may affirm, reverse, or modify the Tax Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Commissioner may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.

(h) Each Board of Review created pursuant to this Section, shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this Section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code. (Ord. 46-2004. Passed 12-16-04.)

181.14 INFORMATION BY LANDLORDS.

(a) Within thirty (30) days after a new tenant occupies rental property of any kind within the Municipality, all owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Commissioner a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Municipality.

(b) Within thirty (30) days after a tenant vacates an apartment, room or other rental property located within the Municipality, the owner of such vacated rental property shall file with the Tax Commissioner a report showing the date of vacation from the rental property and a forwarding address.

(c) Failure to provide information that is require by paragraphs (a) and (b) above shall be considered a violation of Section 181.12(a)(10) hereof. (Ord. 46-2004. Passed 12-16-04.)

181.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY, ECONOMIC DEVELOPMENT DISTRICT OR COUNTY.

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

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

(c) Notwithstanding the provisions contained in Section 181.11 hereof, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from such taxpayer's wages, salaries or commissions for other municipalities.

(d) The Tax Commissioner shall provide that a resident working in another municipality imposing a tax on earned income shall not be required to file a declaration under Section 181.07 hereof, if the administrator of the income tax of such other municipality advises the Tax Commissioner that a tax rate of that provided in Section 181.03 hereof, or greater is being deducted from the wages of such resident and is being paid to such other municipality and if the wages or other compensation subject to such withholding are said resident's only income taxable under this chapter. (Ord. 46-2004. Passed 12-16-04.)

181.16 SAVING CLAUSE.

This Chapter shall not apply to any person, firm or corporation or to any property as to whom or which, it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section, or part of this Chapter, or any tax against or exception granted any individual or any of the several groups of persons or forms of income specified herein is found to be unconstitutional or 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 of the Municipality that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence or part thereof, not been included therein. (Ord. 46-2004. Passed 12-16-04.)

181.17 REPEAL.

The Income Tax Ordinance No. 34, passed July 16, 1970, effective January 1, 1971 and thereafter, together with all amendments thereto and all other Ordinances of the City inconsistent herewith and to the extent of such inconsistency and no further, are hereby repealed. (Ord. 46-2004. Passed 12-16-04.)

CHAPTER 183
Motor Vehicle License Tax

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| 183.01 Tax levy authorized. | 183.04 Use of funds. |
| 183.02 Deposit in Motor Vehicle License Tax Fund. | 183.05 Copy to Bureau of Motor Vehicles. |
| 183.03 Tax to continue in addition. | |

183.01 TAX LEVY AUTHORIZED.

There is hereby levied an annual five dollar (\$5.00) license tax under the provisions of Ohio R.C. 4504.171 to take effect beginning in 1994 and that revenue derived from such tax will be used for the purposes authorized pursuant to Ohio R.C. 4504.171 including to supplement costs and expenses associated with the maintenance of public roads within the City of St. Bernard.

(Ord. 7-1993. Passed 1-21-93.)

183.02 DEPOSIT IN MOTOR VEHICLE LICENSE TAX FUND.

All revenues derived from such tax shall be deposited, pending use, in the Motor Vehicle License Tax Fund of the City of St. Bernard.

(Ord. 7-1993. Passed 1-21-93.)

183.03 TAX TO CONTINUE IN ADDITION.

The tax imposed by this chapter shall apply to and be in effect for the registration year commencing January 1, 1994, shall continue in effect and application during each registration year thereafter, and shall be in addition to any and all taxes, rates and/or fees currently in effect.

(Ord. 7-1993. Passed 1-21-93.)

183.04 USE OF FUNDS.

(a) It is the intent of Council that funds received from this additional permissive motor vehicle license tag fee be used to support and deliver the following services:

- (1) Paying the costs and expenses of enforcing and administering the tax;
- (2) Supplementing revenue already available under earlier permissive motor vehicle license taxes;
- (3) Planning, constructing, improving, maintaining, and repairing public roads, highways and streets; maintaining and repairing bridges and viaducts; paying the municipal corporation's portion of the costs and expenses of cooperating with the Department of Transportation in the planning, improvement and construction of state highways; paying the municipal corporation's portion of the compensation, damages, cost and expenses of planning, constructing, reconstructing, improving, maintaining and repairing roads and streets; paying any costs apportioned to the municipal corporation under Ohio R.C. 4907.47; paying debt service charges on notes or bonds of the municipal corporation issued for such purposes; purchasing, erecting and maintaining street and traffic signs and markers; purchasing, erecting and maintaining traffic lights and signals.

(Ord. 7-1993. Passed 1-21-93.)

183.05 COPY TO BUREAU OF MOTOR VEHICLES.

The Clerk shall submit a certified copy of this chapter to the Bureau of Motor Vehicles on or before July 1, 1993.

(Ord. 7-1993. Passed 1-21-93.)

TITLE ELEVEN - Renewal and Redevelopment

- Chap. 191. General Plan Urban Renewal.
 Chap. 192. Scattered Site Urban Renewal.
 Chap. 193. Relocation Assistance.
 Chap. 195. Rent Supplementation.
 Chap. 197. Restoration of Blighted Premises.

**CHAPTER 191
 General Plan Urban Renewal**

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|---------------|--|---------------|--|
| 191.01 | Necessity. | 191.08 | Public hearing and Council action. |
| 191.02 | Policy. | 191.09 | Federal aid contracts. |
| 191.03 | Definitions. | 191.10 | Modification of plans. |
| 191.04 | Mayor to supervise renewal activities. | 191.11 | Execution of projects. |
| 191.05 | Preparation of studies and plans. | 191.12 | Finances. |
| 191.06 | Contents of renewal and relocation plans. | 191.13 | Building permits. |
| 191.07 | Action by Planning Commission. | 191.14 | Tax exemption. |
| | | 191.15 | Separability; chapter controlling in conflict of law. |

CROSS REFERENCES

- Appropriation of property - see Ohio Const., Art. I, §19; Art. XVIII, §10, 11
 Procedure for appropriation of property - see Ohio R.C. Ch. 163, 719
 Power to transfer or convey real property without bids - see Ohio R.C. 721.28
 Urban renewal debt retirement fund - see Ohio R.C. Ch. 725

191.01 NECESSITY.

It is hereby found and determined that there exist within the City, slum, blighted, deteriorated and deteriorating areas of the nature defined in this chapter which constitute a serious and growing menace injurious and inimicable to the public health, safety, morals and general welfare of the residents thereof; that the existence of such areas:

- (a) Contributes substantially and increasingly to the spread of disease and crime, and to losses by fire and accident, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution and punishment, for the treatment of juvenile delinquency, for the maintenance of adequate police, fire and accident protection, and for other public services and facilities;
- (b) Constitutes an economic and social liability; and
- (c) Substantially impairs and arrests the sound growth of the community; retards the provision of housing accommodations, aggravates traffic problems, and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities;

and that this menace is beyond remedy and control solely by regulatory processes and exercise of the police power, and cannot be dealt with effectively by the ordinary operation of private enterprise without the aids herein provided; that the elimination in whole or in part of slum, blighted, deteriorated and deteriorating areas, and the prevention of occurrence or recurrence of such areas by redevelopment and by the conservation, rehabilitation and reconditioning, to the extent feasible, of the salvageable portions of such areas, and by other activities pursuant to urban redevelopment or urban renewal as defined herein, are public uses and purposes for which public money may be expended and private property acquired by purchase, by donation and by eminent domain and are governmental functions of concern to the City, and require the exercise of the powers of government granted to the City by the provisions of Article XVIII of the Ohio Constitution and that the necessity in the public interest and general welfare, for the provisions of this chapter is hereby declared as a matter of legislative determination.

(Ord. 30-1967. Passed 9-21-67.)

191.02 POLICY.

It is hereby declared to be the policy of Council to promote and encourage the sound development, including renewal and redevelopment where necessary, of the entire City in accordance with the General Plan for the City. Council realizes that the City government will be unable to carry out coordinated and effective programs for renewing the City without the cooperation and support of the public as a whole. Therefore, Council stands ready to cooperate with private enterprise, civic groups, neighborhood agencies and governmental agencies in developing and carrying out urban renewal programs and projects to promote the sound development of new areas, to prevent the spread of slums and blight and to eliminate slums, blighted, deteriorated and deteriorating areas in the City.

(Ord. 30-1967. Passed 9-21-67.)

191.03 DEFINITIONS.

For purposes of this chapter, the following terms have the meanings ascribed to them in this section unless a different meaning is clearly indicated in the context.

- (a) "Agency" or "urban renewal agency" or "local public agency" or "City" means the City of St. Bernard, Ohio.

- (b) "Slum, blighted or deteriorated area" means an area within the corporate limits of the City in which there are a majority of structures or other improvements, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces, high density of population and overcrowding, unsafe and unsanitary conditions or the existence of conditions which endanger life or property by fire or other hazards and causes, or any combination of such factors, and an area with overcrowding or improper location of structures on the land, excessive dwelling unit density, detrimental land uses or conditions, unsafe, congested, poorly designed streets or inadequate public facilities or utilities, all of which substantially impair the sound growth and planning of the community, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals and general welfare.
- (c) "Deteriorating area" means either: (1) An area, whether predominately built up or open, which is not a slum, blighted or deteriorated area but which, because of incompatible land uses, nonconforming uses, lack of adequate parking facilities, faulty street arrangements, obsolete platting, inadequate community and public utilities, diversity of ownership, tax delinquency, increased density of population without commensurate increases in new residential buildings and community facilities, high turnover in residential or commercial occupancy, lack of maintenance and repair of buildings, or any combination thereof, is detrimental to the public health safety, morals and general welfare, and which will deteriorate, or is in danger of deteriorating, into a slum, blighted or deteriorated area, or (2) An area consisting principally of land in highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air right sites can be developed, thereby eliminating such blighting influence.
- (d) "Project area" or "urban redevelopment area" or "urban renewal area" means a slum, blighted, deteriorated or deteriorating area or any combination or part thereof which Council designates as of a character and size appropriate for urban renewal activities and for which an urban redevelopment plan or urban renewal plan is proposed or prepared.
- (e) "General neighborhood renewal area" means an urban renewal area together with any adjoining areas having specially related problems of such scope that urban renewal activities therein have to be initiated in more than one separate urban renewal project, over an estimated period of up to eight years.
- (f) "Urban renewal" or "urban redevelopment" means the activities of the City, with or without Federal or State aid or assistance for developing, undertaking and carrying out of urban renewal or redevelopment programs and projects, including all planning and other related activities of the City in connection therewith, or any part of such activities.

- (g) "Open space land" means land which has not been developed by the construction or installation of streets, utilities, buildings (except sporadic or incidental structures) or other site improvements. Whether or not such an area has been platted in whole or in part does not prevent its classification as "open space land".
- (h) "Redeveloper" means any person or entity: (1) Purchasing property from the City within a project area, or (2) Owning property located within such area and entering into a conforming agreement with the City in consideration of being permitted by the City in consideration of being permitted by the City to retain title to the property.
- (i) "Urban renewal plan" or "urban redevelopment plan" means a plan as it exists from time to time for the urban renewal or redevelopment of a project area or part thereof.
- (j) "General neighborhood renewal plan" means the plan and program as it exists from time to time, for the urban renewal or redevelopment of a general neighborhood renewal area. The general neighborhood renewal plan need not contain all of the required contents set forth in Section 191.06 with respect to an urban renewal plan or urban redevelopment plan. Approval of the general neighborhood renewal plan by Council does not create authority to carry out project execution activities.
- (k) "Urban renewal project" or "urban redevelopment project" or "project" means undertakings and activities of the City, with or without Federal or State aid or assistance, in a project area for the elimination and for the prevention of the development or spread of slum, blighted, deteriorated or deteriorating areas, and may involve clearance and redevelopment in a project area, or rehabilitation and conservation in a project area, or any combination or part thereof, in accordance with the urban renewal or urban redevelopment plan for the project area to the full extent of and in accordance with the rights, powers and authority of the City, whether derived from the applicable provisions of Federal or State constitution or statutes, or City ordinances. Such undertakings and activities in a project area may include:
 - (1) Acquisition of realty, including the acquisition of air rights.
 - (2) Demolition and removal of buildings and improvements.
 - (3) Installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out the urban renewal or urban redevelopment plan.
 - (4) Disposition of property for uses in accordance with the urban renewal or urban redevelopment plan.
 - (5) Encouraging and assisting interested citizens in a private program of voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan, with or without aid and assistance by Federal Housing Administration mortgage insurance or special support for mortgage financing through the Federal National Mortgage Association or similar organizations.

- (6) Acquisition of any real property where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen such lot occupancy or population density as create those conditions, eliminate uses incompatible with the general character of a neighborhood and which are detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; and disposition of property, so acquired in accordance with this paragraph (6) for voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan.
- (7) Construction of foundations and platforms necessary for the appropriate provisions of air right sites in accordance with the urban renewal or urban redevelopment plan.
- (8) Acquisition and repair or rehabilitation for guidance purposes, and resale, of structures which, under the urban renewal plan, are to be repaired or rehabilitated for dwelling use or related facilities, provided that there shall not be acquired for such purposes, in any project area, buildings, which contain or will contain more than 100 dwelling units, or five percent of the total number of dwelling units in such area which under the urban renewal plan are to be repaired or rehabilitated, whichever is the lesser.
- (9) Relocating within the project area a structure which the City determines to be of historic value and which will be disposed of to a public body or a private nonprofit organization which will renovate and maintain such structure for historic purposes. The urban renewal project shall not include the construction or improvement by the City of any building other than municipal buildings, except as provided in paragraphs (7) and (8) and this paragraph (9).
- (l) "General plan" or "master plan" generally means a broad and general guide and pattern for the future growth and development of the City, including maps, plats, charts and descriptive, interpretive and analytical narratives, as may be appropriate and specifically shall mean the Master Plan Book and Amendments as adopted by the City Planning Commission on January 18, 1966, pursuant to Ohio R.C. 713.02 and any subsequent amendments thereto.
- (m) "Slum clearance" or "clearance" or "urban redevelopment" may include those undertakings and activities identified in subsection (k), paragraphs (1), (2), (3), (4) and (7).
- (n) "Rehabilitation" or "conservation" or "reconditioning" may include those undertakings and activities identified in subsection (k), paragraphs (3), (4), (5), (6), (8) and (9). (Ord. 30-1967. Passed 9-21-67.)

191.04 MAYOR TO SUPERVISE RENEWAL ACTIVITIES.

The Mayor is hereby charged with the responsibility of supervising the urban renewal and urban redevelopment activities of this City, coordinating the activities of the Director of Urban Development and other officers, employees, commissions and boards concerned with such projects and executing on behalf of the City, as its authorized representative, all applications to the Federal government for grants, loans and advances.
(Ord. 30-1967. Passed 9-21-67.)

191.05 PREPARATION OF STUDIES AND PLANS.

(a) Upon the recommendation of the Mayor and approval by the Planning Commission, the Board of Control shall enter into such contracts on behalf of the City with engineers, architects and other professional services as may be necessary to provide the necessary inspections, studies, plans, surveys and reports in connection with the preparation of the general neighborhood renewal plan, and in connection with urban renewal or redevelopment activities to be undertaken by the City to the extent that funds have been appropriated therefor. The Planning Commission may itself conduct such inspections, studies, plans, surveys and reports.

(b) When studies, plans, surveys or reports pursuant to subsection (a) have been prepared, they shall be submitted to Council and filed as provided from time to time.
(Ord. 30-1967. Passed 9-21-67.)

191.06 CONTENTS OF RENEWAL AND RELOCATION PLANS.

(a) Any urban renewal or redevelopment plan hereafter prepared shall be prepared in such detail as to clearly set forth sufficient information to permit the Planning Commission to exercise its power of approval or disapproval under Ohio R.C. 713.02 and in any event such plans shall include, but not be limited to, the following:

- (1) A description of the boundaries of the project area;
- (2) A land-use plan showing the location, character and extent of public and private land ownership, utilities, use and occupancy proposed within the area;
- (3) A delineation of areas of land acquisition, demolition and removal of structures, or of rehabilitation, conservation or reconditioning of existing structures, if any, as may be proposed to be carried out in the project area;
- (4) A statement indicating the controls and the use, development and building restrictions to be placed on the property in the project area to prevent a recurrence of slum or blighted conditions;

and, in addition thereto, such plan or its supporting documentation shall include, but shall not be limited to, the following:

- (5) A report showing the proposed changes, if any, in the Building, Housing or Zoning Codes or maps and street layout, levels or grades;
- (6) A statement from the appropriate City official or officials setting forth the capability of the City to finance the portion of the project costs to be contributed by the City;

- (7) A statement of the relationship of the plan to such definite objectives of the City respecting appropriate land uses, improved traffic conditions and transportation, public utilities, recreation and community facilities and other public improvements.

(b) A relocation plan shall indicate a feasible method for the temporary relocation of individuals and families displaced from the project area, and that there are or are being provided in the project area, or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the individuals and families to be displaced from the project area, decent, safe and sanitary dwellings equal in number to the number of such displaced individuals or families, and available to them and reasonably accessible to their place of employment.
(Ord. 30-1967. Passed 9-21-67.)

191.07 ACTION BY PLANNING COMMISSION.

(a) When a general neighborhood renewal plan or an urban renewal or urban redevelopment plan and the supporting documentation therefor is filed with Council, Council shall refer the plan and supporting documentation to the Planning Commission for its review and recommendations including the exercise of its power of approval or disapproval under Ohio R.C. 713.02, and its certification as to whether or not the plan is in conformity with the General Plan of the City, by causing a copy of the plan and supporting documentation to be delivered to the person charged with the preparation and custody of the record of proceedings of the Planning Commission.

(b) The Planning Commission shall submit in writing to Council its approval or recommendations concerning the plan. The approval of the Commission shall also constitute its approval of those matters placed under its jurisdiction by Ohio R.C. 713.02, except as the recommendations of the Planning Commission may include a disapproval pursuant to that section. Except as recommendations or disapprovals are received from the Planning Commission on or before the thirtieth day after the day of delivery to the person charged with the preparation and custody of the record of proceedings of the Planning Commission of the plan and supporting documentation, the plan shall be conclusively presumed to have been approved by the Planning Commission. (Ord. 30-1967. Passed 9-21-67.)

191.08 PUBLIC HEARING AND COUNCIL ACTION.

(a) Council, before approving a general neighborhood renewal plan or an urban renewal or urban redevelopment plan, shall hold a public hearing on the plan at which an opportunity shall be provided to all persons interested to be heard either in person or by counsel, which hearing may be adjourned from time to time. Notice of the date, time and place of such hearing shall be published in a newspaper of general circulation in the City once a week for two consecutive weeks on the same day of the week, and at least seven full days shall elapse between the second publication and the date set for the public hearing. The notice shall also contain a description of the project area by its location in relation to highways, streets, watercourses or other natural or artificial boundaries, and shall also designate the place at which the plan, maps, plats and other materials describing the project area are and will be available for public inspection.

(b) Following the completion of the public hearing, Council may either approve or reject the general neighborhood renewal plan or the urban renewal or urban redevelopment plan, or make modifications and approve the plan as modified; provided that, if

- (1) The boundaries of the project area are extended to include any land, except land contained within the right-of-way lines of a dedicated street or alley, not included in the urban renewal or urban redevelopment plan upon which the public hearing was held pursuant to subsection (a) hereof, or if there is added a type of urban renewal or redevelopment activity not included in the urban renewal or urban redevelopment plan upon which the public hearing was held pursuant to subsection (a) which requires the acquisition of property or if there is any change deemed by Council to be substantial in land use or redevelopment restrictions contained in the urban renewal or urban redevelopment plan upon which the public hearing was held pursuant to subsection (a), a public hearing shall be held on the urban renewal or urban redevelopment plan as modified prior to the approval thereof by Council in accordance with the provisions of subsection (a); and
- (2) Such modifications are other than in accordance with the recommendations of the Planning Commission, the general neighborhood renewal plan or urban renewal plan or urban redevelopment plan as modified and shall be resubmitted to the Planning Commission for its written approval or recommendations pursuant to the provisions of Section 191.07.

(c) When Council wishes to approve a general neighborhood renewal plan, or an urban renewal or redevelopment plan, it shall do so by ordinance passed by not less than a majority vote, after reading in full on three separate days or under suspension of rules pursuant to Ohio R.C. 731.17; provided, however, if such plan has not been approved by the Planning Commission, or if there were any partial disapprovals by or adverse recommendations of the Planning Commission under Ohio R.C. 713.02 not accepted by Council by its modifications of the plan in accordance therewith, then an affirmative vote of two-thirds of the members of Council shall be required to pass such ordinance and, to the extent that such disapproval involves the construction of an improvement or utility within the meaning of Ohio R.C. 713.02, the concurrence of the head of the department or departments having control of the construction of such proposed improvement or utility shall also be necessary.

(d) The ordinance of Council approving a general neighborhood renewal plan should contain a finding that the plan conforms to the General Plan and to the workable program of the City and such other findings as may be necessary or desirable, but need not contain the other findings set forth below in subsection (e) for approval of urban renewal or redevelopment plans. Such approval of a general neighborhood renewal plan may be made before or at the same time as the approval of the urban renewal or redevelopment plan for a project within the general neighborhood renewal area.

(e) The ordinance of Council approving an urban renewal or redevelopment plan shall include the following findings:

- (1) Specific findings of fact as to the conditions in the project area which make it a slum, blighted, deteriorated or deteriorating area, and findings that the project area is a slum, blighted, deteriorated or deteriorating area.
- (2) That the size and character of the area and the location of elements of slum, blight and deterioration in the area make it appropriate for urban renewal activities .
- (3) That the proposals for the proper relocation of individuals and families displaced in carrying out the project in decent, safe and sanitary dwellings in conformity with acceptable standards are feasible and can be reasonably and timely effected to permit the proper prosecution and completion of the project; and that such dwellings or dwelling units available or to be made available to such displaced individuals and families are at least equal in number to the number of displaced individuals and families, are not generally less desirable in regard to public utilities and public and commercial facilities than the dwellings of the displaced individuals and families in the project area, are available at rents or prices within the financial means of the displaced individuals and families, and are reasonably accessible to their places of employment.
- (4) This finding is made only if Federal aid is needed: that financial aid to be provided by the Federal government under its contract is necessary to enable the project to be undertaken in accordance with the plan.
- (5) That the plan for the project area will afford maximum opportunity consistent with the sound needs of the community as a whole for the rehabilitation or redevelopment of the project area by private enterprise.
- (6) That the plan conforms to the existing General or Master Plan for the overall development of the City as prepared by the Planning Commission pursuant to Ohio R.C. 713.02.
- (7) That the plan gives due consideration to the provision of adequate park and recreational areas and facilities, as may be desirable for neighborhood improvement, with special consideration for the health, safety and welfare of the children residing in the general vicinity of the site covered by the plan.
- (8) This finding is made only if there is included in the plan any provision permitting the new construction of hotels, motels or other housing for transient use: that the City has caused to be made a competent independent analysis of the local supply of transient housing and as a result thereof determines that there exists in the project area a need for additional units of such housing.
- (9) This finding is made only if the project area is not predominantly residential in character and is not to be redeveloped for predominantly residential use: That the redevelopment of the project area for predominantly nonresidential uses is necessary for the proper development of the community.

- (10) This finding is to be made only where an open space land program is involved: that the land and the interests in land to be acquired are for the purpose of preserving such area as open space land and are necessary to orderly long range development, to curb urban sprawl and the spread of urban blight and deterioration, to encourage more economical and desirable urban development and to provide areas for parks, playgrounds, parkways, conservation areas, watersheds, and to preserve natural resources, and that the area to be so acquired is of a size and character appropriate for such purpose.
- (11) This finding is to be made only if Federal aid is involved and clearance is the sole treatment proposed: that the objectives of the urban renewal plan cannot be achieved through rehabilitation of the urban renewal area.
- (12) This finding is to be made only if Federal aid is involved and both clearance and rehabilitation treatment are proposed: that the objectives of the urban renewal plan cannot be achieved through more extensive rehabilitation of the urban area.
- (13) This finding is to be made only if Federal aid is involved: that the United States of America and the Secretary of Housing and Urban Development are assured of full compliance by the City with regulations of the Department of Housing and Urban Development effectuating Title VI of the Civil Rights Act of 1964.
- (14) This finding is to be made only where an educational institution or a hospital is located in or near the project area and it is desired to utilize Section 112 of the Housing Act of 1949, as amended: that, in addition to the elimination of slums and blight from such area, the undertaking of an urban renewal or urban redevelopment project in the area will further promote the public welfare and the proper development of the community:
 - A. By making land in the area available for disposition, for uses in accordance with the urban renewal or urban redevelopment plan, to such educational institution or hospital for redevelopment in accordance with the uses specified in the urban renewal or urban redevelopment plan;
 - B. By providing, through the redevelopment of the area in accordance with the urban renewal or urban redevelopment plan, a cohesive neighborhood environment compatible with the functions and needs of such educational institution or hospital; or
 - C. By any combination of the foregoing.
- (15) This finding is to be made only if Federal aid is involved: consideration has been given to development of a sewer system to serve the urban renewal area which will to the maximum extent feasible, provide for effective control of storm and sanitary wastes.

(f) The Clerk of Council shall certify as true and correct and deliver to the Mayor a copy of the aforesaid ordinance of Council approving the plan for his approval or veto, and appropriate further action, and any documents which were submitted to Council to support findings made in the ordinance should be filed with a copy of the ordinance.

(g) The taking effect of the ordinance approving an urban renewal or redevelopment plan shall constitute authority to spend moneys of the City appropriated for carrying out urban renewal or redevelopment activities in accordance with the plan, as well as the proceeds of bonds or notes issued for such purpose, and to accept advances, gifts, donations and grants from the Federal government, the State of Ohio, any entity, instrumentality or subdivision of either, or from any other entity or person for such purpose.
(Ord. 30-1967. Passed 9-21-67.)

191.09 FEDERAL AID CONTRACTS.

Any contract with a Federal agency for loans, advances, grants or other Federal aid to the City shall be approved by the Solicitor as to form and legality and after approval and authorization by ordinance of Council, passed in accordance with the requirements of Ohio R.C. 731.17, shall be executed by the Board of Control.
(Ord. 30-1967. Passed 9-21-67.)

191.10 MODIFICATION OF PLANS.

An approved urban renewal plan may be amended, modified or changed by ordinance of Council from time to time; provided that if the boundaries of the project area are extended to include any land, except land contained within the right-of-way lines of a dedicated street or alley, not previously included therein or if there is added a new type or urban renewal activity which requires the acquisition of property or if there is any change in the land use or redevelopment restrictions, deemed by Council to be substantial, or if there is a change in the proposed location, extent or character of a public improvement or utility within the project area or in any other matter directly within the jurisdiction of the Planning Commission to approve or disapprove under Ohio R.C. 713.02, or if such amendment, modification or change is deemed by Council to be a substantial change in the urban renewal or redevelopment plan, then all of the proceedings provided for in Sections 191.07 and 191.08 shall be carried out in connection with such amendment, modification or change except that the findings to be made in the ordinance approving the urban renewal or urban redevelopment plan shall be altered to fit the then circumstances. The land use or redevelopment restrictions applicable to any land previously conveyed by the City may not be amended, modified or changed without the consent of the property owner thereto.

A general neighborhood renewal plan may be amended, modified or changed by ordinance of Council from time to time, provided that any such amendment, modification or change shall be submitted to the Planning Commission for its written approval or recommendations pursuant to the provisions of Section 191.07.
(Ord. 30-1967. Passed 9-21-67.)

191.11 EXECUTION OF PROJECTS.

(a) Acquisition of Property. As authorized by Council and with the approval of the Board of Control where appropriate under the provisions of Ohio R.C. 733.22, the Director of Public Service with the appropriate advice and assistance of the Solicitor, shall cause the necessary steps to be taken to acquire the parcels of land in the project area in accordance with the urban renewal or redevelopment plan, including but not limited to, the negotiation for such parcels, obtaining appraisals, title examinations and reports, executing contracts for any of such services and appropriate documents to transfer title to the City; provided that in the event appropriation of property is necessary, Council shall initiate and carry out, with the appropriate assistance of the several officers, employees, boards and commissions of the City, the proceedings in accordance with Ohio R.C. Chapter 163. Acquisition may take place at any time after compliance with Sections 191.07 and 191.08.

(b) Preparing Property for Disposition. After any necessary appropriations of City moneys and authorization of expenditures by ordinances of Council in accordance with Ohio R.C. Chapter 5705, Council action, where appropriate, to rezone property, vacate or dedicate streets or other public places and provide for the establishment and preservation of open space areas pursuant to Ohio R.C. Chapters 711, 713 and 723, and applicable City ordinances; approvals and directions of the Board of Control, where appropriate, pursuant to Ohio R.C. 733.22; certification of funds by the Auditor, where appropriate, pursuant to Ohio R.C. 5705.41; and preparation of or approval of legal form of contracts by the Solicitor, the Director of Public Service shall make the contracts, purchase the supplies and materials and provide the labor, pursuant to and in accordance with the applicable provisions, including the competitive bidding requirements, of Ohio R.C. 735.05 to 735.09, 723.52 and 723.53, and Ohio R.C. Chapter 153, for such City activities as may be necessary to carry out the urban renewal project, including but not limited to the demolition, rehabilitation or repair of structures, whether voluntarily by the private owners thereof or by the City for demonstration purposes in limited numbers, the removal of pavement, sidewalks, lighting and trees, capping, removal and relocation of City-owned utility lines, grading, construction of site improvements and supporting facilities and the temporary lease, rental or permission to let others use structures or parcels of land while owned by the City, relocation activities and the enforcement of any applicable provisions of law or conforming agreements relative to building, zoning, platting and the repair or rehabilitation of land and structures remaining in private ownership.

(c) Disposition of Property. Pursuant to Ohio R.C. 721.01, 721.03 and 721.28, after its determination that real property is not needed for any Municipal purpose, Council may authorize by ordinance the transfer, lease or conveyance of any real property in accordance with and for the purposes of the plan, subject to such lawful terms, conditions, restrictions and covenants, including covenants running with the land, to assist in carrying out the purposes of the plan. All dispositions of real property shall be at not less than the fair value thereof determined by Council based upon the proposed new uses and restrictions thereon to be imposed under the urban renewal plan by Council through zoning ordinance; private covenant or otherwise. Such determination shall be made only after obtaining independent appraisals of such fair value upon the aforesaid bases, which appraisals shall not be binding upon the City. The manner of disposition shall be prescribed by ordinance, and may be by negotiation, with or without any

competitive bidding, and such competition and award of a disposition contract may be based on factors other than price alone. Two weeks' publication of notice in a newspaper of general circulation in the City shall be sufficient notice for the taking of competitive bids or of the execution of a disposition contract without competitive bidding. The financial and legal ability of those proposing to acquire or lease such real property shall be considered in all dispositions. The Director of Public Service shall execute, on behalf of the City, such instruments as may be necessary to transfer, lease or convey such real property in the form approved by the Solicitor and authorized by Council, which form shall include all covenants running with the land, including any portions of the plan incorporated by reference. The Director of Public Service shall execute any certificates of completion of improvements or other appropriate instruments, on behalf of the City, that may be necessary in accordance with any covenants in such instruments of lease or conveyance.

(d) Conforming Agreement with Owner. If the owner of property in the project area is willing to make the use of his property conform to the urban renewal or redevelopment plan and Council finds and determines that the acquisition of the property by the City will not be necessary if so conformed, the Mayor, upon Council authorization, may enter into a conforming agreement upon such terms and security as may be authorized by Council. Such agreement may provide for the acquisition of property upon continued failure of the property owner to keep his agreement after notice from the City specifying such failure.

(e) Agreements with Community Improvement Corporations. In the execution of urban renewal or redevelopment projects, Council may authorize, as to any appropriate projects or parts of projects, the employment of community improvement corporations, community redevelopment corporations and metropolitan housing authorities, as defined by the statutes of Ohio, and when authorized by ordinance of Council may grant leases, make conveyances and enter into agreements with such corporations related to appropriate aspects of such projects to the full extent of the powers possessed by such corporations.
(Ord. 30-1967. Passed 9-21-67.)

191.12 FINANCES.

The cost of urban renewal activities may be paid in whole or in part by the City from appropriate general or special funds or accounts established pursuant to Ohio R.C. Chapters 135 and 5705 and the City may accept grants or gifts of moneys or real or personal property from persons, entities, governments or taxing authorities to be used for the planning and financing of such urban renewal activities. Any investment of excess funds shall be carried out in accordance with provisions of Ohio R.C. 731.56 to 731.59. All bonds or notes payable from the general credit and taxes of the City to finance the urban renewal activities shall be issued in accordance with the applicable provisions of Ohio R.C. Chapter 133. Accounts shall be maintained for the carrying out of those urban renewal activities being financed by loans or advances from the Federal government separate from any other City accounts, including City accounts used to carry out any activities being financed by the City and no money or real or personal property shall in any way be pledged as security for the repayment of any Federal loans or advances, except the separately described portion of a project area set aside for such purpose, together with the proceeds from the sale, lease or temporary operation thereof and Federal capital grant moneys earned in connection therewith in order to avoid violating statutory and constitutional debt and tax limitations. (Ord. 30-1967. Passed 9-21-67.)

191.13 BUILDING PERMITS.

After approval of an urban renewal or redevelopment plan by Council, no building permit shall be issued for the improvement or enlargement of any existing structure, or for the construction of a new structure, in the clearance and redevelopment portion of the project area, except that such permit may be issued for the repair of an existing structure when such repair is deemed necessary by the Building Commissioner for the immediate preservation of the public health and safety or is required by the redeveloper in accordance with the redevelopment plan. (Ord. 30-1967. Passed 9-21-67.)

191.14 TAX EXEMPTION.

(a) All property of the City, including funds, owned or held by it for the purposes of this chapter shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against the City be a charge or lien upon such property; however, the provisions of this section shall not apply to or limit the right of obligors to pursue any remedies for the enforcement of any pledge or lien given pursuant to this chapter by the City on its rents, fees, grants or revenues from urban renewal or redevelopment projects.

(b) The property of the City, acquired or held for the purposes of this chapter on January 1 of any year, is declared to be public property used exclusively for essential public and governmental purposes, and such property shall be exempt from all taxes of the City, County, State or any taxing authority thereof, however, such tax exemption shall terminate when the City sells, leases or otherwise disposes of such property in a project area to a purchaser or lessee which is not a person, corporation, partnership or other association entitled to tax exemption with respect to such property. (Ord. 30-1967. Passed 9-21-67.)

191.15 SEPARABILITY; CHAPTER CONTROLLING IN CONFLICT OF LAW.

Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this chapter or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law or ordinance, the provisions of this chapter shall be controlling. The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by other law. (Ord. 30-1967. Passed 9-21-67.)

CHAPTER 192
Scattered Site Urban Renewal

192.01 Legislative finding.
192.02 Planning Commission approval.

192.03 Plan adoption.
192.04 Land disposition.

CROSS REFERENCES

Appropriation of property - see Ohio Const., Art. I, §19; Art. XVIII, §10, 11
 Procedure for appropriation of property - see Ohio R.C. Ch. 163, 719
 Power to transfer or convey real property without bids - see Ohio R.C. 721.28
 Urban renewal debt retirement fund - see Ohio R.C. Ch. 725
 Restoration of blighted premises - see ADM. Ch. 197

192.01 LEGISLATIVE FINDING.

(a) It is hereby found and determined that there exists within the City of St. Bernard premises that by reason of age, location, obsolescence, dilapidation, deterioration, lack of maintenance, lack of facilities, or lack of repair or combination thereof constitute a blight and a nuisance upon these surrounding neighborhoods because they are fire hazards, health hazards, substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other premises in the neighborhood, or factors seriously depreciating property values in the area.

(b) It is further found that the parcels described in the City of St. Bernard Scattered Site Urban Renewal Plan of 1994 marked Exhibit "A" and attached to original Ordinance 37-1994 and incorporated herein as fully as if restated herein, contains a blighted premises.

(c) It is further found that the City of St. Bernard acquired those blighted premises by negotiated purchase for the purpose of eliminating blight.

(d) It is further found that the only effective way to have eliminated the blight on the premises described in the attached City of St. Bernard Scattered Site Urban Renewal Plan was to acquire the property and demolish the buildings thereon in order to clear them for redevelopment.

(e) It is further found that unless the properties described in the City of St. Bernard Scattered Site Urban Renewal Plan of 1994 are developed in accordance with a comprehensive urban renewal plan there is a serious hazard to the public that the blighted condition will recur and reappear in the neighborhoods where the St. Bernard Scattered Site Urban Renewal plan contains parcels.

(f) It is further found that it is necessary to protect the public health, safety and general welfare to dispose of the properties described in the St. Bernard Scattered Site Urban Renewal Plan of 1994 in accordance with the urban renewal plan in order to avoid the recurrence of blight.

(Ord. 37-1994. Passed 7-7-94.)

192.02 PLANNING COMMISSION APPROVAL.

The City of St. Bernard Scattered Site Urban Renewal Plan of 1994 has been reviewed, approved and recommended by the Planning Commission of the City of St. Bernard.

(Ord. 37-1994. Passed 7-7-94.)

192.03 PLAN ADOPTION.

In order to prevent the recurrence of blight on the parcels described in the City of St. Bernard Scattered Site Urban Renewal Plan of 1994, the City of St. Bernard Scattered Site Urban Renewal Plan of 1994 is hereby adopted as an official urban renewal plan for scattered sites described therein pursuant to the authority as set forth in Chapter 197.

(Ord. 37-1994. Passed 7-7-94.)

192.04 LAND DISPOSITION.

The property described in the City of St. Bernard Scattered Site Urban Renewal Plan of 1994 shall be disposed of in accordance with the provisions of the City of St. Bernard Scattered City Urban Renewal Plan of 1994 as authorized in Chapter 197.

(Ord. 37-1994. Passed 7-7-94.)

CHAPTER 193
Relocation Assistance

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| <p>193.01 Definitions.</p> <p>193.02 Urban Development Director's duties.</p> | <p>193.03 Contracts with developers.</p> <p>193.04 Authority may be reassigned.</p> |
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CROSS REFERENCES

Bonds for Director and Project Manager - see ADM. 159.03
 Assistance in relocating families required - see ADM. 191.06(b)
 Rent supplementation - see ADM. Ch. 195

193.01 DEFINITIONS.

As used in this chapter:

- (a) "Displaced person" means any individual who has attained his legal age and whose home, whether owned or rented and which is his principal place of residence, has been or is scheduled to be purchased, appropriated or ordered vacated under the police power or right of eminent domain by the City. Appropriation shall occur on the date the individual is notified of such appropriation pursuant to the applicable sections of the Ohio Revised Code.
- (b) "Seller" means anyone who owns in fee, a home or home site in the City.
- (c) "Developer" means any individual or entity which owns in fee five or more homes or lots which are adjacent or contiguous to each others
- (d) "Building lot" means any piece or parcel of land upon which a building can be constructed under the zoning laws of the City.
(Ord. 28-68. Passed 6-20-68.)

193.02 URBAN DEVELOPMENT DIRECTOR'S DUTIES.

The Director of Urban Development, herein referred to as "Director", shall assume as part of the responsibilities of his office, the administration of this chapter. Such duties include the coordination of information relating to homes, apartment units and building lots available within the City between displaced persons and licensed sellers, brokers or agents and developers. As a means of accomplishing these duties, the Director shall maintain a record, known as the Relocation Listing Record", in which he shall list all displaced persons, as well as homes, apartment units and building lots available within the City. The listing of homes, apartment units and building lots shall be on a voluntary basis whenever the seller, broker, agent or developer supplies this information to the Director.
(Ord. 28-68. Passed 6-20-68.)

193.03 CONTRACTS WITH DEVELOPERS.

The Director of Urban Development is hereby authorized to enter into contracts with developers, wherein the Director, in consideration of the developer's agreeing to the terms set out below, shall make available and certify in writing or by copy to the developer upon written request therefor, the information contained in the Relocation Listing Record at agreed intervals which shall not be more frequent than biweekly. In addition, the Director shall receive information from the developer at the time that the agreement is signed relative to the developer's homes, apartment units and lots and shall relay such information by certified mail to all displaced persons within a reasonable time after receipt thereof.

The terms and conditions to which the developer shall agree are:

- (a) The establishment of a selling price range of the available homes or homes to be built on building lots; this selling price range shall apply to the greater of five homes or building lots, or twenty-five percent of the homes or building lots available, and it shall apply for a specified period of time not less than fifteen months from the date when the agreement is executed.
- (b) The establishment of a time schedule wherein a minimum and maximum number of homes will be made available to accommodate the displaced persons. This time schedule shall be established for a minimum of twelve months after the date upon which the agreement is executed, with subsequent adjustment by the Director.
- (c) The establishment of a purchase priority for displaced persons and other related priorities if applicable for other residents of the City. The priorities established hereunder shall be effective for the time necessary to properly relocate the displaced persons.
- (d) The Director may include such other terms and conditions as he believes advisable provided such other terms and conditions are not inconsistent with the purposes of this chapter. Such other terms and conditions may include, but are not limited to, a provision for the payment of liquidated damages by the developer, whether the developer has breached the terms and conditions as herein set out in whole or in part.

In no event shall the Director or any member of the Urban Development Department agree to nor receive any fee from any displaced person or developer. And, except for the expenditure of funds in performance of his duties as set out above, the Director shall not agree to nor disburse any funds to any displaced person or developer in the form of liquidated damages or otherwise.
(Ord. 28-68. Passed 6-20-68.)

193.04 AUTHORITY MAY BE REASSIGNED.

The authority and duties herein contained may be reassigned by ordinance with proper notice to all contracting parties. Each contract shall be approved by Council.
(Ord. 28-68. Passed 6-20-68.)

CHAPTER 195
Rent Supplementation

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| <p>195.01 Determination of insufficient standard housing.</p> <p>195.02 Rent supplementation program established.</p> | <p>195.03 Effective date.</p> |
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CROSS REFERENCES

Assistance in relocating families required - see ADM. 191.06
Finding places to live for displaced persons - see ADM. Ch. 193

195.01 DETERMINATION OF INSUFFICIENT STANDARD HOUSING.

Based on an analysis of the field studies, relocation interviews and other evidence, it is hereby found and determined that there is a deficit in the supply of standard housing in the City within the ability to pay of certain families and individuals to be displaced by the North Vine Street Urban Renewal Project.
(Ord. 25-1968. Passed 6-6-68.)

195.02 RENT SUPPLEMENTATION PROGRAM ESTABLISHED.

The City in recognizing and acknowledging its obligation and responsibility for a feasible method of relocating these families hereby establishes a rent supplementation program and adopts the following policies for the program's operation.

(a) Eligibility.

- (1) The amount of rent supplementation to be provided to a family or individual shall equal the difference between the gross monthly rent of the dwelling unit to which they have relocated and their ability to pay as defined in subparagraph (3) hereof.
- (2) The amount of rent supplementation to be provided to a family or individual receiving public assistance where the rent allowance is inadequate shall be the difference between the amount of the rent allowance and the gross monthly rent of the dwelling unit to which they have relocation without deduction from the welfare assistance of the amount of the rent supplementation.
- (3) The ability to pay shall be defined as twenty percent of the gross monthly income of an individual or family.
(Ord. 25-1968. Passed 6-6-68.)

- (4) The amount of rent supplementation to be provided to a family or individual as established by this subsection, shall be based on the gross monthly rent paid by the individual or family provided that the amount of gross monthly rent used to calculate the rent supplement shall not exceed those rentals established on HUD Form 6148 "Schedule of Average Gross Rentals for Standard Housing in Locality" as recommended by the Director of Urban Development and approved by the Federal Department of Housing and Urban Development.
(Ord. 48-1969. Passed 7-17-69.)
- (b) Duration of Assistance. Rent supplementation shall be provided to each eligible family and individual for a period of five years from the date of relocation, or:
 - (1) Until the economic condition of the family or individual improves to such an extent that assistance is no longer necessary,
 - (2) The City makes public housing or housing assistance under the Federal rent supplement program available to the family or individual,
 - (3) The family or individual refuses to allow a quarterly re-review of the ability to pay or a monthly review if this is deemed to be in the best interest of the City,
 - (4) The family or individual moves from the City, or
 - (5) The family or individual refuses to accept a standard dwelling unit adequate as to size, location and within their ability to pay.
- (c) Administration.
 - (1) Responsibility of administrating the rent supplementation program shall be vested in the Department of Urban Development or its legal successor.
 - (2) Public funds shall be used for the rent supplementation payments and shall be deposited in accordance with an escrow agreement approved by the City Solicitor with the local depository approved by the City Treasurer.
 - (3) The amount of ten thousand dollars (\$10,000) which is estimated to be the first annual funding requirement shall be deposited initially and additional deposits shall be made as needed until all eligible families and individuals have been assisted to the extent to which they are entitled.
 - (4) The escrow agent will dispense funds to eligible families and individuals as recommended by the Department of Urban Development or its legal successor, and approved by the Mayor, but will make no determination with respect to the eligibility or amounts to be paid.
(Ord. 25-1968. Passed 6-6-68.)

195.03 EFFECTIVE DATE.

The rent supplementation program will be in full effect as soon as practicable after the date of a letter of consent to proceed with early acquisition activities from the Federal government. (Ord. 25-1968. Passed 6-6-68.)

CHAPTER 197
Restoration of Blighted Premises

197.01 Necessity to acquire blighted property. 197.02 Definitions. 197.03 Determination of blighted premises by Urban Development Director. 197.04 Public hearing required; notice. 197.05 Procedure at hearing. 197.06 Decision by Council.	197.07 Acquisition and blight elimination. 197.08 Conditions of sale. 197.09 Finances. 197.10 Consultation with Advisory Committee and Neighborhood Residents. 197.11 Provisions not limiting.
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CROSS REFERENCES

Procedure for appropriation of property - see Ohio R.C. Ch. 163, 719

Power to transfer or convey real property without bids - see Ohio R.C. 721.28

Purchase and sale of property - see PRELIM. Tables E and F

Urban renewal - see ADM. Ch. 191

197.01 NECESSITY TO ACQUIRE BLIGHTED PROPERTY.

It is hereby found and determined that there exist within the City premises that by reason of age, location, obsolescence, dilapidation, deterioration, lack of maintenance, lack of facilities, or lack of repair or a combination thereof constitute a blight and a nuisance upon the surrounding neighborhood because they are fire hazards, health hazards, substantial and unreasonable interferences with the reasonable and lawful use and enjoyment of other premises in the neighborhood, or factors seriously depreciating property values in the area.

It is further found that programs aimed at specific elimination of the particular blights or nuisances involved in neighborhoods of the City have sometimes proved inadequate or ineffective, have sometimes failed to prevent recurrence of the nuisance or blight, and have sometimes resulted merely in the alteration of the nature or form of the nuisance or blight that previously existed. It is further found that it therefore becomes necessary, in order to eliminate nuisance and blight and prevent recurrence of blight, for the City to obtain the title of the blighted premises and to take direct action to remove the blight or provide for its removal by others and to make further provisions for future development, redevelopment or use of the premises in such a way as to prevent any recurrence of blight or nuisance on the premises.

It is further found and determined that acquisition of such blighted property by the City in order to eliminate blight or nuisance and to prevent its recurrence constitutes a public purpose (Ord. 42-1968. Passed 12-5-68.)

197.02 DEFINITIONS.

For the purpose of this chapter, the following terms have the meanings ascribed to them unless a different meaning is clearly indicated by the context.

- (a) "Blighted premises" means premises which because of their age, location, obsolescence, dilapidation, deterioration, lack of maintenance, lack of facilities, or repair or any combination thereof constitute a serious fire hazard, a serious health hazard, a substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other premises within the neighborhood or a factor seriously depreciating property values in the neighborhood.
- (b) "Neighborhood" means an area of the City comprised of all premises or parcels of land which in whole or in part are located within a radius of 500 feet of any one parcel or lot within the City.
- (c) "Redevelopment" means the acquisition of blighted premises, the demolition of a structure or structures thereon, the making of site improvements, including the construction or reconstruction of structures thereon, or the sale of property for use in accordance with the Zoning, Housing and Building Codes of the City. Redevelopment may include the construction of improvements by the City of any buildings for public use or for resale to private persons.
- (d) "Rehabilitation" means the restoration, rehabilitation or conservation of blighted premises by improvement, modernization or repair of a structure or structures thereon to bring it into conformance with applicable Building, Housing and Zoning Codes of the City.
(Ord. 42-1968. Passed 12-5-68.)

197.03 DETERMINATION OF BLIGHTED PREMISES BY URBAN DEVELOPMENT DIRECTOR.

The Director of Urban Development shall present to Council, from time to time, a report which shall list therein the location and ownership of premises which he has reason to believe are blighted premises as defined in this chapter and which are located in the City of urban renewal areas or "blighted areas" as defined in Section 191.03. The report will state the factors which, in the Director of Urban Development's opinion, would warrant the determination that the premises so listed in the report are blighted. The premises so listed in the report shall be only those blighted premises which, in the opinion of the Director of Urban Development, are such that, in order to eliminate the existing blight and to prevent future blight, acquisition thereof will be necessary for one or more of the following reasons:

- (a) The owner of the premises cannot or will not:
 - (1) Eliminate the blighted condition, and/or
 - (2) Prevent recurrence of blight, or

- (b) The owner has not responded to a lawful order by the City for him to take action to eliminate its recurrence within thirty days after due notice of the request or order has been given him by:
 - (1) Posting such order or notice on the premises;
 - (2) Personal delivery;
 - (3) Mailing such order or notice to the last known address of the owner; or
 - (4) Publishing once a week for three consecutive weeks in a newspaper of general circulation, a notice of the issuance of the order relating to the premises and directing the owner to contact the Building Commissioner in regard to such order; and
- (c) Direct action, short of acquisition by the City to eliminate the blight, including but not limited to clearing the premises of the debris, demolition of blighted structures or barricading such structures has proven to be unsuccessful:
 - (1) To eliminate the blight, or
 - (2) To prevent its recurrence, or
- (d) In the opinion of the Director of Urban Development, based upon conditions existing on the premises and in the neighborhood, such direct action would be likely to prove inadequate to eliminate blight or prevent its recurrence.
(Ord. 42-1968. Passed 12-5-68.)

197.04 PUBLIC HEARING REQUIRED; NOTICE.

Upon receipt of a report from the Director of Urban Development, Council shall set a date for a public hearing in regard to the existence of blight on the premises and necessity for acquisition by the City in order to eliminate blight and prevent its recurrence. The hearing shall be held not less than thirty nor more than forty-five days from the time such report of the Director of Urban Development is received. Upon the fixing of a day for a public hearing, the Clerk of Council shall promptly cause notice to be given to the owner or owners of record of the premises and the occupants thereof, if any, or the person in charge of the premises, if any, notifying them of the time and place of the hearing and apprising them of their right to appear at such hearing to show cause why the premises should not be declared to be blighted or why the City should not acquire the premises for the purpose of eliminating blight thereon and preventing the recurrence of blight. Notice of such hearing shall be given by:

- (a) Posting the notice thereof on the premises;
- (b) Personal service;
- (c) Mailing such order or notice to the last known address of the owner or person in charge of the premises or to the occupants thereof; or
- (d) Publishing the notice once a week for three consecutive weeks in a newspaper of general circulation within the City.
(Ord. 42-1968. Passed 12-5-68.)

197.05 PROCEDURE AT HEARING.

At the hearing required by Section 197.04, the report of the Director of Urban Development shall be read and shall constitute prima-facie evidence of blight on the premises and need for the City to acquire the premises in order to eliminate the blight and prevent its recurrence. Thereafter, the owner, person in charge, occupant of the premises or any person having an interest therein may proceed to show cause why the premises should not be declared blighted or the City should not acquire the premises for the purpose of eliminating blight or preventing its recurrence. At the hearing, the owner, person in charge of the premises or occupant may cause to be presented to Council any records of the City pertaining to issues relevant to the hearing and may examine City employees in regard thereto provided that the production of such records or the presence of such employees is requested by the owner, person in charge or occupant of the premises in writing at least twenty-four hours prior to the hearing.

If the owner, person in charge or occupant of the premises does appear and presents testimony for the purpose of showing cause why the premises should not be declared blighted or the City should not acquire the premises for the purposes of eliminating the blight and preventing recurrence of blight, the Director of Urban Development or his duly appointed representative shall proceed to present evidence to Council of the existence of blight on the premises and the need to acquire the premises for elimination of the blight and the prevention of its recurrence. Members of the public residing in the neighborhood or who may otherwise have knowledge of the condition of such premises may address Council at the hearing in regard to the proposed action of the City.

Council may adjourn the hearing, from time to time, and grant continuances to the Director of Urban Development or his representative or the owner, person in charge or occupant of the premises, in order for them to present further argument or evidence in regard to the existence of blight on the premises or the need for the City to acquire the premises in order to eliminate blight or prevent its recurrence. (Ord. 42-1968. Passed 12-5-68.)

197.06 DECISION BY COUNCIL.

Council, upon completion of the hearing shall at the same or a subsequent meeting decide and make findings as to:

- (a) Whether or not the premises are blighted in accordance with the provisions of this chapter, and
- (b) Whether or not it is necessary for the City to acquire the premises in order to eliminate blight thereon and to prevent its recurrence.

Should Council determine that the premises are not blighted as defined in this chapter, it may direct the Director of Urban Development to take action under any other provisions of the Codified Ordinances, Building Code, Housing Code or Zoning Code of the City in order to correct any illegal conditions on the premises.

Should Council determine that the premises are blighted but that it is not necessary for the City to acquire the premises in order to eliminate the blight and prevent its recurrence in the future, it may direct the Director of Urban Development to take appropriate action in regard thereto short of acquisition.

If Council finds that the premises are blighted as defined in this chapter and that acquisition by the City is necessary in order to eliminate the blight and prevent the recurrence of blight on the premises, the Director of Urban Development is hereby authorized to proceed to take proper action to acquire the premises, eliminate the blight and prevent the recurrence of blight in accordance with the provisions of this chapter. Acquisition price shall be based on two independent appraisals of the blighted premises.
(Ord. 42-1968. Passed 12-5-68.)

197.07 ACQUISITION AND BLIGHT ELIMINATION.

Upon determination of Council that premises are blighted and that acquisition by the City is necessary in order to eliminate the blight and prevent recurrence of blight upon the premises, the Director of Urban Development is hereby authorized to:

- (a) Acquire the premises by purchase; or
- (b) Acquire the premises by court action exercising the City's constitutional power of eminent domain.
- (c) After acquisition, to eliminate the blight by:
 - (1) Demolition and clearance of the premises by an independent contractor or City forces, or clearance if demolition of structures is not necessary;
 - (2) Rehabilitation by an independent contractor or by City forces;
 - (3) Sale of the blighted premises to a purchaser upon terms providing for the elimination of the blight and prevention of its recurrence;
 - (4) Sale of the premises after demolition and clearance, if not needed for a Municipal use, for use or development in accordance with applicable Building Code, Housing Code and Zoning Code provisions; or
 - (5) Any combination of the above provisions.

(Ord. 42-1968. Passed 12-5-68.)

197.08 CONDITIONS OF SALE.

The Director of Urban Development is hereby authorized to negotiate for the sale of premises acquired under the provisions of this chapter which is not to be retained by the City. No land shall be sold by the Director of Urban Development except pursuant to a special ordinance of Council authorizing such sale, the ordinance shall prescribe in detail the terms and conditions upon which such sale is to be made and the covenants to be contained in the deed from the City to the redeveloper so as to eliminate any blight thereon and prevent its recurrence.
(Ord. 42-1968. Passed 12-5-68.)

197.09 FINANCES.

The Auditor of the City is hereby directed to establish a special fund into which all appropriations for the purpose of carrying out the provisions of this chapter shall be placed and the City Treasurer is hereby authorized to make expenditures from the fund for the purposes set forth in this chapter upon receipt of voucher from the Director of Urban Development. The City Treasurer is hereby authorized and directed to deposit in the special fund all proceeds from the sale of premises purchased under the provisions of this chapter.
(Ord. 42-1968. Passed 12-5-68.)

197.10 CONSULTATION WITH ADVISORY COMMITTEE AND NEIGHBORHOOD RESIDENTS.

The Director of Urban Development is authorized to consult with the Citizens Advisory Committee and persons in a neighborhood in regard to the existence of blighted premises therein, means of eliminating such blight, and possible purchase and redevelopment of such property by responsible organizations. (Ord. 42-1968. Passed 12-5-68.)

197.11 PROVISIONS NOT LIMITING.

Nothing in this chapter shall be deemed to limit the Director of Urban Development or the City in any way to use any or all other means available to it to remove existing blight or prevent future blight, or summarily eliminate immediate hazards to the public health or safety or criminal activity on premises regardless of whether or not acquisition of such premises has or has not been commenced under any provisions of this chapter. (Ord. 42-1968. Passed 12-5-68.)