## Memorandum

To: Mayor & Members of Council
From: Monica Irelan, City Manager
Subject: General Information
Date: October 2, 2015

#### CALENDAR

AGENDA: City Council @7:00 pm

#### D. APPROVAL OF MINUTES - the Minutes from the September 21, 2015 meeting are enclosed

#### H. INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS

1. **ORDINANCE No. 051-15**, an Ordinance to Approve Current September 2015 Replacement Pages to the Napoleon Codified Ordinances

#### I. SECOND READINGS OF ORDINANCES AND RESOLUTIONS - None

#### J. THIRD READINGS OF ORDINANCES AND RESOLUTIONS

1. **ORDINANCE NO. 047-15,** an Ordinance Creating a Downtown Revitalization District

#### K. GOOD OF THE CITY (Discussion/Action)

- 1. Change Order No. 1 (Final) for the Miscellaneous Street Improvements Project a. Enclosed is a Memorandum from Chad and also the Change Order.
- 2. Recommendation on the Municipal Tax Ordinance (Direct the Law Director to Prepare Legislation)
- 3. Recommendation on the Third Quarter Budget Adjustments (Direct the Law Director to Prepare Legislation)
  - a. Enclosed is a Memorandum from Greg as well as the proposed Third Quarter Budget Adjustments.
- 4. Recommendation of Council to Review Priority Based Budgeting
- 5. Trick-or-Treat Night Recommendation: Saturday, October 31<sup>st</sup> from 6:00 7:30 pm a. Tony's Memorandum with the Parks & Rec Board's recommendation is attached.
- 6. To Accept Memorial Donations to the Fire Department
  - a. A list of the donations received is enclosed.
- M. Approve Payment of Bills and Approve Financial Reports

#### **INFORMATIONAL ITEMS**

- 1. AGENDA Leadership Tasks Ad-hoc Committee; Monday, October 5<sup>th</sup> @6:00 pm
- 2. **CANCELLATION** *Technology Committee Meeting*
- 3. Ohio Municipal League Bulletin/October 2, 2015
- 4. FYI from Greg Heath
  - a. Two (2) emails from TMACOG

MI:rd Records Retention - CM-11 - 2 Years

#### Monthly Calendar

#### October 1 - 31, 2015

Sept

tember 2015			October 2015						November 2015									
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8 9	10	11	12	4	5	6	7	8	9	10		8	9	10	11	12	13	14
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#### 🕗 Calendar

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
27	28	29	30	1	2	3
	6:00 PM FINANCE &	Seasonal Cleanup Week	7:15 PM Parks & Rec Board	Seasonal Cleanup Week	Seasonal Cleanup Week	
	BUDGET Committee Meeting	Seasonal Cleanup Week	Meeting	Seasonal Cleanup Week	Seasonal Cleanup Week	
	Seasonal Cleanup Week		Seasonal Cleanup Week			
4	5	6	7	8	9	10
Public Power Week		Public Power Week	11:00 AM - 1:00 pm Employee			Public Power Week
Public Power week	Hoc Committee	Public Power week	Appreciation Luncheon	Public Power week	Public Power Week	Public Power week
	7:00 PM City COUNCIL		Appreciation Luncheon Public Power Week			
	Meeting		rublic Power week			
	Public Power Week					
	r done r ower week					
4.4	10	10	4.4	45	40	17
11	12	13	14	15	16	17
		4:30 PM Board of Zoning				
	Committee	5:00 PM Planning Commission				
	Board of Public Affairs (BOPA) Mtg.					
	7:00 PM WATER & SEWER					
	Committee Mtg.					
	7:30 PM Municipal					
	Properties/ED Committee					
	Meeting					
	c					
18	19	20	21	22	23	24
	6:00 PM Tree Commission					
	Meeting					
	6:15 PM Parks & Recreation					
	Committee Meeting					
	7:00 PM City COUNCIL					
	Meeting					
25	26	27	28	29	30	31
25		<b>4</b> 1		23		51
	6:30 PM FINANCE &		6:30 PM Parks & Rec Board			
	BUDGET Committee Meeting		Meeting			
	7:30 PM SAFETY & HUMAN RESOURCES Committee					
	Meeting					
	meeting					
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City of Napoleon, Ohio

### **City Council**

LOCATION: City Hall Offices, 255 West Riverview Avenue, Napoleon, Ohio

### Meeting Agenda

Monday, October 5, 2015 at 7:00pm

- **A. Attendance** (Noted by the Clerk)
- **B.** Prayer & Pledge of Allegiance
- C. Swearing In of Police Officer Lucas Freels
- D. Approval of Minutes: September 21 (In the absence of any objections or corrections, the minutes shall stand approved.)
- E. Citizen Communication
- F. Reports from Council Committees
  - 1. **Technology & Communication Committee** did not meet on Monday, October 5 due to lack of agenda items.
  - 2. Finance & Budget Committee (Majority Report) met on Monday, September 28 and discussed:
     a. Municipal Income Tax Ordinance
    - **b.** Approval of the Third Quarter Budget Adjustments
    - **c.** 2016 Budget Discussion
  - **3. Safety & Human Resources Committee** did not meet on Monday, September 28 due to lack of agenda items.
- G. Reports from Other Committees, Commissions and Boards (Informational Only-Not Read)
  - 1. Civil Service Commission did not meet on Tuesday, September 22 due to lack of agenda items.
  - 2. Parks & Recreation Board met on Wednesday, September 30 with the following agenda items:
    - a. Discussion regarding Loose Field
    - **b.** Discussion regarding proposed dock storage fees
    - c. Discussion regarding Capital Improvements items
    - d. Discussion regarding Trick or Treat Night recommendation
  - 3. Ad Hoc Committee on Leadership Tasks met on Monday, October 5 with the following agenda items:
     a. Discussion regarding City Vision Statement, Mission Statement and Goals
- H. Introduction of New Ordinances and Resolutions
  - 1. Ordinance No. 051-15, an Ordinance to approve current September 2015 Replacement Pages to the Napoleon Codified Ordinances
- I. Second Readings of Ordinances and Resolutions
- There are no Second Readings of Ordinances and Resolutions
- J. Third Readings of Ordinances and Resolutions
  - 1. Ordinance No. 047-15, an Ordinance creating a Downtown Revitalization District
- K. Good of the City Any other business as may properly come before Council, including but not limited to:
  - 1. Discussion/Action: Change Order No. 1 (Final) for Miscellaneous Streets Improvements Project
  - 2. Discussion/Action: Recommendation on the Municipal Tax Ordinance (Direct the Law Director to prepare Legislation)
  - **3. Discussion/Action:** Recommendation on the Third Quarter Budget Adjustments (Direct the Law Director to prepare Legislation)
  - 4. Discussion/Action: Recommendation of Council review of Priority Based Budgeting
  - 5. Discussion/Action: Trick or Treat Night Recommendation: Saturday, October 31, 6:00pm 7:30pm
- L. Executive Session: (As needed)
- M. Approve Payment of Bills and Approve Financial Reports (In the absence of any objections or corrections, the payment of bills and financial reports shall stand approved.)
- N. Adjournment

#### A. Items Referred or Pending in Committees of Council

- 1. Technology & Communication Committee (1<sup>st</sup> Monday) (Next Regular Meeting: Monday, November 2 @ 6:15 pm)
- 2. Electric Committee (2<sup>nd</sup> Monday) (Next Regular Meeting: Monday, October 12 @ 6:30 pm)
  a. Review of Power Supply Cost Adjustment Factor
  b. Electric Department Report
  - **c.** Review of Rate Levelization Program
- 3. Water, Sewer, Refuse, Recycling & Litter Committee (2nd Monday)
  - (*Next Regular Meeting: Monday, October 12 @ 7:00 pm*) **a.** Review of potential upgrades to the MIEX Building
- 4. Municipal Properties, Buildings, Land Use & Economic Development Committee (2<sup>nd</sup> Monday) (Next Regular Meeting: Monday, October 12 @ 7:30 pm)
  a. Review of City Sidewalk Policy
  b. Updated Info from Staff on Economic Development (as needed)
- 5. Parks & Recreation Committee (3<sup>rd</sup> Monday) (Next Regular Meeting: Monday, October 19 @ 6:15 pm)
- 6. Finance & Budget Committee (4<sup>th</sup> Monday) (Next Regular Meeting: Monday, October 26 @ 6:30 pm)
- Safety & Human Resources Committee (4th Monday) (Next Meeting: Monday, October 26 @ 7:30 pm)
   2015 Regular Meetings with Townships scheduled for February and November
- 8. Personnel Committee (As needed)

#### B. Items Referred or Pending In Other City Committees, Commissions & Boards

- 1. Board of Public Affairs (2<sup>nd</sup> Monday)
  - (Next Regular Meeting: Monday, October 12 @ 6:30 pm)
  - **a.** Review of Power Supply Cost Adjustment Factor
  - **b.** Electric Department Report
  - c. Review of Rate Levelization Program
  - 2. Board of Zoning Appeals (2<sup>nd</sup> Tuesday) (Next Regular Meeting: Tuesday, October 13 @ 4:30 pm)
  - **3.** Planning Commission (2<sup>nd</sup> Tuesday) (Next Regular Meeting: Tuesday, October 13 @ 5:00 pm)
  - **4. Tree Commission (3<sup>rd</sup> Monday)** (Next Regular Meeting: Monday, October 19 @ 6:00 pm)
  - 5. Civil Service Commission (4<sup>th</sup> Tuesday) (Next Regular Meeting: Tuesday, October 27 @ 4:30 pm)
  - 6. Parks & Recreation Board (Last Wednesday) (Next Regular Meeting: Wednesday, October 28 @ 6:30 pm)
  - 7. Privacy Committee (2nd Tuesday in May & November) (Next Regular Meeting: Tuesday, November 10 @ 10:30 am)
  - 8. Records Commission (2<sup>nd</sup> Tuesday in June & December) (Next Regular Meeting: Tuesday, December 8 @ 4:00 pm)
  - 9. Housing Council (1st Monday of the month after the TIRC meeting)
  - 10. Health Care Cost Committee (As needed)
  - 11. Preservation Commission (As needed)
  - 12. Infrastructure/Economic Development Fund Review Committee (As needed)
  - 13. Tax Incentive Review Council (As needed)
  - 14. Volunteer Firefighters' Dependents Fund Board (As needed)
  - 15. Lodge Tax Advisory & Control Board (As needed)
  - 16. Board of Building Appeals (As needed)
  - 17. ADA Compliance Board (As needed)
  - 18. NCTV Advisory Board (As needed)

#### City of Napoleon, Ohio

 City Council

 Meeting Minutes

 Monday, September 21, 2015 at 7:00pm

DDECENT	
PRESENT Council	Travis Sheaffer - President, Jason Maassel - President Pro Tem, Jeff Comadoll,
Gounen	John Helberg, Jeffrey Marihugh, Patrick McColley, Christopher Ridley
City Manager	Monica S. Irelan
Law Director	Lisa L. Nagel
Finance Director/ Clerk	Gregory J. Heath
Of Council	
Recorder	Tammy Fein
City Staff	Robert Weitzel, Police Chief
	Chad Lulfs, Director of Public Works
	Tony Cotter, Parks & Recreation Director
0.1	Dan Wachtman, MIS Administrator
Others	News Media; NCTV; Jerry Strobel; Mike DeWit; Stephen Fogo; Frank and
ABSENT	April Brown
Council	
Others	Mayor Ronald A. Behm
Call To Order	President Sheaffer called the meeting to order at 7:00pm with the Lord's Prayer
	followed by the Pledge of Allegiance.
Approval Of Minutes	Minutes of the September 8 Council meeting stand approved as read with no
	objections or corrections.
Citizen Communication	None
Citizen Communication	None
Reports From	The Parks & Recreation Committee did not meet on Monday, September 21
Committees	due to lack of agenda items.
	Chairman Sheaffer reported that the Electric Committee met on Monday,
	September 14 and recommended:
	1. Approval of Power Supply Cost Adjustment Factor
	The Water, Sewer, Refuse, Recycling and Litter Committee did not meet on
	Monday, September 14 due to lack of agenda items.
	The Municipal Properties, Buildings, Land Use and Economic Development
	Committee met on Monday, September 14 and recommended:
all a second	
	<ol> <li>No formal recommendation regarding the City Sidewalk Policy</li> <li>Rejecting the school property offer from Napoleon Area Schools</li> </ol>
	<ol> <li>No formal recommendation regarding the City Sidewalk Policy</li> <li>Rejecting the school property offer from Napoleon Area Schools</li> </ol>
Introduction Of	1. No formal recommendation regarding the City Sidewalk Policy
Ordinances And	<ol> <li>No formal recommendation regarding the City Sidewalk Policy</li> <li>Rejecting the school property offer from Napoleon Area Schools</li> </ol>
	<ol> <li>No formal recommendation regarding the City Sidewalk Policy</li> <li>Rejecting the school property offer from Napoleon Area Schools</li> </ol>
Ordinances And Resolutions	<ol> <li>No formal recommendation regarding the City Sidewalk Policy</li> <li>Rejecting the school property offer from Napoleon Area Schools</li> <li>There are no new Ordinance and Resolutions to introduce.</li> </ol>
Ordinances And	<ol> <li>No formal recommendation regarding the City Sidewalk Policy</li> <li>Rejecting the school property offer from Napoleon Area Schools</li> </ol>

	Napoleon certain territory proposed to be annexed to the City of Napoleon, Ohio pursuant to a Petition filed with the Henry County Board of Commissioners filed by John B. Reese, an authorized representative of Graben, LLC; and declaring an Emergency
Motion To Approve	Motion: Helberg Second: Marihugh
Second Read	To approve Second Read of Resolution No. 046-15
Discussion	Irelan reported that there are no changes to the Resolution since the First Read. Ridley asked for the background as he was not at the last meeting; Irelan explained the background of this Resolution.
Motion To Suspend	Motion: Comadoll Second: Ridley
The Rules	To suspend the Rules requiring three Readings
Passed	Roll call vote on above motion:
Yea- 6	Yea- Helberg, McColley, Comadoll, Ridley, Maassel, Sheaffer
Nay- 1	Nay- Marihugh
Passed	Roll call vote to pass Resolution No. 046-15 under Suspension of the Rules
Yea- 7	Yea- Helberg, Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer
Nay- 0	Nay-
Second Read Of Ordinance No. 047-15	President Sheaffer read by title Ordinance No. 047-15, an Ordinance creating a Downtown Revitalization District
Motion To Approve	Motion: Comadoll Second: Maassel
Second Read	To approve Second Read of Ordinance No. 047-15
Discussion	Irelan reminded Council of the background of this request, reporting that there are no changes to the Ordinance since the First Read. Ridley stated that he had residents ask him about the District turning the area into 'a bunch of liquor stores'; Irelan stated that allowable businesses under the Downtown Revitalization District Rules are specific, adding that the current zoning does not allow the entire list, though this could be rezoned, with the main focus to bring in restaurants to this area. Marihugh asked if this would allow for drive through business such as Hawks; Irelan stated that the current Zoning would not allow for drive through restaurants or convenient stores. Ridley believes that the concern was that this would not revitalize the downtown; Irelan stated the permit and current zoning do not allow for consumption outside of the facility.
Approved	Roll call vote to approve Second Read of Ordinance No. 047-15
Yea- 7	Yea- Helberg, Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer
Nay- 0	Nay-
Second Read Of Ordinance No. 048-15	President Sheaffer read by title Ordinance No. 048-15, an Ordinance supplementing the Annual Appropriation Measure (Supplement No. 3) for the year 2015; and declaring an Emergency (Suspension Requested)
Motion To Approve	Motion: Comadoll Second: McColley
Second Read	To approve Second Read of Ordinance No. 048-15
Discussion	Heath reported that there are no changes to the Ordinance since the First Read; this is an administrative appropriation as outlined in the attachment, adding that

	he is requesting this Ordinance be passed under Suspension of the Rules due to the time restraints.
Motion To Suspend	Motion: Helberg Second: Comadoll
The Rules	To suspend the Rules requiring three Readings
Passed	Roll call vote on above motion:
Yea- 5	Yea- Helberg, Comadoll, Ridley, Maassel, Sheaffer
Nay- 1	Nay- Marihugh
Abstain- 1	Abstain - McColley
Passed	Roll call vote to pass Ordinance No. 048-15 under Suspension of the Rules
Yea- 6	Yea- Helberg, Marihugh, Comadoll, Ridley, Maassel, Sheaffer
Nay- 0	Nay-
Abstain- 1	Abstain- McColley
Second Read Of Resolution No. 049-15	President Sheaffer read by title Resolution No. 049-15, a Resolution accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Auditor for the 2015 Tax Duplicates payable in year 2016; and declaring an Emergency
Motion To Approve	Motion: Maassel Second: McColley
Second Read	To approve Second Read of Resolution No. 049-15
Discussion	Heath reported that there are no changes to the Resolution since the First Read, adding that he is requesting the Resolution be passed under Suspension of the Rules due to time restraints.
Motion To Suspend	Motion: Comadoll Second: Maassel
The Rules	To suspend the Rules requiring three Readings
Passed	Roll call vote on above motion:
Yea- 7	Yea- Helberg, Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer
Nay- 0	Nay-
Passed	Roll call vote to pass Resolution No. 049-15 under Suspension of the Rules
Yea- 7	Yea- Helberg, Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer
Nay- 0	Nay-
Second Read Of Resolution No. 050-15	President Sheaffer read by title Resolution No. 050-15, a Resolution authorizing and directing the Finance Director/Clerk to certify and file annual Special Assessments of the City of Napoleon, Ohio, with the County Auditor of Henry County for placement and collection on the 2015 Tax Duplicates payable in the year 2016; and declaring an Emergency
Motion To Approve	Motion: Comadoll Second: Maassel
Second Read	To approve Second Read of Resolution No. 050-15
Discussion	Heath reported there are no changes to the Resolution since the First Read, adding that he is requesting the Resolution be passed under Suspension of the Rules due to time restraints.
Motion To Suspend	Motion: Comadoll Second: Helberg
The Rules	To suspend the Rules requiring three Readings
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Passed Yea- 6 Nay- 1

Passed Yea- 7 Nay- 0

Third Readings Of Ordinances And Resolutions

#### **GOOD OF THE CITY**

Discussion/Action Motion To Approve Power Supply Cost Adjustment Factor

Sheaffer Assigned Rate Levelization Discussion To The Electric Committee And The Board Of Public Affairs

Passed Yea- 7 Nay- 0

Change Order No. 1 (Final) For Miscellaneous Streets Improvements Project

**City Sidewalk Policy** 

Roll call vote on above motion: Yea- Helberg, McColley, Comadoll, Ridley, Maassel, Sheaffer Nay- Marihugh

Roll call vote to pass Resolution No. 050-15 under Suspension of the Rules Yea- Helberg, Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer Nay-

There were no Third Readings of Ordinances and Resolutions.

Motion: Marihugh Second: Comadoll To accept the recommendation for approval of the Power Cost Adjustment Factor for September as follows: PSCAF three (3) month averaged factor: -\$0.00280 JV2: \$0.042589 JV5: \$0.042589

Mike DeWit reminded Council that the rate levelization program was put into place approximately fourteen (14) months ago to set aside approximately \$1.6 million for use later on. DeWit believes that this is being given back on a curve that is ahead of the game. DeWit stated that the hydropower increased cost will happen in the future, and there is an extremely low commodity rate currently impacting Fremont causing the cost of electricity to be approximately 2.6 cents per kilowatt hour (\$0.026/kWh); DeWit believes that AMP should redraw the curve on repayment to line up with when the City may more need the money. DeWit believes the hydro may be back on line in June 2016; Irelan stated that the City is currently paying for a portion of hydro that is not currently online due to the Take and Pay Contract, adding that both she and Heath asked AMP how to handle this issue and AMP replied that the contract should remain as is. Irelan requested that AMP redo the analysis today; Irelan will stay within the current contract if AMP recommends to do this, or if they recommend editing the contract Irelan will bring this back to Council for approval.

Sheaffer assigned the Rate Levelization discussion to the Electric Committee as well as the BOPA.

Roll call vote on motion to approve the Power Cost Adjustment Factor: Yea- Helberg, Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer Nay-

Irelan reported that the Miscellaneous Streets Improvement Project has been completed and final quantities have been tabulated; however the Change Order was not notarized and this must be in hand to be approved per the rules.

Sheaffer – "Alright so item number 3 is discussion/action on City Sidewalk Policy; there was no formal recommendation from the Municipal Properties,

City Sidewalk Policy (Continued)	Buildings, Land Use & Economic Development Committee. We'll discuss that. Anybody from the audience that would like to speak on this come up and do so,
	come up to the podium, make sure you speak into the microphone, say your name and you've got five minutes to do that and we'll talk about it. (Pause) No
	one wants to talk about it?"
	McColley – "I can open some of this can of worms, so, I spent a little time, I'm just going to pass that around and, Tammy should have made twenty of them up, this is something I sent to Monica yesterday. I've talked to her today and I
	think there's also another approach and she'll probably discuss that later. I still think it's, it's completely unnecessary for us to extend a sidewalk to nowhere and to charge a homeowner to do it. I think it's ridiculous."
	Maassel – "It's not to nowhere though Pat. There's another house on the same side of the street on the other side of that culvert"
	McColley – "And so we're, so it's extending to there, that's what you're saying? We're doing that right now? So we're going to, we're paying for a culvert to do that."
	Maassel – "No. We're not doing it now. We're, we're, they're, saying the
	sidewalk goes nowhere does a disservice to the resident that lives on the other side of that ereal."
	side of that creek." McColley – "Because he's going to wade the creek to get to the sidewalk."
	Helberg - "There's ten foot between the road and the guardrail."
	McColley – "Because that's the safest way to do things. I'm, walk alongside the road. I mean I'm just, I am, I'll tell you"
	Maassel – "All I'm saying is is there's a house there so saying it's a road built to
	nowhere, I don't think phrases it correctly."
	McColley – "It is currently a sidewalk to nowhere, it absolutely is. It's going to"
	Maassel – "There's a house on the other side of the, on the side."
	McColley – "So are we putting a culvert in to extend the sidewalk to the house?" Maassel – "We're not doing that."
	McColley – "So then it's going nowhere."
	Maassel – "No it's not. There is a, there's a resident on the other side, right?"
	Strobel – "I've changed my mind, I want to speak."
	Maassel – "You have to come up to the microphone there." Sheaffer – "While she's coming up, I have been approached by several
	homeowners that do want to see the sidewalk there, so."
	Strobel – "Are you sure you're on Appian Avenue?"
	Sheaffer – "Yes. Well this resident was not on Appian Avenue but was in the"
	Irelan – "Can you just take a minute just for the notes, the Minutes, can you state your name?"
	Strobel – "I'm Jerry Strobel. I live at 657 Appian Avenue, and I think, maybe
	you don't want to know what I think. It is a sidewalk to nowhere right now. I
	live on just a tad under two acres, you have to go across the bridge to go on out.
	If you guys are wanting to do what you just said a while ago, you need to change a lot of things. I won't call it favoritism, but there is a creek, we maintain that
	creek, you have to go across that creek to get to another house. And then there
	at the other side of that house is your City limit sign. In fairness if that's how you believe, and I think I know when this is coming from I
	believe, if that's how you believe, and I think I know where this is coming from, I won't say it tonight, but when I find out I'll let you know. You, you can't make
	that house, alright I'm going to bring it up because I, it was Travis and he blew
	my mind. I used to take care of Travis' child, he came to my house how many years Travis?"
	Sheaffer – "A lot of years."
C	

# City Sidewalk Policy (Continued)

Strobel - "I get an email from him 'I didn't know you weren't the last house in the City'. It blew my mind. The man came to my house for years bringing his child five days a week, I feel there's a plan, if there's a plan that's okay but be honest with us. That is our great big problem, be honest. I think you found a little loop and you're going to try to use it and I'm sorry but that's how I feel right now. If you want to do it that way do it, but be honest with us, you're not being honest because right now there is absolutely no reason for a sidewalk on almost two acres and there's no building there. It's just grass, no building. You're going to have a sidewalk going on grass to a creek. That's where it's going whether you like it or not, it's going to the creek. It's not going across unless you went over here and they you're going to do a dido and go over the creek. It's going to look a little stupid but if that's what you want to do. But you're putting a sidewalk where no one's going to walk, the only children, and I've told you, it's children, it's children between the ages of two and eight from what I have seen. They're going to see that sidewalk, they're going to want to play on that sidewalk. We have semis now, I've kept record I know how many. I have tapes, I have music I've watched, they're going 65, 75 mile an hour. You're going to tell me we've got a road, here's Appian, Appian is called Appian Avenue, Appian Way, Business District Route 6, I don't know if it's a convenience for whatever that road ought to be at that time or what but we got a lot of names for it. We have a road, Appian, and on that on this side we have a subdivision and a sidewalk, that's fine, that's needed. On this side we have seven homes and thirteen people, none of them are children. Most adults know you stop and look before you go across the street as a rule I would say, don't you stop to look to see? A child goes 'there's my friend' and there he's going to go. That's how children are. We protect children, each and every one of us here, and I'm telling you right now if something happens you're all, all of you are going to shudder when you see me because I won't go away. Children are important in my life and should be important in everybody's life, we protect children. So we have seven people, seven homes, thirteen people and only three of those people even work, they're retired. Because you're going about them 'well they can move', sure they can move anyone can move but it's been that way for quite a few years and I don't look for it to change right away. I think what is happening, now I'm not saying the day won't come when you won't need to have that developed and be sidewalks, but you've got your cart way ahead of your horse, you're not ready for it, you're asking for trouble. We can't have this Appian Avenue and this sidewalk and that sidewalk and semis going 65, 70 mile an hour into town. That don't make sense to me, I don't know what it does to you but it don't make sense to me. I'm here to protect people and I'm here to try and tell you this is crazy right now, maybe in 10, 20 years it'll look like it has a lot of potential but right now no. You're just asking for something horrible to happen. That's it."

Helberg - "Can I ask a question please?"

Sheaffer - "Sure."

Helberg – "Ms. Strobel? When, just, I got a quick question, when you first built the house there, did you do daycare right away?"

Strobel - "Yes."

Helberg – "What was the speed limit on the road when you built the house there?"

Strobel - "What?"

Helberg – "What was the speed limit on the road when you built the house there?"

Strobel – "Well I think I know what you're going to get at and this is something I'm very confused to. And you and I have talked about this John. When we

#### City Sidewalk Policy (Continued)

were in Harrison Township, I have a personal thing of why I think but I'm not positive so I'll wait. When we were in Harrison Township there, that was 55 mile an hour. And we never had, very rarely, of course we never had semis. You had trucks sure because you got, you know, businesses down there but it was never anything that exceeded to the point that you go 'holy cow', no, you're 65, 75 mile an hour now. It, we became annexed, the Business Route 6 signs came up and the semis came and all at once the speed is crazy, the speed is much much worse. And like I say John, we've talked and you saw it, we do have a speed problem, a serious speed problem and I really, after talking to a few of you I don't really think you realize the issue that is there but it is there and it's bad. I had parents say 'whew they almost rear ended me', I don't know why it's that way, I haven't a clue but I've lived it and that's how it's happening." Helberg – "I was just curious. You answered my question."

Strobel – "Is there any other questions?"

Marihugh – "I'm curious. You know I've been out to your house a couple times and the only thing that I've got to say, well I've got two comments, the one just for the record, when Steve Lankenau was Mayor was originally when the Business Route 6 signs were put up because he really pushed to have those put up."

Strobel – "You know, we talked about that, but Jeff they were not out where we're at. They were up in town and I don't know if they were on out but those three that are within us, those were put in after we annexed."

Marihugh – "Right. Right. The, the, I think the last one was at Appian and Maumee, there was one up there in front of the old Kaufman's bar there." Strobel – "That might have been but like I say, where we're talking because the kids and I were outside at the time they were putting two up right out front of our place and we watched them put them up."

Marihugh – "Right. And, and the other thing that I was, that I wanted to say is I certainly understand your comment and Patrick's about the sidewalk going to nowhere because even if we extend it completely past through Moore's property then it ends up in a cornfield."

Strobel – "Well then you're going to have another serious problem because I live there and I see it, when you decide to do this, you keep this on track, you're going to be right on their front porch."

Marihugh - "I know. I've, I've ..."

Strobel – "So like I think, I think there's a lot lot more things that need to be thought out, I think there's a lot lot more to do before you decide to do this. Maybe in ten years, maybe in twenty I don't know what's in the future for growth out there but I do know what it is now."

McColley – "I want to remind everybody that the Policy stands now where Council can decide whenever they want to put sidewalks in it does not have to be with a road job, it can be whenever we want. So why don't we put it when it's more applicable to put in when we're going to extend it out farther and do it then, then you'll have a new sidewalk instead of having a thirty year old sidewalk. That culvert, I don't know, I don't know about any of you but I sure as heck don't want to pay for a crane and an extra piece of culvert to put on there just to extend a sidewalk, I don't see the benefit cost ratio there, costs are huge benefits are not there or very limited. So I can tell you right now I, I, I just think it's, we're wasting some money and we're wasting, we're making our residents waste money where it's unnecessary and I, I, I'm adamantly, I'm in favor of what Jerry's talking about here. I will get to what I talked about with Monica, I did sit down with her and I think there's a couple ways to deal with this, one is the thing I passed out, now that's a little bit more, it's a little bit more detailed I guess we should say."

City Sidewalk Policy	Helberg – "You're going, you're going more general aren't you? Can I ask one
(Continued)	more question before we get to?"
	McColley – "And, and, and that's what Monica is going to propose, maybe not
	propose but, Monica's got, did some an alternate proposed change on the last
	ones and that would be, the other thing that, that really we shouldn't be doing
	now is we should actually be having Jerry put in the culvert herself. That's
	currently what the City Policy is, is it not?"
	Irelan – "Technically her property line is the center of the creek so any
	improvements we do would technically be on"
	Helberg – "My point was going to be that the way the Policy's written is you only
	do the improvement where the street limit of the new construction's at. It
	do the improvement where the street limit of the new construction's at. It doesn't have to"
	Irelan – "That is the current."
	Helberg – "Yeah, so it doesn't have to go all the way across, it doesn't even go to
	the creek, it doesn't even go to the guardrail. We're talking about twenty feet
	past the, I don't know the exact dimension but you're only talking about
	twenty feet past the driveway."
	Irelan – "If Council gets, can we start with the the big Policy first?"
	Maassel – "There we go."
	Helberg – "Okay."
	Irelan – "And then work our way back to Jerry's?"
	Strobel – "Can I sit down then?"
	Maassel – "Absolutely, thank you."
	Irelan – "Yes."
	Ridley – "I do, so before we have, dive into the Policy and maybe this answers
	the question, but, so, I, I think Jerry's argument is really compelling and I'm just
	curious, it's like, and so maybe this is it but like, so what's the other side? What,
	what's the, what's the, I guess, I mean"
	Irelan – "Why do we do what we do?"
	Ridley - "What's the, why would we extend it beyond, like, yeah, yeah, so what's
	the argument in favor of extending it to the cornfield?"
	McColley – "Because that's what we've always done. Status quo."
	Helberg (at the same time as Ridley and McColley) – "No, that's not it."
	Ridley (at the same time as Helberg and McColley) – "I think it's more than that,
	that's why I asked."
	Helberg (at the same time as Ridley and McColley) – "The comment was made that
	."
	McColley (at the same time as Ridley and Helberg) – "I don't know what"
	Maassel - "Hold on, hold on, hold on. Stop, stop, stop."
	Helberg – "There's going to be kids that are going to go down to that creek."
	Ridley – "Yeah."
	Helberg – "Do you, if you stop the sidewalk at a driveway, where are the kids
	going to put their bikes besides right on the driveway? She's got people, parents
	coming in and out picking up kids, there's traffic there. If you go that twenty feet
and the second se	beyond or whatever the limits of the road construction is because we didn't go all
*	the way to the City limits, we didn't go all the way to creek, we didn't even go
	into the guardrail, we didn't go very far into the grade change, the kids now have
	a place to lay their bikes down and be out of the way of the traffic that's trying to
	zip across the 55 mile an hour vehicle, or the traffic that's traveling 55 mile an
	hour, those parents want to get across the traffic that aren't going to see the kid
	in the driveway."
	Strobel (at the same time as McColley) – "John"
	McColley (at the same time as Strobel) – "Jerry I have a question"
	Maassel – "Just wait. Wait."
	Transfer Just main

City Sidewalk Policy (Continued)	<ul> <li>McColley (at the same time as Maassel) – "I have a question."</li> <li>Maassel – "Whoa, whoa, whoa. Stop, stop, stop."</li> <li>Marihugh – "Are you Council President, so then, or is that Travis' job?"</li> <li>Maassel – "That is Travis' job, I'm not arguing that Councilman Marihugh, but as Pro Tem one of my jobs is to make sure we have order and decorum."</li> <li>McColley – "I don't believe it is. I believe that's the Council President's job."</li> <li>Maassel – "It's also the Pro Tem's."</li> <li>McColley – "I don't, please show me where that says that."</li> <li>Maassel – "I's don't, please show me where that says that."</li> <li>Maassel – "I'l do that after the meeting."</li> <li>Sheaffer – "Jerry, if you want to speak, come forward please."</li> <li>Strobel – "Tm just trying to speak to John, before I even said things they mentioned, we walked it in fact about where would that stop, I suggested to them where because of how people go in and out of the driveway and also the next day I ask my other parents and I said 'if there was to be a sidewalk, where do you think it ought to be, to go across, would you go over here or would you go over here?' and they all said over here. And the biggest reason I say that is that's how all but one will turn away to go back into town. And as far as my traffic, traffic for daycare is usually twice a day, they come in the morning and leave in the evening."</li> <li>McColley – "Jerry, how often do they use the sidewalk across the street from you that ends nowhere?</li> <li>Strobel – "It's very very minimal."</li> <li>McColley (at the same time as Strobel) – "I mean I've walked it quite a bit out there, I've never seen anybody do that."</li> </ul>
	Strobel – "I hat's right. McColley – "Not one." Strobel – "I think I mentioned it to you and Jeff both, that's how"
	McColley (at the same time as Strobel) – "it seems"
	Strobel – "That's how needy we need two sidewalks. They're not using" McColley (at the same time as Strobel) – "So we're going to put it in"
	Strobel <i>(at the same time as McColley)</i> – "And you do need one because occasionally
	it's going to happen but"
	McColley (at the same time as Strobel) – "This is about fiscal responsibility, we're
	going to put it in and in thirty years when we put another piece of culvert in or
	when we have to replace that culvert, then the City's going to be the one paying
	to fix that instead of that homeowner. It's a fiscal responsibility argument this is
	just, there's no benefit to this than the costs are big, the costs are big to her, the
	costs are going to be big to the City in the future."
	Strobel – "Yes. And I'll tell you, you know, I'm not a politician, thank God I'm
	not because I can't think that way, but if you guys could just find a way to talk to
	the people in the areas that you're going to go in and make some drastic changes
	to, have some meetings and then invite them, get their input, act like people care.
	I can be honest too, and I didn't want to come up here because I felt like I knew my answer before I got here. I have never, and I don't even know anybody that
	has ever come up with a complaint or show you what we've got and have you
*	ever listened to us. And my heart right now has told me from the day he asked
	me to please come, that would happen. Take a look at broaden it, quit being in
	this tunnel, listen to some of us, we aren't all stupid, we may not be real bright
	but we're not real stupid. And as far as that sidewalk and that being a big issue
	right now shouldn't even be a big issue, you guys have much more important
	things to do than worry about my sidewalk ending up in the creek, and that's
	exactly what that is at this time. I'm not saying in ten, like I said in ten, twenty
	years that could be different but right now in all of our, do you want to know what all of us think that live there? That's really stupid. And it is. I'm sorry but
	what an of us unink that not there. That's really stupid. And it is, Thi soffy but

City Sidewalk Policy	
(Continued)	

it is. Right now you are not ready for it."

McColley – "Well hopefully common sense will prevail tonight Jerry, thank you for coming."

Strobel - "Thank you."

Sheaffer - "What we're going to do here is . . ."

Helberg – "I've really taken offense to this about being, we're being, we're not being honest and we're not having any common sense. What do you want to tell Northcrest Circle, Clairmont, and Riverview?"

McColley – "I never said you weren't being honest John, I said, I said that, that any, if anyone had any common sense they wouldn't have them put a sidewalk to nowhere, and waste her money and waste our money in the future. That doesn't make sense to me. It doesn't make any sense to me. Just because that's what the Policy is, it's status quo, so instead of fixing things in the future we're going to keep doing the things in the past when we have a new Council it's just like a General Assembly, it's just like, it's just like a, the Congress, things change, Councilmen change, you can make different decisions, you don't have to do the same thing over and over again."

Sheaffer – "Okay, well here's what we're going to do, just to answer you Jerry, on the, the, we always take input in fact we meet twice a month that anybody's allowed to come in and do input."

Strobel – "We understand that, we don't feel that we'd be heard." Sheaffer – "And I understand that. What I'm going to do is, and what I'm thinking Jerry is, is that I've got to take and look at the Policy as a big picture Policy so what I want to do is, we're going to kick this back to the Committee, let the Committee chew on it some more on the Policy as a whole; the City Manager has some good ideas in here that we can take a look at and see, but my fear is taking and making exception to the existing Policy without taking and looking at the Policy as a whole first."

Strobel - "Can I speak just one more time?"

Sheaffer – "Sure."

Strobel –"Then I promise I'll go home. And this is on John's, and I don't blame you guys at all for the feelings you have because of Policy and what you have done to some of the people, I understand that. What I don't understand is, if you've been proven that it's not working, why in the world would you want to continue? Because it's going to get bigger and bigger and bigger and bigger and something's going to blow. Because you've got people knows you're going to be coming into their neighborhoods soon, they're not happy campers. For one thing they didn't realize how this works because you don't say too much to us about it. The ins, the, the action I get is always 'well if they want sidewalks they put sidewalks in, they've got the easement, they can do it', they don't realize because they'd say 'well I'm not putting sidewalks in', I said 'well don't put them in, they'll put them in for you and then they'll assess you', 'well how could they do that', I, so see people don't know and that part is you guys' fault. You took this job and I know it's a hard job but if you took it, you'd better do it. That's it."

Sheaffer – "Thank you Jerry."

McColley – "The Law Director is making some clarification, I, I do, if I remember correctly, three Council people can bring something to the floor, back to the floor again. So."

Nagel - "I don't see that in there Pat."

McColley – "It might not be in there, it might be something else, but. Actually could we . . ."

Helberg – "What do you need to bring back to the floor?"

McColley - "Here's my suggestion Mr. President, if we could make a Motion

City Sidewalk Policy	just to direct the Law Director to, actually I'd really like to hear Monica's
(Continued)	presentation that she made tonight but we can make a Motion to direct the Law
	Director to come with Legislation and that Legislation can also be kicked back to
	the Committee at that point. Because right now the Committee's not going to do
	anything, I mean it's going to end up the same, two to two."
	Sheaffer – "You don't know that."
	McColley – "Well, I, I guess weirder things have happened."
	Sheaffer – "Because I'm on the Committee and if we can come up with a good
	compromise to a way to fix the Policy then I'm not, you know, I'm willing to look
	at that. So I'm not, I'm not comfortable saying that it would come back the
	same way."
	McColley – "Do you want Legislation first to get to the Committee?"
	Sheaffer – "But here's my thing, that is when we start dealing with this, we have
	a Committee system and we should really use it and kick it back to the
	Committee so that the Committee can decide it and then anybody that has any
	comments can take and bring those to a Committee member ahead of time."
	McColley – "The Committee failed once with this already and we did talk about
	exactly this."
	Sheaffer – "I wouldn't say it failed."
	McColley – "It didn't fail, but it didn't work either. You didn't, you came
	without a recommendation and this is the same stuff that they were talking about
	the last Committee meeting. It's very similar. It's about appeals processes and
	everything else identical. And there was two members of that Committee that
	actually said to go forward with this already and there was two other members
	that didn't."
	Sheaffer – "Somebody give me a Motion."
	McColley – "I'll, I'll make a Motion that we do these alternative proposed
	changes and add an appeals process that goes from the 'unless approved by the
	Engineer' to the City Manager to the City Council. And everything else Monica
	put in there on the last slide."
	Ridley – "I'd like to hear about the proposed changes before we vote on them."
	Irelan – "Wouldn't you like to hear the proposed changes?"
	Sheaffer – "Well yeah. We've got a Motion, does anyone want to Second it before we have a discussion on it?"
	Marihugh – "Sure."
	Sheaffer – "Alright. We've got a Motion and a Second."
	Irelan – "Is it my turn now?"
*	Sheaffer – "Yes."
	Irelan – "Okay. Sorry. Alright so the goal of past Councils has been to be a
	pedestrian friendly community with sidewalks on both sides of the road and the
	way we've accomplished that is Engineering Rule 413 which states that
	'sidewalks shall located on both sides of the street' under Codified Ordinance
	913.2 'the property owner shall bear the entire cost of sidewalks that have never
	been constructed except for otherwise prohibited by Law', prohibited by Law,
and the second se	and then finally this is one of those best practice things 'utilities including
	sidewalks should be extended as far as the site during development'. This is
	something that occurs in cities and villages and townships across the area, and I
	have a list if you guys desperately need to know. The history really came to a
	forefront when we hit Clairmont Avenue back in 2010; Council decided to bond
	the project when originally they were discussing assessments on the project.
	Instead of assessing the pavements and utilities Council felt that because they
	were already there, that property had already paid for them so they didn't want
	to assess them. Instead they said sidewalks that were never there should be at the
	responsibility of the property owner, and then they directed Staff that every

# City Sidewalk Policy (Continued)

reconstruction project from Clairmont forward should follow that same policy, so ever since then we have enforced that policy. So Appian Avenue, the City is forcing sidewalks on both sides of the street per City Engineering Rules, the sidewalks that are being installed for the first time are at the expense of the resident per the Codified Ordinance and Council's direction on Clairmont project and the sidewalks will be extended to the far side of the, each site during development per the Generally Accepted Engineering Rules. The present proposed changes are currently no change due to the 2/2 tie vote at Committee; alternate changes right now we can keep the policy, right now we give a twelve month deadline at the end of the project to, for the property owner to put sidewalks in, that they have to meet the specifications of the City which are spelled out in the Engineering Rules and it has to be extended to the far side of the site per Generally Accepted Rules and what we've implemented. The only thing that's not in there is 'unless approved by the Engineer' so even though I have mentioned we do do some administrative stuff in house technically we're not supposed to so I mean, technically I should make Jerry do sidewalks all the way to the middle of the creek because her property line ends in the middle of the creek but we felt that was pretty silly so we stopped it at a point where we could extend the sidewalk and go over at a future time. So, adding 'unless approved by Engineer' would actually give us that flexibility, if the Engineer says no and the resident wants to move on it would be pertinent to put in an appeals process in place where they could come to the City Manager to appeal, if I said no they could come to Council to appeal but the appeals process when it comes to Council is similar to every other appeals process when it comes to Council which is to figure out if we are, what are the big words?" Marihugh - "Arbitrary and capricious."

Irelan – "Arbitrary and capricious. So it would be the same appeals process, and there is flexibility in the Codified Ordinance 913.2 which I had mentioned at the beginning, there's also a line that says 'the property owner shall bear the entire cost of any extension of sidewalk, driveway aprons, abutting improvements' so if we, if either the Engineer, the City Manager, or Council through the appeals process decided to have a sidewalk end at a certain point, we do have the flexibility to force the property owner to extend the sidewalk in at a future time, so that is built in. There is some flexibility but the appeals process or the 'unless approved by Engineer' is not in the currently Policy. So as I was saying before, the recommendation would either stay with your Committee's recommendation, or if you feel you have to change something about the Policy this is the safest route to go. On policy remember, you want it to be broad and you want it to be big picture; that was my conversation with Councilman McColley earlier, you don't want as much detail as he's proposing in his. Good public policy is always broad and allows for situational flexibility."

Sheaffer - "So here's my question . . ."

Maassel – "We have a Motion and a Second, is this continued discussion?" Sheaffer – "Yeah, we're still discussing it. So here's my question, we take and, say we adopt these changes and then we say later on 'Jerry you don't have to put it in', what's to prevent her neighbor from coming in and then saying 'hey I'm building a sidewalk to nowhere', the argument could keep flowing all the way back down to . . ."

McColley - "Which neighbor?"

Sheaffer – "The one, hers closest to the City. I mean closer to town." McColley – "Well it's not going nowhere at that point, it's going to access to her house. That's not nowhere. I mean, it's not, there's not, it's not going to nothing, it's going to access her house, so it is going somewhere." Irelan – "I think that can be a debate that Council can do if she goes through the

City Sidewalk Policy	appeals process and brings it you."
(Continued)	Sheaffer – "Well I'm just saying, is, is that could go, you know all the way back."
(continueu)	Irelan – "It absolutely could."
	McColley – "And honestly Travis, that, that would never be my intention to, to
	do, to do it like that. At least that's how I could tell you that I would, I wouldn't
	vote to say 'oh no, it's going back one more' I mean, I think it's, it's all about
	access, if it's not going, just going to, go play in some blades of grass, I don't, that
	doesn't, that's not going anywhere."
	Comadoll – "Will the rest of them put in sidewalks? The rest of them are going
	to put in sidewalks around?"
	Irelan – "Remember"
	McColley (at the same time as Irelan) – "And she will too, up until a certain point."
	Comadoll – "Yeah. Yeah."
	Irelan – "When we bring descriptions and specifications to Council for approval
	on a project, sidewalks are included in those descriptions and specifications, they
	were on the drawings where these sidewalks were going to go so you all approved
	these sidewalks through that process. So if any changes happened at this point it
	would be an amendment to the Policy you guys already approved through that
	approval of the drawings and specifications." Sheaffer – "Any more discussion?"
	Ridley – "So if we adopt the recommended Policy change language, that would
	give Jerry then the ability to go through the appeals process?"
	Irelan – "It would give her that ability, yes."
	Ridley – "Okay."
	Marihugh – "One question, Monica are you going to, are you, is, are you
	envisioning, all the rest of the appeals processes that we've got in place if you're
	talking about Water and Sewer have a \$35 or a \$50 price tag attached to them,
	are, is that what you're, you're talking about here also?"
	Irelan – "It would be the same appeals process as anything else so, short answer
	yes." Marila da "San hata anticipin de Matanan d Sanan Dalar?"
	Marihugh – "So whatever it is in the Water and Sewer Rules?" Irelan – "Correct."
	Marihugh – "I, I don't know if there's any for Electric or anything."
	Irelan – "I believe it's the same for all other Utilities."
	McColley – "So is this one of those few things that doesn't have one?"
	Irelan – "The Sidewalk Policy is one that does not have, yes."
	McColley – "Are there any others?"
	Irelan – "I don't know the answer to that, but as far as Utilities go, there's an
	appeals process in all of those Rules just not tied to sidewalks."
	McColley – "Okay."
	Ridley – "Well, I think that, I mean, can it, as it relates to the Policy, I mean, I, I
	always think, you know, having an appeals process is a good thing so, so I'll call
	Question on the Motion that's on the Table."
	Maassel – "Tammy I want to make sure I know what the Motion is."
47	Sheaffer – "Yeah, I was going to say, Tammy can you read the Motion back please?"
	Fein – "Motion to direct the Law Director to draft Legislation with the added
	appeals process and changes outlined by the City Manager."
	McColley – "In the alternate proposed changes, last slide. I don't know how
	specific we need to get but."
	Fein – "Could you say that again Pat?"
	McColley – "In the last slide presented in the presentation."
	Fein – "Thanks."
	McColley - "That's what you Seconded, right Jeff?"

City Sidewalk Policy (Continued)	Sheaffer – "I would say go back to Committee." McColley – "Well you got a Motion and a Second. I mean you can still send it back to the Committee if you wanted to." Sheaffer – "That's what I'm saying. Send the changes back." McColley ( <i>at the same time as Sheaffer</i> ) – "Once the Legislation comes back." Marihugh – "Yeah, the, before it goes to the" Sheaffer – "Right. Okay, so we've got a Question on it, Tammy call the roll." Fein – "John." Helberg – "Yes." Fein – "Jeffrey." Marihugh – "Yes." Fein – "Jeffr." Comadoll – "Yes." Fein – "Chris." Ridley – "Yes." Fein – "Jason." Maassel – "Yes. Alright that is approved, Law Director you can take and draft that up and bring it back to the Committee next month." Nagel – "Okay. Thank you."
	Sheaffer – "Thank you. Thank you Jerry." Marihugh – "Thanks Jerry." Ridley – "Thank you Jerry."
Motion To Direct The Law Director To Draft Legislation With An Added Appeals Process And Changes Outlined By The City Manager In The Last Slide Presented Of The Presentation	Motion: McColley Second: Marihugh To direct the Law Director to draft Legislation with an added Appeals Process and changes outlined by the City Manager in the last slide presented of the presentation.
Passed Yea- 7 Nay- 0	Roll call vote on above motion: Yea- Helberg, Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer Nay-
Consideration Of School Property Offer From Napoleon Area Schools	Irelan reported that the Napoleon Area Schools will soon be placing their school buildings up for public auction; all properties that have not been purchased will be auctioned, except for Loose Field located on West Riverview Avenue. Irelan stated that according to school officials, this property holds deed restrictions that will not allow the school to sell the property, and the school has offered this property to the City; Loose Field is currently being used for High School soccer games and Junior High School football games. As a City facility, the field could be used for youth soccer and flag football games. Irelan stated that the field has been improved over the last ten (10) years that included the installation of new turf and an irrigation system, and older bleachers have been removed and the remaining bleachers have been repaired; the existing fence surrounding the field is older and will need to be replaced within the next five (5) years, and the field lighting is antiquated and will need to be replaced if they are to be used in the

#### Consideration Of School Property Offer From Napoleon Area Schools (Continued)

Motion To Allow City Staff To Continue Discussions With The School Regarding Loose Field

Passed Yea- 7 Nay- 0

Update Of Water Treatment Plant Design future, as well as provisions for parking will also need to be considered.

Irelan reported that the Municipal Properties, Buildings, Land Use & Economic Development Committee passed a Motion to recommend rejecting the school property offer from Napoleon Area Schools.

Sheaffer stated that he had spoken with Dr. Fogo; Sheaffer is reversing his previous vote at the Municipal Properties, Buildings, Land Use & Economic Development Committee meeting and is recommending that Irelan and Staff be allowed to go forward and continue this discussion with the Napoleon Area Schools. Maassel asked what issues were present associated with the property; Sheaffer stated discussions included maintenance, striping, lights, restroom issues, irrigation, and parking. Sheaffer believes that the steps to vacate the deed restrictions could be taken by giving the property to the Civic group in the future. Marihugh asked if the heirs to the property have previously been attempted to be found, as well as asked why the city would want to take on that financial responsibility. Dr. Fogo stated that he knew of no efforts that had been taken to find the heirs of the Loose family, however Ken Newenschwander with Napoleon Civic Center, reported that the previous Stadium Committee did attempt to find heirs of the Loose family and Duane Ressler did most of the research. Irelan stated that if the field was City property, the deed restriction may be able to be changed through a publication in the newspaper that receives no replies, however this is merely preliminary legal advice. McColley asked if there were restrictions on the old canal land; Fogo stated there is a strip through approximately one third of the field that is canal land owned by the State and deeded to City, which is to be used for specific purposes. McColley asked if the intent of the discussion is to work together to discuss specifics; Fogo stated that the School is ready keep the maintenance responsibilities as long as the School uses the field. McColley asked if all the listed issues are negotiable; Fogo stated ves. Marihugh stated that he researched the irrigation and found that the cost was higher than was listed in the memo distributed by Cotter; Fogo stated that the School would stand ready to irrigate the field as necessary while the School was using it. Sheaffer stated that he spoke with Cotter; the City would not irrigate the field as much as the School does. Helberg believes that Staff will address these issues while in negotiations with the School.

Motion:ComadollSecond:HelbergTo allow City Staff to continue discussions with the School regarding Loose Field

Roll call vote on above motion: Yea- Helberg, Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer Nay-

Irelan reported that she had brought back a third option regarding the design of the Water Treatment Plant to fit better in neighborhood. Irelan stated that she went back to Engineer and requested a completely different type of style with a lower cost than the original Option 1; the Engineers are looking into this but are having a hard time finding a building design that is less expensive and does not look like a cheap metal building. Helberg believes that the two tone tan material could be made a bit more subtle and something should be done to hide the filters, they should not be highlighted. Irelan stated that the professional Design Engineer designed the building and believes that highlighting the filters is an

#### Update Of Water Treatment Plant Design (Continued)

Motion To Make Top Of Building Emulate Bottom Architecture Using Two Tone Split Face Block And asset to the building. Marihugh asked if the brick could be replaced with split block and if smaller windows could be used. Sheaffer believes the project does not cost as much as it potentially could because the brick is more durable; adding that the two tone material is split block and is less expensive than brick. Marihugh stated that the current building is concrete block construction with glazed block on the inside and face block on the outside with open ceilings with concrete beams; suggesting a tilt up building with concrete panels for strength.

Frank and April Brown, 411 Haley Avenue, stated that they have been out of the state all summer and read about this in the local newspaper and have some questions regarding the building. Mrs. Brown asked if the building faces Riverview Avenue not Haley Avenue, and if the Browns will see the back view of the building; Irelan stated they were correct. Mrs. Brown asked what would happen to the big metal building in background; Irelan reported that it would remain as it has been repurposed. The Browns stated that they would prefer to work with Council on this issue, adding that they have not called the neighbors nor circulated petitions as it would be nice to complete this project cooperatively. Mrs. Brown added that they are not insisting on any particular design. Irelan stated that the building will be built into the hill on the East side, and Riverview Avenue will have the biggest exposure to the building. Mrs. Brown asked what would be done with the large tower that is currently there; Irelan replied that this would be taken down. Mrs. Brown asked why the filters were prominently displayed through the glass; Irean replied that this was a recommendation of the Engineer and Architect; Helberg agreed with the Browns that the filters should not be on display. The Browns asked Council if they had any questions for them; Sheaffer asked the Browns what colors they would like the building to be; Mrs. Brown replied brick. Mrs. Brown asked if the current Water Treatment Plant would stay where it is; Irelan stated that it will stay. Mr. Brown stated that there is no landscaping around this building and believes that would approve the appearance; Irelan stated that Helberg has previously noted this, adding that any improvement to the MIEX building would cost extra; Comadoll agreed that landscaping this area would be an improvement. Irelan reported that she has researched the specifications of the MIEX building and the only difference between the specifications and what was built is that it does not have wainscoting at the bottom that was listed. Mrs. Brown asked Council if they ever drive through Cleveland on I90; they have whales painted on the side of a structure and the Browns find this to be beautiful and creative, adding that this could be done to the MIEX building; Sheaffer agreed. Sheaffer restated that the least expensive option is Option 1. Marihugh believes that the sides of the building can be cut down and the window size that is currently shown on the bottom could also be used on the top Irelan reminded Council that if the windows were replaced, the cost of the project would increase by approximately \$5,000 to \$10,000. Irelan reminded Council that they had a professional Design Engineer draw these plans. Helberg would like a site plan; Marihugh believes these drawings to be conceptual. Maassel agreed with Marihugh's suggestion of using split block with smaller windows. Sheaffer state that he could agree with that design if it was not more expensive; Irelan restated the direction of Council is to keep the design as is, but use split block and smaller windows on the top.

Motion: Marihugh Second: Maassel To make the top of the building emulate the bottom architecture using two tone split face block and smaller windows

Smaller Windows	
Passed Yea- 6 Nay- 1	Roll call vote on above motion: Yea- Helberg, Marihugh, McColley, Comadoll, Ridley, Maassel Nay- Sheaffer
Update Of Water Treatment Plant Design (Continued)	Irelan will take this issue off the City website. McColley asked the Browns what they would like to see on the MIEX building for the mural; Mrs. Brown replied that the whale mural is beautiful.
Sheaffer Referred Upgrade Of The MIEX Building To The Water, Sewer, Refuse, Recycling & Litter Committee	Sheaffer referred the upgrade of the MIEX Building to the Water, Sewer, Refuse, Recycling & Litter Committee.
<u>Good Of The City</u> (Cont.) Heath	Heath notified Council that Income Tax nonfiling letters have been mailed, and the Central Collection Agency out of Cleveland has been contacting residents for the nonfiling of other schedules.
Comadoll	None
Ridley	Ridley believes that there could be additional opportunity options regarding Loose Field, however there may be increased costs to maintain it and believes this should be carefully researched before it is approved, adding that the City currently has many parks and wonders if now is the right time to take on the responsibility of another park.
Maassel	Maassel thanked all that helped to make FallFest a success, noting that the National Anthem was perfectly timed with the airplane fly over.
	Maassel congratulated Matt Volkman for being the band member to 'dot the I' in Columbus over the weekend.
	Maassel reported that the Finance & Budget Committee meeting scheduled for Monday, September 28 will begin at 6:00pm; Marihugh will bring his list of approximately twenty (20) budgetary concerns to Maassel before the meeting.
Sheaffer	Sheaffer created a special Ad Hoc Committee consisting of himself, Ridley and Maassel to look at the City Vision Statement, City Mission Statement, and City Goals and to work with the City Manager regarding these.
	Sheaffer reported that the week of October 4 is Public Power Week; Sheaffer has spoken with the Mayor to proclaim this using sample verbage from AMP.
	Sheaffer assigned proposed Council Rules changes to the Council Rules Review Committee, including significant costs being incurred for copies being made for public records requests for information on items that are not on Council Agenda or before Committees, and will be reevaluating fees for citizen requests as well.
Helberg	Helberg agreed with Ridley regarding there being too many parks in the City; Helberg stated that he is concerned with how this is tied back to the master plan
Council 9/21/15	page 17 of 18

	by CIC; Sheaffer added that the City can facilitate removing the deed restrictions for a civic group or future development.
Marihugh	Marihugh asked Irelan to have Staff research 530 East Riverview; Marihugh noticed that the property has thirteen (13) unlicensed vehicles and believes this to be zoned I2; adding that the property is full of trash and a roll up garage door is in the yard. Irelan will have this researched and report back to Council. Irelan reminded Council that the Municipal Properties, Buildings, Land Use & Economic Development Committee gave the direction to focus on residential properties, and the more time that is spent on commercial properties is less time that can be spent on residential properties, and there is only one (1) Staff member that handles these complaints. Irelan stated that she would prefer to stay on the goal of residential properties; and commercial properties can be the goal for next year if it is so directed. Marihugh defended his request stating that the properties that he lists have been nuisances since before Irelan was City Manager; Marihugh would like this property added to the list, even if waits until next year; Sheaffer agreed.
McColley	McColley congratulated Matt Volkman. McColley stated that there are some empty links on the City website.
Nagel	None
Irelan	None
Sheaffer	Sheaffer read a thank you note from the Bisher family to Council for the flowers.
Approval Of Bills	Bills and financial reports stand approved as presented with no objections. Comadoll asked why the Fire Department overtime was so high; Irelan reported that there is a position that has not been filled and the overtime is a lower cost than filling the position.
Motion To Adjourn	Motion: Marihugh Second: Ridley To adjourn the meeting.
Passed Yea- 7 Nay- 0	Roll call vote on above motion: Yea- Helberg, Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer Nay-
Adjournment	Meeting adjourned at 8:44pm.
Approved:	Travis B. Sheaffer, Council President
	Ronald A. Behm, Mayor
	Gregory J. Heath, Finance Director/Clerk of Council

#### **ORDINANCE NO. 051-15**

#### AN ORDINANCE TO APPROVE CURRENT SEPTEMBER 2015 REPLACEMENT PAGES TO THE NAPOLEON CODIFIED ORDINANCES

**WHEREAS**, certain provisions within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and

**WHEREAS**, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and

**WHEREAS**, the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision which is before Council; Now Therefore,

#### BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, the ordinances of the City of Napoleon, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections within the September, 2015 Replacement Pages to the Codified Ordinances are hereby approved and adopted; such having been certified as correct by the Clerk of Council and the Mayor.

Section 2. That, the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law.

301.19	Motorcycle. (Amended)
303.081	Impounding Vehicles on Private Residential Property.
	(Amended)
303.082	Tow Away Zones. (Amended)
331.48	Vehicular Operation on Street Closed Due to Rise in Water
	Level. (Added)
335.031	Driving With Probationary License; Curfew. (Amended)
335.074	Driving Under License Forfeiture or Child Support
	Suspension. (Amended)
335.09	Display of License Plates. (Amended)
335.10	Expired or Unlawful License Plates. (Amended)
341.01	Definitions. (Amended)
341.03	Prerequisites to Operation of a Commercial Vehicle.
	(Amended)
341.05	Criminal Offenses. (Amended)
341.06	Employment of Drivers of Commercial Vehicles.
	(Amended)
351.04	Parking Near Curb; Handicapped Parking. (Amended)
373.02	Riding Upon Seats; Handlebars; Helmets and Glasses.
	(Amended)

#### Traffic Code

#### General Offenses Code

501.07 501.08	Requirements For Criminal Liability. (Amended) Culpable Mental States. (Amended)
	Fire Prevention Code
1511.01	Open Burning Definitions. (Amended)
1511.03	Open Burning in Restricted Areas. (Amended)
1511.04	Permission to Individuals and Notification to the Ohio
	EPA. (Amended)

Section 3. That, the complete text of the sections listed above is set forth in full in the current replacement pages to the Codified Ordinances which are hereby attached to this Ordinance as Exhibit "A." Any summary publication of this Ordinance shall include a complete listing of these sections. Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

Section 4. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon, Ohio.

Section 5. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 6. That, upon passage, this Ordinance shall take effect at the earliest time permitted by law.

Passed:			
			Travis B. Sheaffer, Council President
Approved:			
			Ronald A. Behm, Mayor
VOTE ON PASSAGE	Yea	Nay	Abstain

Attest:

Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 051-15 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, m\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

Gregory J. Heath, Clerk/Finance Director

#### **ORDINANCE NO. 047-15**

#### AN ORDINANCE CREATING A DOWNTOWN REVITALIZATION DISTRICT

**WHEREAS**, the City of Napoleon Municipal Properties, Buildings, Land Use & Economic Development Committee, in a public meeting on August 10, 2015, unanimously recommended creating a Downtown Revitalization District as suggested by the Community Improvement Corporation for the purpose of promoting commercial growth in the City of Napoleon.

**WHEREAS**, the City Council of Napoleon, in a public meeting on August 17, 2015, unanimously approved and directed the Law Director to draft legislation to create a Downtown Revitalization District using the current Historic Preservation District boundaries in the City of Napoleon.

**WHEREAS**, no individual citizen or property owner submitted an application for revitalization district designation pursuant to Section 4301.81 of the Ohio Revised Code.

WHEREAS, a revitalization district is one that may include a combination of entertainment, retail, educational, sporting, social, cultural, and arts establishments within close proximity to hotels, restaurants, retail sales establishments, and arts and entertainment venues; and, NOW THEREFORE,

#### BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That, a Downtown Revitalization District, and all the associated amenities with such a District, is established in the City of Napoleon and is located primarily in the Historic Preservation District boundaries. A map attached as "Exhibit A" and incorporated herein provides an overview of the Downtown Revitalization District.

Section 2. That, a zoning map of the proposed Downtown Revitalization District and supporting establishments is attached as "Exhibit B" and incorporated herein.

Section 3. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of the City of Napoleon, Ohio.

Section 4. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 5. That, upon passage, this Ordinance shall take effect at the earliest time permitted by law.

Passed: \_\_\_\_\_

Approved:

Travis B. Sheaffer, Council President

Ronald A. Behm, Mayor

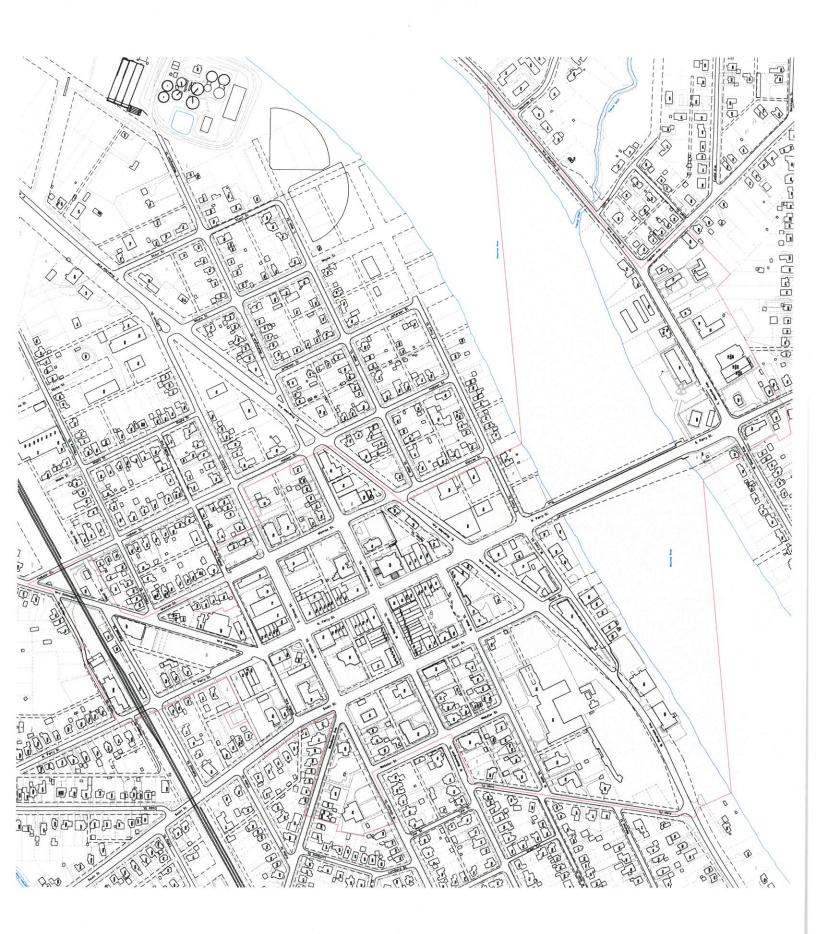
VOTE ON PASSAGE	Yea	Nay	Abstain
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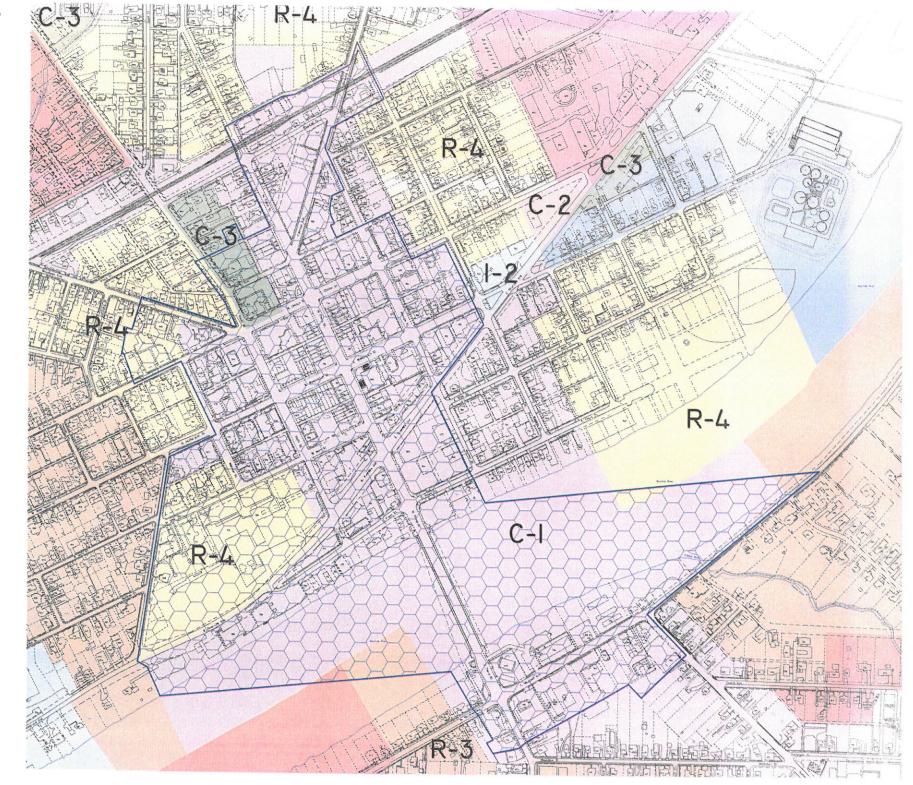
Attest:

#### Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 047-15 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_\_ day of \_\_\_\_\_\_, \_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

Gregory J. Heath, Clerk/Finance Director







# City of Napoleon, Ohio

Department of Public Works

255 West Riverview Avenue, P.O. Box 151 Napoleon, OH 43545 Chad E. Lulfs, P.E., P.S., Director of Public Works Telephone: (419) 592-4010 Fax; (419) 599-8393 www.napoleonohio.com

# Memorandum

To:	Monica Irelan, City Manager
From:	Chad E. Lulfs, P.E., P.S., Director of Public Works
cc:	Mayor & City Council
	Greg Heath, Finance Director
Date:	September 8, 2015
Subject:	2015 Miscellaneous Street Improvements
	Change Order No. 1 – Final

The above referenced project has been completed and final quantities have been tabulated. Change Order No. 1 – Final is \$10,822.97. The final project cost is \$254,866.62. The required funding for this change order is available in the Street Improvements account (400.5100.57500). I request Council approve Change Order No. 1 – Final to allow us to close out this project.

CEL

#### **CHANGE ORDER**

No. 1 (FINAL)

PROJECT 2015 Miscellaneous Street Improvements

#### OWNER

City of Napoleon 255 W. Riverview Ave., P.O. Box 151 Napoleon, OH 43545

CONTRACTOR

Gerken Asphalt Paving, Inc. 9072 County Road 424 Napoleon, OH 43545

DATE OF ISSUANCE

August 26, 2015

ENGINEER Chad E. Lulfs, P.E., P.S.

**City Engineer** 

CONTRACT TIME

CONTRACT TIME

□ Other

Contractor's Records

Engineer's Records

CONTRACT FOR: 2015 Miscellaneous Street Improvements You are hereby directed to proceed promptly with the following change(s): **DESCRIPTION:** Work Completed, Final Quantity Adjustments

#### ATTACHMENTS - (List Documents Supporting Change)

If a claim is made that the above change(s) have affected Contract Price or Contract Time, any claim for a Change Order based thereon will involve one of the following methods of determining the effect of the change(s). Method of Determining Change In

Method of Determining Change In

#### **CONTRACT PRICE**

- Time and Materials
- Unit Prices
- Cost Plus Fixed Fee
- □ Other

Estimated Increase/Decrease in

\$10,822.97

If the Change involves an Increase, the estimated amount is not to be exceeded without further authorization.

#### Recommended

**CONTRACT PRICE** 

**CITY of NAPOLEON** 

Estimated Increase/Decrease in

If the Change involves an Increase, the estimated time is not to be exceeded without further authorization.

Accepted GERKEN ASPHALT PAVING. INC.

Contractor

days

бу:

Chad E. Lulfs, P.E., P.S.; City Engineer

Authorized

Monica Irelan, City Manager

**Original Contract Prior to this Change Order** Increase /-Decrease Resulting from this Change Order **Current Contract Price, Including this Change Order** 

#### FINAL CHANGE ORDER

August 26, 2015

#### NAME of PROJECT - 2015 Miscellaneous Street Improvements Project

**CONTRACTOR - Gerken Asphalt Paving, Inc.** 

		ESTIMATED	ACTUAL	QUANTITY		UNIT	AMOUNT	AMOUNT
ITEM	DESCRIPTION	QUANTITY	QUANTITY	DIFF.	UNIT	PRICE	DECREASE	INCREASE
Indep	endence Drive (Industrial Drive to Enterprise Drive)		-					
1	Cold Planing	9,850.00	9,850.00	0.00	SY	\$1.60		
2	Tack Coat @0.05 GAL/SY	492.00	492.00	0.00	GAL	\$1.85		
3	1 <sup>1</sup> / <sub>2</sub> " Asphalt Concrete Surface (ODOT 441, Type 1, (448), PG64-22)	817.00	874.45	57.45	TON	\$74.00		\$4,251.30
4	Water Valve Adjust to Grade	4.00	2.00	-2.00	EA	\$550.00	-\$1,100.00	
5	8" Edge Line, Single White	0.10	0.10	0.00	MI	\$2,500.00		
6	Centerline Stripe, Double Yellow, Type 1	0.65	0.64	-0.01	MI	\$2,500.00	-\$25.00	
7	24" Stop Bar	65.00	51.00	-14.00	LF	\$4.00	-\$56.00	
8	Crosswalk	130.00	160.00	30.00	LF	\$2.00		\$60.00
9	Channelizing Line, White	125.00	120.00	-5.00	LF	\$2.00	-\$10.00	
10	Directional Arrow, Straight or Right	2.00	2.00	0.00	EA	\$75.00		
11	Directional Arrow, Left	2.00	2.00	0.00	EA	\$75.00		
12	Turn Lane "ONLY"	1.00	0.00	-1.00	EA	\$75.00	-\$75.00	
13	Maintenance of Traffic	1.00	1.00	0.00	LS	\$2,500.00		
14	Mobilization	1.00	1.00	0.00	LS	\$5,200.00		
Dagge	ett Drive (Huddle Road to W. Maumee Avenue)							
1	Cold Planing (0" to 1 <sup>1</sup> / <sub>2</sub> " Deep)	5,200.00	5,200.00	0.00	SY	\$1.80		
2	Tack Coat @0.05 GAL/SY	259.00	259.00	0.00	GAL	\$1.85		
3	1 <sup>1</sup> / <sub>2</sub> " Asphalt Concrete Surface (ODOT 441, Type 1, (448), PG64-22)	430.00	454.61	24.61	TON	\$78.00		\$1,919.58
4	Remove & Replace Curb - All Types (including Topsoil, Seeding & Mulching)	700.00	727.00	27.00	LF	\$38.00		\$1,026.00
5	Berm Shoulders, Compacted (ODOT 411 Stone)	15.00	17.90	2.90	TON	\$120.00		\$348.00
6	Water Valve Adjust to Grade	5.00	3.00	-2.00	EA	\$550.00	-\$1,100.00	
7	Maintenance of Traffic	1.00	1.00	0.00	LS	\$4,500.00		
8	Mobilization	1.00	1.00	0.00	LS	\$6,500.00		
		ALTERNATE						
Comm	nerce Drive (E. Riverview Avenue to Railroad Tracks							
	Cold Planing	70.00	70.00	0.00	SY	\$15.50		

		ESTIMATED	ACTUAL	QUANTITY		UNIT	AMOUNT	AMOUNT
ITEM	DESCRIPTION	QUANTITY	QUANTITY	DIFF.	UNIT	PRICE	DECREASE	INCREASE
	Tack Coat @0.05 GAL/SY	5.00	5.00	0.00	GAL	\$1.85		
	1 <sup>1</sup> / <sub>2</sub> " Asphalt Concrete Surface (ODOT 448, Type 1 Medium,							
	PG64-22)	6.00	11.81	5.81	TON	\$350.00		\$2,033.50
	Centerline Stripe, Double Yellow, Type 1	0.01	0.01	0.00	MI	\$15,000.00		
	Maintenance of Traffic	1.00	1.00	0.00	LS	\$750.00		
	Mobilization	1.00		0.00	LS	\$500.00		
		ALTERNATE	. "В"					
Enter	prise Drive (South of American Road in Northbound Lane)							
	Cold Planing (0" to 1 <sup>1</sup> / <sub>2</sub> " Deep)	45.00	45.00	0.00	SY	\$25.00		
	Tack Coat @0.05 GAL/SY	2.00	2.00	0.00	GAL	\$1.85		
	1 <sup>1</sup> / <sub>2</sub> " Asphalt Concrete Surface (ODOT 448 Type 1 Medium,							
	PG64-22)	4.00	5.25	1.25	TON	\$550.00		\$687.50
	8" Edge Line, Single White	0.01	0.01	0.00	MI	\$15,000.00		
	Centerline Stripe, Double Yellow, Type 1	0.01	0.01	0.00	MI	\$15,000.00		
	Maintenance of Traffic	1.00	1.00	0.00	LS	\$700.00		
	Mobilization	1.00	1.00	0.00	LS	\$500.00		
		ALTERNATE	- "C"					
Fairv	iew Drive(W.Maumee Avenue to Dead End)							
	Cold Planing (0" to 1 <sup>1</sup> / <sub>2</sub> " Deep)	1850.00	1850.00	0.00	SY	\$1.50		
	Tack Coat @0.05 GAL/SY	91.00	91.00	0.00	GAL	\$1.85		
	1 <sup>1</sup> / <sub>2</sub> " Asphalt Concrete Surface (ODOT 441, Type 1, (448),							
	PG64-22)	150.00	170.00	20.00	TON	\$85.00		\$1,700.00
	Remove & Replace Curb - All Types (including Topsoil,							
	Seeding & Mulching)	850.00	859.00	9.00	LF	\$42.00		\$378.00
	Water Valve Adjust to Grade	3.00	1.00	-2.00	LS	\$550.00	-\$1,100.00	
	Maintenance of Traffic	1.00	1.00	0.00	LS	\$5,000.00		
	Mobilization	1.00	1.00	0.00	LS	\$1,000.00		
Extra	Work							
CO	Tile Repair	0.00	1.00	1.00	LS	\$328.66		\$328.66
CO	Repair Patch	0.00	1.00	1.00	LS	\$1,556.43		\$1,556.43
						Subtotals:	-\$3,466.00	\$14,288.97
						TOTAL DI	FFERENCE:	\$10,822.97

#### SUMMARY OF MAJOR CHANGES AND COSTS OF ORC 718 (EFFECTIVE 01-01-2016) (as prepared by the City's Finance and Tax Department)

A. <u>NET OPERATING LOSS (NOL)</u>: Currently the City allows a three-year NOL against all forms of business income. The new law mandates all municipalities allow a five-year NOL, and that the NOL be applied to all business income earned by a taxpayer. The new law allows for a phase in for utilization of 50% of the losses incurred in tax years 2017-2022.

This change will result in projected lost revenue of: (\$357,000.00)

**B. EXEMPTION FOR UNDER AGE 18:** No change in existing policy.

There should be no change in this revenue.

C. <u>ALL GAMBLING TAXABLE:</u> Currently our Ordinance states that gaming, wagering, lottery, games, or schemes chance winnings are taxable. The new law states that lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and rewards are taxable. Credit for tax paid to another municipality on these winnings will be given as specified and is currently being done.

There should be no change in this revenue.

D. WITHHOLDING PAYMENT DUE DATES: Currently all employer withholding payments are due on the last date of the month following the calendar quarter. The new law mandates that quarterly payments are due on the 15<sup>th</sup> day after the calendar quarter. It goes further making *monthly* remittance mandatory for those employers who withhold more than \$2,399.99 in the preceding year or \$200 per month in the preceding quarter.

The costs: (\$3000.00)

- Mailing costs for monthly forms vs. quarterly forms would stay the same as the forms and letters notifying them of the change can be sent with the booklet, we would need to send the book earlier (beginning of January instead of current schedule at end of February). (\$1752.00)
- The added administrative cost of processing monthly payments instead of quarterly (\$3000.00)
- The city could reduce cost by discontinuing mailing the withholding forms by Shamrock and employers could print their own forms from our website. Shamrock cost: \$1752.00

\*\*\*\*\*the new law allows for a 50% (of amount not timely paid) penalty for failure to timely pay\*\*\*

Recommendation: to allow businesses to file quarterly and "abate" any penalty/interest.

E. OCCASIONAL ENTRANT RULE AND SMALL EMPLOYER EXCLUSION: Currently nonresident employers do not have to withhold for employees working less than 12 days in the City. However, if the employee is still working in the City on day 13, the employer must withhold 1.5% from his/her wages back to the first day of work in the City.

The new law states that non-resident employers are not required to withhold on employees working in the City fewer than 20 days. Furthermore, if the employee is still working in the City on day 21, the employer only has to begin withholding on day 21.

The law states that "small employers" (total revenue under \$500,000) only need to withhold in the city of the employer's fixed location.

Tax revenue lost: (\$10,000.00)

- Since the majority of non-resident employers do not work in our City more than 20 days, we assume we will lose most of the occasional entrant withholding.
- **F. ESTIMATED TAX:** Currently the City does have mandatory payment of estimated tax. Of the approximately 5800 resident taxpayers, 300 pay estimated tax. Currently, residents print their own estimated tax forms from our website.

Current due dates for estimated tax payments 4/30,7/30,10/30,1/30 New due dates for estimated tax payments: 4/15,6/15,9/15,12/15

There should be no change in revenue.

**<u>G.</u>** MANDATORY FILING FOR RETIREES: Currently our retired residents who have no earned income do not have to file an annual income tax form once they have notified our office of their retired status. The new law states that all residents must file an income tax return regardless of income or liability. Approximately 1100 retired/SSI accounts.

The added costs: (\$1500.00)

- Mailing an annual income tax form (\$550.00).
- Processing additional tax forms (\$950.00)

Recommendation: to add language into our new ordinance stating that residents who are retired or receive full permanent disability do not have to file <u>if</u> retirement or disability is their sole income source.

 <u>TEN DOLLAR MINIMUM</u>: Currently our minimum due, and minimum amount to refund, is \$1.00. The new law states no remittance is required if the amount shown to be due is \$10.00 or less, and we only have to refund overpayments of more than \$10.00.

Tax revenue lost: (\$1994.61)

- Refunds of \$10.00 or less for 2014 totaled \$246.91. Receipts of \$10.00 or less for 2014 totaled \$2241.52.

I. EXTENSION DATE CHANGE: Currently the extension date mandated by the State in old ORC 718 (effective through 12-31-15) states the due date for extensions is November 30 or 6 months plus 45 days after the Federal extension due date (for most filers, October 15). New ORC 718 changed the due date for those with extensions to match the Federal extension due date.

This Section also changes the requirement that the extension request must be made by the original due date of the return. The new rule allows taxpayers to attach a copy of the extension when the return is filed. We currently send out non-filer letters in June. This will increase the number of letters sent to those that have a Federal extension and did not inform our office by April 15<sup>th</sup>.

The added costs: (\$250.00)

- We currently get approximately 500 extensions. When we send unnecessary nonfiler letters to these taxpayers there will be extra mailing costs.
- J. INTEREST AND PENALTY CHANGES: Currently our interest rate is 12% and our penalty is 24% per year with a late filing penalty at \$25.00. The new law changes the interest rate to the "federal short-term rate" which is currently 5% per year. It further changes the late failure to file penalty to \$25.00 per month with a maximum penalty of \$150.00 AND a onetime failure to timely pay to 15% of amount not timely paid.

Tax revenue increase: **\$14400** 

- The interest rate reduction from 36% to 5% per year will decrease Collections by (\$9,300)
- The penalty change will increase collections by \$23,700.00

\*\*\*\*Currently there are 800 non-filers for 2014. (800 x \$150 = \$120,000)\*\*\*\*\*\*\*\*

K. <u>POST-JUDGMENT COLLECTION COSTS AND FEES:</u> Currently the court charges \$90 in court costs. There is a summons fee of anywhere from \$6.00 to \$100 depending on who delivers the summons. Our fine is up to \$1,000 and/or 6 months in jail.

\*\*\*\*\*\*The municipality may impose on the taxpayer post-judgment collection cost and fees, including attorney's fees\*\*\*\*

Recommendation: to look into charging attorney's fees.

L. <u>LANDLORD REPORTING</u>: requiring landlords to report tenant names, addresses, phone numbers, and dates of residency for the current tax year on a yearly basis.

Recommendation: to add language that landlords must report yearly, by May 1<sup>st</sup>, the names, forwarding addresses, and phone numbers, IF AVAILABLE, of all tenants who have occupied their properties for the year (see language in proposed ordinance).

M. LOCAL BOARD OF REVIEW: a local Board of Tax Review must be in place by 1/1/16. This Board is to consist of three members. Two members are appointed by Council, and these members may not be employees, elected officials, or contractors currently or in the past five years. The third member is appointed by the City Manager, and that member may be an employee but may not be employed in the City's Tax/Finance Department. Alternates should be chosen as well.

This was not discussed at the finance and budget meeting.

#### Miscellaneous one-time costs: (\$3755.00)

- A letter will be sent to all CPA's we have on file to notify them of the law changes. Mailing costs (\$150.00)
- A letter will be sent to all residents in late 2016 informing them of the law changes effective for tax year 2016 to be filed by April 2017. (\$2800.00)
- A letter will be sent to all businesses in late 2016 informing them of the law changes effective for tax year 2016 to be filed by April 2017. (\$360.00)

(Added Yearly Costs)	Increased/(Decreased) Revenue	
(\$ 3,000.00)	(\$ 357,000.00)	
(\$ 1,500.00)	(\$10,000.00)	
(\$ 250.00)	(\$2,000.00)	
(\$ 3310.00)	\$14400.00	
(\$ 8,060.00)	(\$ 354,600.00)	
Yearly Cost to City: \$362,660.00		

#### ORDINANCE NO. 0\_-15

#### AN ORDINANCE TO ADOPT CHAPTER 194 OF THE CODIFIED ORDINANCES OF THE CITY OF NAPOLEON REGARDING MUNICIPAL INCOME TAX

**WHEREAS,** the Home Rule Amendment of the Ohio Constitution, Article XVII, Section 3, provides that "Municipalities shall have authority to exercise all powers of local self-government," and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

**WHEREAS**, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipality's power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that "laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;" and

**WHEREAS**, the General Assembly has determined it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

**WHEREAS**, more specifically, the General Assembly enacted H. B. 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is "levied in accordance with the provisions and limitations specified in Ohio Revised Code Chapter 718;" and

**WHEREAS**, upon a detailed review of H. B. 5 and the Codified Ordinances of the City of Napoleon, this Ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be "levied in accordance with the provisions and limitations specified in Ohio Revised Code Chapter 718" and thus reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional;

# NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, STATE OF OHIO:

<u>Section 1.</u> That Chapter 194 of the Codified Ordinances of Napoleon, Ohio be adopted to read as set forth in the document entitled "Chapter 194, Municipal Income Tax, Effective January 1, 2016" attached hereto as Exhibit A and incorporated herein by reference.

Section 2. That Chapter 193 of the Codified Ordinances of Napoleon, Ohio remains in full force and effect for all taxable years prior to 2016.

Section 3. That this Ordinance No. 0\_\_\_\_-15 shall take effect and be in force from and after January 1, 2016.

**Section 4.** That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of the City of Napoleon, Ohio.

**Section 5.** That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Passed:	$\boldsymbol{\langle}$	Travis B. Sheaffer, Council President
Approved:		Ronald A. Behm, Mayor
VOTE ON PASSAGE Yea Nay	Abstain	
Attest:		
Gregory J. Heath, Clerk/Finance Director		

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 0\_\_\_-15 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

Gregory J. Heath, Clerk/Finance Director

## CHAPTER 194

#### **Municipal Income Tax**

#### Effective January 1, 2016 For taxable years beginning with taxable year 2016 Exhibit A to Ordinance 0\_\_\_15

- 194.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE
  - 194.011 AUTHORITY TO LEVY TAX
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# 194.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX

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  - 194.051 COLLECTION AT SOURCE; WITHHOLDING FROM WAGES
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- 194.06 INCOME SUBJECT TO NET PROFIT TAX
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    - 194.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT
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### 194.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE

#### 194.011AUTHORITY TO LEVY TAX

(A) The tax on income and the withholding tax established by this Chapter 194 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 194 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

(Source: ORC 718.04)

#### 194.012 PURPOSES OF TAX; RATE

(A) To provide funds for the purposes of: (1) General municipal operations, (2) Acquisition and maintenance of both personal and real property for the use or benefit of the City, (3) Extension, enlargement, maintenance and improvement of municipal services and facilities, (4) Capital improvements in and of the City, and (5) For the promotion of economic development in and for the City, there is hereby levied a tax at the rate of one percent (1%) upon all the following through June 30, 2009. Effective July 1, 2009, on and after said date, there is hereby levied a tax at the rate of one and three-tenths percent (1.3%) upon all of the following:

(1) All salaries, wages, and other compensation and net profits earned or received by resident individuals;

(2) All salaries, wages, and other compensation and net profits earned or received by nonresident individuals for, or derived from, or as a result of, work done, services rendered and business conducted in the City;

(3) All net profits attributable to the City earned by all resident and nonresident unincorporated businesses, professions and other activities for, or derived from, work done, rentals or services performed, and business or other activities conducted in the City;

(4) The entire portion of the distributive share of all net profits, not otherwise attributable to the City, earned by a resident, individual, resident owner of an unincorporated business entity, or resident partner for, or derived from, work done, rentals or services performed, and business or other activities conducted outside the City, and not otherwise lawfully levied against by another municipality;

(5) The entire portion of the distributive share of all net profits, not otherwise attributable to the City, earned by a non-resident individual, non-resident owner of an unincorporated business activity, or non-resident partner for, or derived from, work done, rentals or services performed, and business or other activities conducted in the City and not levied against the unincorporated business entity itself;

(6) All net profits attributable to the City earned by corporations for, or derived from, work done, rentals or services performed, and business or other activities conducted in the City;

(7) All net profits earned by fiduciaries of resident individuals for, or derived from, business conducted;

(8) All net profits attributable to the City earned by fiduciaries of non-resident individuals for, or derived from, business conducted in the City; and

(9) The gross proceeds earned or derived from gaming, wagering, lotteries, including but not limited to the Ohio State Lottery, or lotteries where the State of Ohio is a part thereof, or games or schemes of chance, by residents of the City; and/or, the gross proceeds earned or

derived from gaming, wagering, lotteries, or games or schemes of chance, when any part of the activity is engaged into or conducted in the City, by nonresidents, are all subject to the City tax to the same extent includable on the recipient's federal tax return, whether or not the recipient is required to file a federal tax return and whether or not the recipient pays federal income tax on the gross proceeds, except that it shall not be taxed as a business income unless the person subject to this tax has a federal gamblers' permit effective during the tax year in which income from gaming, wagering, lotteries or schemes or games of chance is received.

(B) The portion of the net profits attributable to the City of a taxpayer doing work, rendering services or conducting business both within and outside the City shall be determined in the same proportion as the average ratio of the following:

(1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business in the City during the taxable period to the average original cost of all real and tangible personal property owned or used by the taxpayer in the business during the same period, wherever situated. As used in this 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 (8);

(2) Salaries, wages and other compensation paid during the taxable period to persons employed in the business and salespeople for work done or services rendered in the City to compensation paid during the same period to persons employed in the business and salespeople, wherever their work is done or their services are rendered;

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

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

(C) As used in subsection (b) hereof, "sales made in the City" means:

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

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

(3) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through its own employees and salespeople regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(Source: ORC 718.04; Portions also approved by voters 5-5-09)

#### 194.013 ALLOCATION OF FUNDS

(A) <u>Effective January 1, 2014</u>, the funds collected under the provisions of this Chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

(1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this Chapter and the rules and regulations adopted by Council in connection therewith.

(2) Not more than 62% of the net available tax receipts received annually may be used to defray operating expenses of the City.

(3) At least 38% of the net available tax receipts received annually shall be set aside and used for capital improvements including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks, and playgrounds; and for equipment necessary for the Police, Fire, Street, Traffic, and Safety Departments.

(B) <u>Effective January 1, 2015 and thereafter</u>, the funds collected under the provisions of this chapter shall be deposited in the "General Fund equivalent" of the City for municipal income taxes and shall be disbursed in the following order:

(1) Such part thereof as shall be necessary to defray all costs of collecting this tax and all costs of administering and enforcing the provisions of this chapter and the rules and regulations adopted by Council in connection therewith.

(2) Not more than 50% of the net available tax receipts received annually may be used to defray operating expenses of the City.

(3) At least 50% of the net available tax receipts received annually shall be set aside and used for capital improvements including, but not limited to, development and construction of storm sewers and street improvements; for public buildings, parks, and playgrounds; and for equipment necessary for the Police, Fire, Street, Traffic, and Safety Departments. *(Res. 068-13, Passed 12-16-13)* 

#### 194.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX

#### 194.02 EFFECTIVE DATE; FISCAL YEAR

(A) Ordinance 0\_\_\_\_15, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 194 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 0\_\_\_\_-15 does not repeal the existing sections of Chapter 193 for any taxable year prior to 2016, but rather adopts Chapter 194 effective January 1, 2016 and continuing for each taxable year thereafter. For municipal taxable years beginning before January 1, 2016, the City shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and Ordinances and Resolutions of the City as that Chapter and those Ordinances and Resolutions existed before January 1, 2016.

(C) The City tax shall be levied, collected and paid with respect to compensation earned or received and with respect to the net profits earned or received on a calendar year basis, except as herein provided. When the fiscal year of a taxpayer is other than the calendar year that may be otherwise permitted by law, and a modification of this Tax Code impacts such fiscal taxpayer, then the City tax shall be levied upon that part of the net profits for the fiscal year which are earned or received on or after the effective date of such modification until the close of the taxpayer's fiscal year, and, thereafter, shall be levied on the taxpayer's fiscal-year basis.

(Source: Uncodified Section 2 of Am Sub HB 5, passed Dec 2014; ORC 718.04; Ord. 091-08. Passed 1-5-09)

### 194.03 DEFINITIONS

Any term used in this Chapter that is not otherwise defined in this Chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly

required. If a term used in this Chapter that is not otherwise defined in this Chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code. For purposes of this Section 194.03, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this Chapter:

(1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(B) Add an amount equal to five per cent of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(D) (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

(G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;

(H) (i) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.

(iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016,

more than fifty per cent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section.

(iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (1)(H) of this section.

(v) Nothing in division (1)(H)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(H)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (1)(H)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(H)(iii)(a) of this section shall apply to the amount carried forward.

(I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 194.063 of this Chapter.

(J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 194.063 of this Chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(D) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, former shareholde

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

(2) (A) **"ASSESSMENT**" means any of the following:

(i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;

(ii) A full or partial denial of a refund request issued under Section 194.096 (B)(2) of this Chapter;

(iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 194.062(B)(2) of this Chapter; or

(iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 194.062(B)(3) of this Chapter.

(v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 194.18 of this Chapter, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

(B) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under Section 194.096 (B)(3) of this Chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.

(3) **"AUDIT**" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax

(4) **"BOARD OF REVIEW"** has same meaning as "Local Board of Tax Review".

(5) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.

(6) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in section 3772.01 of the Ohio Revised Code.

(7) "CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE," and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.

(8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.

(9) **"DISREGARDED ENTITY**" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(10) **"DOMICILE**" means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

(11) **"EXEMPT INCOME**" means all of the following:

(A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;

(B) (i) Except as provided in division (11)(B)(ii) of this section, intangible income;

(ii) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.

(C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

(D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(E) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

(F) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;

(G) Alimony and child support received;

(H) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;

(I) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (11)(I) of this section does not apply for purposes of Chapter 5745 of the Ohio Revised Code.

(J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;

(K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;

(L) Employee compensation that is not qualifying wages as defined in division (34) of this section;

(M) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

(N) 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. The City of Napoleon did not go to ballot and obtain the approval of the electorate in 2003 or 2004 to tax a shareholder's distributive share of net profits from an S corporation.

#### (O) INTENTIONALLY LEFT BLANK

(P) (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of Section 194.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.

(ii) The exemption provided in division (11)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 194.052 of this Chapter

(iv) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in division (B)(1) of Section 194.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 194.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's fixed location is located; (b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the amployee patterning.

(11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(Q) (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.

(ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the Municipality.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 194.052 of this Chapter.

(iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(R) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(S) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(12) **"FORM 2106**" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(13) "GENERIC FORM" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an

employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

- (14) "INCOME" means the following:
  - (A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(D) of this section.
    - (ii) For the purposes of division (14)(A)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section;

(b) The resident's distributive share of the net profit of each passthrough entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N) of this Section.

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For taxpayers that are not individuals, net profit of the taxpayer;

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 194.081 of this Chapter.

(E) INTENTIONALLY LEFT BLANK

(15) **"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, gambling winnings, or other similar games of chance.

(16) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(17) **"LIMITED LIABILITY COMPANY**" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(18) "LOCAL BOARD OF TAX REVIEW" and "BOARD OF TAX REVIEW" means the entity created under Section 194.18 of this Chapter..

(19) **"MUNICIPAL CORPORATION**" means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 718.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.

(20) (A) **"MUNICIPAL TAXABLE INCOME**" means the following:

(i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Municipality under Section 194.062 of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

(ii) (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.

(iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Municipality under Section 194.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all

such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) **"MUNICIPALITY**" means the City of Napoleon.

(22) **"NET OPERATING LOSS**" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) (A) **"NET PROFIT**" for a person other than an individual means adjusted federal taxable income.

(B) **"NET PROFIT**" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (23)(A) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.

(C) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(D) (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(ii) For the purposes of this chapter, and not withstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

(iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.

(iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

(v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.

(25) **"OHIO BUSINESS GATEWAY**" means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

(27) **"PASS-THROUGH ENTITY**" means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(29) **"PERSON**" includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(31) **"POSTMARK DATE**," **"DATE OF POSTMARK**," and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course if its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery

(32) (A) "PRE-2017 NET OPERATING LOSS CARRYFORWARD" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.

(B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(33) **"QUALIFIED MUNICIPAL CORPORATION**" means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.

(34) **"QUALIFYING WAGES**" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

- (A) Deduct the following amounts:
  - (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

- (iii) INTENTIONALLY LEFT BLANK
- (iv) INTENTIONALLY LEFT BLANK
- (v) Any amount included in wages that is exempt income.
- (B) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.

(vi) Any amount not included in wages if all of the following apply:

(a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;

(b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;

(c) For no succeeding taxable year will the amount constitute wages; and

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

#### (35) **"RELATED ENTITY**" means any of the following:

(A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the

stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;

(D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.

(36) **"RELATED MEMBER**" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(37) **"RESIDENT**" means an individual who is domiciled in the Municipality as determined under Section 194.042 of this Chapter.

(38) **"S CORPORATION**" means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(39) **"SCHEDULE C**" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) **"SCHEDULE F**" means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) "SINGLE MEMBER LIMITED LIABILITY COMPANY" means a limited liability company that has one direct member.

(43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(44) **"TAX ADMINISTRATOR**" means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:

(A) A municipal corporation acting as the agent of another municipal corporation;

(B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;

(C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

(45) **"TAX RETURN PREPARER**" means any individual described in section 7701(a)(36) of the Internal Revenue CODE AND 26 C.F.R. 301.7701-15.

(46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

- (47) (A) "TAXPAYER" means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.
  - (B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company.

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

(c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

(e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

(ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

(48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES**" means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(49) **"VIDEO LOTTERY TERMINAL**" has the same meaning as in section 3770.21 of the Ohio Revised Code.

(50) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770. of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code.

(Source: Most definitions can be found in ORC 718.01. For additional definitions other than those noted in Section 194.03, see Section 194.205)

(1)

#### 194.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS

#### 194.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS; LOSSES

- (A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:
  - (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 194.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
    - (a) "Income" is defined in Section 194.03 (14) of this Chapter.
      - (i) "Qualifying Wages" is defined in Section 194.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 194.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 194.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 194.062(E).

(iii) Section 194.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).

(iv) "Pass Through Entity" is defined in Section 194.03(27).

- (b) "Exempt Income" is defined in Section 194.03 (11) of this Chapter.
- (c) Allowable employee business expense deduction is described in (20)(B) of Section 194.03 of this Chapter, and is subject to the limitations provided in that section.
- (d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 194.03
   (32) of this Chapter
- (B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:

"Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the Municipality as provided in Section 194.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 194.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

- (a) "Income" is defined in Section 194.03(14) of this Chapter.
  - (i) "Qualifying Wages" is defined in Section 194.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 194.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 194.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

(iii) "Pass Through Entity" is defined in Section 194.03(27).

(b) "Exempt Income" is defined in Section 194.03(11) of this Chapter.

- (c) "Apportioned or sitused to the Municipality as provided in Section 194.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 194.062(E).
- (d) "Allowable employee business expense deduction" as described in (20)(B) of Section 194.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.

(C) (1) Losses. The portion of a net operating loss sustained in any taxable year, allocable to the City, may be applied against the portion of the profit of succeeding years allocable to the City until exhausted, but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The net profits and losses sustained by a taxpayer from business activities subject to the City tax, other than from the taxpayer's principal source of income, shall be aggregated for each of the taxpayer's tax years. If the result of such aggregation is a net profit, tax will be imposed and paid on the net profit. If the result of such aggregation is a net loss, the net loss may be carried forward to any of the succeeding five years and may be used against an aggregate net profit for any of these five succeeding tax years. (Ord. 091-08. Passed 1-5-09)

(3) In a taxable year beginning on or after January 1, 2017, the amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

- (a) No person shall use the deduction allowed to offset qualifying wages.
- (b) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent (50%) of the amount of the deduction.
- (c) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed.
- (d) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount.

# 194.042 DOMICILE

(A) As used in this section:

(1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.

(2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.

(3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

(B) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

(1) The individual's domicile in other taxable years;

(2) The location at which the individual is registered to vote;

(3) The address on the individual's driver's license;

(4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;

(5) The location and value of abodes owned or leased by the individual;

(6) Declarations, written or oral, made by the individual regarding the individual's residency;

(7) The primary location at which the individual is employed.

(8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;

(9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

(C) All applicable factors are provided in Ohio Revised Code Section 718.012.

(Source: ORC 718.012)

# 194.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES

(A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(B) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.

(Source: ORC 718.50)

### 194.05 COLLECTION AT SOURCE

#### 194.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES

(A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 194.052 of this Chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and

withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(3) All tax payments are first applied to the oldest year owing, and such payments are first applied to penalty and interest for that year, and then to tax owed.

(1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

(a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.

(b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.

(C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under section 194.091 of this Chapter,

(D) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

(E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(G) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social

security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer does not discharge the officer's or pay any tax due.

(J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section.

(Source: ORC 718.03)

#### 194.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT

(A) The following terms as used in this section:

(1) "Employer" includes a person that is a related member to or of an employer.

(2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.

(3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

(4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.

(7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (B)(1)(a) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

(B)

(1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:

(a) The employee's principal place of work is located in the Municipality.

(b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:

(i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;

(ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.

(c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 194.051 of this Chapter.

(d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.

(2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

(a) Traveling to the location at which the employee will first perform services for the employer for the day;

(b) Traveling from a location at which the employee was performing services for the employer to any other location;

(c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured,

or improved by the employee's employer;

(d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

(e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

(D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.

(2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

(3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 194.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of section 194.051 of this Chapter.

(G) In the case of a person performing personal services at a petroleum refinery located in a municipal corporation that imposes a tax on income, an employer is not required to withhold municipal income tax on the qualifying wages of such a person if the person performs those services on twelve or fewer days in a calendar year, unless the principal place of work of the employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the person for services performed on those days and the person is not liable to that other municipal corporation for tax on the compensation paid for such services. For the purposes of this division, a petroleum refinery is a facility with a standard industrial classification code facility classification of 2911, petroleum refining. Notwithstanding division (D) of this section, if, during a calendar year, the number of days an individual performs personal services at a petroleum refinery exceeds twelve, the employer shall withhold tax for the municipal corporation for the first twelve days for which the employer paid qualifying wages to the individual and for all subsequent days in the calendar year on which the individual performed services at the refinery. *(Source: ORC 718.011; ORC 718.01)* 

#### 194.053 COLLECTION AT SOURCE; CASINO AND VLT

(A) The Municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.

(B) If a person's winnings at a casino facility are an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.

(C) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the Municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the Municipality all amounts deducted and withheld during the preceding month.

(2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.

(4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:

(a) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;

(b) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally

liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.

(D) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.

(E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.

(2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.

(3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.

(4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

(6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to

cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

(1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;

(2) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(G) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.

(H) If a casino operator or lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:

(1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;

(2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 194.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.

(Source: ORC 718.031)

#### 194.06 INCOME SUBJECT TO NET PROFIT TAX

#### 194.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS; LOSSES

"Municipal Taxable Income" for a taxpayer who is not an individual for the Municipality is calculated as follows:

- (A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
  - (1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.

(i) "Net Profit" for a person other than an individual is defined in Section 194.03(23).

- (ii) "Adjusted Federal Taxable Income" is defined in Section 194.03(1) of this Chapter.
- (2) "Exempt Income" is defined in Section 194.03(11) of this Chapter.
- (3) "Apportionment" means the apportionment as determined by Section 194.062 of this Chapter.
- (4) Losses.

(a) The portion of a net operating loss sustained in any taxable year, allocable to the City, may be applied against the portion of the profit of succeeding years allocable to the City until exhausted, but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The net profits and losses sustained by a taxpayer from business activities subject to the City tax, other than from the taxpayer's principal source of income, shall be aggregated for each of the taxpayer's tax years. If the result of such aggregation is a net profit, tax will be imposed and paid on the net profit. If the result of such aggregation is a net loss, the net loss may be carried forward to any of the succeeding five years and may be used against an aggregate net profit for any of these five succeeding tax years. (Ord. 091-08. Passed 1-5-09)

(c) In a taxable year beginning on or after January 1, 2017, the amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

- (1) No person shall use the deduction allowed to offset qualifying wages.
- (2) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent (50%) of the amount of the deduction.
- (3) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed.
- (4) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount.

# 194.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT

This section applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

(A) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

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

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

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services

are performed, excluding compensation from which taxes are not-required to be withheld under section 194.052 of this Chapter;

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

(B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

- (a) Separate accounting;
- (b) The exclusion of one or more of the factors;

(c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;

(d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of Section 194.19 of this Chapter.

(3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 194.19 of this Chapter.

(4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(a) The employer;

(b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, courtmartial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:

(1) Gross receipts from the sale of tangible personal property shall be sitused to the municipal corporation in which the sale originated. For the purposes of this division, a

sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

(a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

(b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided 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.

(c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(2) Gross receipts from the sale of services shall be sitused to the municipal corporation to the extent that such services are performed in the municipal corporation.

(3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be sitused to the municipal corporation.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be sitused to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be sitused to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused under this division to the municipal corporation in which the property is located.

(F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 194.081 of this Chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 194.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a

taxpayer's net profit that was apportioned to a municipal corporation under this section.
(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity. (Source: ORC 718.02)

#### 194.063 CONSOLIDATED FEDERAL INCOME TAX RETURN

(A) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.

(5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

(B) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.

(a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.

(b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or

(c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for allocation of allocation of a taxable year shall file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for allocation of allocation of allocation of allocation of a taxable year shall file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for allocation of allocation of

subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 194.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 194.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 194.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 194.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 194.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation;

(b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group. (F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 194.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

(H) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016. (*Source: ORC 718.06*)

## 194.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO

The Municipality, by ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit. *(Source: ORC 718.15)* 

## 194.065 TAX CREDITS TO FOSTER JOB RETENTION

The Municipality, by ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the Municipality derives from the retained employees of the taxpayer, and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance allowing such a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit. (Source: ORC 718.151)

## **194.07 DECLARATION OF ESTIMATED TAX**

(A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

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

(a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.

(b) An overpayment of tax applied as a credit to a subsequent taxable year is

deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

A taxpayer having a taxable year of less than twelve months shall make a (c) declaration under rules prescribed by the Tax Administrator.

Taxes withheld by a casino operator or by a lottery sales agent under (d) section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.

Taxpayers filing joint returns shall file joint declarations of estimated taxes-(2)

The declaration of estimated taxes shall be filed on or before the date prescribed (3) for the filing of municipal income tax returns under division (G) of Section 194.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

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

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

The required portion of the tax liability for the taxable year that shall be paid (1) through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

On or before the fifteenth day of the fourth month after the beginning of (a) the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year:

On or before the fifteenth day of the sixth month after the beginning of the (b) taxable year, forty-five per cent of the tax liability for the taxable year;

On or before the fifteenth day of the ninth month after the beginning of the (c) taxable year, sixty-seven and one-half per cent of the tax liability for the taxable vear:

On or before the fifteenth day of the twelfth month of the taxable year, (d) ninety per cent of the tax liability for the taxable year.

A taxpayer may amend a declaration under rules prescribed by the Tax (2)Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 194.091 of this Chapter.

For taxpayers who are individuals, or who are not individuals and are (a) reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.

For taxpayers who are not individuals, and are reporting and filing on a (b) fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.

An amended declaration is required whenever the taxpayer's estimated tax (4) liability changes during the taxable year. A change in estimated tax liability may either

(C)

increase or decrease the estimated tax liability for the taxable year.

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 194.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and onehalf per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and onehalf per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 194.091 of this Chapter for that year.

(3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

(F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

(Source: 718.08)

## 194.08 CREDIT FOR TAX PAID

## 194.081 CREDIT FOR TAX PAID – CITY OF NAPOLEON

(A) If a resident of Napoleon is subject to and has paid a municipal income tax due to the operation of a business or the receipt of compensation in another taxing municipality, such taxpayer shall be allowed a 100% credit against the Napoleon tax due, but such credit shall not exceed the amount of Napoleon tax levied on such compensation or from the profits of a business.

(B) If a resident of Napoleon operates a business or businesses in another taxing municipality and the business or businesses incur a loss, the amount of the loss is deemed primarily subject to the taxing jurisdiction of the other taxing municipality and may not be used to reduce the taxpayer's Napoleon tax base.

(Ord. 135-04. Passed 12-6-04)

### IF CITY WANTS TO CHANGE THIS, NOW IS THE TIME TO DISCUSS WITH COUNCIL

### 194.082REFUNDABLE CREDIT FOR QUALIFYING LOSS

(A) As used in this section:

(1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.

(2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(c) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

(B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

(C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

(D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

(Source: ORC 718.021)

## 194.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 194.081 of this Chapter. *(Source: ORC 718.16)* 

## 194.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND

(A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 194.096 of this Chapter.

(B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 194.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the threeyear limitation for refunding of same as provided in Section 194.096 of this Chapter.

(D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 194.081 of this Chapter regarding any limitation on credit shall prevail. *(Source: ORC 718.121)* 

## 194.09 ANNUAL RETURN

#### 194.091RETURN AND PAYMENT OF TAX

(A) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 194.051(C) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, 18 years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.

(4) If a taxpayer is retired and is receiving only Social Security income or other retirement income, then that taxpayer need not file an annual tax return. However, during any tax year, if that taxpayer receives income other than retirement income or Social Security income (for example, including but not limited to, income received from lottery winnings, taxable wages, or any other miscellaneous income), then that taxpayer must file a timely tax return for each year in which income other than retirement income or Social Security income is received.

(5) All tax payments are first applied to the oldest year owing, and such payments are first applied to penalty and interest for that year, and then to tax owed.

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

(C) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(E) No municipal corporation shall deny spouses the ability to file a joint return.

(F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return or

refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(3) With respect to taxpayers to whom Section 194.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section

(G)

194.092 of this Chapter, the provision in Section 194.092 of this Chapter prevails.

(H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under division (F)(3) and (4) of this section.

(I) This division shall not apply to payments required to be made under division (B)(1)(b) of Section 194.051 of this Chapter.

(1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 194.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator from contacting the taxpayer regarding such matters.

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

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(N) (1) As used in this division, "worksite location" has the same meaning as in section 194.052 of this chapter.

(2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

(b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporations, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person.

(Source: ORC 718.05)

## 194.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE

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

necessary to demonstrate eligibility for the extension.

(B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

- (C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.
  - (2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

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

(Source: ORC 718.052)

## 194.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

(Source: ORC 718.051)

### 194.094 EXTENSION OF TIME TO FILE

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(B) Any taxpayer that qualifies for an automatic federal extension for a period other than sixmonths for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return. (C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(D) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

(Source: ORC 718.05)

#### 194.095 AMENDED RETURNS

(A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.

(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this

section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under section 194.19 of this Chapter has not expired for a previously filed return.

The additional tax to be paid shall not exceed the amount of tax that would be (2) due if all facts, figures, computations, and attachments were reopened.

In the case of an overpayment, a request for refund may be filed under this (1) division within the period prescribed by division (E) of section 194.19 of this Chapter for filing the amended return even if it is filed bevond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected. either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 194.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

The amount to be refunded shall not exceed the amount of refund that would be (2) due if all facts, figures, computations, and attachments were reopened.

(Source: ORC 718.12, 718.41)

#### 194.096 REFUNDS

Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in (A) accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

- Overpayments of more than ten dollars; (1)
- (2)Amounts paid erroneously if the refund requested exceeds ten dollars.
- (1)Except as otherwise provided in this chapter, returns setting forth a request for (B) refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

If a Tax Administrator denies in whole or in part a refund request included within (3) the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 194.18 of this Chapter.

A request for a refund that is received after the last day for filing specified in division (B) (C) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

(C)

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of Section 194.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 194.10 of this Chapter.

(Source: ORC 718.19)

## 194.10 PENALTY, INTEREST, FEES, AND CHARGES

(A) As used in this section:

(1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal shortterm rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or

any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

- (B) (1) This section shall apply to the following:
  - (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this Municipality<del>.</del>

(C) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.

(1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

(2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.

(4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(D). With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E). With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F). The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

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

(Source: ORC 718.27)

## 194.11 AUDIT

(A) At or before the commencement of an audit, as defined in Section 194.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.

(Source: ORC 718.36)

## 194.12 ROUNDING

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

(Source: ORC 718.25)

## 194.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR

#### 194.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

(A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a

court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;

(B) Appoint agents and prescribe their powers and duties;

(C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

(D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;

(E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 194.062 of this Chapter;

(G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(H) Destroy any or all returns or other tax documents in the manner authorized by law;

(I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 194.051 of this Chapter.

(Source: ORC 718.24)

#### 194.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME

(A) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.

(B) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:

(1) Compromise a claim;

(2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.

(E) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due,

and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

(2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.

(Source: ORC 718.28)

## 194.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE

(A) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.

(C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.

(Source: ORC 718.23)

## 194.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the

Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 194.10 of this Chapter, in addition to any applicable penalty described in section 194.99 of this Chapter.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 194.10 of this Chapter.

(3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 194.99 of this Chapter for a violation of 194.15 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law. *(Source: ORC 718.26)* 

(C) Information Submission by Landlords. On or before May 1 of each year, all property owners who rent to tenants of residential, commercial, or industrial premises, shall file with the Tax Administrator, a report showing the name, address, and phone number, of each tenant who occupies residential, commercial, or industrial premises within the City of Napoleon. The list shall also include all name(s), address(es), and phone number(s), of any tenant who has vacated the property in the preceding twelve (12) month period. The list should also include, when the information is available to the landlord, the date in which the tenant vacated the property, along with the tenant's forwarding address. If a landlord is not in possession of a former tenant's forwarding address or other current contact information, the landlord will not be penalized pursuant to any provision in this Section 194.20. Any information referred to in this Section may be requested at any time under audit by the Tax Administrator. Such report shall be in writing, and shall be delivered to the Tax Administrator by one of the following methods:

- (1) Regular U.S. mail delivery to the City Income Tax Department
- (2) Delivered by electronic mail (E-mail) directly to the City Income Tax Department
- (3) Facsimile transmission directly to the City Income Tax Department
- (4) Hand delivery to the City Income Tax Department.

Forms and instruction for reporting shall be made available on the City's website. For purposes of this Section (B), "tenant" means:

- (1) If there is a written lease or rental agreement, the person(s) who signed the written lease or rental agreement with the owner or their agent.
- (2) If there is an oral lease or rental agreement, the person(s) who entered into the oral lease or rental agreement with the owner or their agent.

Failure to comply with this section (B) will result in:

- (1) Notification (sent by regular U.S. mail delivery) to landlord and requiring compliance within 30 days.
- (2) Subpoena (sent by certified mail) for the property owner or agent to appear before the Tax Administrator with required documentation (with hearing scheduled within 14 days of date mailed).
- (3) Prohibition. No person shall knowingly fail, refuse, or neglect to file any return or report required under this Chapter or under rules and regulations made under authority thereof; or file or knowingly cause to be filed any incomplete, false or fraudulent return, report or statement; or knowingly fail, refuse, or neglect to

withhold or remit any City tax; or knowingly fail, refuse, or neglect to pay any City tax, penalty or interest; or aid or abet another in the filing of any incomplete, false or fraudulent return, report or statement.

(4) Penalty. Any person who violates this Section (B) is guilty of a misdemeanor of the 1st degree, and in addition to other penalties provided by law, shall be fined not more than \$1,000.00 or imprisoned not more than six (6) months, or both.

## 194.14 CONFIDENTIALITY

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax\_information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(C) The Finance Director, or his duly authorized agent or employee in the Department of Taxation, is authorized to examine the books, papers and records of any employer, taxpayer or person subject to the provisions of this chapter, or of any employer, taxpayer or person he reasonably believes to be 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 City tax due. Every employer, supposed employer, taxpayer and supposed taxpayer shall furnish the Finance Director, or his duly authorized agent or employee in the Department of Taxation, within thirty (30) days following a written request by the Finance Director, or his duly authorized agent or employee in the Department of Taxation agent or employee in the Department of Taxation.

(D) The Finance Director, or his duly authorized agent or employee in the Department of Taxation, is authorized to examine any person, employer, or taxpayer under oath concerning any compensation or net profits which were or should have been returned for taxation or any City tax which was or should have been withheld or paid, and for this purpose, may compel by subpoena or otherwise the production of books, papers, records and federal and state income tax returns and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such compensation, net profits, information or documentation.

(E) All returns, investigations, examinations and hearings, and all information and documentation produced therewith, and all information and documentation gained as a result thereof are confidential except for official purposes and except in accordance with proper judicial order and shall be carefully preserved so that they shall not be available for inspection by or dissemination to anyone other than the proper officers, agents and employees of the City for official purposes. Any person disclosing any such information or documentation is guilty of a misdemeanor of the 1st degree. Each disclosure shall constitute a separate offense. In addition to the above penalties, any officer, agent or employee of the City who violates any provision of this chapter relative to disclosures of confidential information shall be dismissed immediately from the service of the City.

(Source: ORC 718.13)

## 194.15 FRAUD

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document, or document is based with intent to defraud the Municipality or the Tax Administrator.

(Source: ORC 718.35)

#### 194.16 OPINION OF THE TAX ADMINISTRATOR

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.
 The request relates to a tax imposed by the Municipality in accordance with this Chapter.

(3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

(1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

(2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;

(3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;

(4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

(5) The effective date of any change in the taxpayer's material facts or

circumstances;

- (6) The effective date of the expiration of the opinion, if specified in the opinion.
- (D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of section 194.15 of this Chapter<del>.</del>

(E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:

(1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;

(2) It is the duty of the taxpayer to be aware of such changes.

(F) A Tax Administrator may refuse to offer an opinion on any request received under this section.

(G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

(H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

(J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (F) may not be appealed.

(Source: ORC 718.38)

## 194.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY

(A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code.

(2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.

(3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.

(B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address;

or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.

(Source: ORC 718.18)

## 194.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW

(A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.

(2) The Local Board of Tax Review shall consist of three members. The three members of the Local Board of Tax Review must be domiciled in the Municipality. Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality (City Manager). This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.

(4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.

(5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

(7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.

(9) A member of a Local Board of Tax Review shall not be appointed to or serve on

another such board simultaneously.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(D) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(E) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in section 5717.011 of the Ohio Revised Code.

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.

(Source: ORC 718.11)

## 194.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS

(A) (1) (a) Civil actions to recover municipal income taxes and penalties

and interest on municipal income taxes shall be brought within the latter of:

(i) Three years after the tax was due or the return was filed, whichever is later; or

(ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

- (2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:
  - (a) Beginning on the date a person who is aggrieved by an assessment files

with a Local Board of Tax Review the request described in Section 194.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 194.096 of this Chapter.

(D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 194.18 of this Chapter, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 194.096 of this Chapter, with interest on that amount as provided by division (D) of this section.

(E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

(Source: ORC 718.12)

## 194.20 ADOPTION OF RULES

(A) Pursuant to Section 718.30 of the Revised Code, the legislative authority of the Municipality has the authority, by Ordinance or Resolution, to adopt rules to administer the income tax imposed by the Municipality.

(B) All rules adopted under this Section 194.20 shall be published and posted on the Internet.

## 194.201DUTIES OF THE FINANCE DIRECTOR

(A) The Finance Director shall collect the City tax from taxpayers in the manner prescribed in this chapter, shall keep accurate records thereof and shall annually make written report to

Council of all monies so received during the preceding year. All cashiers handling City tax monies shall be subject to the direct control of the Finance Director and shall give daily accountings to the Finance Director.

(B) The Finance Director shall enforce payment of all City tax owing the City and shall keep accurate records for the minimum period of time as permitted by law of all returns filed by employers and taxpayers and all City tax paid, withheld and refunded, including, but not limited too, the dates and amounts thereof.

(C) The Finance Director is charged with the administration, collection and enforcement of the provisions of this chapter and the rules and regulations of the Council relating to any matter or thing pertaining to the collection of the City tax, including, but not limited to provisions for the filing and examination of returns and collection of payments.

(D) 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 City tax due, the Finance Director may determine the amount of City tax appearing to be due from the taxpayer and, in that case, shall mail to the taxpayer, with a proof of mailing, a written statement showing the amount of City tax so determined, together with interest and penalties thereon, if any. If the taxpayer fails to pay that City tax, together with interest and penalties thereon, if any, within thirty (30) days of the proof of mailing date, the Finance Director may undertake enforcement of the provision of this chapter against the taxpayer and collection of all such amounts.

(E) The Finance Director shall have the power to abate or compromise any interest or penalty, or both, imposed by this chapter upon a showing of reasonable excuse or other good cause and not willful neglect.

(Ord. 135-04. Passed 12-6-04)

## 194.202 DEPARTMENT OF TAXATION

The Department of Taxation is created within the Finance Department of the City. The Department of Taxation shall have a Tax Administrator, clerks, and other employees who shall receive such compensation as may be determined from time to time by the City. The Department of Taxation shall be charged with the administration of this Chapter under the direction of the Finance Director. The Finance Director shall prescribe the form and method of accounts and reports for the Department of Taxation, as well as the forms for taxpayers and employer returns, and shall be charged with the internal examination and audit of all returns. (Ord. 123-95. Passed 11-27-95)

#### 194.203 INVESTIGATIVE POWERS OF THE FINANCE DIRECTOR - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

(A) The Finance Director, or his duly authorized agent or employee in the Department of Taxation, is authorized to examine the books, papers and records of any employer, taxpayer or person subject to the provisions of this chapter, or of any employer, taxpayer or person he reasonably believes to be 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 City tax due. Every employer, supposed employer, taxpayer and supposed taxpayer shall furnish the Finance Director, or his duly authorized agent or employee in the Department of Taxation, within thirty (30) days following a written request by the Finance Director, or his duly authorized agent or employee in the Department of Taxation agent or employee in the Department of Taxation.

(B) The Finance Director, or his duly authorized agent or employee in the Department of Taxation, is authorized to examine any person, employer, or taxpayer under oath concerning any compensation or net profits which were or should have been returned for taxation or any City tax which was or should have been withheld or paid, and for this purpose, may compel by

subpoena or otherwise the production of books, papers, records and federal and state income tax returns and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such compensation, net profits, information or documentation.

(C) All returns, investigations, examinations and hearings, and all information and documentation produced therewith, and all information and documentation gained as a result thereof are confidential except for official purposes and except in accordance with proper judicial order and shall be carefully preserved so that they shall not be available for inspection by or dissemination to anyone other than the proper officers, agents and employees of the City for official purposes. Any person disclosing any such information or documentation is guilty of a misdemeanor of the 1st degree. Each disclosure shall constitute a separate offense. In addition to the above penalties, any officer, agent or employee of the City who violates any provision of this chapter relative to disclosures of confidential information shall be dismissed immediately from the service of the City.

(Ord. 123-95. Passed 11-27-95)

## 194.204TAX FOR RECREATION FUND

(A) <u>Purpose.</u> To provide funds for the Recreation Fund of the City, there shall be, and is hereby continued levied, in addition to the general income tax as found in Section 194.012 and any other pertinent Sections, a permanent tax on certain compensation and net profits as hereinafter provided in this section.

(B) <u>Imposition of Tax.</u> The additional annual tax for the purpose specified in subsection (A) hereof is levied at the rate of one-fifth percent (.2%) per annum on all salaries, wages, commissions and other compensation and net profits earned or received as the same are defined and levied upon in Sections 194.01 through 194.99 inclusive, and as such sections may be amended from time to time.

(C) <u>Effective Period.</u> The tax shall be levied, collected and paid with respect to said salaries, wages, commissions and other compensation and net profits earned or received on and after January 1, 2016. This Section shall continue effective insofar as the levy of said tax is concerned until otherwise repealed. Insofar as the collection of said tax, penalties and interest levied hereunder and actions or proceedings for collecting said tax so levied or enforcing any provisions of this Section are concerned, including the tax for the recreation fund that was in effect prior to enactment of this Section, it shall continue effective until all of said tax levied under this Section is fully paid and any and all suits and prosecutions for the collection of said tax or for the punishment of violations of this section have been fully terminated.

(D) <u>Allocation of Funds.</u> The funds collected under this Section shall be paid into the Recreation Fund of the City. No part of said tax shall be appropriated or used to defray the costs of collecting said tax or the costs of administering and enforcing the provisions of this section as long as the City is collecting a sufficient amount of income tax under Sections 194.01 through 194.99 inclusive, (as they now exist or as may later be amended from time to time) to defray such costs. If at any time while this Section is in effect, said tax becomes the only income tax collected by the City, there shall first be appropriated from the funds derived from said tax such part thereof as shall be deemed necessary to defray all costs of collecting said tax and of administering and enforcing the provisions hereof. The balance remaining after such costs shall be allocated to the Recreation Fund of the City.

(E) <u>Incorporated by Reference.</u> All provisions of Sections 194.01 through 194.99, and all income tax rules and regulations shall govern and apply to this Section and said tax levied hereunder.

(F) <u>Applicability.</u> This Section shall not apply to any person or to any compensation or net profits as to whom or to which it is beyond the power of the City to impose the tax provided for in this Section.

(G) <u>Penalties.</u> The penalties found in any Section herein shall apply to this Section, such Sections which may be amended from time to time.

(For reference purposes only, see also Ord. 080-09. Passed 12-7-09; Approved by voters 5-4-10)

## 194.205 ADDITIONAL DEFINITIONS

(1) **"BUSINESS,"** means an activity, enterprise, operation, profession, trades, transaction, undertaking, or venture of any nature conducted or ordinarily conducted for gain, profit, or income, including, but not limited to farming, leasing, and rental activities.

(2) **"CITY,"** means the City of Napoleon, Ohio.

(3) **"CITY TAX,**" means the tax imposed by this Chapter.

"SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION," means the (4) total compensation paid to an individual in cash or in kind on an hourly, daily, weekly, monthly, annual, or other basis, including, but not limited to, the following: severance or termination pay; wage continuation payments made as a result of early retirement or employment termination; wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient's employer or by a third party; vacation or holiday pay; tips or gratuities received; group term insurance premiums paid on an employee's behalf to the extent taxed by the IRS; employee contributions to tax sheltered annuities, non-qualified pension plans, or into employer or third party trusts or pension plans as permitted by IRS and which may be excludable from wages for federal tax purpose; ordinary income portion of stock options or employee stock purchase plans; supplemental unemployment benefits (SUB pay); strike pay; jury duty pay; working condition fringe benefits subject to tax by IRS; moving allowances; guardian, executor, conservator, trustee, or administrator fees; bonuses; ordinary income portion of lump sum distributions which become subject to federal tax because the recipient did not roll over the distribution within the time required by IRS; cancellation of indebtedness to the extent taxed by IRS; income from bartering.

(5) **"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, foreign country, or dependency, with exception to Sub-S Corporations.

(6) **"COUNCIL,"** means the Council of the City of Napoleon, Ohio.

(7) **"DEPARTMENT OF TAXATION,"** means the Department of Taxation of the City of Napoleon, Ohio.

(8) **"EMPLOYEE,"** means an individual who is employed and whose compensation is subject to the tax imposed by this Chapter.

(9) **"EMPLOYER,"** means a person that employs one or more employees on a salary, wage, or other compensation basis.

(10) **"FIDUCIARY,"** means a guardian, trustee, executor, administrator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(11) **"FINANCE DEPARTMENT,"** means the Finance Department of the City of Napoleon, Ohio.

(12) **"FINANCE DIRECTOR,"** means the Finance Director of the City of Napoleon, Ohio or his or her designee.

(13) **"INDIVIDUAL,"** means a natural person.

(14) **"NAPOLEON,"** means the City of Napoleon, Ohio.

(15) **"NET PROFIT,"** in addition to the definition of "Net Profit" found in Section 194.03(23), "Net Profit" also means the net gain from the operation of a business, profession, or other enterprise after provision for all expenses paid or incurred in the conduct thereof, including reasonable allowances for depreciation, depletion, and amortization and reasonable additions to reserve for bad debts, either paid or accrued, in accordance with recognized principles of accounting applicable to the accounting method regularly employed by the business and without deduction of federal or state taxes based on income and the tax imposed by this Chapter. (16) **"NON-RESIDENT,"** in addition to the definition of "Non-Resident' found in Section 194.03(24), "Non-Resident" also means an individual, trust, or estate that is not a resident of the City of Napoleon, Ohio.

(17) **"OTHER ENTITY,"** means any agency, association, authority, body, commission, organization, or person not previously named or defined in this Section, including, but not limited to, any governmental agency, authority, body, or commission.

(18) **"PARTNERSHIP,"** means an unincorporated business association including, but not limited to, a general partnership, limited partnership, syndicate, group, pool, or joint venture through or by means of which any business is carried on, but excluding a trust or estate.

(19) "**PERSON**," in addition to the definition of "Person" found in Section 194.03(29), "Person" also means an individual, fiduciary, partnership, corporation, or other entity. Whenever used in any clause prescribing and imposing a penalty, the word "person," as applied to any partnership, shall mean the partners or other owners thereof and, as applied to any corporation or other entity, shall mean the officers thereof.

(20) **"RESIDENT,"** in addition to the definition of "Resident" found in Section 194.03(37), "Resident" also means an individual, partnership, corporation, fiduciary, estate, trust, or other entity domiciled in or doing business in the City of Napoleon, Ohio.

(21) **"RETURN,"** means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax imposed by this chapter, including, but not limited to, taxpayer returns, employer returns, W-2 forms, declarations of estimated tax when so required, and any supporting documents.

(22) **"TAX ADMINISTRATOR,"** in addition to the definition of "Tax Administrator" found in Section 194.03(44), "Tax Administrator" also means the person appointed to the position of Tax Administrator as set forth in this chapter.

(23) **"TAXPAYER,"** in addition to the definition of "Taxpayer" found in Section 194.03(47), "Taxpayer" also means a person subject to this chapter and required to file a return or pay the tax imposed by this Chapter.

In all instances, the singular shall include the plural and the masculine gender shall include the feminine and neuter genders.

(For reference purposes, see Ordinance 091-08. Passed 1-5-09)

## 194.97 COLLECTION AFTER TERMINATION OF CHAPTER

(A) This Chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this Chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 194.19.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 194.091 as though the same were continuing.

## 194.98SAVINGS CLAUSE

If any sentence, clause, section or part of this Chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause,

section or part thereof not been included in this Chapter.

## 194.99 VIOLATIONS; PENALTY

(A) Except as provided in division (B) of this section, whoever violates Section 194.15 of this Chapter, division (A) of Section 194.14 of this Chapter, or Section 194.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of Section 194.14 of this Chapter constitutes a separate offense.

(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

(1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or

(2) Knowingly make any incomplete return; or

(3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or

(4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 194.051; or

(5) Neglect or refuse to withhold or remit municipal income tax from employees; or

(6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or

(7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

(8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or

(9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or

(10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or

(11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or

(12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.

(14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 194.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.

(Source: ORC 718.99)



## **CITY OF NAPOLEON, OHIO**

255 West Riverview Avenue • PO 151 • Napoleon, Ohio 43545-0151 Gregory J. Heath, Director of Finance/Clerk of Council phone (419) 599-1235 fax (419)-599-8393 Web Page: www.napoleonohio.com E-mail: gheath@napoleonohio.com

DATE: September 30, 2015

TO: Members of City Council Ronald A. Behm, Mayor Monica Irelan, City Manager Lisa Nagel, City Law Director

FROM: Gregory J. Heath, Finance Director/Clerk of Council

SUBJECT: Third (3<sup>rd</sup>) Quarter Budget Adjustments

On Monday, September 28, 2015, the Finance and Budget Committee of Council reviewed the proposed 2015 Budget Adjustments. The recommendation to City Council from the Committee is to accept the budget adjustments as presented and direct the Law Director to draft legislation.

During the review by the Finance and Budget Committee a question was asked regarding the Supplemental requested in the 560 Sanitation (Refuse) Revenue Fund for Account Number 560-6400-57000 Machinery and Equipment for \$8,070. Upon investigation it was found the amount is for the New Operations Superintendent truck recently purchased representing the Sanitation Funds share. However, it was also discovered the incorrect fund and account was listed and charged on the purchase order; the correct Fund is the 561 Sanitation Depreciation Fund and Account Number is 561-6400-57000 Machinery and Equipment. This error has been corrected, and as such eliminates the need for this supplemental appropriation. This item has been removed from the requested supplemental attachment.

Council is requested to approve the proposed Third (3<sup>rd</sup>) Quarter Budget Adjustments as amended, and direct the Law Director to draft legislation for the regular City Council Meeting of Monday, October 19, 2015, with both Emergency and Suspension of Rules requested.

The purpose of the Emergency and Suspension of Rules is to timely approve and post administrative Budgetary Adjustments within the operating year involved.

Please let me know if you have any questions regarding the information provided herein. Thank you.

2015 APPROPRIATION BUDGET BUDGET SUMMARY BY FUND, DEP				
DODGET SOMMATT DTTOND, DET		QUARTERLY BUDG		2015
ORDINANCE No15, Passed / /2015	PERSONAL			FUND
3RD QT Proposed - 2015 Appropriation Budget	SERVICES	OTHER	TOTAL	TOTAL
· · · · ·				
100 GENERAL FUND				
1370 City Manager/Human Resources	\$7,010	\$0	\$7,010	
- 1370 City Man./Human Resources - Hospitilization Costs,	budget for Single, act	ual was Employee/C	hild Plan - +\$7,01	<u>10:</u>
Accounts - 100.1370.51710 Hospitalization Insurance	\$7,010			
2200 Fire/Safety Services	\$6,500	\$0	\$6,500	
- 2200 Fire/Safety Services - Additional Overtime to cover s	shifts and vacations -	+\$6,500:		
Accounts - 100.2200.51401 Salary-Fulltime Fire - OT	\$6,500			
4700 Cemetery/Operations	\$3,000	\$0	\$3,000	
- 4700 Cemetery/Operations - Additional Overtime to cover	unbudgeted funerals	on weekends - +\$3,0	<u>000:</u>	
Accounts - 100.4700.51201 Salary-AFSCME-OT	\$3,000			
Total - 100 General Fund	\$16,510	\$0	\$16,510	\$16,510
200 STREET CONSTRUCTION MAINTENANCE & DEDAID EI				
200 STREET CONSTRUCTION, MAINTENANCE & REPAIR FI 5120 Service/Strorm Drainage	\$10,900	\$0	\$10,900	
ST20 Service/Stronn Drainage	\$10,500	φυ	\$10,900	
- 5120 Service/Storm Drainage - Additional for Direct Work	in the Storm Drainage	Cost Center, over n	ormal - +\$10,900	:
Accounts - 200.5120.51200 Salary-AFSCME	\$10,900			-
Total - 200 Street (SCM&R) Fund	\$10,900	\$0	\$10,900	\$10,900
	=======		=======	
210 EMS TRANSPORT SERVICE FUND				
2200 Fire/Safety Services	\$0	\$4,000	\$4,000	
	+ •	* .,	r - ,	
- 2200 Fire/Safety Services - Additional to cover unbudgete	d Refunds on EMS Ru	n Charges - +\$4,000	<u>):</u>	
Accounts - 210.2200.59000 Refunds-Miscellaneous		\$4,000		
Total - 210 EMS Transport Service Fund	\$0	\$4,000	\$4,000	\$4,000

2015 APPROPRIATION BUDGE				
BUDGET SUMMARY BY FUND, DE		T. QUARTERLY BU		2015
ORDINANCE No15, Passed / /2015	PERSONAL	T. QUANTENET DO	DGLT ADJ	FUND
3RD QT Proposed - 2015 Appropriation Budget	SERVICES	OTHER	TOTAL	TOTAL
220 RECREATION FUND				
4200 Recreation/Golf Operating	\$0	\$10,000	\$10,000	
	ψυ	φ10,000	φ10,000	
- 4200 Recreation/Golf Operating - Additional for Materia	als and Chemicals due	to Golf Course Flo	oding - +\$10,000:	
Accounts - 220.4200.54200 Supplies-Operating Materials		\$6,000		
Accounts - 220.4200.54240 Supplies-Chemicals		\$4,000		
4300 Recreation/Pool Operating	\$0	\$6,100	\$6,100	
- 4300 Recreation/Pool Operating - Additional for Natura	al Gas and Utility-Water	& Sewer Account	<u>- +\$6,100:</u>	
Accounts - 220.4300.53111 Utilities-Natural Gas		\$600		
Accounts - 220.4300.53113 Utilities-Water and Sewer		\$5,500		
Total - 220 Recreation Fund	\$0	\$16,100	\$16,100	\$16,100
	=======	========	========	
520 SEWER (WWT) UTILITY REVENUE FUND				
6300 Sewer(WWT)/Treatment Plant Operations	\$31,700	\$0	\$31,700	
- 6300 Sewer(WWT)/Treatment Plant Operations - Additi	onal Salary to cover Re	etirement Payout -	+\$31,700:	
Accounts - 520.6300.51100 Salary-Non Bargaining	\$31,700			
Total - 520 Sewer (WWT) Uty. Revenue Fund	\$31,700	\$0	\$31,700	\$31,700
	========	========	========	
560 SANITATION (REFUSE) REVENUE FUND		<b>.</b>	<b>.</b>	
6410 Sanitation(Refuse)/SRS-Seasonal Pickup Program	\$0	\$4,000	\$4,000	
	onal to Cover Truck Re	ntal for Seasonal P	Pickups - +\$4.000:	
Accounts - 560.6410.53300 Service Fees-Professional		\$4,000		
Total - 560 Sanitation(Refuse) Revenue Fund	\$0	\$4,000	\$4,000	\$4,000
. /	========	========	========	
* GRAND TOTAL - ALL FUNDS	\$59,110	\$24,100	\$83,210	\$83,210
	=========		==========	=========

## City of Napoleon Parks and Recreation Department 255 West Riverview Avenue Napoleon, Ohio 43545

255 West Riverview Avenue Napoleon, Ohio 43545 (419) 592-4010 (419) 592-8955 (fax) tcotter@napoleonohio.com

## Memorandum

To:	Monica Irelan, City Manager
From:	Tony Cotter, Director of Parks and Recreation
Date:	Thursday, October 01, 2015
Subject:	Trick or Treat Night Recommendation

At its September meeting, the Parks and Recreation Board passed a unanimous motion to recommend that Trick or Treat Night in Napoleon be held on Saturday, October 31 from 6:00 -7:30 pm.

Please let me know if you have any questions or would like additional information.



**CITY OF NAPOLEON, OHIO** 

255 West Riverview Avenue • PO 151 • Napoleon, Ohio 43545-0151 Gregory J. Heath, Director of Finance/Clerk of Council phone (419) 599-1235 fax (419)-599-8393 Web Page: www.napoleonohio.com E-mail: gheath@napoleonohio.com

DATE: October 1, 2015

TO: Members of City Council Ronald A. Behm, Mayor Monica Irelan, City Manager Lisa Nagel, City Law Director Clayton O'Brien, Fire Chief

FROM: Gregory J. Heath, Finance Director/Clerk of Council 34

SUBJECT: Memorial Donations made to the City Fire Department

The City of Napoleon, Ohio, Fire Department recently received the following Donations in Memorial in honor of certain former Fire Department Personnel. They are as follows:

Received From - in honor of Paul Howe and Violet Hatcher:

- Susan McLimans	\$ 25.00
- Larry Behnfeldt	\$ 25.00
- Bret & Kristi Speiser	\$ 25.00
- Shirlee Mires-Fejes	\$ 20.00
- Donald & Pamela Stone	\$ 50.00
- John & Carol Speiser	\$ 50.00
- Elizabeth Brown	\$ 25.00
- Janet Creager	\$ 25.00
- Jack & Nancy Glaser	\$ 10.00
- Miscellaneous - Cash (No Names)	\$125.00
TOTAL DONATIONS RECEIVED	<u>\$380.00</u>

These Donations will be paid into the Donations-Fire revenue account in the 100 General Fund.

I am requesting a motion and vote to accept the Donations to the City.

Thank you.

## City of Napoleon, Ohio

## **Ad Hoc Committee on Leadership Tasks**

LOCATION: City Hall Offices, 255 West Riverview Avenue, Napoleon, Ohio

## Meeting Agenda

## Monday, October 5, 2015 at 6:00pm

- I. Discussion regarding City Vision Statement, Mission Statement, and Goals
- II. Any other matters to come before the Committee
- III. Adjournment

Gregory J. Heath, Finance Director/Clerk of Council

## Memorandum

To: Technology and Communication Committee, Council, Mayor, City Manager, City Law Director, City Finance Director, Department Supervisors, Media
 Description: Construction of Const

From: Gregory J. Heath, Finance Director/Clerk of Council

**Date:** 10/1/2015

**Re:** Technology and Communication Committee Meeting Cancellation

The Technology and Communication Committee meeting regularly scheduled for Monday, October 5, 2015 at 6:15pm has been CANCELED due to lack of agenda items.



# Legislative Bulletin

## **Ohio Municipal League Legislative Bulletin**

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## **Committee Schedule**

October 2, 2015

## NEW MEMBERS OF OHIO'S GENERAL ASSEMBLY SWORN-IN

The Ohio General Assembly added two new members this week to their ranks, with the appointment and swearing-in of new House of Representatives members to fill recently vacated seats. On Wednesday, the House welcomed back a former member to the lower Chamber via the appointment of John Boccieri by the members of the House Democratic Caucus. Rep. Boccierri, who previously served in the Ohio House in 2001 and later was elected to the Ohio Senate before winning a seat in the US Congress in 2008, is returning to the Ohio House to represent the 59 th Ohio House District, which covers much of the Mahoning Valley region, filling the seat of former Rep. Ron Gerberry.

The Ohio House Republican Caucus also had a seat to fill through the vacating of one of their majority members. Rep. Steve Arndt, a former Ottawa County Commissioner was sworn in Wednesday as well to become the next Representative serving the 89 th House District. Mr. Arndt served as Commissioner to Ottawa County for 27 years before joining the legislature this week and has been a small business owner and operator for 39 years.

The league would like to welcome these two gentlemen to the legislature, we wish them much success and look forward to working with them.

## SENATE COMMITTEE HOLDS HEARINGS ON LEGISLATION BARRING MUNICIPALITIES FROM TAXING NON-RESIDENT WAGES AND BILL BY-PASSING LOCAL REGULATORY AUTHORITY OVER RIDE SHARING ENTERPRISES

This week, the Senate State and Local Government Committee held first hearings on two bills the league has been tracking with great interest. On Tuesday, Senators convened the hearing to receive sponsor's testimony by Sen. Kris Jordan (R-Delaware) on SB 198, his legislation would limit municipalities taxation powers by allowing Ohio cities and villages to only apply the municipal income tax exclusively to residents and by prohibiting the taxation of a sole proprietorship that also does not reside within the limits of the municipality.

During sponsor testimony, Sen. Jordan termed the bill "pay where you vote," and said it intends to remove the ability for municipalities to tax the income of citizens who live outside their borders. Sen. Jordan shared with committee members that currently Ohioans can be taxed by both the municipality in which they live and again by the municipality in which their income was earned. Jordan said that considering each person may vote only

where they live, it is clear that they have no say in tax policies of at least one of the locations in which they are being taxed. Sen. Jordan concluded that his legislation would also decrease the frequency by some municipalities who attempt to "poach" jobs or businesses from another municipality. The thought came to league staff after hearing this example of one of the attributes of the proposal, that it is a mystery why any municipality would want to "poach" a "parasite" to their revenues by bringing in additional workers or businesses who pay nothing towards the support of services they enjoy and benefit from every day, as they earn a salary in municipalities they do not reside in.

The league strongly opposes this initiative and will alert our members when the Senate State and Local Government Committee holds additional hearings and if opposition testimony is afforded concerning this reckless idea.

Also on Tuesday the committee held a first hearing on HB 237, legislation we have previously reported on introduced by Reps. Mike Duffey (R-Worthington) and Bob Hackett (R-London), which would among other things, establish requirements governing Transportation Network Companies (TNCs), such as Uber or Lyft-style ride sharing businesses, TNC drivers, and the services provided by TNCs. The bill's Legislative Service Commission (LSC) analysis states: "HB237 specifies the intent of the General Assembly to preempt any local ordinance, resolution, or other law adopted to license, register, tax, or otherwise regulate TNCs, TNC drivers, and TNC services."

In testimony delivered to committee members, Rep. Duffey attempted to address concerns expressed by the league regarding areas of his bill that infringe on the constitutional authorities granted Ohio municipalities via the Home Rule clause by stating that there will be municipalities with no or low safety regulations in addition to those with high standards. Rep. Duffey went on to say that the TNC companies want the standards to be consistent. Also, he said Ohio wants to be a "business-friendly state" and wants companies such as Uber and Lyft to come. The sponsor said the ride sharing companies need to be able to operate and do business in every community, and that "they" don't want a "hostile community that creates barriers" to starting operations.

Please watch for future announcements of committee hearings on the bill as the committee Chairman announced that he expects swift action on the bill.

## LEGISLATION TO "BAN THE BOX" ON PUBLIC EMPLOYMENT APPLICATIONS PASSES OHIO HOUSE

In their first fall session since returning from the summer recess, members of the Ohio House of Representatives passed HB56, legislation introduced by Rep. Kirk Schuring (R-Canton) which would limit the use of criminal records in the hiring and employment practices of public employers. Also known as "ban the box" legislation, the bill essentially prohibits applications for public employment from asking if the applicant has ever been convicted of a felony. The bill passed by a vote of 89-1 and will now be sent to the Ohio Senate for their review.

We would encourage any of our members who may have a position on the proposal to share their support or opposition with their state Senator, who will now be taking up the measure.

## **COMMITTEE SCHEDULE**

Below is a list of committee hearings that have been announced for next week. If there are additional committee hearings added, we will post those to our website Monday.

Have a safe weekend~

## Fw: TMACOG Tech October Registration

From: "Gregory J Heath" <gheath@napoleonohio.com>

To: "Roxanne Dietrich" <rdietrich@napoleonohio.com>

-----Original Message-----From: TMACOG <public.info@tmacog.org> To: gheath@napoleonohio.com Date: 09/29/2015 01:29 PM Subject: TMACOG Tech October Registration

View in a browser





## **Being Prepared When Opportunity Knocks**

Friday, October 16, 8 a.m. – 1 p.m. Monroe Bank & Trust 10 Washington St. | Monroe MI

The last day for registration is Friday, October 9. The fee is \$25 and includes breakfast and lunch.

TMACOG and partners in Ohio and Michigan have prepared a TMACOG Tech program focusing on a comprehensive economic development strategy for northwest Ohio and southeast Michigan. The program will look at opportunities presented by the Gordie Howe International Bridge and improvements to I-75 in both states. A site consultant will explain how communities can become engaged in business site selection. The program will include time for conversation and networking.

For questions, contact Peggy Ricard at 419.241.9155 ext. 105.

## AGENDA\_\_\_\_\_

8:00 a.m.	Registration/Networking/ Continental Breakfast
8:30 a.m	Welcome Carol Contrada, Lucas County Henry Lievens, Monroe County
8:45 a.m.	Economic Development – Meet the Team How economic development agencies coordinate regional efforts Dean Monske, Regional Growth Partnership (RGP) Tim Lake, Monroe County Business Development Corp. (MCBDC)
9:15 a.m.	<i>The Role Ports Play in Economic Development – Monroe/Toledo</i> Paul LaMarre III, Port of Monroe Paul Toth, Joe Cappel, Toledo-Lucas County Port Authority
9:45 a.m.	<i>Comprehensive Economic Development Strategy for NW Ohio/SE Michigan</i> Steve Weitzner, Silverlode Consulting
10:30 a.m.	Break
10:45 a.m.	The I-75 Corridor Opportunities presented by the new Gordie Howe International Bridge and improvements to I-75 in both states Scott Fleming, Prima Civitas Tom Rico, Michigan Economic Development Corporation (MEDC)
11:30 a.m.	Lunch Break
12:00 p.m.	Keynote Speaker How communities can become engaged in business site selection and end up on the short list

Dennis Burnside, Juniper CRE

1:00 p.m. Conclusion

We anticipate that certified planners (AICP) will be eligible for certification maintenance (CM) credi

## Register here. Parking information here.









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## Toledo Metropolitan Area Council of Governments

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People interested in economic development opportunities that cross the Ohio/Michigan border are invited to the next TMACOG Tech. Improvements to I-75 in both states and construction of the new Gordie Howe International bridge will increase the amount of traffic and goods exchanged in the region with opportunities for economic development...read more

## 2015 Conference on Freight



The conference was held at the Hilton Cincinnati Netherland Plaza. More than 340 professionals representing all modes attended the conference. For the first time this year, the conference combined the Ohio Conference on Freight, the Mid-America Freight Conference, and the Kentucky Freight Conference together in one event...read more

## **TRANSPORTATION**

## Safe Routes to School

The City of Toledo has been selected by ODOT to receive nearly \$460,000 in Safe Routes to School (SRTS) funding for district-wide infrastructure improvements to make it safer for children to walk or bicycle to school. There are 40 elementary (K-8) schools in the Toledo Public School (TPS) District. The grant is the result of

## Upcoming Events

#### TMACOG Tech; Being Prepared when Opportunity Knocks

Friday, October 16, 8 a.m. - 1 p.m. Monroe Bank & Trust, 10 Washington St., Monroe, MI *Contact*: <u>Peggy Ricard</u> ext. 105

## Sandusky County Realtors Workshop

Wednesday, October 21, 9:30 a.m. - 12:30 p.m. Sandusky County Economic Development Corp. 2511 Countryside Drive, Suite C, Fremont, OH 43420 *Contact:* <u>Kurt Erichsen</u> ext, 126

#### Student Watershed Watch - Student Summit

Wednesday, November 18, 9 a.m. - 1 p.m. University of Toledo, Scott Park Campus *Contact*: <u>Matt Horvat</u> ext. 123

#### TMACOG General Assembly

Monday, January 25, Holiday inn French Quarter, Perrysburg *Contact*: <u>Jennifer Allen</u> ext. 107 collaboration among Live Well Greater Toledo (a program of the Greater Toledo YMCA), the Toledo Public Schools, and the City of Toledo...<u>read more</u>

## **TIMS:** Transportation Information Mapping System

Local governments and planners have free access to a recently updated data source from ODOT that is also free to the general public. The Transportation Information Mapping System (TIMS) is at www.gis.dot.state.oh.us/tims. The update to the system consolidated a variety of data sources in a single system. The information can be easily accessed and searched by smart phone...<u>read more</u>

## **ENVIRONMENT**

## **Update on TMACOG Water Quality Committees**

TMACOG members have been meeting regularly to address the reorganization of the TMACOG Environmental Planning department to more directly focus on water quality in the region. New committees are being created, mission statements formulated, and bylaws created. The bylaws are written to ensure representation by a diverse membership and to include all critical interests. As of mid-September, leadership has been tentatively identified for most committees. Letters have been sent to member communities

inviting participation...read more

## Junction Avenue Community Greening Plan

After months of consultation with neighbors, educational programs, and environmental design, the Junction Avenue Urban Waters program is selecting the green infrastructure strategies that will become part of a redevelopment plan at the Junction and Nebraska intersection and nearby streets. This is part of a larger neighborhood redevelopment effort driven by residents.

On Monday, October 19, at the Frederick Douglass Center, the neighborhood advisory group will meet from 1 p.m. to 4 p.m. This group includes religious leaders, business owners, and other community leaders. From 5 p.m. to 7 p.m., the recommendations of the advisory group will be presented to the community at an open house event.

TMACOG has been facilitating the stormwater aspects of this process in partnership with the Junction Avenue neighborhood group, the Toledo Design Center, City of Toledo Department of Public Utilities, and students from the University of Toledo departments of engineering and geography and planning.

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