
Memorandum

To: Mayor & Members of Council
From: Monica Irelan, City Manager
Subject: General Information
Date: October 16, 2015

CALENDAR

AGENDA: City Council Monday, October 19th @7:00 pm

C. APPROVAL OF MINUTES – the minutes from the October 5, 2015 meeting are attached

G. INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS

1. **Ordinance No. 052-15**, an Ordinance Supplementing the Annual Appropriation Measure (Supplement No. 4) for the Year 2015; and Declaring an Emergency. (Suspension Requested)
2. **Ordinance No. 053-15**, an Ordinance to Adopt Chapter 194 of the Codified Ordinances of the City of Napoleon regarding Municipal Income Tax.
3. **Resolution No. 054-15**, a Resolution Authorizing the City Manager to enter into a Contract with Weltman, Weinberg & Reis Co., L.P.A. for Collection of Delinquent Utility, Refuse, Income Tax, EMS and other Miscellaneous Accounts Owed to the City of Napoleon
4. **Ordinance No. 055-15**, an Ordinance Amending Chapter 913 of the Codified Ordinances of the City of Napoleon, Ohio regarding City Sidewalk Policy by Adding Section “913.06 Appeals” to allow for an Appeal Process Related to the Installation of City Sidewalks.
5. **Resolution No. 056-15**, a Resolution Authorizing the City Finance Director to Upgrade Finance Accounting Software with CMI from Finance Client Service to Finance Authority Software; Authorizing Expenditure of Funds in Excess of \$25,000.00 and Eliminating the Necessity of Competitive Bidding.
6. **Ordinance No. 057-15**, an Ordinance Amending the Allocation of Funds as found in Sections 193.11 and 194.013 of the Codified Ordinances of the City of Napoleon, Ohio.

H. SECOND READINGS OF ORDINANCES AND RESOLUTIONS

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

I. THIRD READINGS OF ORDINANCES AND RESOLUTIONS - NONE

J. GOOD OF THE CITY (*Discussion/Action*)

1. Recommendation to Approve October Power Supply Cost Adjustment Factor
- For items 2, 3 & 4, we have enclosed Memorandums from Chad for each respective project.
2. Approval of Plans, Specifications, Documentation and Contracts for Oberhaus I/I Reduction Project (L.T.C.P. Project No. 21A)
3. Approval of Change Order No. 11 (Final) for the Scott Street Improvements Project (PID No. 86846); Miller Bros. Const.
4. Approval of Change Order No. 6 (Final) for the Southside Interceptor I/I Reduction Project (L.T.C.P. Project No. 20A); Vernon Nagel, Inc.
5. Approval of Healthcare Cost Committee Recommendation regarding proposed Healthcare Plans for 2016
 - a. Attached is "Health Insurance Cost Review Summary" and also "BORMA Current and Standard Plans Benefit and Cost Review".
6. BOPA Recommendation to Add Information on Certain Billboards Regarding the City Being a Public Not-for-Profit Utility Company

L. Approve Payment of Bills and Approve Financial Reports

INFORMATIONAL ITEMS

1. **AGENDA** – Tree Commission; Monday, October 19th @6:00 pm
2. **CANCELLATION** – *Parks & Rec Committee Meeting*
3. **AGENDA** – Special Joint Meeting of City Council and Water/Sewer Committee; Tuesday, October 20th @4:00 pm
4. Memorandum from Greg regarding Items of Legislation needed for Review and Passage prior to Year Ending 2015
5. AMP Weekly Newsletter/October 16, 2015
6. Ohio Municipal League Bulletin/October 9, 2015

MI:rd

Records Retention - CM-11 - 2 Years

September 2015							October 2015							November 2015						
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S
			1	2	3	4	5					1	2	3	4	5	6	7		
6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26
20	21	22	23	24	25	26	27	28	29	30										
27	28	29	30																	

 Calendar

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
27	28	29	30	1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
	6:00 PM Tree Commission Meeting 7:00 PM City COUNCIL Meeting	4:00 PM Special Joint Meeting City Council & Water/Sewer Committee				
25	26	27	28	29	30	31
	6:30 PM FINANCE & BUDGET Committee Meeting 7:30 PM SAFETY & HUMAN RESOURCES Committee Meeting		6:30 PM Parks & Rec Board Meeting			

City of Napoleon, Ohio

City Council

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

Meeting Agenda

Monday, October 19, 2015 at 7:00pm

A. Attendance *(Noted by the Clerk)*

B. Prayer & Pledge of Allegiance

C. Approval of Minutes: *(In the absence of any objections or corrections, the minutes shall stand approved.)*

D. Citizen Communication

E. Reports from Council Committees

1. **Parks & Recreation Committee** did not meet on Monday, October 19 due to lack of agenda items.
2. **Electric Committee** *(Majority Report)* met on Monday, October 12 and:
 - a. Recommended approval of October Power Supply Cost Adjustment Factor
 - b. Tabled Rate Levelization Program Review
3. **Water, Sewer, Refuse, Recycling & Litter Committee** met on Monday, October 12 and recommended:
 - a. Tabling potential upgrades to the MIEX Building
 - b. Calling a Special Council meeting on Thursday, October 15 at 7:30am with the following agenda item:
 1. To extend to Florida a thirty (30) day extension on the Water Treatment Plant deadline, and give City Manager Irelan the authority to allow an extension to any satellite customer that begins negotiations with the City before the end of business on Thursday, October 15.
4. **Municipal Properties, Buildings, Land Use & Economic Development Committee** met on Monday, October 12 and recommended:
 - a. Approval of the City Sidewalk Policy Legislation as presented

F. Reports from Other Committees, Commissions and Boards *(Informational Only-Not Read)*

1. **Board of Public Affairs** met on Monday, October 12 with the following agenda items:
 - a. Review of Power Supply Cost Adjustment Factor
 - b. Electric Department Report
 - c. Review of Rate Levelization Program
2. **Preservation Commission** met on Tuesday, October 13 with the following agenda items:
 - a. NPC 15-01 535 N. Perry Street
3. **Board of Zoning Appeals** met on Tuesday, October 13 with the following agenda items:
 - a. BZA 15-04 825 W. Washington Street
4. **Planning Commission** did not meet on Tuesday, October 13 due to lack of agenda items.
5. **Tree Commission** met on Monday, October 19 with the following agenda items:
 - a. Fall Programs
 - b. Spring Programs

G. Introduction of New Ordinances and Resolutions

1. **Ordinance No. 052-15**, an Ordinance supplementing the Annual Appropriation Measure (Supplement No. 4) for the year 2015; and declaring an Emergency (Suspension Requested)
2. **Ordinance No. 053-15**, an Ordinance to adopt Chapter 194 of the Codified Ordinances of the City of Napoleon regarding Municipal Income Tax
3. **Resolution No. 054-15**, a Resolution authorizing the City Manager to enter into a Contract with Weltman, Weinberg & Reis Co., L.P.A. for collection of delinquent utility, refuse, income tax, EMS, and other miscellaneous accounts owed to the City of Napoleon
4. **Ordinance No. 055-15**, an Ordinance amending Chapter 913 of the Codified Ordinances of the City of Napoleon, Ohio regarding City Sidewalk Policy by adding Section "913.06 Appeals" to allow for an appeal process related to the installation of City sidewalks
5. **Resolution No. 056-15**, a Resolution authorizing the City Finance Director to upgrade finance accounting software with CMI from Finance Client Server to Finance Authority software; authorizing expenditure of funds in excess of \$25,000 and eliminating the necessity of competitive bidding
6. **Ordinance No. 057-15**, an Ordinance amending the allocation of funds as found in Sections 193.11 and 194.013 of the Codified Ordinances of the City of Napoleon, Ohio

H. Second Readings of Ordinances and Resolutions

- 1. Ordinance No. 051-15**, an Ordinance to approve current September 2015 Replacement Pages to the Napoleon Codified Ordinances

I. Third Readings of Ordinances and Resolutions

There are no Third Readings of Ordinances and Resolutions

J. Good of the City *Any other business as may properly come before Council, including but not limited to:*

- 1. Discussion/Action:** Recommendation to approve October Power Supply Cost Adjustment Factor as follows:
PSCAF three (3) month averaged factor: -0.00761
JV2: 0.040095
JV5: 0.040095
- 2. Discussion/Action:** Approval of Plans, Specifications, Documentation and Contracts for the Oberhaus I/I Reduction Project (LTCP Project No. 21A)
- 3. Discussion/Action:** Approval of Change Order No. 11 (Final) for the Scott Street Improvements (PID No. 86846) Project; Miller Bros. Construction Inc.
- 4. Discussion/Action:** Approval of Change Order No. 6 (Final) for the Southside Interceptor I/I Reduction Project (L.T.C.P. Project No. 20A); Vernon Nagel, Inc.
- 5. Discussion/Action:** Approval of Healthcare Cost Committee Recommendation regarding proposed Healthcare Plans for 2016
- 6. Discussion/Action:** BOPA Recommendation to add information on certain billboards regarding the City being a public not for profit utility company

K. Executive Session *(As needed)*

L. 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.)*

M. Adjournment

Gregory J. Heath, Finance Director/Clerk of Council

A. Items Referred or Pending in Committees of Council

1. Technology & Communication Committee (1st Monday)

(Next Regular Meeting: Monday, November 2 @ 6:15 pm)

2. Electric Committee (2nd Monday)

(Next Regular Meeting: Monday, November 9 @ 6:30 pm)

- a. Review of Power Supply Cost Adjustment Factor
- b. Electric Department Report
- c. Rate Levelization Program Review (Tabled)

3. Water, Sewer, Refuse, Recycling & Litter Committee (2nd Monday)

(Next Regular Meeting: Monday, November 9 @ 7:00 pm)

- a. Potential Upgrades to the MIEX Building (Tabled)

4. Municipal Properties, Buildings, Land Use & Economic Development Committee (2nd Monday)

(Next Regular Meeting: Monday, November 9 @ 7:30 pm)

- a. Updated Info from Staff on Economic Development (as needed)

5. Parks & Recreation Committee (3rd Monday)

(Next Regular Meeting: Monday, November 16 @ 6:15 pm)

6. Finance & Budget Committee (4th Monday)

(Next Regular Meeting: Monday, October 26 @ 6:30 pm)

7. 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 (2nd Monday)

(Next Regular Meeting: Monday, November 9 @ 6:30 pm)

- a. Review of Power Supply Cost Adjustment Factor
- b. Electric Department Report
- c. Rate Levelization Program Review (Tabled)

2. Board of Zoning Appeals (2nd Tuesday)

(Next Regular Meeting: Tuesday, November 10 @ 4:30 pm)

3. Planning Commission (2nd Tuesday)

(Next Regular Meeting: Tuesday, November 10 @ 5:00 pm)

4. Tree Commission (3rd Monday)

(Next Regular Meeting: Monday, November 16 @ 6:00 pm)

5. Civil Service Commission (4th 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)

- a. Discussion regarding Loose Field (Tabled)
- b. Dock Storage Fees (Tabled)

7. Privacy Committee (2nd Tuesday in May & November)

(Next Regular Meeting: Tuesday, November 10 @ 10:30 am)

8. Records Commission (2nd 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)

19. Ad Hoc Committee on Leadership Tasks (As needed)

- a. Discussion regarding City Vision Statement, Mission Statement, and Goals (Tabled)

City Council

Meeting Minutes

Monday, October 5, 2015 at 7:00pm

**PRESENT
Council**

**Mayor
City Manager
Law Director
Finance Director/Clerk
of Council
Recorder
City Staff**

Travis Sheaffer – President, Jason Maassel – President Pro Tem, Jeff Comadoll,
John Helberg, Jeffrey Marihugh, Patrick McColley, Christopher Ridley
Ronald A. Behm
Monica S. Irelan
Lisa L. Nagel
Gregory J. Heath

Tammy Fein
Robert Weitzel, Police Chief
Chad Lulfs, Director of Public Works
Chad Moll, Police Department
Jeff Nicely, Police Department
Christine Peddicord, Assistant Finance Director
Shannon Fielder, Income Tax Administrator
Dan Wachtman, MIS Administrator
News Media; NCTV; Dan Baer; Mike DeWit; Lucas Freels

**Others
ABSENT
Council
City Staff**

Call To Order

President Sheaffer called the meeting to order at 7:00pm with the Lord's Prayer followed by the Pledge of Allegiance.

**Swearing In: Lucas
Freels**

Mayor Behm swore in Lucas Freels to the Police Department and administered the Oath of Office.

Approval Of Minutes

Minutes of the September 21 Council meeting stand approved as read with no objections or corrections.

Citizen Communication

None

Committee Reports

The Technology & Communication Committee did not meet on Monday, October 5 due to lack of agenda items.

Chairman Maassel reported that the Finance & Budget Committee met on Monday, September 28 and recommended Council:

1. Review of the Municipal Tax Ordinance
2. Review of Third Quarter Budget Adjustments
3. 2016 Budget Discussions
4. Review of Priority Based Budgeting

The Safety and Human Resources Committee did not meet on Monday, September 28 due to lack of agenda items.

Chairman Sheaffer reported that the Ad Hoc Committee on Leadership Tasks met on Monday, October 5 and discussed:

1. Discussion regarding City Vision Statement, Mission Statement and Goals

Yea- 6
Nay- 0
Abstain - 1

Review Of Municipal Tax Ordinance

Yea- Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer
Nay-
Abstain - Helberg

Heath reported that House Bill 5 has mandated unfunded changes to the current Municipal Income Tax Law; Heath reported that the Finance & Budget Committee unanimously recommended that Nagel draft the proposed Ordinance to adopt Chapter 194 of the Codified Ordinances of the City of Napoleon regarding Municipal Income Tax; this Ordinance was developed by Nagel and former Law Director Hayberger based on Strawman Legislation written by the Ohio Municipal League. Heath explained that timing is a key element in the adoption of this Ordinance; the Ordinance must be adopted no later than January 1, 2016, meaning that the three (3) reads, thirty (30) day rule would require that Council direct the Law Director to draft the Ordinance with the First Read at the October 19 regular meeting of Council. Heath reminded Council that the summary is the best estimate using 2014 collections; adding that the yearly cost and maximum potential lost revenue to the City regarding the changes is approximately \$362,660, adding that some expenses are not reoccurring expenses. Heath reviewed the Income Tax Credit and reminded the Committee that this is one of the last revenue items that Council has control over, adding that the City currently allows one hundred percent (100%) credit on other entities but there is the potential of increasing revenue by lowering this credit. Heath stated that if these changes are implemented in 2016, the revenue would be collected in April 2017. Heath stated that the Ordinance will read a one hundred percent (100%) credit listed with expanded language that would allow for this percentage to be changed. Heath stated that the landlord reporting section that was requested to be added in followed the Perrysburg language, which was not part of House Bill 5.

Motion To Direct The Law Director To Draft Legislation Adopting Chapter 194 of the Codified Ordinances Regarding Income Tax

Motion: McColley Second: Maassel
To direct the Law Director to draft Legislation adopting Chapter 194 of the Codified Ordinances regarding Income Tax

Passed
Yea- 6
Nay- 1

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

Review Of Third Quarter Budget Adjustments

Heath reported that on Monday, September 28, 2015, the Finance and Budget Committee of Council reviewed the proposed 2015 Budget Adjustments with a unanimous recommendation to City Council from the Committee to accept the budget adjustments as presented and direct the Law Director to draft Legislation, including:
Hospitalization Costs increase totaling \$7,010;
Fire & Safety Services overtime totaling \$6,500;
Cemetery Operations overtime totaling \$3,000;
Direct works in the Storm Drainage Cost Center totaling \$10,900;
Heath stated that salaries are directly charged to off funds when working in a different department.
Fire & Safety Services EMS run charges totaling \$4,000;
Additional supplies and materials due to golf course flooding totaling \$10,000;
Additional Pool Operating natural gas, utilities, water and sewer totaling

\$6,100;

Sewer Treatment Plants operations for retirement payout totaling \$31,700; Sanitation and Collection capital purchases totaling \$8,070; and, Sanitation seasonal pickup truck rental totaling \$4,000; the total proposed Third Quarter Budget Adjustments total \$91,280. Ireland clarified that seasonal pickup was added because every garbage truck in the area was recently purchased and now the City is required to rent the trucks.

Heath reported that, 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 that the incorrect Fund and Account were 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.

Heath requested that Council approve the proposed Third 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.

**Motion To Approve
Third Quarter Budget
Adjustments As
Amended And Direct
The Law Director To
Draft Legislation**

Motion: Maassel Second: Ridley
To approve the Third Quarter Budget Adjustments as amended and direct the Law Director to draft appropriate Legislation

Passed
Yea- 7
Nay- 0

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

**Review Of Priority Based
Budgeting**

Ireland explained the concept of Priority Based Budgeting (PBB) adding that it changes focus to service from line item and departments, and that services deemed as high priorities are funded first and spending is within the organizational means. Ireland reported that the internal research began last year, such as defining services and how those services are mandated, adding that the funding will be based on the appropriate tiers. Ireland stated that there will be communication with Council as well as with residents regarding the lower tiers being cut first. Ireland believes moving forward with PBB will take approximately one (1) or two (2) years. Sheaffer stated there has been discussion regarding this at the university as well as other organizations. Marihugh believes this has been mandated at a State level for some states. McColley asked for an estimate on cost; Ireland believes that the estimated 2016 cost will be approximately \$12,000 to \$20,000. McColley asked if this would come from the General Fund; Ireland stated it would begin with the General Fund and move eventually to the Enterprise Fund. Marihugh asked if this decision should be given by the new Council beginning next year; Maassel believes the process should be started now and if the new Council doesn't want to change from the

**Review Of Priority Based
Budgeting
(Continued)**

current process, the funds do not have to be spent for that. Marihugh believes many Staff hours have been spent on this research and does not want more to be spent if PBB will not be chosen; Irelan stated that Staff works hard on many projects that do not come into fruition. Helberg believes this is good information to have either way; Sheaffer agreed, adding that this information from the community may help assign values to efforts. Sheaffer added that businesses do this as well, and believes it to be important; Sheaffer would like to give Irelan direction to allocate budget funds to begin the process to prioritize services. Marihugh believes that the merit is there, but is questioning the timing. Sheaffer believes this is the time to budget the funds for next year, adding that this could be earmarked. Marihugh asked if there is a guarantee that no utility fund will be used in the funding if the research is only for the General Fund; Irelan stated that no Enterprise Fund money will be used as only the General Fund will be focused on. Marihugh asked if this would include a reallocation of salaries to create the true cost of doing business; Sheaffer stated that the reallocation will not take place in 2016, but it may in future years; Irelan stated that Ordinance 105-09 may be read for background, adding that she has previously discussed this with Council.

Behm stated that the Parks & Recreation Department could be used as a pilot study, adding that if PBB cannot be accomplished for the Parks & Recreation Department, then it certainly will not work for the General Fund. Behm believes that the idea should be to take no money from the General Fund and make the Parks & Recreation Department operate on their own funds including utilities, and cutting programs that cannot be funded. McColley believes both the Parks & Recreation Department and the General Fund should both begin with this process. Irelan stated this process has been discussed with Parks Director Cotter; tiers can be created for 2016 as well as communication regarding the bottom tier to be cut; Irelan believes that the Parks & Recreation Department is not at the point to take all the capital from the Parks & Recreation Fund. Behm suggested taking all the capital from the Parks & Recreation Fund now, as he believes that to be the point of the change; Irelan believes the pool will be an option to be cut and Council Chambers will be filled with angry residents. Behm believes Council Chambers will be filled for any cuts and this is a good start to make the changes and cuts that are necessary now. Behm added that he is in favor of PBB, but the City must be determined to follow through with it. Irelan stated that programs must be either within budget or the residents must be willing to be taxed for it. Marihugh stated that he is not in favor of revenue enhancement, and asked how PBB will work since there is a dedicated income tax levy for the Parks & Recreation Department; Irelan stated that Council can decide if Parks & Recreation must work within the levy with no supplemental funds. McColley believes that this will prioritize the General Fund services, adding that levels of service can be identified and optimized. Irelan stated level of service should be at a level where residents are willing to pay for that level. Helberg stated that the Parks & Recreation Department cannot be separate from the General Fund; the original intent was not to have them operate solely on tax levy. Behm asked why the City is considering taking more property if the Parks & Recreation Department cannot operate on their own budget; McColley stated Loose Field is merely a discussion and no property has been accepted; Irelan added that the Parks & Recreation Board reflected the sentiment of Council regarding Loose Field until further discussion; Behm believes there are no negotiations that can be made that will make Loose Field be at no cost to the City; Sheaffer stated if the deed restrictions can be removed, the property could be used for future economic

	development.
Motion To Approve Priority Based Budgeting For Parks & Recreation Department In 2016 And The General Fund In 2017	<p>Motion: McColley Second: Ridley To approve Priority Based Budgeting (PBB) for the Parks & Recreation Department in 2016 and the General Fund in 2017</p>
Passed Yea- 6 Nay- 1	<p>Roll call vote on above motion: Yea- McColley, Comadoll, Ridley, Maassel, Sheaffer, Helberg Nay- Marihugh</p>
Trick Or Treat Night Recommendation	<p>Irelan reported that the Parks & Recreation Board met on Wednesday, September 30 and unanimously recommended to hold Trick or Treat Night on Saturday, October 31 from 6:00pm through 7:30pm.</p>
Motion To Approve Trick Or Treat Night To Be Held Saturday, October 31 From 6:00pm – 7:30pm	<p>Motion: McColley Second: Ridley To approve recommendation to hold Trick or Treat Night on Saturday, October 31 from 6:00pm through 7:30pm</p>
Passed Yea- 7 Nay- 0	<p>Roll call vote on above motion: Yea- Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer, Helberg Nay-</p>
Acceptance Of Memorial Donations To The Fire Department	<p>Heath reported that the City of Napoleon Fire Department has recently received memorial donations in honor of Fire Department personnel totaling three hundred eighty dollars (\$380); if approved, these donations will be paid into the Donations – Fire Revenue Account in the General Fund. Heath requested Council approval to accept these memorial donations in the amount of three hundred eighty dollars (\$380).</p>
Motion To Accept Memorial Donations To The Fire Department	<p>Motion: Comadoll Second: Marihugh To accept memorial donations to the Fire Department</p>
Passed Yea- 7 Nay- 0	<p>Roll call vote on above motion: Yea- Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer, Helberg Nay-</p>
<u>Good Of The City (Cont.)</u> Sheaffer	<p>Sheaffer reported that the City once again earned the Auditor of State Award with Distinction with no findings, citations, or weaknesses; Sheaffer congratulated Heath and his Staff.</p> <p>Sheaffer reminded Council that Wednesday is the employee appreciation picnic.</p> <p>Sheaffer will distribute an email to Council regarding the evaluation forms for the Appointing Authorities for budget discussions.</p> <p>Sheaffer reported that this is Public Power Week; Comadoll added that this is</p>

Behm

Fire Safety Week as well.

Sheaffer reported that the City did retain their AMP seat.

Helberg

Behm stated that the Henry County Water Sewer District meeting is Wednesday, October 7 at 4:00pm, adding that Council should choose their attendants. Ireland added that she received a final draft of the proposal and will research this before the meeting, adding that she believes that Behm should attend as well.

Marihugh

Helberg stated that he has already heard complaints regarding skateboarders in the new Pocket Park area.

Marihugh asked Ireland if the Ford Pierce fire truck is left out at night; Ireland stated yes, this will be sent to auction due to a blown motor, and there is a cost benefit to auction it off rather than to repair it; this will not affect the City Fire Department ISO rating or daily operations.

Marihugh asked if retirees were invited to the employee appreciation picnic; Ireland stated this is for current employees; Marihugh stated he will not be attending.

Marihugh suggested the Funkhouser Motors area at the corner of Main Street and Scott Street be cleaned up.

**Motion To Add
Funkhouser Motors To
The Property Review
List By Staff For Next
Year**

Motion: Marihugh Second: Comadoll
To request Staff research the Funkhouser Motors area and add to the property cleanup list for next year if necessary

**Passed
Yea- 7
Nay- 0**

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

McColley

McColley congratulated Heath and his Staff for earning the Auditor of State Award.

Nagel

None

Ireland

Ireland stated that the recent EPA alga bloom testing found harmful alga bloom in the raw water, however the MIEX treatment skid made it undetectable. Ireland stated that now the raw water is required to be tested once per week until the number is below 0.3, adding that she has communicated this information to all of the satellite customers. Ireland and Water Treatment Plant Superintendent Hoover are asking Council approval to apply for a grant up to \$30,000 to buy testing equipment; the equipment has an estimated cost of \$20,000 - \$24,000.

**Motion To Approve
Grant Application For
Raw Water Testing
Equipment**

Motion: Marihugh Second: Ridley
To approve grant application for raw water testing equipment

Passed

Roll call vote on above motion:

Yea- Marihugh, McColley, Comadoll, Ridley, Maassel, Sheaffer, Helberg
Nay-

Heath

Comadoll

Ridley

Maassel

Motion To Hold Budget Discussions On Friday, November 13 And Saturday, November 14

Motion: Marihugh Second: Maassel
To hold the Budget discussions on Friday, November 13 and Saturday,
November 14

Passed
Yea- 4
Nay- 3

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

Motion To Go Into Executive Session: Economic Development

Motion: Maassel Second: McColley
To go into Executive Session to discuss economic development.

Passed
Yea- 7
Nay- 0

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

Into Executive Session

Council went into Executive Session at 8:14pm.

Motion To Come Out Of Executive Session

Motion: Ridley Second: Marihugh
To come out of Executive Session

Passed
Yea- 7
Nay- 0

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

Out Of Executive Session

Council came out of Executive Session at 8:58pm. President Sheaffer reported that the discussion was regarding economic development and no action was taken.

Approval Of Bills

Bills and financial reports stand approved as presented with no objections.

Motion To Adjourn

Motion: Comadoll Second: Marihugh
To adjourn the meeting.

Passed
Yea- 7
Nay- 0

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

Adjournment

Meeting adjourned at 8:58pm.

Approved:

Travis B. Sheaffer, Council President

Ronald A. Behm, Mayor

Gregory J. Heath, Finance Director/Clerk of Council

ORDINANCE NO. 052-15

**AN ORDINANCE SUPPLEMENTING THE ANNUAL APPROPRIATION
MEASURE (SUPPLEMENT NO. 4) FOR THE YEAR 2015; AND DECLARING
AN EMERGENCY**

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

Section 1. That, the annual appropriation measure passed in Ordinance No. 075-14, Ordinance No. 020-15, Ordinance No. 032-15, and Ordinance 048-15 for the fiscal year ending December 31, 2015 shall be supplemented (Supplement No. 4) as provided in Exhibit "A", attached hereto and made a part hereof.

Section 2. 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 3. 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 4. That, this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health or safety of the City and its inhabitants, and for the further reason that this legislation must be in effect at the earliest possible time because this Ordinance provides for appropriations for the current expenses of the City which are related to public peace, health or safety; therefore, provided it receives the required number of votes for passage as emergency legislation, it shall be in full force and effect immediately upon its passage; otherwise, it shall be in full force and 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. 052-15 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

2015 APPROPRIATION BUDGET - SUPPLEMENTAL BUDGET ADJUSTMENT				
BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY - Revised 09-30-2015				
<u>ORDINANCE No. 052-15, Passed / /2015</u>	==== 2015 3RD QT. QUARTERLY BUDGET ADJ.=====			2015
3RD QT Proposed - 2015 Appropriation Budget	PERSONAL <u>SERVICES</u>	<u>OTHER</u>	<u>TOTAL</u>	FUND <u>TOTAL</u>
100 GENERAL FUND				
1370 City Manager/Human Resources	\$7,010	\$0	\$7,010	
2200 Fire/Safety Services	\$6,500	\$0	\$6,500	
4700 Cemetery/Operations	\$3,000	\$0	\$3,000	
	-----	-----	-----	
Total - 100 General Fund	\$16,510	\$0	\$16,510	\$16,510
	=====	=====	=====	
200 STREET CONSTRUCTION, MAINTENANCE & REPAIR FUND				
5120 Service/Storm Drainage	\$10,900	\$0	\$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	
	-----	-----	-----	
Total - 210 EMS Transport Service Fund	\$0	\$4,000	\$4,000	\$4,000
	=====	=====	=====	
220 RECREATION FUND				
4200 Recreation/Golf Operating	\$0	\$10,000	\$10,000	
4300 Recreation/Pool Operating	\$0	\$6,100	\$6,100	
	-----	-----	-----	
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	
	-----	-----	-----	
Total - 520 Sewer (WWT) Uty. Revenue Fund	\$31,700	\$0	\$31,700	\$31,700
	=====	=====	=====	
560 SANITATION (REFUSE) REVENUE FUND				
6410 Sanitation(Refuse)/SRS-Seasonal Pickup Program	\$0	\$4,000	\$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
	=====	=====	=====	=====

2015 APPROPRIATION BUDGET - SUPPLEMENTAL BUDGET ADJUSTMENT				
BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY - Revised 09-30-2015				
	==== 2015 3RD QT. QUARTERLY BUDGET ADJ.=====			2015
<u>ORDINANCE No. 052-15, Passed / /2015</u>	PERSONAL			FUND
3RD QT Proposed - 2015 Appropriation Budget	<u>SERVICES</u>	<u>OTHER</u>	<u>TOTAL</u>	<u>TOTAL</u>
100 GENERAL FUND				
1370 City Manager/Human Resources	\$7,010	\$0	\$7,010	
- 1370 City Man./Human Resources - Hospitalization Costs, budget for Single, actual was Employee/Child Plan - +\$7,010:				
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 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 - +\$3,000:				
Accounts - 100.4700.51201 Salary-AFSCME-OT	\$3,000			
Total - 100 General Fund	\$16,510	\$0	\$16,510	\$16,510
	=====	=====	=====	
200 STREET CONSTRUCTION, MAINTENANCE & REPAIR FUND				
5120 Service/Storm Drainage	\$10,900	\$0	\$10,900	
- 5120 Service/Storm Drainage - Additional for Direct Work in the Storm Drainage Cost Center, over normal - +\$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	
- 2200 Fire/Safety Services - Additional to cover unbudgeted Refunds on EMS Run Charges - +\$4,000:				
Accounts - 210.2200.59000 Refunds-Miscellaneous		\$4,000		
Total - 210 EMS Transport Service Fund	\$0	\$4,000	\$4,000	\$4,000
	=====	=====	=====	

2015 APPROPRIATION BUDGET - SUPPLEMENTAL BUDGET ADJUSTMENT
BUDGET SUMMARY BY FUND, DEPARTMENT AND CATEGORY - Revised 09-30-2015

<u>ORDINANCE No. 052-15, Passed / /2015</u>	===== 2015 3RD QT. QUARTERLY BUDGET ADJ.=====			2015
3RD QT Proposed - 2015 Appropriation Budget	<u>PERSONAL</u>			<u>FUND</u>
	<u>SERVICES</u>	<u>OTHER</u>	<u>TOTAL</u>	<u>TOTAL</u>
220 RECREATION FUND				
4200 Recreation/Golf Operating	\$0	\$10,000	\$10,000	
- 4200 Recreation/Golf Operating - Additional for Materials and Chemicals due to Golf Course Flooding - +\$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 Natural Gas and Utility-Water & Sewer Account - +\$6,100:				
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 - Additional Salary to cover Retirement 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				
6410 Sanitation(Refuse)/SRS-Seasonal Pickup Program	\$0	\$4,000	\$4,000	
- 6410 Sanitation(Refuse)/SRS Seasonal Pickup - Additional to Cover Truck Rental for Seasonal 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
	=====	=====	=====	=====

ORDINANCE NO. 053-15

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:

Section 1. 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. 053-15 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: _____

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. 053-15 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 053-15

- 194.01 **AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE**
 - 194.011 **AUTHORITY TO LEVY TAX**
 - 194.012 **PURPOSES OF TAX; RATE**
 - 194.013 **ALLOCATION OF FUNDS**
 - 194.014 **STATEMENT OF PROCEDURAL HISTORY; STATE
MANDATED CHANGES TO MUNICIPAL INCOME TAX**
- 194.02 **EFFECTIVE DATE; FISCAL YEAR**
- 194.03 **DEFINITIONS**
- 194.04 **INCOME SUBJECT TO TAX FOR INDIVIDUALS**
 - 194.041 **DETERMINING MUNICIPAL TAXABLE INCOME FOR
INDIVIDUALS; LOSSES**
 - 194.042 **DOMICILE**
 - 194.043 **EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL
ASSEMBLY AND CERTAIN JUDGES**
- 194.05 **COLLECTION AT SOURCE**
 - 194.051 **COLLECTION AT SOURCE; WITHHOLDING FROM WAGES**
 - 194.052 **COLLECTION AT SOURCE; OCCASIONAL ENTRANT**
 - 194.053 **COLLECTION AT SOURCE; CASINO AND VLT**
- 194.06 **INCOME SUBJECT TO NET PROFIT TAX**
 - 194.061 **DETERMINING MUNICIPAL TAXABLE INCOME FOR
TAXPAYERS WHO ARE NOT INDIVIDUALS; LOSSES**
 - 194.062 **NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX;
ALTERNATIVE APPORTIONMENT**
 - 194.063 **CONSOLIDATED FEDERAL INCOME TAX RETURN**
 - 194.064 **TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN
OHIO**
 - 194.065 **TAX CREDITS TO FOSTER JOB RETENTION**
- 194.07 **DECLARATION OF ESTIMATED TAX**
- 194.08 **CREDIT FOR TAX PAID**
 - 194.081 **CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY**
 - 194.082 **REFUNDABLE CREDIT FOR QUALIFYING LOSS**

194.083	CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT
194.084	CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND
194.09	ANNUAL RETURN
194.091	RETURN AND PAYMENT OF TAX
194.092	RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE
194.093	USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED
194.094	EXTENSION OF TIME TO FILE
194.095	AMENDED RETURNS
194.096	REFUNDS
194.10	PENALTY, INTEREST, FEES AND CHARGES
194.11	AUDIT
194.12	ROUNDING
194.13	AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR
194.131	AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR
194.132	AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME
194.133	AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE
194.134	AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION
194.14	CONFIDENTIALITY
194.15	FRAUD
194.16	OPINION OF THE TAX ADMINISTRATOR
194.17	ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY
194.18	LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW
194.19	ACTIONS TO RECOVER; STATUTE OF LIMITATIONS
194.20	ADOPTION OF RULES
194.97	COLLECTION OF TAX AFTER TERMINATION OF CHAPTER
194.98	SAVINGS CLAUSE
194.99	VIOLATIONS – PENALTY

194.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE

194.011 AUTHORITY 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 non-resident 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) Effective January 1, 2014, 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) Effective January 1, 2015 and thereafter, 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

(A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(B) As mandated by H.B. 5, this Municipal Income Tax Ordinance 053-15, effective January 1, 2016, comprehensively adopts Chapter 194 in accordance with the provisions of ORC 718 to allow the City to continue the income tax and withholding tax administration and collection efforts on behalf of the City.

194.02 EFFECTIVE DATE; FISCAL YEAR

(A) Ordinance 053-15, 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 053-15 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 (5%) 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 (50%) 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, former shareholder, member, or former member shall not be allowed as a deduction.

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.

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(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 employer'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 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 pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
- (iii) Division (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.

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(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 notwithstanding 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 of 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.

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 - (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 (50%) of the value of the taxpayer's outstanding stock;
 - (B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty 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)

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:
 - (1) "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 (5) 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 (5) years and may be used against an aggregate net profit for any of these five (5) 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.

(B) (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 (15) 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 to file returns 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 (20) 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 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 (20) 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 (20) 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 (50%) 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, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
 - (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 situated to a municipal corporation as follows:
 - (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in 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 situated 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 situated 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 situated to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be situated 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 situated 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 situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to 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 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 all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(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 situated 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 situated 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 situated 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

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.
 - (c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
 - (d) Taxes withheld by a casino operator or by a lottery sales agent under 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.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes-
 - (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 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.

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

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

(C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to 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:

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

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

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

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

(2) A taxpayer may amend a declaration under rules prescribed by the Tax 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.

(a) For taxpayers who are individuals, or who are not individuals and are 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.

(b) For taxpayers who are not individuals, and are reporting and filing on a 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.

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

194.082 REFUNDABLE 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 three-year 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

194.091 RETURN 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 charged with the care of the 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.

(G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the 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 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 about matters pertaining to the return does not preclude 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 corporation's resolutions, 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 six-months 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 (60) 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.

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

(C) (1) In the case of an overpayment, a request for refund may be filed under this 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 beyond 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.

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

(Source: *ORC 718.12, 718.41*)

194.096 REFUNDS

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

- (1) Overpayments of more than ten dollars;
- (2) Amounts paid erroneously if the refund requested exceeds ten dollars.

(B) (1) Except as otherwise provided in this chapter, returns setting forth a request for 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.

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

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

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

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

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

(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)

- (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 short-term 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.
- (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, the means, facilities and opportunity for making such

examination and investigation as hereby authorized.

(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 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:

(1) 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.

(2) 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-
- (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 (60) 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 (60) 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 (5) 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 (60) days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board 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 (15) 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 (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five 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.

194.201 DUTIES 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, the means, facilities and opportunity for making such examination and investigation as hereby authorized.

(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)

194.204 TAX FOR RECREATION FUND

(A) Purpose. 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) Imposition of Tax. 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) Effective Period. 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) Allocation of Funds. 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) Incorporated by Reference. 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) Applicability. 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) Penalties. 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.

(4) **"SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION,"** means the 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.

194.98 SAVINGS 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)

RESOLUTION NO. 054-15

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WELTMAN, WEINBERG & REIS CO., L.P.A. FOR COLLECTION OF DELINQUENT UTILITY, REFUSE, INCOME TAX, EMS, AND OTHER MISCELLANEOUS ACCOUNTS OWED TO THE CITY OF NAPOLEON

WHEREAS, the City of Napoleon previously contracted with Credit Adjustments, Inc. for collection services for various delinquent accounts; and,

WHEREAS, the City of Napoleon's most recent contract with Credit Adjustments, Inc. terminated in July, 2015; and,

WHEREAS, the City of Napoleon now desires to enter into a contract with the law firm of Weltman, Weinberg & Reis Co., L.P.A. ("Weltman") to allow Weltman to perform the City of Napoleon's collection services; and,

WHEREAS, the contract with Weltman has been reviewed by Council for the City of Napoleon, the Finance Director, the City Manager, and the City Law Director; and

WHEREAS, Council for the City of Napoleon, the Finance Director, the City Manager, and the City Law Director all deem it in the best interest of the City to enter into the aforementioned contract with Weltman.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. That the City Manager is authorized and directed to enter in a contract (Contract 2015-16) for collection services with the law firm of Weltman, Weinberg & Reis Co., L.P.A.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution 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 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 4. That, upon passage, this Resolution 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 Resolution No. 054-15 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

COLLECTION ATTORNEY AGREEMENT

This Agreement is made and entered into between The City of Napoleon, (hereafter collectively referred to as “Client”) with its principal place of business at 255 West Riverview Avenue, PO Box 151, Napoleon, Ohio 43545-0151 and Weltman, Weinberg & Reis Co., L.P.A. (hereafter referred to as “Weltman”), with its principal place of business at 323 W. Lakeside Avenue, Suite 200, Cleveland, Ohio 44113.

RECITALS

WHEREAS, Client is the holder of delinquent accounts, and desires to have Weltman use its best efforts to collect the account balances due; and

WHEREAS, Weltman is a law firm comprised of attorneys and support staff, which enables Weltman to practice law, perform collection activity, and engage in the business of processing, adjudicating and collecting of accounts on clients; and

WHEREAS, Weltman provides collection, legal, probate and bankruptcy representation nationally through its own collection centers and firm attorneys in Ohio, Florida, Kentucky, Indiana, Illinois, Michigan, Pennsylvania and New Jersey (hereafter referred to as “footprint states”) and provides legal representation outside of its footprint states through attorneys it retains and supervises (hereinafter referred to as its “Network Attorneys”).

The parties agree as follows:

ARTICLE I

Account Placement: Client will, from time to time, on a non-exclusive basis, place with Weltman certain accounts for collection and various legal activities. Client warrants that to the best of its knowledge the information on the accounts is correct and that the obligations are properly due and owing.

Account Documentation: Client will timely provide Weltman with the documentation required by Weltman to support the account conveyed in a manner mutually acceptable to both parties.

Account Handling Procedure: Weltman agrees to undertake such collection activity in connection with such accounts and to use due diligence and employ lawful and ethical means, methods, and procedures as in Weltman’s judgment, discretion and experience it believes will best effect the efficient collection of such accounts. If Client has not provided work standards, Weltman will work the accounts pursuant to its own work standards. Weltman will not engage in any unethical or unauthorized practice in violation of any state or federal law.

Unless otherwise provided in Client’s work standards, Weltman may institute legal action as appropriate with Client authorization and proceed to execute on any judgments obtained. Weltman has full authority to perform all legal acts deemed necessary by Weltman to collect and adjudicate the accounts. Weltman will not list any Client account with Credit Bureaus.

COLLECTION ATTORNEY AGREEMENT

Client shall take no further action on its own or through agents or other agencies to collect the claim, presently assigned to Weltman. If Client does collect any claim assigned to Weltman, whether through its own effort, or, through the actions of someone other than Weltman, Weltman is still entitled to the commission described herein.

Weltman agrees not to settle or compromise any account by accepting any amount that is less than 100% of the full balance due on any account, unless specifically authorized in writing to do so by Client. All settlements must clearly specify, in writing, that the settlement is on Attorney's assigned accounts only, unless otherwise directed by the designated Client representative.

ARTICLE II

Fees and Payment of Costs and Expenses For *Contingent Fee Representation*: The fees to be paid by Client to Weltman in return for collection and general litigation services rendered by Weltman to Client shall be a 30% contingency rate on recoveries of all sums after reimbursement of costs as set forth in this agreement. In the event an account requires legal action outside of its footprint states and Weltman is authorized by the Client to forward the account to one of its Network Attorneys, the contingent fee shall be increased by 10%.

The contingency fee rates apply to any attorney fees that are awarded. The fee basis shall be designated at the time of account referral and if no fee basis is identified, it shall be considered to have been referred to Weltman on a contingency fee basis.

If legal action is requested and approved to be filed, Client will advance the sum of necessary to file legal action (hereafter referred to as the established level), which sum will be used as a Court Costs Reserve ("Reserve"). As necessary, sums will be withdrawn from the Reserve to cover necessary court costs. If there are not sufficient funds in the reserve to proceed with the appropriate legal action, Client will be advised of the amount to be advanced by Client and the action will not be filed until the cost advance is received from Client. Weltman will not take a contingency fee on recovered court costs. When an account is closed, all court costs in Reserve for that account will be refunded to Client.

All sums collected by Weltman less the deductions authorized below shall be forwarded to Client within 30 days of receipt, except non-cash equivalents which will be held in trust for 10 days. Weltman shall pay Client by check, wire transfer or other electronic means agreed upon by the parties. All payments collected by Weltman or paid direct to client by account debtor will be applied in the following sequence: court costs, advanced by Weltman or Client, interest due if applicable, principal balance, and other charges if applicable.

Weltman will remit to Client on a net basis, the funds collected less deductions for funds needed to replenish the Reserve to its established level, Weltman's contingent fees, litigation expenses, copying costs charged by the court for documents and other authorized expenses from funds recovered during a remittance period on all accounts under the same Client number. Client will promptly report within 10 days of receipt to Weltman any payments it directly receives on accounts that have been referred to Weltman, other than those payments from Weltman. Weltman will deduct the commissions due on those payments from the next remittance.

COLLECTION ATTORNEY AGREEMENT

Client will be invoiced for all commissions, and other authorized expenses in excess of net recoveries during a remittance period. Client shall pay Weltman by check, wire transfer or other electronic means agreed upon by the parties for all commission, fees, costs, and litigation related expenses, copying costs charged by the court for documents advanced by Weltman within 30 days of the date of the billing from Weltman. If any invoice is not paid in full within the 30-day period, Client will provide an explanation as to any specific items that are not being paid in full. All invoices not paid in full within 30 days or for which an explanation acceptable to Weltman is not provided with regard to any unpaid amount, will be past due. Weltman is authorized to offset the past due amounts against future remittances. Additionally, Weltman is entitled to charge interest on balances past due up to the maximum allowable rate effective at the time. Interest charges, if applicable, will be included in the subsequent settlement/invoice statements until such time as past due balances are satisfied.

On a closed account on which Weltman filed a lien on real property, Weltman will be entitled to its fee under this agreement if there is a payment as a result of the lien to the extent Client is still the owner of the account or Client is itself entitled to a fee on the payment.

Rates & Payment of Costs and Expenses For *Hourly Fee and Fixed Fee*

Representation: On matters referred on an hourly fee basis, Client will pay Weltman the hourly rates stated herein. Client will also be responsible for all court costs expended, litigation expenses, copying costs charged by the court for documents and other authorized expenses.

Hourly Rates:

- Partner \$350
- Associate \$275
- Legal Assistant \$175

Select accounts may also be referred on a flat fee basis, at a rate of \$100.00, for which Weltman shall generate one demand letter per debtor referral, irrespective of claims included per referral. For services rendered by Network Attorneys, rates will vary from state to state, and Client will approve the proposed rate prior to proceeding.

“Costs” shall include but not be limited to sheriff’s fees, private process service fees, court filing fees, motion fees, garnishment fees, abstract, and executions. “Litigation Expenses” shall include but not be limited to court reporter fees, deposition costs and other fees necessary to complete the requested services.

ARTICLE III

General Provisions: Weltman has authority to endorse any checks and/or money orders payable to Client on Client’s behalf. Said checks and/or money orders will be deposited into its trust account and remitted to Client in accordance with this agreement.

Client will refer to Weltman any correspondence or documentation it receives on an account assigned to Weltman. Client will not accept settlement or payment terms on any

COLLECTION ATTORNEY AGREEMENT

accounts that have been referred to Weltman without input from Weltman as to the status of the account and potential collectibility.

Weltman reserves the right to adjust rates and fees on an annual basis. Any changes must be mutually agreed to in advance by the parties.

ARTICLE IV

Counterclaims: Should a counterclaim be received, Weltman will notify Client and seek further instructions before proceeding with the case, except that Weltman shall in all events protect Client's interests by responding to any counterclaim in a timely manner.

Should Client choose to have Weltman continue representation, and should Weltman agree to continue representation, it shall be on an hourly basis, and will be billed at the rates set forth herein for hourly fees. Weltman is authorized to undertake any work necessary to protect the response date at the hourly rates presented herein.

Indemnification of Client. Weltman shall defend, indemnify, and hold harmless Client and its respective employees, agents and representatives against any and all liabilities, judgments, damages, claims, demands, costs, expenses or losses (including reasonable attorney's fees) arising out of any action, inaction, or omission by Weltman, its employees, agents, or representatives, under this agreement, including failure to comply with applicable laws or regulations.

Indemnification of Weltman. Client shall defend, indemnify, and hold harmless Weltman and its respective employees, agents and representatives against any and all liabilities, judgments, damages, claims, demands, costs, expenses or losses (including reasonable attorney's fees) arising out of any action, inaction, or omission by Client, its employees, agents or representatives, under this agreement, including failure to comply with applicable laws or regulations.

ARTICLE V

Account Status Change: In the event that Weltman or Client learns that an account debtor has filed a Bankruptcy Petition with the United States Bankruptcy Court or has sought relief from creditors under any State law or is deceased or the account is included in a foreclosure action, Weltman shall continue its representation under the contingent fee set forth herein or hourly for matters that were being handled on an hourly basis. Probate accounts will be handled at a 30% contingency fee. Should any matter require more than the routine filing of a claim, Weltman will confer with Client to determine if further representation should be undertaken on an hourly basis.

In the event that Weltman learns that the Statute of Limitations has expired, Weltman shall close and return said account to Client.

COLLECTION ATTORNEY AGREEMENT

ARTICLE VI

Reporting Requirements: Client and Weltman will agree on the method and level of reporting on the accounts including the documentation to be provided by Weltman. If there is a change required in the method or level of reporting, adequate notice will be provided to Weltman before it is required to institute the change.

Should Client require specialized/custom reporting, Weltman will estimate the effort required to deliver it and will submit to Client before proceeding. Only after Client's approval for custom development is obtained will Weltman begin the required effort. After confirmation of acceptance by Client, all custom report development will be invoiced at a rate of \$75.00/hour on the next available settlement/invoice.

Audits: Client has the right to conduct audits, however the time, location and scope of any audit is to be mutually agreed upon by both Client and Weltman. The audits will be based on the work standards contained in this agreement and otherwise communicated to Weltman by Client. Weltman will be provided with a copy of the completed audit and, upon receipt, will provide a response to the audit within the time period requested.

ARTICLE VII

Recall: Client may, in its sole discretion, recall any individual account from Weltman at any time. However, Client will not recall any account without good cause where a promise to pay has been established under which the debtor has not defaulted or a garnishment proceeding has been filed and is still active.

Termination: This agreement may be terminated at anytime by either party for any reason upon thirty (30) days written notice to the other party. Any notice of termination will be addressed as follows:

Weltman, Weinberg & Reis Co., LPA
323 W. Lakeside Avenue, Suite 200
Cleveland, OH 44113
Attn: Scott Weltman

City of Napoleon
255 West Riverview Avenue
Napoleon, Ohio 43545-0151
Attn: _____

Upon said termination, Client will pay any fees, costs, and litigation expenses due in addition to the fees on three (3) months of any payment plans then in effect on those accounts as a buyout. Weltman is authorized to offset any amounts owed against funds it has of Client and invoice any amounts not offset.

Sale of Accounts: Should Client desire to recall multiple accounts or terminate this agreement in order to sell any accounts that it has forwarded to Weltman, the relationship between Weltman and the purchaser shall be expressly stated in the purchase and sale agreement and the purchaser will be bound by the terms of the agreement between Client and Weltman. Client will provide timely written notice as provided herein to Weltman of the sale with all pertinent information as to the Purchaser. Any such transfer shall not result in termination of

COLLECTION ATTORNEY AGREEMENT

Client's obligation to pay all of its obligations under this agreement through the Date of Sale or the date written notice is received by Weltman, whichever is later. If Client does not require that the Purchaser be bound by the terms of this agreement, Client will pay Weltman any fees, costs, and litigation expenses due in addition to an amount equal to the average of the fees on the accounts recalled for the 3 months prior to recall or termination as compensation for services rendered. Weltman is authorized to offset this amount against any funds it has of Client and invoice any amounts not offset. Weltman will convey directly to the purchaser all monies collected after 10 business days from the Date of Sale, or the date written notice is received by Weltman, whichever is later.

ARTICLE VIII

Confidentiality: Weltman agrees that all information communicated by Client whether before or after the date hereof, shall be and was received in strict confidence, and shall be used only for the purposes of this agreement or as contemplated by this agreement, and that no confidential information shall be disclosed by Weltman without the prior written consent of Client, except as may be necessary, because of legal, accounting or regulatory requirements beyond the control of Weltman. Upon any such event Weltman shall promptly notify Client.

ARTICLE IX

Relationship: The relationship between Weltman and Client is that of independent contractor/contractee. This agreement is not assignable, delegable or transferable except that Weltman may use the services of third party vendors and other counsel as may be required to carry out its representation hereunder and except where Client is required to convey this agreement to a purchaser of accounts until such time as Weltman may become formally engaged with purchaser under a separate agreement.

ARTICLE X

Entire Agreement: This instrument contains the entire agreement of the parties. It may not be changed orally but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or extension is sought.

ARTICLE XI

Non Exclusive: Weltman and Client acknowledge that this is a non-exclusive agreement and that Weltman may handle accounts other than those contemplated by this agreement, unless a conflict of interest exists.

ARTICLE XII

Applicable Law: This agreement shall be interpreted in accordance with the laws of the State of Ohio and any jurisdiction to resolve any disputes will be in Ohio. Any invalidity, in whole or in part, of any provision of this agreement, shall not affect the validity of any other provision of this agreement unless said invalid part makes it not feasible for either party to continue with the agreement.

COLLECTION ATTORNEY AGREEMENT

Commencement Date: This agreement shall commence on the date of execution by both parties.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed and do each hereby warrant and represent that their respective signatory, whose signature appears below, has been and is on the date of this agreement, duly authorized by all necessary and appropriate action to execute this agreement.

Executed this day of _____ 2015

Executed this day of _____ 201.

The City of Napoleon

Weltman, Weinberg & Reis Co., LPA

By: _____
(print name) _____
(title) _____
255 West Riverview Avenue
PO Box 151
Napoleon, Ohio 43545-0151

By: _____
Scott S. Weltman
Managing Shareholder
323 W. Lakeside Avenue, Suite 200
Cleveland, OH 44113

ORDINANCE NO. 055-15

AN ORDINANCE AMENDING CHAPTER 913 OF THE CODIFIED ORDINANCES OF THE CITY OF NAPOLEON, OHIO REGARDING CITY SIDEWALK POLICY BY ADDING SECTION “913.06 APPEALS” TO ALLOW FOR AN APPEAL PROCESS RELATED TO THE INSTALLATION OF CITY SIDEWALKS

WHEREAS, Council for the City of Napoleon previously enacted Ordinance No. 111-02, now codified as Chapter 913 of the Codified Ordinances of the City of Napoleon, Ohio, related to the construction, reconstruction, repair, and replacement of sidewalks, driveways, and abutting improvements thereto; and,

WHEREAS, the Municipal Properties, Buildings, Land Use, and Economic Development Committee, and Council for the City of Napoleon, have previously met and discussed, on several occasions during 2015, the City’s current sidewalk installation policy; and

WHEREAS, Council for the City of Napoleon now desires to implement an appeals process whereby a citizen who is mandated to comply with Chapter 913 of the Codified Ordinances of the City of Napoleon, Ohio by installing a new sidewalk at that citizen’s property location, may, prior to installing the new sidewalk, pursue an appeals process related to the sidewalk installation mandate found in Chapter 913 of the Codified Ordinances of the City of Napoleon, Ohio;

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

Section 1. (a) As part of any City construction or reconstruction project, new sidewalk installation remains the financial burden and responsibility of the property owner as provided in Chapter 913 of the Codified Ordinances of the City of Napoleon, Ohio; (b) Said new sidewalk installation must encompass the entire length of the parcel of property, unless otherwise determined or decided by the City Engineer; and (c) Said new sidewalk must be completely installed (pursuant to the requirements found in all relevant Sections in Chapter 913) no later than twelve (12) months following completion of the construction project;

Section 2. The aforementioned appeals process related to the sidewalk installation mandate found in Chapter 913 of the Codified Ordinances of the City of Napoleon, Ohio, shall follow the following rules, and shall otherwise be heard by the City, in the following manner:

(a) If a property owner wishes to challenge the new sidewalk installation mandate on his/her property, then that property owner shall notify the City Engineer in writing, either by hand delivery, or by regular U.S. Mail, to the City of Napoleon, P.O. Box 151, 255 W. Riverview Ave., Napoleon, OH 43545 (the “Appeal”), no later than 90 days following completion of the construction project.

(b) The City Engineer shall then provide a written response to the Appeal. The City Engineer’s written response shall be either hand delivered, or mailed by regular U.S. Mail, to the property owner’s address of record, no later than 15 days following receipt of the Appeal. No hearing will be held.

(c) If the property owner wishes to appeal the City Engineer’s written response, then the property owner shall notify the City Manager in writing, either by hand delivery, or by regular

U.S. Mail, to the City of Napoleon, P.O. Box 151, 255 W. Riverview Ave., Napoleon, OH 43545, no later than 30 days following receipt of the City Engineer's written response.

(d) The City Manager shall then provide a written response to the Appeal. The City Manager's written response shall be either hand delivered, or mailed by regular U.S. Mail, to the property owner's address of record, no later than 15 days following receipt of the Appeal. No hearing will be held.

(e) If the property owner wishes to appeal the City Manager's decision, then the property owner shall notify the Clerk of Council in writing, either by hand delivery, or by regular U.S. Mail, to the City of Napoleon, P.O. Box 151, 255 W. Riverview Ave., Napoleon, OH 43545, no later than 30 days following receipt of the City Manager's written response. Upon timely receipt of said notification, the full body of Council for the City of Napoleon shall hear and decide said Appeal at the next regularly scheduled City Council Meeting, or at another later scheduled Council Meeting as deemed necessary by Council or the City Manager. Council shall only overturn the City Manager's decision if a majority of Council Members determine, and vote accordingly, that the City Manager's decision was arbitrary and capricious. If a majority of Council Members do not find the City Manager's decision to be arbitrary and capricious, then the City Manager's decision will stand as final. Council's decision will be considered a final order.

(f) The 12-month installation deadline, as stated in Section 1 above, remains in full force and effect at all times, and shall not be extended due to the filing of an appeal.

(g) A filing fee, as established by the City, and as may be amended from time to time, will be charged for all appeals related to the sidewalk policy; however, this fee will be returned to the appealing party if he/she prevails.

Section 3. That the aforementioned language contained in Section 2, shall be added to Chapter 913, "Construction and Repair," of the Codified Ordinances of the City of Napoleon, Ohio as Section 913.06. Said Section 913.06 shall be titled "Appeal."

Section 4. That the remainder of Chapter 913 in the Codified Ordinances, namely Sections 913.01, 913.02, 913.03, 913.04, 913.05, and 913.99, as existed prior to the enactment of this Ordinance 055-15, remains enacted, lawful, and effective.

Section 5. 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 6. 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 7. 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. 055-15 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

RESOLUTION NO. 056-15

**A RESOLUTION AUTHORIZING THE CITY FINANCE
DIRECTOR TO UPGRADE FINANCE ACCOUNTING
SOFTWARE WITH CMI FROM FINANCE CLIENT SERVER TO
FINANCE AUTHORITY SOFTWARE; AUTHORIZING
EXPENDITURE OF FUNDS IN EXCESS OF \$25,000 AND
ELIMINATING THE NECESSITY OF COMPETITIVE BIDDING**

WHEREAS, CMI is and has been the software provider to the City's Finance Department as it relates to finance accounting; and,

WHEREAS, CMI has offered the City an upgrade to the finance accounting software with CMI from a finance client server to finance authority software; and

WHEREAS, this matter has been reviewed and recommended for approval by the City's Finance and Budget Committee of Council in the 2015 Budget Approval; Now Therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON,
OHIO:**

Section 1. That, the City Finance Director is granted the authority to upgrade from a finance client server to finance authority software under the terms and conditions as presented by CMI (Contract No. 2015-15), such terms and conditions having been reviewed by this Council; moreover, the City Finance Director shall be the executing officer of the said contract.

Section 2. That, the expenditure of funds in excess of \$25,000.00 is hereby approved as a necessary and proper expenditure for such software.

Section 3. That, the necessity of competitive bidding is hereby eliminated in the best interest of the City.

Section 4. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Resolution 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 Resolution, then the provisions of this Resolution shall prevail. Further, if any portion of this Resolution is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Resolution or any part thereof.

Section 6. That, upon passage, this Resolution 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 Resolution No. 056-15 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



CREATIVE MICROSYSTEMS, INC.
52 Hillside Court
Englewood, OH 45322
Tel: (800) 686-9313
Fax: (937) 836-1036
Email: sales@CivicaCMI.com

REPRESENTATIVE	ORDER #	2740091815
Mark VanHoose	DATE	September 29, 2015
800-686-9313	<i>Pricing Valid Through December 31, 2015</i>	
CUSTOMER	CUSTOMER #	2740
City of Napoleon 255 West Riverview Avenue Napoleon, OH 43545	CONTACT:	Greg Heath
	TELEPHONE:	419-599-1235
	EMAIL:	gheath@napoleonohio.com
Software		
License Fees Upgrade	\$ 28,427	
Implementation & Training	Included	
Total		\$ 28,247
Hardware & Managed Services		
Hardware – Virtual	\$ Existing	
Microsoft SQL Server Standard	\$ Third Party	
Managed Services	\$ Existing	
		\$ 0
Total Year 1 Project Costs		\$ 28,427
CIVICA CMI Standard Terms and Conditions Apply Payment Terms: 100% Due Upon Invoice		
Our mutual signatures make this a binding contractual agreement. Please mail, fax or email signature pages to CIVICA CMI. Our fax # is 937-836-1036 and the email address is sales@CivicaCMI.com .		
FOR CITY OF NAPOLEON:		FOR CIVICA CMI:
_____	_____	
Contract Signer Name	Mark R. Jordan, Managing Director/CEO	
_____	_____	
Date	Date	
_____	_____	
Purchase Order Number	Amount	

Civica CMI Authority Upgrade Cost

Software	License Fee for Upgrade Application (A)	Implementation & Training	2015 Client/Server Annual Fees (B)	2016 Authority Annual Fees (C)
Authority Finance	28,427	Included	\$5,196	\$5,975
Total	\$28,427	Included	5,196	\$5,975

Third Party Software

Software	License Fee	Implementation & Training	Year One Annual Fee	Est. Year Two Annual Fee
Microsoft SQL Server 2012 Standard (D)	Customer Provided	N/A	--	--
Total	Customer Provided	N/A	--	--

Civica CMI Software Cost Summary

Software	Cost
License Fees Authority Upgrades	\$28,427
License Fees 3 rd Party Software	Customer Provided
Total Software	\$28,427

Please see software footnotes on the following page

- | | |
|----------|--|
| A | These license fees are required for the new Authority software. Project implementation services and on-site training services are included in these fees and are required for successful implementation of the software. |
| B | Annual fees are required for all CIVICA CMI software and provide for annual renewal of the software license and software updates. The annual fees also include remote technical software support and updates 8:00 AM to 5:00 PM Monday through Friday EST, except on scheduled CIVICA CMI Holidays. |
| C | The Authority software fees listed will be pro-rated upon installation and credits given for 2015 fees paid at the Client/Server rates. |
| D | <p>Microsoft SQL Server Standard provides the database platform required for CIVICA CMI Authority applications.</p> <p>Compatible Editions:</p> <ul style="list-style-type: none">> Microsoft SQL Server 2008 R2 Standard> Microsoft SQL Server 2012 Standard <p>Customer is responsible for providing and installing a compatible version of Microsoft SQL Server Standard prior to implementation of Authority Finance.</p> |



Hardware & Managed Services Cost Schedule 2

Hardware & Managed Services

#	Description	Note	Quantity	Price	Extended Price
1	CIVICA CMI Application Server	A	1	Existing	Existing
2	UPS APC Smart-UPS VA Tower (Backup Battery)		1	Existing	Existing
3	Remote Technical Services		-	N/A	N/A
4	jBASE Database Transition for Concurrent Users	B	35	N/A	N/A
Subtotal Hardware					\$0
5	Remote System Access for CIVICA CMI	C	1	3 rd Party	3 rd Party
6	Authority Server	D	1	\$1,200	Existing
7	System Restore Support	E	1	\$1,050	Existing
Subtotal Managed Services					\$0
Total					\$0

Please see hardware & managed services footnotes on the following page

A	Recommended Specifications:																
	<table> <tr> <td>Operating System</td><td>Windows Server 2008 R2 Standard or 2012 Standard edition.</td></tr> <tr> <td>Processor</td><td>Intel Xeon 2.0GHz Quad Core</td></tr> <tr> <td>Memory Capacity</td><td>32GB</td></tr> <tr> <td>Hard Drives</td><td>(2) 2TB</td></tr> <tr> <td>RAID Configuration</td><td>RAID 1</td></tr> <tr> <td>Removable Storage</td><td>LTO-5 Tape Drives or External Device (with backup software)</td></tr> <tr> <td>Data Platform</td><td>jBASE (required for CIVICA CMI Client/Server applications) Microsoft SQL Server 2008 R2 Standard or Microsoft SQL Server 2012 Standard (required for CIVICA CMI Authority applications)</td></tr> <tr> <td>Manufacturer's Warranty</td><td>Standard Manufacturer's Warranty</td></tr> </table>	Operating System	Windows Server 2008 R2 Standard or 2012 Standard edition.	Processor	Intel Xeon 2.0GHz Quad Core	Memory Capacity	32GB	Hard Drives	(2) 2TB	RAID Configuration	RAID 1	Removable Storage	LTO-5 Tape Drives or External Device (with backup software)	Data Platform	jBASE (required for CIVICA CMI Client/Server applications) Microsoft SQL Server 2008 R2 Standard or Microsoft SQL Server 2012 Standard (required for CIVICA CMI Authority applications)	Manufacturer's Warranty	Standard Manufacturer's Warranty
Operating System	Windows Server 2008 R2 Standard or 2012 Standard edition.																
Processor	Intel Xeon 2.0GHz Quad Core																
Memory Capacity	32GB																
Hard Drives	(2) 2TB																
RAID Configuration	RAID 1																
Removable Storage	LTO-5 Tape Drives or External Device (with backup software)																
Data Platform	jBASE (required for CIVICA CMI Client/Server applications) Microsoft SQL Server 2008 R2 Standard or Microsoft SQL Server 2012 Standard (required for CIVICA CMI Authority applications)																
Manufacturer's Warranty	Standard Manufacturer's Warranty																
B	The jBASE database is required to run the existing CIVICA CMI Client/Server applications on the existing server. Once the client goes live with the Authority versions of all CIVICA CMI applications, jBASE will no longer be required and pro-rated credits for annual fees will be applied.																
C	Internet access to the host machine via VPN and/or RDP connectivity for CIVICA CMI is required. If the client is unable to provide remote access, CIVICA CMI offers a secure VPN service that can be installed for an annual fee that has not been included in this proposal.																
D	<p>Authority Server provides for help desk support for the host machine, including problem analysis, preliminary diagnostic support and troubleshooting, as well as help desk support for the network infrastructure that supports the hardware system used to run the CIVICA CMI software and LAN (Local Area Network) configuration and troubleshooting. In addition, the pro-active, comprehensive support includes:</p> <ul style="list-style-type: none"> > CIVICA CMI services needed because of viruses and/or spyware > Installation of virus/spyware protection software should the customer not already have up-to-date protection software installed > Assistance with installation of new devices/software/components > Systems and network monitoring > Backup monitoring > Backup and restore management of files > Low disk space alerts, as well as numerous other system alerts > Patch management > Defrag and temp file cleanup > Status reports upon request <p>The customer has this service contracted through December 31, 2015.</p>																
E	<p>The System Restore Support (SRS) annual support coverage provides for the following on-site or remote services by CIVICA CMI during its normal business hours (Monday through Friday, 8:00AM to 5:00PM):</p> <ul style="list-style-type: none"> > Re-installations and re-configuration services prompted by hardware failures. > Reloads of operating systems and data prompted by hardware failures of server components. <p>The customer has this service contracted through December 31, 2015.</p>																

ORDINANCE NO. 057-15

**AN ORDINANCE AMENDING THE ALLOCATION OF FUNDS AS
FOUND IN SECTIONS 193.11 AND 194.013 OF THE CODIFIED
ORDINANCES OF THE CITY OF NAPOLEON, OHIO**

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NAPOLEON,
OHIO:**

Section 1. That, Section 193.11 of the Codified Ordinances of Napoleon, Ohio, shall be amended and enacted as follows:

“193.11 ALLOCATION OF FUNDS.

(a) Effective January 1, 2016, 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) Effective January 1, 2017 and thereafter, 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.”

Section 2. That, Section 193.11 of the Codified Ordinances of Napoleon, Ohio, as existed prior to the enactment of this Ordinance, is repealed effective December 31, 2015 at 11:59 PM.

Section 3. That, Section 194.013 of the Codified Ordinances of Napoleon, Ohio, shall be amended and enacted as follows:

“194.013 ALLOCATION OF FUNDS.

(A) Effective January 1, 2016, 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) Effective January 1, 2017 and thereafter, 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.”

Section 4. That, Section 194.013 of the Codified Ordinances of Napoleon, Ohio, as existed prior to the enactment of this Ordinance, is repealed effective December 31, 2015 at 11:59 PM.

Section 5. 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 6. 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 7. That, 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. 057 -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

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.

Traffic Code

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)

General Offenses Code

501.07	Requirements For Criminal Liability. (Amended)
501.08	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 _____, _____; & 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, City Finance Director
Date: October 19, 2015
Subject: Oberhaus Interceptor I/I Reduction Project
(L.T.C.P. Project No. 21A) – Approval of Plans & Specifications

The City of Napoleon's Department of Public Works requests approval of the plans and specifications for the above referenced project. This project consists of: lining/pipe bursting/replacing the existing Oberhaus Interceptor Sewer from Woodlawn Avenue to Scott Street and reinstating all sanitary services.

Engineer's Estimate of Construction: \$465,000.00.

Budgeted amount for this project (Including Engineering Design): \$675,000.00.

There is an O.P.W.C. Grant attached to this project. The maximum amount for the grant is 48% or \$325,000.00, whichever is less.

CEL



City of Napoleon, Ohio

Department of Public Works

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Napoleon, OH 43545

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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: October 19, 2015
Subject: PID 86846 Scott Street Improvements
Change Order No. 11 – Final

The above referenced project has been completed and final quantities have been tabulated. Change Order No. 11 – Final is -\$217,939.62. The large decrease is due to non-performed items. The actual price difference is -\$25,914.90. The final project cost is \$2,999,834.48. I request Council approve Change Order No. 11 – Final to allow us to close out this project.

CEL

CHANGE ORDER

No. 11 (FINAL)

PROJECT

Scott Street Improvements
PID NO. 86846

DATE OF ISSUANCE

September 18, 2015

OWNER

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

CONTRACTOR

Miller Bros. Const., Inc.
P.O. Box 30
Archbold, OH 43502

ENGINEER

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

CONTRACT FOR: Scott Street Improvements (PID No. 86846)

You are hereby directed to proceed promptly with the following change(s):

DESCRIPTION: Work Completed, Final Adjustment of Quantities

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

CONTRACT PRICE

- ☒ Time and Materials
☐ Unit Prices
☐ Cost Plus Fixed Fee
☐ Other

CONTRACT PRICE

Estimated ~~Increase~~/Decrease: (\$217,939.62)

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

Recommended

CITY of NAPOLEON

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

Authorized

Monica Irelan, City Manager

Method of Determining Change In

CONTRACT TIME

- ☐ Contractor's Records
☐ Engineer's Records
☐ Other

CONTRACT COMPLETION DATE

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

Accepted

MILLER BROS. CONST., INC.

Contractor

by: _____

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

\$3,217,774.10
-\$217,939.62
\$2,999,834.48

FINAL CHANGE ORDER

NAME of PROJECT - Scott Street Improvements - PID No. 86846
CONTRACTOR - Miller Bros. Const., Inc.

ITEM	DESCRIPTION	ESTIMATED QUANTITY	ACTUAL QUANTITY	QUANTITY DIFF.	UNIT	UNIT PRICE	AMOUNT DECREASE	AMOUNT INCREASE
ROADWAY CONSTRUCTION								
1	Clearing and Grubbing, As Per Plan	1.00	1.00	0.00	LUMP	\$26,500.00		
2	Pavement Removed	13,103.00	13,293.77	190.77	SQ YD	\$4.50		\$858.47
3	Pavement Removed, Asphalt	11,267.00	0.00		SQ YD	\$0.00		
4	Walk Removed	20,919.00	21,347.94	428.94	SQ FT	\$0.45		\$193.02
5	Curb and Gutter Removed	1,675.00	1,687.00	12.00	FT	\$1.35		\$16.20
6	Curb Removed	3,533.00	3,586.00	53.00	FT	\$0.80		\$42.40
7	Embankment	298.00	298.00	0.00	CU YD	\$10.00		
8	Excavation	1,915.00	1,915.00	0.00	CU YD	\$22.00		
9	Subgrade Compaction	15,904.00	4,820.00	-11,084.00	SQ YD	\$0.10	(1,108.40)	
10	Geotextile Fabric, As Per Plan	14,812.00	4,320.00	-10,492.00	SQ YD	\$0.85	(8,918.20)	
11	Pavement Planing, Asphalt Concrete	405.00	0.00	-405.00	SQ YD	\$4.85	(1,964.25)	
12	Aggregate Base	2,530.00	2,548.50	18.50	CU YD	\$34.00		\$629.00
13	Granular Material, Type C	6,031.00	14.67	-6,016.33	CU YD	\$18.00	(108,293.94)	
14	Excavation of Subgrade	6,031.00	14.67	-6,016.33	CU YD	\$5.00	(30,081.65)	
15	Traffic Compacted Surface, Type A or B	212.00	72.22	-139.78	CU YD	\$52.00	(7,268.56)	
16	Prime Coat	4,139.00	0.00	-4,139.00	GAL	\$2.75	(11,382.25)	
17	Tack Coat	933.00	783.00	-150.00	GAL	\$2.00	(300.00)	
18	Tack Coat for Intermediate Course	498.00	843.46	345.46	GAL	\$2.00		\$690.92
19	Asphalt Concrete Base, PG64-22	2,546.00	2,246.84	-299.16	CU YD	\$115.00	(34,403.40)	
20	Asphalt Concrete Surface Course, 9.5 MM, Type A (448)	488.00	550.88	62.88	CU YD	\$180.00		\$11,318.40
21	Asphalt Concrete Intermediate Course, 19 MM, Type A (448), As Per Plan	571.00	577.67	6.67	CU YD	\$165.00		\$1,100.55
29	Asphalt Concrete Intermediate Course, Type 2, PG64-22	27.00	27.00	0.00	CU YD	\$200.00		
23	Asphalt Concrete Surface Course, Type 1, PG64-22	30.00	30.00	0.00	CU YD	\$200.00		
24	4" Concrete Walk	22,095.00	19,966.05	-2,128.95	SQ FT	\$3.60	(7,664.22)	
25	6" Concrete Walk	2,182.00	3,880.37	1,698.37	SQ FT	\$4.15		\$7,048.24
26	4" Concrete Walk, As Per Plan	312.00	0.00	-312.00	SQ FT	\$5.00	(1,560.00)	
27	8" Concrete Walk	2,587.00	549.81	-2,037.19	SQ FT	\$5.00	(10,185.95)	
28	Curb Ramp	32.00	31.00	-1.00	EA	\$255.00	(255.00)	
29	6" Non-Reinforced Concrete Pavement	421.00	540.83	119.83	SQ YD	\$28.00		\$3,355.24
30	8" Non-Reinforced Concrete Pavement	642.00	1,055.87	413.87	SQ YD	\$33.50		\$13,864.65
31	Manhole Adjusted to Grade	7.00	11.00	4.00	EA	\$500.00		\$2,000.00
32	Combination Curb and Gutter, Type 2	5,551.00	5,471.83	-79.17	FT	\$12.00	(950.04)	
33	Curb, Type 6	477.00	560.41	83.41	FT	\$13.75		\$1,146.89
34	8" Concrete Traffic Island	65.00	21.50	-43.50	CU YD	\$135.00	(5,872.50)	
35	6" Shallow Pipe Underdrains	4,598.00	4,883.00	285.00	FT	\$8.00		\$2,280.00
36	6" Unclassified Pipe Underdrains	661.00	0.00	-661.00	FT	\$9.00	(5,949.00)	
37	Seeding and Mulching	6,000.00	6,823.00	823.00	SQ YD	\$0.75		617.25
38	Repair Seeding and Mulching	300.00	116.00	-184.00	SQ YD	\$0.40	(73.60)	
39	Commercial Fertilizer	0.54	0.61	0.07	TON	\$400.00		28.00
40	Lime	1.24	0.00	-1.24	ACRE	\$10.00	(12.40)	
41	Water	49.00	0.00	-49.00	M GAL	\$0.01	(0.49)	
42	Center Line	0.82	0.89	0.07	MILE	\$2,500.00		\$175.00
43	Stop Line	122.00	254.00	132.00	FT	\$3.00		\$396.00
44	Crosswalk Line, As Per Plan	2,220.00	972.00	-1,248.00	FT	\$1.50	(1,872.00)	
45	Channelizing Line, 8"	765.00	740.00	-25.00	FT	\$1.00	(25.00)	
46	Railroad Symbol Marking	2.00	2.00	0.00	EA	\$250.00		
47	Lane Arrow	28.00	29.00	1.00	EA	\$50.00		\$50.00
48	Ground Mounted Support, No. 3 Post	616.00	583.50	-32.50	FT	\$7.00	(227.50)	
49	Street Name Sign Support, No. 3 Post	81.00	100.00	19.00	FT	\$11.00		\$209.00
50	Sign Post Reflector	5.00	4.00	-1.00	EA	\$35.00	(35.00)	
51	Sign Attachment Assembly	5.00	5.00	0.00	EA	\$185.00		
52	Sign, Flat Sheet	261.00	221.94	-39.06	SQ FT	\$12.00	(468.72)	
53	Sign Erected, Flat Sheet	261.00	221.94	-39.06	SQ FT	\$5.00	(195.30)	
54	Removal of Ground Mounted Post Support and Disposal	26.00	26.00	0.00	EA	\$10.00		
55	Removal of Ground Mounted Sign and Disposal	5.00	5.00	0.00	EA	\$10.00		
56	Removal of Ground Mounted Sign and Storage	1.00	1.00	0.00	EA	\$20.00		
57	Removal of Ground Mounted Sign and Reerection	37.00	47.00	10.00	EA	\$30.00		300.00
58	Removal of Pole Mounted Sign and Disposal	4.00	4.00	0.00	EA	\$25.00		
59	Removal of Pole Mounted Sign and Storage	1.00	1.00	0.00	EA	\$30.00		
60	Removal of Pole Mounted Sign and Reerection	3.00	4.00	1.00	EA	\$75.00		75.00
61	Construction Layout Stakes	1.00	1.00	0.00	LUMP	\$18,000.00		

ITEM	DESCRIPTION	ESTIMATED QUANTITY	ACTUAL QUANTITY	QUANTITY DIFF.	UNIT	UNIT PRICE	AMOUNT DECREASE	AMOUNT INCREASE
62	Mobilization	1.00	1.00	0.00	LUMP	\$56,000.00		
63	Maintaining Traffic	1.00	1.00	0.00	LUMP	\$7,500.00		
SANITARY SEWER CONSTRUCTION								
64	6" Conduit, Type B, As Per Plan	903.00	1,189.50	286.50	FT	\$66.00		\$18,909.00
65	6" Conduit, Type C, As Per Plan	440.00	360.00	-80.00	FT	\$35.00	(2,800.00)	
66	8" Conduit, Type B, As Per Plan	167.00	342.50	175.50	FT	\$92.00		\$16,146.00
67	8" Conduit, Type C, As Per Plan	597.00	442.00	-155.00	FT	\$47.00	(7,285.00)	
68	15" Conduit, Type B, As Per Plan	200.00	295.25	95.25	FT	\$70.00		\$6,667.50
69	18" Conduit, Type B, As Per Plan	102.00	123.00	21.00	FT	\$132.00		\$2,772.00
70	18" Conduit, Type C, As Per Plan	49.00	70.50	21.50	FT	\$105.00		\$2,257.50
71	Conduit, Bored or Jacked: 16" Steel Casing Pipe	57.00	0.00	-57.00	FT	\$370.00	(21,090.00)	
72	Conduit, Misc: 6" Cleanout With Inverted Cap	27.00	26.00	-1.00	EA	\$270.00	(270.00)	
	Conduit, Misc: Brass Cleanout Lid (Cleanouts in Drives or Walks)	2.00	5.00	3.00	EA	\$40.00		\$120.00
74	Manhole, No. 3, As Per Plan	14.00	13.00	-1.00	EA	\$3,600.00	(3,600.00)	
75	Abandon Misc: Sanitary Sewer (8")	380.00	559.00	179.00	FT	\$2.00		\$358.00
76	Abandone Misc: Sanitary Sewer (12")	197.00	0.00	-197.00	FT	\$5.00	(985.00)	
77	Abandone Misc: Sanitary Sewer (18")	249.00	397.00	148.00	FT	\$10.00		\$1,480.00
78	Manhole Abandoned, As Per Plan	2.00	2.00	0.00	EA	\$600.00		
79	Pipe Removed, 24" and Under, As Per Plan	561.00	174.25	-386.75	FT	\$33.00	(12,762.75)	
80	Pipe Removed, Over 24", As Per Plan	51.00	54.42	3.42	FT	\$17.00		\$58.14
81	Manhole Removed, as Per Plan	11.00	12.00	1.00	EA	\$500.00		\$500.00
STORM SEWER CONSTRUCTION								
82	6" Conduit, Type B	583.00	832.25	249.25	FT	\$50.00		\$12,462.50
83	6" Conduit, Type C	626.00	332.00	-294.00	FT	\$22.00	(6,468.00)	
84	12" Conduit, Type B	450.00	493.50	43.50	FT	\$45.00		\$1,957.50
85	12" Conduit, Type C	94.00	94.00	0.00	FT	\$50.00		
86	15" Conduit, Type B	548.00	555.00	7.00	FT	\$55.00		\$385.00
87	15" Conduit, Type C	38.00	33.00	-5.00	FT	\$42.00	(210.00)	
88	18" Conduit, Type B	309.00	319.50	10.50	FT	\$94.00		\$987.00
89	21" Conduit, Type B	102.00	104.00	2.00	FT	\$75.00		\$150.00
90	24" Conduit, Type B	388.00	381.00	-7.00	FT	\$86.48	(605.36)	
91	36" Conduit, Type B	760.00	762.50	2.50	FT	\$175.00		\$437.50
92	Catch Basin, No. 2-3, As Per Plan	25.00	25.00	0.00	EA	\$1,500.00		
93	Catch Basin, No. 2-2B, As Per Plan	6.00	8.00	2.00	EA	\$1,025.00		\$2,050.00
94	Manhole, No. 3, As Per Plan	14.00	14.00	0.00	EA	\$1,600.00		
95	Pipe Removed, 24" and Under, As Per Plan	2,100.00	1,962.00	-138.00	FT	\$14.50	(2,001.00)	
96	Pipe Removed, Over 24", As Per Plan	16.00	0.00	-16.00	FT	\$25.00	(400.00)	
97	Manhole Removed, as Per Plan	9.00	11.00	2.00	EA	\$300.00		\$600.00
98	Catch Basin Removed, As Per Plan	26.00	31.00	5.00	EA	\$200.00		\$1,000.00
99	Storm Water Pollution Prevention Plan	1.00	1.00	0.00	LUMP	\$7,000.00		
100	Manufactured Water Quality Structure, Type 3	1.00	1.00	0.00	EA	\$45,000.00		
101	Manufactured Water Quality Structure, Type 4	1.00	1.00	0.00	EA	\$45,000.00		
WATERLINE CONSTRUCTION								
102	6" Fire Hydrant	10.00	0.00		EA	\$4,700.00		
103	6" Gate Valve and Valve Box	10.00	0.00		EA	\$1,300.00		
104	Water Work, Misc: 1" on 8" Tapping Saddle with Corp S	37.00	33.00	-4.00	EA	\$105.00	(420.00)	
105	Water Work, Misc: 2" on 8" Tapping Saddle with Corp S	1.00	2.00	1.00	EA	\$315.00		\$315.00
106	Water Work, Misc: 1" Curb Valve with Box Assembly, Complete	37.00	32.00	-5.00	EA	\$180.00	(900.00)	
107	Water Work, Misc.: 2" Curb Valve with Box Assembly, Complete	1.00	2.00	1.00	EA	\$365.00		\$365.00
108	8" Gate Valve and Valve Box	10.00	0.00		EA	\$1,800.00		
109	8" x 8" Tapping Sleeve, Valve and Valve Box	1.00	0.00		EA	\$4,600.00		
110	16" x 16" Tapping Sleeve, Valve and Valve Box	1.00	0.00		EA	\$19,500.00		
111	1" Copper Service Branch, As Per Plan	1,433.00	1,185.50	-247.50	FT	\$32.00	(7,920.00)	
112	2" Copper Service Branch, As Per Plan	73.00	139.00	66.00	FT	\$45.00		\$2,970.00
113	AWWA Class 150	19.00	21.00	2.00	FT	\$95.00		\$190.00
114	AWWA Class 150	103.00	46.00	-57.00	FT	\$66.00	(3,762.00)	
115	AWWA Class 150	2,064.00	1,888.50	-175.50	FT	\$45.00	(7,897.50)	
116	16" Water Main Polyvinyl Chloride Pipe Fittings	49.00	45.00	-4.00	FT	\$210.00	(840.00)	
117	16" Steel Pipe Encasement, Bored or Jacked	160.00	128.00	-32.00	FT	\$235.00	(7,520.00)	
118	Water Work, Misc.: 2" Corporation Stop and Blowoff	1.00	0.00	-1.00	EA	\$900.00	(900.00)	
119	8" Cutting-in Sleeve	1.00	0.00	-1.00	EA	\$1,600.00	(1,600.00)	
120	Water Work, Misc.: 8" Mechanical Joint Plug	4.00	0.00	-4.00	EA	\$130.00	(520.00)	
121	Pipe Removed, 24" and Under	183.00	170.00	-13.00	FT	\$27.00	(351.00)	
122	Water Work, Misc.: 4" Cut and Plug Existing Waterline	3.00	2.00	-1.00	EA	\$600.00	(600.00)	
123	Water Work, Misc.: 6" Cut and Plug Existing Waterline	3.00	4.00	1.00	EA	\$810.00		\$810.00
124	Water Work, Misc.: 16" Cut and Plug Existing Waterline	1.00	0.00	-1.00	EA	\$2,200.00	(2,200.00)	
125	Fire Hydrant Removed, As Per Plan	7.00	7.00	0.00	EA	\$250.00		
126	Water Work, Misc.: Valve Box Removal	5.00	9.00	4.00	EA	\$125.00		\$500.00
SIGNAL CONSTRUCTION								

ITEM	DESCRIPTION	ESTIMATED QUANTITY	ACTUAL QUANTITY	QUANTITY DIFF.	UNIT	UNIT PRICE	AMOUNT DECREASE	AMOUNT INCREASE
127	Bracket Arm, 25'	1.00	1.00	0.00	EA	\$1,090.00		
128	Conduit, 2", 725.06, As Per Plan	112.00	117.00	5.00	FT	\$4.60		\$23.00
129	Conduit, 3", 725.05, As Per Plan	181.00	144.00	-37.00	FT	\$5.90	(218.30)	
130	Conduit 4" 725.05, As Per Plan	122.00	124.00	2.00	FT	\$8.15		\$16.30
131	Conduit, Jacked or Drilled, 725.04, As Per Plan, 3"	23.00	23.00	0.00	FT	\$42.00		
132	Conduit, Jacked or Drilled, 725.04, As Per Plan, 4"	221.00	244.00	23.00	FT	\$45.00		\$1,035.00
133	Trench, As Per Plan	270.00	290.00	20.00	FT	\$5.00		\$100.00
134	Trench in Paved Area, Type A	16.00	16.00	0.00	FT	\$5.00		
135	Trench in Paved Area, Type B	58.00	0.00	-58.00	FT	\$5.00	(290.00)	
136	Pull Box, Misc.: Pull Box, 725.06, 13"x24"x24"	3.00	3.00	0.00	EA	\$640.00		
137	Pull Box, Misc.: Pull Box, 725.06, 13"x30"x24"	5.00	5.00	0.00	EA	\$900.00		
138	Pull Box, Misc.: Pull Box, 725.06, 36"x48"x24"	2.00	2.00	0.00	EA	\$1,530.00		
139	Ground Rod	1.00	1.00	0.00	EA	\$130.00		
140	Ground Rod, As Per Plan	12.00	12.00	0.00	EA	\$130.00		
141	Power Service, As Per Plan	1.00	1.00	0.00	EA	\$1,850.00		
142	Plastic Caution Tape, As Per Plan	344.00	353.00	9.00	FT	\$0.20		\$1.80
143	Vehicular Signal Head, (LED), 3-Section, 12" Lens, 1-Way, as Per Plan	18.00	18.00	0.00	EA	\$720.00		
144	Vehicular Signal Head, (LED), 4-Section, 12" Lens, 1-Way, as Per Plan	1.00	1.00	0.00	EA	\$990.00		
145	Vehicular Signal Head, (LED), 5-Section, 12" Lens, 1-Way, As Per Plan	4.00	4.00	0.00	EA	\$1,200.00		
146	Pedestrian Signal Head (LED), Type D2, As Per Plan	18.00	18.00	0.00	EA	\$480.00		
147	Covering of Vehicular Signal Head	23.00	2.00	-21.00	EA	\$90.00	(1,890.00)	
148	Covering of Pedestrian Signal Head	18.00	10.00	-8.00	EA	\$45.00	(360.00)	
149	Pedestrian Pushbutton, As Per Plan	12.00	13.00	1.00	EA	\$705.00		\$705.00
150	Signal Cable, 2 Conductor, No. 14 AWG	168.00	133.00	-35.00	FT	\$1.80	(63.00)	
151	Signal Cable, 5 Conductor, No. 14 AWG	1,216.00	2,235.00	1,019.00	FT	\$2.20		\$2,241.80
152	Signal Cable, 7 Conductor, No. 14 AWG	2,833.00	3,153.00	320.00	FT	\$2.40		\$768.00
153	Power Cable, 3 Conductor, No. 4 AWG	214.00	255.00	41.00	FT	\$5.40		\$221.40
206	Signal Support Foundation, As Per Plan	1.00	1.00	0.00	EA	\$2,400.00		
154	Pedestal Foundation, As Per Plan	11.00	11.00	0.00	EA	\$500.00		
155	Combination Signal Support, Type TC-81.21, Design 13, As Per Plan	1.00	1.00	0.00	EA	\$10,400.00		
156	Pedestal, 8', Transformer Base, As Per Plan	10.00	10.00	0.00	EA	\$660.00		
157	Pedestal, Misc.: Pedestal, 15', Transformer Base, as Per Plan	1.00	1.00	0.00	EA	\$750.00		
158	Removal of Traffic Signal Installation, As Per Plan	2.00	2.00	0.00	EA	\$1,110.45		
159	Controller Unit, Type TS2/A2, Furnish Only	1.00	0.00		EA	\$3,430.00		
160	Controller Unit, Type TS2/A2, With Cabinet, Type TS1, As Per Plan	1.00	0.00		EA	\$7,910.00		
161	Cabinet Riser, As Per Plan	1.00	1.00	0.00	EA	\$1,400.00		
162	Cabinet Foundation, As Per Plan	1.00	2.00	1.00	EA	\$1,200.00		\$1,200.00
163	Controller Work Pad, As Per Plan	1.00	2.00	1.00	EA	\$500.00		\$500.00
164	Video Detection System, As Per Plan	2.00	0.00		EA	\$15,870.00		
165	Training for Video Detection System	1.00	1.00	0.00	LUMP	\$700.00		
STRUCTURE CONSTRUCTION								
166	Structure Removed, Over 20 Foot Span, As Per Plan	1.00	1.00	0.00	LUMP	\$27,000.00		
167	Approach Slab Removed	100.00	100.00	0.00	SQ YD	\$20.00		
168	Wearing Course Removed	87.00	87.00	0.00	SQ YD	\$10.00		
169	Tack Coat	19.00	19.00	0.00	GAL	\$2.00		
170	Tack Coat for Intermediate Course	10.00	10.00	0.00	GAL	\$2.00		
171	Asphalt Concrete Intermediate Course, Type 2, PG64-22	17.00	17.00	0.00	CU YD	\$165.00		
172	Asphalt Concrete Surface Course, Type 1, PG64-22	11.00	11.00	0.00	CU YD	\$180.00		
173	Cofferdams and Excavation Bracing, As Per Plan	1.00	1.00	0.00	LUMP	\$2,500.00		
174	Unclassified Excavation	611.00	611.00	0.00	CU YD	\$40.00		
175	Epoxy Coated Reinforcing Steel	44,937.00	44,937.00	0.00	POUND	\$0.70		
176	Class C Concrete, Abutment Not Including Footing	79.00	80.00	1.00	CU YD	\$540.00		\$540.00
177	Class C Concrete, Footing	60.00	60.00	0.00	CU YD	\$325.00		
178	Concrete, Misc.: Concrete Grout, As Per Plan	1.00	1.00	0.00	CU YD	\$1,000.00		
179	Sealing of Concrete Surfaces (Epoxy-Urethane)	302.00	302.00	0.00	SQ YD	\$18.00		
180	Type 2 Waterproofing	3.00	3.00	0.00	SQ YD	\$85.00		
181	Type 3 Waterproofing	270.00	270.00	0.00	SQ YD	\$20.00		
182	Prestressed Concrete Non-Composite Box Beam Bridge Members, Level 1, B27-48	10.00	10.00	0.00	EA	\$9,500.00		
183	Prestressed Concrete Composite Box Beam Bridge Members, Level 1, CB27-48	4.00	4.00	0.00	EA	\$9,500.00		
184	1" Preformed Expansion Joint Filler	224.00	224.00	0.00	SQ FT	\$4.00		
185	Special-Polymer Modified Asphalt Expansion Joint System	114.00	80.00	-34.00	FT	\$119.00	(4,046.00)	
186	1/8" Preformed Bearing Pad	28.00	28.00	0.00	EA	\$10.00		

ITEM	DESCRIPTION	ESTIMATED QUANTITY	ACTUAL QUANTITY	QUANTITY DIFF.	UNIT	UNIT PRICE	AMOUNT DECREASE	AMOUNT INCREASE
187	Elastomeric Bearing With Internal Laminates Only (Neoprene) 2"-3" TK, (6.5"x10.5"x2.063")	56.00	56.00	0.00	EA	\$100.00		
188	Railing (Concrete Parapet with Twin Steel Tube Railing	112.00	101.00	-11.00	FT	\$155.00	(\$1,705.00)	
189	Railing, Misc.: Pedestrian Handrail	36.00	36.00	0.00	FT	\$165.00		
190	Porous Backfill With Filter Fabric	82.00	82.00	0.00	CU YD	\$55.00		
191	6" Perforated Corrugated Plastic Pipe	110.00	104.00	-6.00	FT	\$7.50	(45.00)	
192	6" Non-Perforated Corrugated Plastic Pipe	86.00	84.00	-2.00	FT	\$12.00	(24.00)	
193	Drilled Shafts, 36" Diameter, Above Bedrock	216.00	173.10	-42.90	FT	\$75.00	(3,217.50)	
194	Drilled Shafts, 36" Diameter, Into Bedrock	24.00	24.00	0.00	FT	\$1,225.00		
195	Reinforced Concrete Approach Slabs (T=15")	233.00	233.00	0.00	SQ YD	\$185.00		
196	Rock Channel Protection, Type C with Aggregate Filter	294.00	294.00	0.00	CU YD	\$55.00		
197	QC/QA Concrete, Class QSC2, Superstructure (Deck)	43.00	43.00	0.00	CU YD	\$350.00		
ALTERNATES								
198	6" Fire Hydrant, As Per Plan	10.00	10.00	0.00	EA	\$4,700.00		
199	6" Gate Valve and Valve Box, As Per Plan	10.00	9.00	-1.00	EA	\$1,300.00	(1,300.00)	
200	8" Gate Valve and Valve Box, As Per Plan	10.00	10.00	0.00	EA	\$1,800.00		
201	8"x8" Tapping Sleeve, Valve and ValveBox, As Per Plan	1.00	1.00	0.00	EA	\$4,600.00		
202	16" x 16" Tapping Sleeve, Valve and Valve Box	1.00	1.00	0.00	EA	\$19,500.00		
203	Video Detection System - Alternate Bid (Econolite Control Products, Inc.)	2.00	2.00	0.00	EA	\$28,450.00		
240	Controller Unit, Type TS2/A2, With Cabinet, Type TSI - Alternate Bid (Econolite Control Products, Inc.)	1.00	1.00	0.00	EA	\$13,080.00		
205	Controller Unit, Type TS2/A2, Furnish Only - Alternate Bid (Econolite Control Products, Inc.)	1.00	1.00	0.00	EA	\$3,800.00		
Subtotals:							(346,133.78)	\$128,194.16
							TOTAL:	-\$217,939.62



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: *October 19, 2015*
Subject: *S. Side Interceptor I/I Reduction Project (L.T.C.P.
Project No. 20A)
Change Order No. 6 – Final*

The above referenced project has been completed and final quantities have been tabulated. Change Order No. 6 – Final is \$29,642.22. The final project cost is \$869,946.05. I request Council approve Change Order No. 6 – Final to allow us to close out this project.

CEL

CHANGE ORDER

No. 6 (FINAL)

PROJECT

Southside Interceptor I/I Reduction Project
(L.T.C.P. Project No. 20A)

DATE OF ISSUANCE

October 13, 2015

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

CONTRACTOR

Vernon Nagel, Inc.
O-154 Co. Rd. 11C
Napoleon, Ohio 43545

ENGINEER

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

CONTRACT FOR: Southside Interceptor I/I Reduction Project

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

CONTRACT PRICE

- ☐ Time and Materials
- ☒ Unit Prices
- ☐ Cost Plus Fixed Fee
- ☐ Other

Estimated Increase/~~Decrease~~ in

CONTRACT PRICE \$29,642.22

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

Recommended

CITY of NAPOLEON

Method of Determining Change In

CONTRACT TIME

- ☐ Contractor's Records
- ☐ Engineer's Records
- ☐ Other

Estimated Increase/Decrease in

CONTRACT TIME days

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

Accepted

VERNON NAGEL, INC.

Contractor

by:

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

Authorized

Monica Ireland, City Manager

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

\$856,511.83
\$29,642.22
\$886,154.05

FINAL CHANGE ORDER

October 14, 2015

NAME of PROJECT - Southside Interceptor I/I Reduction Project (L.T.C.P. Project No. 20A)

CONTRACTOR - Vernon Nagel, Inc.

ITEM	DESCRIPTION	ESTIMATED QUANTITY	ACTUAL QUANTITY	QUANTITY DIFF.	AMOUNT DECREASE	AMOUNT INCREASE
ROADWAY						
1	Clearing and Grubbing	1.00	1.00	0.00	\$0.00	\$0.00
2	Tree and Stump Removal (12" - 24")	1.00	1.00	0.00	\$0.00	\$0.00
3	Tree and Stump Removal (25" - 36")	3.00	3.00	0.00	\$0.00	\$0.00
4	Tree and Stump Removal (36" - 60")	1.00	1.00	0.00	\$0.00	\$0.00
5	Remove & Reinstall Existing Fence Around Pump Station	1.00	0.00	-1.00	-\$2,000.00	
6	Remove & Reinstall Existing Mailbox	1.00	3.00	2.00		\$500.00
7	Concrete Curb Removal (All Types)	225.00	158.54	-66.46	-\$664.60	
8	Concrete Pavement and Walk Removal	265.00	354.00	89.00		\$1,068.00
9	Stabilized Crushed Aggregate (ODOT 411)	4.00	0.00	-4.00	-\$600.00	
10	4½" Asphalt Concrete Base (ODOT 301 PG64-22)	70.00	78.29	8.29		\$2,487.00
11	1½" Asphalt Concrete Surface (ODOT 448 Type 1, Medium Traffic, PG64-22)	25.00	63.65	38.65		\$11,595.00
12	4" Concrete Walk with 4" Stabilized Crushed Aggregate Base (ODOT 411)	150.00	145.71	-4.29	-\$171.60	
13	6" Concrete Walk with 6" Stabilized Crushed Aggregate Base (ODOT 411)	20.00	27.54	7.54		\$452.40
14	Handicap Ramp with ADA Truncated Dome Detectable Warning Strip	1.00	1.00	0.00		
15	6" Plain Portland Cement Concrete Pavement with 6" Crushed Aggregate Base (ODOT 304)	150.00	180.75	30.75		\$1,476.00
16	Curb & Gutter, All Types	225.00	158.54	-66.46	-\$1,860.88	
17	Centerline Stripe, Double Yellow, Type 1	0.15	0.18	0.03		\$420.00
18	3" Topsoil, Hauled and Placed	425.00	306.75	-118.25	-\$3,547.50	
19	Fertilizer, Seeding and Mulching	5,100.00	7,730.00	2,630.00		\$5,260.00
20	Construction Layout Stakes	1.00	1.00	0.00		
21	Mobilization	1.00	1.00	0.00		
22	Maintaining Traffic	1.00	1.00	0.00		
23	Storm Water Pollution Prevention Plan	1.00	1.00	0.00		
SANITARY SEWER						
24	6" PVC ASTM D3034 SDR 35 (Sanitary) Type B	400.00	436.75	36.75		\$2,572.50
25	6" PVCASTM D3034 SDR 35 (Sanitary) Type C	250.00	421.00	171.00		\$5,985.00
26	8" PVC ASTM D3034 SDR 35 (Sanitary) Type B	550.00	726.00	176.00		\$12,672.00
27	10" PVC ASTM D3034 SDR 35 (Sanitary) Type B	40.00	75.50	35.50		\$3,372.50
28	10" PVC ASTM D3034 SDR 35 (Sanitary) Type C	180.00	180.00	0.00		
29	12" PVC ASTM D3034 SDR 35 (Sanitary) Type B	65.00	6.00	-59.00	-\$3,776.00	
30	15" PVC ASTM D3034 SDR 35 (Sanitary) Type B	255.00	266.00	11.00		\$1,100.00
31	18" PVC ASTM F679 (Sanitary) Type B	5.00	8.00	3.00		\$675.00
32	18" PVC ASTM F679 (Sanitary) Type C	10.00	10.50	0.50		\$50.00
33	24" PVC ASTM F679 (Sanitary) Type B	60.00	52.00	-8.00	-\$1,680.00	
34	24" PVC ASTM F679 (Sanitary) Type C	160.00	155.50	-4.50	-\$562.50	
35	36" PVC ASTM F679 (Sanitary) Type B	75.00	0.00			\$0.00
35a	36" Sanitite Type B	75.00	35.00	-40.00	-\$13,100.00	
36	36" PVC ASTM F679 (Sanitary) Type C	1,450.00	0.00			\$0.00
36a	36" Sanitite Type C	1,450.00	1,517.90	67.90		\$14,225.05
37	6" on 8" PVC Wye (Heavy Duty)	10.00	13.00	3.00		\$375.00
38	6" on 24" PVC Wye (Heavy Duty)	1.00	1.00	0.00		
39	6" on 36" PVC Wye (Heavy Duty)	14.00	0.00			\$0.00

[illegible]

CITY OF NAPOLEON, OHIO - HEALTH INSURANCE COST - REVIEW SUMMARY

2016 - HEALTH INSURANCE PREMIUMS INCREASE AND COST ALLOCATION REVIEW - 2016 - 09-24-2015 (AS REVISED)															
City of Napoleon, Ohio															
2016 HEALTH INSURANCE PROPOSED RENEWAL - BORMA REVISED "PPO PLAN 2" and REVISED "HSA PLAN 8" RATES - PREMIUM INCREASE (-0.30%), HSA PLAN INCREASE (+5.35%)															
														Employee Share	City Share
PREMIUM SHARE - 2015 - Funded 12.50% Employee Premium Share; 87.50% Employer Premium Share														12.50%	87.50%
PPO DEDUCTIBLE SHARE - \$250 Single and \$500 Family; funded 100% Employee														100.00%	0.00%
H.S.A. DEDUCTIBLE SHARE - \$3,000 Single and \$6,000 Family; funded (Employee-Single 60.0% or \$1,800. and Family 66.7% or \$4,000); and (Employer-Single 40.0% or \$1,200. and Family 33.3% or \$2,000).															
(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)	(O)	(P)
Plan	Plan	#'s in	Monthly	Annual Rate	EMPLOYEE Prm.Shr. @ 12.50%			Emp.Ded.Max.	Tot.Emp.Max.	City Prm.Shr.	CITY Share	Total Max.	TOTAL PREMIUM	EMPLOYEE SHR.	NET CITY ANNUAL
Year	Type *	Plan	Rate (1)	By Type	Annual	Monthly	Bi-Monthly	Annual Shr.	Out of Pck.	@ 87.5%	Deductible	City Shr.	+ MAXIMUM DED.	PREM.+MAX.DED.	SHR.(BUDGETED)
	PPO			D x 12	E x 12.5%	F / 12	G / 2	As Listed	F + I	E x 87.50%	As Listed	K + L	C x (E+I+L)	C x J	N - O
PPO - 2016 Final Rates from BORMA	Single	19	\$ 525.10	\$ 6,301.20	\$ 787.65	\$ 65.64	\$ 32.82	\$ 250.00	\$ 1,037.65	\$ 5,513.55	\$ -	\$ 5,513.55	\$ 124,472.80	\$ 19,715.35	\$ 104,757.45
	EE/Childs **	21	\$ 945.18	\$ 11,342.16	\$ 1,417.77	\$ 118.15	\$ 59.08	\$ 600.00	\$ 2,017.77	\$ 9,924.39	\$ -	\$ 9,924.39	\$ 250,785.36	\$ 42,373.17	\$ 208,412.19
	EE/Spouse**	18	\$ 1,050.20	\$ 12,602.40	\$ 1,575.30	\$ 131.28	\$ 65.64	\$ 600.00	\$ 2,175.30	\$ 11,027.10	\$ -	\$ 11,027.10	\$ 237,643.20	\$ 39,155.40	\$ 198,487.80
	Family	40	\$ 1,575.30	\$ 18,903.60	\$ 2,362.95	\$ 196.91	\$ 98.46	\$ 600.00	\$ 2,962.95	\$ 16,540.65	\$ -	\$ 16,540.65	\$ 780,144.00	\$ 118,518.00	\$ 661,626.00
	Total PPOs->	98													
	H.S.A. ***														
HSA - 2016 Final Rates from BORMA	Single	3	\$ 457.35	\$ 5,488.20	\$ 686.03	\$ 57.17	\$ 28.59	\$ 1,500.00	\$ 2,186.03	\$ 4,802.18	\$ 1,200.00	\$ 6,002.18	\$ 24,564.60	\$ 6,558.09	\$ 18,006.51
	EE/Childs **	-	\$ 823.23	\$ 9,878.76	\$ 1,234.85	\$ 102.90	\$ 51.45	\$ 3,400.00	\$ 4,634.85	\$ 8,643.92	\$ 2,000.00	\$ 10,643.92	\$ -	\$ -	\$ -
	EE/Spouse**	-	\$ 914.70	\$ 10,976.40	\$ 1,372.05	\$ 114.34	\$ 57.17	\$ 3,400.00	\$ 4,772.05	\$ 9,604.35	\$ 2,000.00	\$ 11,604.35	\$ -	\$ -	\$ -
	Family	-	\$ 1,372.05	\$ 16,464.60	\$ 2,058.08	\$ 171.51	\$ 85.76	\$ 3,400.00	\$ 5,458.08	\$ 14,406.53	\$ 2,000.00	\$ 16,406.53	\$ -	\$ -	\$ -
	Total HSAs->	3													
	Total Plans->	101													
NOTE: (1) Total 2016 Annual Rate by Plan Types, Reflects a Net Overall Decrease of -0.8449% below 2015 Rates,										Total Estimated Annual Cost->		\$ 1,417,609.96	\$ 226,320.01	\$ 1,191,289.95	
										Dollar Difference to 2016 from 2015 ->		\$ (76,018.40)	\$ (65,867.30)	\$ (10,151.10)	
										Percentage Difference to 2016 from 2015 ->		-5.0895%	-22.5428%	-0.8449%	
* Number of Plan Types listed for 2014 through 2016 based on Budgeted Full Time Employee Plans for Annual Comparison Purposes Only, NOT ACTUAL.															
** Added Multiple Plan Types in 2013, these are assumed Family Plans in the PPO for Funded Deductibles.															
*** Added H.S.A. Plan Option in 2014.															

BORMA - Current and Standard Plans Benefit and Cost Review

	Network	Non-Network	Network	Non-Network	Network	Non-Network	Network	Non-Network
Plan Type (PPO/HSA)	PPO- Non- Grandfathered		PPO - Non-Grandfathered		PPO - Non-Grandfathered		PPO - Non-Grandfathered	
Employer Funding	\$75/\$150		None		None		None	
Coinsurance %	100%	70%	90%	70%	90%	70%	90%	70%
Deductible (Individual/Family)	\$750/\$1,500 (Embedded)*	\$1,500/\$3,000 (Embedded)*	\$0/\$0 (Embedded)	\$250/\$500 (Embedded)	\$250/\$500 (Embedded)	\$500/\$1,000 (Embedded)	\$500/\$1,000 (Embedded)	\$1,000/\$2,000 (Embedded)
Out of Pocket Maximum								
	\$750/\$1,500** Includes coinsurance, deductibles and medical copays	\$2,400/\$4,800** Includes coinsurance, deductibles and medical copays	\$250/\$500 Includes coinsurance, deductibles and medical copays	\$500/\$1,000 Includes coinsurance, deductibles and medical copays	\$600/\$1,200 Includes coinsurance, deductibles and medical copays	\$1,200/\$2,400 Includes coinsurance, deductibles and medical copays	\$1,750/\$3,500 Includes coinsurance, deductibles and medical copays	\$3,500/\$7,000 Includes coinsurance, deductibles and medical copays
	\$6,100/\$12,200 Includes Rx copays	Unlimited Includes Rx copays	\$6,600/\$13,200 Includes Rx copays	Unlimited Includes Rx copays	\$6,250/\$12,500 Includes Rx copays	Unlimited Includes Rx copays	\$5,100/\$10,200 Includes Rx copays	Unlimited Includes Rx copays
Inpatient Facility	100% after Deductible	70% after Deductible	90% after Deductible	70% after deductible	90% after Deductible	70% after deductible	90% after Deductible	70% after deductible
Emergency Room (ER)	\$100 copay, then 100%	\$100 copay, then 10%***	\$250 copay	\$250 copay	\$250 copay	\$250 copay	\$250 copay	\$250 copay
Urgent Care	100% after Deductible	70% after Deductible	\$40 copay	70% after deductible	\$40 copay	70% after deductible	\$40 copay	70% after deductible
Office Visits (Diagnostic)	\$10	70% after Deductible	\$10 copay (\$25 specialist)	70% after deductible	\$10 copay (\$25 specialist)	70% after deductible	\$10 copay (\$25 specialist)	70% after deductible
Office Visits (Preventive)	100%	70% after Deductible	100%	70% after deductible	100%	70% after deductible	100%	70% after deductible
Prescription Drug								
Retail	Generic: \$5 copay Formulary: \$20 copay**** Non-Formulary: \$80 copay	Copay plus the dollar difference between the Rx cost at the participating and non participating pharmacies	Tier 1: \$5 copay Tier 2: \$15 copay Tier 3: \$30 copay Tier 4: \$125 copay	Not Covered	Tier 1: \$5 copay Tier 2: \$15 copay Tier 3: \$30 copay Tier 4: \$125 copay	Not Covered	Tier 1: \$5 copay Tier 2: \$15 copay Tier 3: \$30 copay Tier 4: \$125 copay	Not Covered
Mail Order	Generic: \$10 copay Formulary: \$40 copay**** Non-Formulary: \$80 copay	Not covered	Tier 1: \$12.50 copay Tier 2: \$37.50 copay Tier 3: \$75 copay Tier 4: \$312.50 copay	Not Covered	Tier 1: \$12.50 copay Tier 2: \$37.50 copay Tier 3: \$75 copay Tier 4: \$312.50 copay	Not Covered	Tier 1: \$12.50 copay Tier 2: \$37.50 copay Tier 3: \$75 copay Tier 4: \$312.50 copay	Not Covered
Notes	*3-month carryover Individual Deductible only **In and out of network cross accumulation ***Non-Emergency use of ER is covered at 70% out of network ****if not DAW, the copay equals the brand copay plus the cost difference between the brand and generic		If a brand name drug is purchased when a generic is available, the copay equals the brand copay plus the cost difference between brand and generic		If a brand name drug is purchased when a generic is available, the copay equals the brand copay plus the cost difference between brand and generic		If a brand name drug is purchased when a generic is available, the copay equals the brand copay plus the cost difference between brand and generic	
Funding Rates	2016 Current Benefit		Plan 1		Plan 2		Plan 3	
Single	\$557.81		\$542.04		\$525.10		\$508.16	
Employee/Spouse	\$1,115.62		\$1,084.08		\$1,050.20		\$1,016.32	
Employee/ Child(ren)	\$1,004.06		\$975.67		\$945.18		\$914.69	
Family	\$1,673.43		\$1,626.12		\$1,575.30		\$1,524.48	
Monthly Premiums								
Annual Premiums	\$1,440,492		\$60,782,820		\$1,356,020.91		\$56,983,659	
\$ Increase over Current								
% Increase over Current	5.90%		2.94%		-0.27%		-3.49%	

** **

Health Committee Recommendation for PPO Renewal

BORMA - Current and Standard Plans Benefit and Cost Review

	Network	Non-Network	Network	Non-Network	Network	Non-Network	Network	Non-Network
Plan Type (PPO/HSA)	PPO - Non-Grandfathered		PPO - Non-Grandfathered		PPO - Non-Grandfathered		PPO - Non-Grandfathered	
Employer Funding	None		None		None		None	
Coinsurance %	80%	60%	80%	60%	80%	60%	80%	60%
Deductible (Individual/Family)	\$750/\$1,500 (Embedded)	\$1,500/\$3,000 (Embedded)	\$1,250/\$2,500 (Embedded)	\$2,500/\$5,000 (Embedded)	\$2,000/\$4,000 (Embedded)	\$4,000/\$8,000 (Embedded)	\$3,000/\$6,000 (Embedded)	\$6,000/\$12,000 (Embedded)
Out of Pocket Maximum								
	\$2,250/\$4,500 Includes coinsurance, deductibles and medical copays	\$4,500/\$9,000 Includes coinsurance, deductibles and medical copays	\$4,500/\$9,000 Includes coinsurance, deductibles and medical copays	\$9,000/\$18,000 Includes coinsurance, deductibles and medical copays	\$4,500/\$9,000 Includes coinsurance, deductibles and medical copays	\$9,000/\$18,000 Includes coinsurance, deductibles and medical copays	\$5,000/\$10,000 Includes coinsurance, deductibles and medical copays	\$10,000/\$20,000 Includes coinsurance, deductibles and medical copays
	\$4,600/\$9,200 Includes Rx copays	Unlimited Includes Rx copays	\$2,350/\$4,700 Includes Rx copays	Unlimited Includes Rx copays	\$2,350/\$4,700 Includes Rx copays	Unlimited Includes Rx copays	\$1,850/\$3,700 Includes Rx copays	Unlimited Includes Rx copays
Inpatient Facility	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible
Emergency Room (ER)	\$250 copay	\$250 copay	\$250 copay	\$250 copay	\$250 copay	\$250 copay	\$250 copay	\$250 copay
Urgent Care	\$45 copay	60% after deductible	\$45 copay	60% after deductible	\$65 copay	60% after deductible	\$75 copay	60% after deductible
Office Visits (Diagnostic)	\$15 copay (\$30 specialist)	60% after deductible	\$15 copay (\$30 specialist)	60% after deductible	\$20 copay (\$45 specialist)	60% after deductible	\$30 copay (\$55 specialist)	60% after deductible
Office Visits (Preventive)	100%	60% after deductible	100%	60% after deductible	100%	60% after deductible	100%	60% after deductible
Prescription Drug								
Retail	Tier 1: \$10 copay Tier 2: \$20 copay Tier 3: \$35 copay Tier 4: \$125 copay	Not Covered	Tier 1: \$10 copay Tier 2: \$20 copay Tier 3: \$35 copay Tier 4: \$125 copay	Not Covered	Tier 1: \$15 copay Tier 2: \$25 copay Tier 3: \$45 copay Tier 4: \$125 copay	Not Covered	Tier 1: \$20 copay Tier 2: \$40 copay Tier 3: \$70 copay Tier 4: \$125 copay	Not Covered
Mail Order	Tier 1: \$25 copay Tier 2: \$50 copay Tier 3: \$87.50 copay Tier 4: \$312.50 copay	Not Covered	Tier 1: \$25 copay Tier 2: \$50 copay Tier 3: \$87.50 copay Tier 4: \$312.50 copay	Not Covered	Tier 1: \$37.50 copay Tier 2: \$62.50 copay Tier 3: \$112.50 copay Tier 4: \$312.50 copay	Not Covered	Tier 1: \$50 copay Tier 2: \$100 copay Tier 3: \$175 copay Tier 4: \$312.50 copay	Not Covered
Notes	If a brand name drug is purchased when a generic is available, the copay equals the brand copay plus the cost difference between brand and generic		If a brand name drug is purchased when a generic is available, the copay equals the brand copay plus the cost difference between brand and generic		If a brand name drug is purchased when a generic is available, the copay equals the brand copay plus the cost difference between brand and generic		If a brand name drug is purchased when a generic is available, the copay equals the brand copay plus the cost difference between brand and generic	
Funding Rates	Plan 4		Plan 5		Plan 6		Plan 7	
Single	\$491.23		\$474.29		\$457.35		\$440.41	
Employee/Spouse	\$982.46		\$948.58		\$914.70		\$880.82	
Employee/ Child(ren)	\$884.21		\$853.72		\$823.23		\$792.74	
Family	\$1,473.69		\$1,422.87		\$1,372.05		\$1,321.23	
Monthly Premiums								
Annual Premiums	\$55,085,106		\$53,185,525		\$51,285,945		\$49,386,364	
\$ Increase over Current								
% Increase over Current	-6.71%		-9.92%		-13.14%		-16.36%	

BORMA - Current and Standard Plans Benefit and Cost Review

	Network	Non-Network	Network	Non-Network	Network	Non-Network
Plan Type (PPO/HSA)	HSA - Non-Grandfathered		HSA - Non-Grandfathered		HSA - Non-Grandfathered	
Employer Funding	None		\$1,200/\$2,000		None	
Coinsurance %	80%	60%	80%	60%	80%	60%
Deductible (Individual/Family)	\$3,000/\$6,000 (Embedded)	\$6,000/\$12,000 (Embedded)	\$3,000/\$6,000 (Embedded)	\$6,000/\$12,000 (Embedded)	\$4,000/\$8,000 (Embedded)	\$8,000/\$16,000 (Embedded)
Out of Pocket Maximum						
	\$6,550/\$13,100 Includes coinsurance and deductibles	\$13,100/\$26,200 Includes coinsurance and deductibles	\$6,550/\$13,100 Includes coinsurance and deductibles	\$13,100/\$26,200 Includes coinsurance and deductibles	\$6,550/\$13,100 Includes coinsurance and deductibles	\$13,100/\$26,200 Includes coinsurance and deductibles
	N/A	N/A	N/A	N/A	N/A	N/A
Inpatient Facility	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible
Emergency Room (ER)	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible
Urgent Care	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible
Office Visits (Diagnostic)	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible	80% after Deductible	60% after deductible
Office Visits (Preventive)	100%	60% after deductible	100%	60% after deductible	100%	60% after deductible
Prescription Drug						
Retail	80% after Deductible	Not Covered	80% after Deductible	Not Covered	80% after Deductible	Not Covered
Mail Order	80% after Deductible	Not Covered	80% after Deductible	Not Covered	80% after Deductible	Not Covered
Notes						
Funding Rates	Plan 8		Plan 8 with added Employer Funding		Plan 9	
Single	\$423.47		\$457.35		\$406.53	
Employee/Spouse	\$846.94		\$914.70		\$813.06	
Employee/ Child(ren)	\$762.25		\$823.23		\$731.75	
Family	\$1,270.41		\$1,372.05		\$1,219.59	
Monthly Premiums						
Annual Premiums	\$47,486,784		\$51,285,945		\$45,587,086	
\$ Increase over Current						
% Increase over Current	-19.58%		-13.14%		-22.79%	

** **

Health Committee Recommendation for HSA Renewal

City of Napoleon, Ohio

Tree Commission

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

Meeting Agenda

Monday, October 19, 2015 at 6:00pm

- I. **Approval of Minutes** (In the absence of any objections or corrections, the minutes shall stand approved.)
- II. **Tree Call Report**
- III. **Fall Programs**
- IV. **Spring Programs**
- V. **Any other matters to come before the Commission**
- VI. **Adjournment**

Gregory J. Heath, Finance Director/Clerk of Council

City of Napoleon, Ohio
Tree Commission

Meeting Minutes

Monday, September 21, 2015 at 6:00pm

PRESENT
Commission
City Staff
Recorder

David Volkman - Chair, Bill Rohrs, Anella Huff, Kirk Etzler, Jeffrey Marihugh
Marty Crossland
Tammy Fein

ABSENT
Members

Jim Fitzenreiter

Call To Order

Chairman Volkman called the meeting to order at 6:03pm.

Approval Of Minutes

Minutes from August 17 stand approved as presented with no objections or corrections.

Tree Call Report

Crossland reported that the resident at 625 West Main Street called in stating that he has had sewer issues in the past due to a Silver Maple that is located near the driveway; the resident would like this tree removed. Volkman asked if there would still be the same issues when the solid PVC pipe replaced; Marihugh believes there would be; Crossland stated the chances are reduced due to the spacing of the joints, however the joints are not impenetrable. Crossland added that this tree is behind the sidewalk, but the right of way is wide so this is a City tree; the red maple that is currently there is sufficient so there is no need for replacement.

Volkman asked about the tree on Avon and Welsted that was reported last month to be cracked; Crossland does not believe this tree to be an imminent danger, adding that this tree is on the trimming list for Fall.

Fall Programs

Crossland reported that the topsoil bid came back from North Branch Nursery with a not to exceed clause totaling \$2,500; the work will be completed this week.

Crossland reported that the tree removal bids were received with the lowest bid being from Saylor Tree Service in the amount of \$3,920; this is approximately \$1,000 lower than the estimated amount.

Crossland reported that the trimming contract is currently out to bid with a budgeted amount of \$13,000, while the planting amount is approximately \$2,300. Marihugh asked what gauge caliper stock is being used for the Fall; Crossland stated 1 ½ inch minimum at breast height. Volkman stated single stem trees have a standard measurement of breast height. Crossland stated that there have only been very few instances where stock came in a bit smaller than anticipated and they were less widely used ornamental trees with the larger stock not being available.

Crossland showed the map demonstrating the pattern that he would like to use for the Fall trimming including West Clinton Street, West Main Street and the Haley Avenue area; next Spring will be a smaller trimming contract and the Commission will begin having two (2) smaller contracts per year. Volkman agrees with the plan of the areas; Crossland stated this trimming plan was started approximately five (5) years ago and is based on count of trees in the area, which may change with budgetary restraints. Etzler asked how the mapping of trees was progressing;

Any Other Matters To Come Before The Commission

Etzler asked how many letters were received regarding the Scott Street project replanting; Crossland stated that he has heard from four (4) residents with one (1) resident replying that they did not want a tree planted. Crossland reminded the Commission that the letter clarifies that no response means a tree will be planted.

Motion To Adjourn

Passed
Yea- 5
Nay- 0

Approval Date:

Tree Commission 9/21/15

Memorandum

To: Parks & Recreation Committee, Council, Mayor, City Manager,
City Law Director, City Finance Director, Department Supervisors,
Media

From: Gregory J. Heath, Finance Director/Clerk of Council

Date: 10/15/2015

Re: Parks & Recreation Committee Meeting Cancellation

The regular Parks & Recreation Committee meeting scheduled for Monday, October 19 at 6:15pm has been CANCELED due to lack of agenda items.

City of Napoleon, Ohio

City Council
in Joint Session with the
Water, Sewer, Refuse, Recycling & Litter Committee

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

Special Meeting Agenda

Tuesday, October 20, 2015 at 4:00pm

- I. Water Treatment Plant Update
- II. Any other matters that may properly come before Council
- III. Adjournment

Gregory J. Heath, Finance Director/Clerk of Council

City of Napoleon, Ohio

Water, Sewer, Refuse, Recycling & Litter Committee
in Joint Session with
City Council

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

Special Meeting Agenda

Tuesday, October 20, 2015 at 4:00pm

- I. Water Treatment Plant Update
- II. Any other matters currently assigned to the Committee
- III. Adjournment

Gregory J. Heath, Finance Director/Clerk of Council



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 14, 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: Items of Legislation for Year Ending 2015

To all, this memo is a reminder there are a number of pieces of Legislation needed for review and passage prior to Year Ending 2015. Most of these items of Legislation are all directly, or indirectly, budget related to the current year 2015 budget and the upcoming year 2016 budget.

I am listing these by proposed City Council Meeting Dates and then by Title with a short description of their general purpose. Some of these will be three (3) reads, plus 30 days for effective date; however, others will need Suspension and Emergency Clauses in order to be effective prior to January 1, 2016.

Regular Council Meeting of Monday, October 19, 2015:

> A Resolution Amending the Allocation of Funds as Found in Sections 193.11 and 194.013 of the Codified Ordinances of the City of Napoleon, Ohio.

- This Legislation is the Resolution allocating Income Tax funds. The proposed allocation is the same as listed for 2015 at 62% to the 100 General Fund and 38% to the 400 CIP Fund.
- This would be a First Read on October 19, 2015, with the Second Read on November 2, 2015, and the Third Read on November 16, 2015, effective thirty (30) days after that. These readings will overlap the 2016 Budget Reviews scheduled for November 13-14, 2015, and still allow time for it to be amended, if necessary, prior to the third read. Must be effective by January 1, 2016.

Regular Council Meeting of Monday, December 7, 2015:

> An Ordinance Establishing the Appropriation Measure (Budget) of the City of Napoleon, Ohio, for the Fiscal Year Ending December 31, 2016; and Declaring an Emergency.

- This Legislation is the Ordinance establishing the 2016 Approved Budget.
- This would be a First Read on December 7, 2015, with the Second Read on December 21, 2015.
This Legislation will require the Emergency Clause, and Suspension of Rules, in order to be effective on or before January 1, 2016.

Special Note: Pursuant to the Ohio Revised Code (ORC) the City must pass a Temporary Budget on or before January 1st of its Fiscal Year; and, must pass a Final Budget on or before March 31st of its Fiscal Year. The City of Napoleon has historically passed its Final Budget on or before January 1st of its Fiscal Year for many years. The assumption in this listing is we will again pass the Final Budget on or before January 1st.

(Items of Legislation – Continued Next Page)

> A Resolution Authorizing the Finance Director to Transfer Certain Fund Balances from Respective Funds to Other Funds Per Section 5704.14 ORC on an As Needed Basis in Fiscal Year 2016, Listed in Exhibit “A”; and Declaring an Emergency.

- This Legislation, a companion Resolution to the Appropriation Ordinance, authorizing certain Transfers of Funds, from one fund to another, that are part of the 2016 Approved Budget.
- This would be a First Read on December 7, 2015, with the Second Read on December 21, 2015.
This Legislation will require the Emergency Clause, and Suspension of Rules, in order to be effective on or before January 1, 2016.

> A Resolution Authorizing the Expenditure of Funds and Authorizing a Department Director to Take Bids on Certain Projects, Services, Equipment, Materials, or Supplies with the Requirement for Additional Legislation to do so in the Year 2016; and Declaring an Emergency.

- This Legislation, a companion Resolution to the Appropriation Ordinance, authorizing the taking of Formal Bids on approved Capital and Major Items over \$25,000 in the 2016 Approved Budget.
- This would be a First Read on December 7, 2015, with the Second Read on December 21, 2015.
This Legislation will require the Emergency Clause, and Suspension of Rules, in order to be effective on or before January 1, 2016.

> A Resolution Authorizing Expenditure of Funds in Excess of \$25,000 In and For the Year 2016 as It Relates to Reoccurring Costs Associated with the Operation of the City, for Payment of Expenses, and for Purchases Associated with Vendors Utilized by Multiple Departments within the City; Elimination of Necessity of Competitive Bidding In and For the Year 2016 as it Relates to Certain Transactions; and Declaring an Emergency.

- This Legislation, a companion Resolution to the Appropriation Ordinance, authorizes ongoing expenses that will exceed \$25,000 to one vendor that are part of the 2016 Approved Budget. The purpose of this is to eliminate multiple pieces of legislation that would be needed for expenses to certain Vendors that are used every day. (Exp: Payments to AMP, Health Insurance, Gasoline etc.)
- This would be a First Read on December 7, 2015, with the Second Read on December 21, 2015.
This Legislation will require the Emergency Clause, and Suspension of Rules, in order to be effective on or before January 1, 2016.

> A Resolution Authorizing a Contribution to the Community Improvement Corporation of Henry County, Ohio, In and For the Year 2016; and Declaring an Emergency.

- This Legislation Authorizes the Contribution, and Expenditure, to the Henry County CIC.
- This is subject to approval in the 2016 Approved Budget, and the Contract with the CIC.
- This would be a First Read on December 7, 2015, with the Second Read on December 21, 2015.
This Legislation will require the Emergency Clause, and Suspension of Rules, in order to be effective on or before January 1, 2016.

Regular Council Meeting of Monday, December 21, 2015:

> An Ordinance Authorizing the Finance Director to make Appropriation Transfers from Respective Funds, Departments and Categories to Other Departments and Categories Pursuant to Section 5705.40 ORC for the Fiscal Year Ending December 31, 2015 as Listed in Exhibit “A” (Final); and Declaring an Emergency.

- This Legislation is part of the 4th Quarter Final 2015 Budget Adjustments.
- This would be a First Read on December 21, 2015.
This Legislation will require the Emergency Clause, and Suspension of Rules, in order to be effective on or before December 31, 2015.

Special Note: State Auditors claim the ORC states all Current Year Budgetary Adjustments must be made in the year the budget is approved for; so, all Budgetary Adjustments for 2015 must be made in 2015. Many years back, 18 or more, we were written up for not making all final budget adjustments during the current budget year. That is the purpose of these final three (3) budgetary items of legislation to make the final adjustments in the proper year. We wait as late as we can in order to have the most accurate numbers at the Year End. These items of Legislation will require the Emergency Clause, and Suspension of Rules, in order to be effective on or before December 31, 2015.

> **An Ordinance Supplementing the Annual Appropriation Measure (Supplement No. 5) for the Year 2015; and Declaring an Emergency.**

- This Legislation is part of the 4th Quarter Final 2015 Budget Adjustments.
- This would be a First Read on December 21, 2015.
This Legislation will require the Emergency Clause, and Suspension of Rules, in order to be effective on or before December 31, 2015.

> **A Resolution Authorizing the Finance Director to Transfer Certain Fund Balances from Respective Funds to Other Funds Per Section 5704.14 ORC on an As Needed Basis in Fiscal Year 2015, Listed in Exhibit “A” (Transfer 2); and Declaring an Emergency.**

- This Legislation is part of the 4th Quarter Final 2015 Budget Adjustments.
- This would be a First Read on December 21, 2015.
This Legislation will require the Emergency Clause, and Suspension of Rules, in order to be effective on or before December 31, 2015.

> **An Ordinance Providing for the Issuance and Sale of Notes on the Water Plant \$2,500,000. (Not the full title, pending from Bond Counsel)**

- This Legislation is an Ordinance for the issuance of Debt to Engineer and Rebuild the Water Plant.
- This would be a First Read on December 21, 2015, with the Second Read on January 4, 2016, and the Third Read on January 18, 2016, effective thirty (30) days after that. The current outstanding NOTE is due on March 3, 2016.

I will be forwarding Yellow Sheets to the Law Director, Lisa Nagel, for her preparation and approval to form of the items of legislation as listed above.

Again, this is just a heads up so you know what items of legislation will be coming before you between now and the end of the year.

Please, let me know if you have any questions.



UPdate

A weekly newsletter presented by AMP President/CEO Marc Gerken

October 16, 2015

Prairie State sets generation records

By Marc Gerken, PE – president/CEO

The Prairie State Energy Campus continued its strong summer generation performance by setting new records in September. September 2015 set new marks for the following:

- Most energy generated in a month by the plant: 1,115,765 megawatt hours (MWh)
- Highest plant capacity factor (based on 1,582-MW plant rating): 98 percent
- Most energy generated in a month by Unit 2: 567,705 MWh
- Highest Unit 2 capacity factor (based on 791 MW plant rating): 99.7 percent

Unit 1 set its record in August 2015 with net generation of 588,628 MWh, which is a 100 percent capacity factor for the month. September 2015 was the fourth straight month that Prairie State generated more than 1,000,000 MWh. For the four summer months of June through September 2015, Prairie State's total net generation was 4,367,503 MWh. This was a 94.3 percent capacity factor for the period.

September 2015: Despite warmer weather, power prices remain low

By Mike Migliore – assistant vice president of power supply planning & transmission

Although September started out with temperatures near 90 and finished as one of the top 10 warmest for both Ohio and Pennsylvania, market prices stayed low as electric generation and natural gas supply were plentiful.

AVERAGE DAILY RATE COMPARISONS

	September 2015 \$/MWh	August 2015 \$/MWh	September 2014 \$/MWh
A/D Hub 7x24 Price	\$28.88	\$29.00	\$33.25
PJM West 7x24 Price	\$30.25	\$30.45	\$35.63
A/D to AMP-ATSI Congestion/Losses	\$0.71	\$0.15	\$0.16
A/D to Blue Ridge Congestion/Losses	\$0.78	\$0.69	\$2.75
A/D to PJM West Congestion/Losses	\$1.37	\$1.48	\$2.38
PJM West to PP&L Congestion/Losses	-\$4.30	-\$4.49	-\$6.33
IND Hub to A/D Hub Congestion/Losses	\$0.91	\$1.60	\$0.74

Energy markets down slightly for week

By Mike Migliore

Natural gas storage levels increased 10 percent more than expected this week, causing prices to end Thursday down slightly from last week.

November natural gas prices closed down \$0.04/MMBtu from last Thursday at \$2.46/MMBtu. On-peak power for 2016 at AD Hub was priced at \$39.44/MWh, which was \$0.13/MWh lower for the week. 2020 on-peak power sold for \$36/MWh this week.

AFEC weekly update

By Mike Migliore

The Fremont Energy Center returned from its fall outage on time Friday, Oct. 9. After the morning ramp up, the plant was scheduled by PJM for all seven days during the past week. The plant maintained its typical schedule of half-load between 1 and 5 a.m., and full base load during the other hours of the day.

Duct-firing was only used briefly for about two hours during the week. For the week, the plant generated at a 70 percent capacity factor (based on 675 MW rating).

Reminder: AMP to offer 111(d) webinar on Oct. 23

AMP will hold a webinar to discuss the recently adopted Clean Power Plan, the U.S. Environmental Protection Agency's "111(d) rule," which regulates CO2 emissions from existing electric generating units, from 10 to 11 a.m. on Oct. 23. Contact Cody Dill at 614.540.6382 or cdill@amppartners.org for more information or to register for the webinar.

FERC upholds exemption to PJM MOPR on rehearing

By Lisa McAlister – deputy general counsel

On Oct. 15, 2015, more than two years after its initial Order, the Federal Energy Regulatory Commission (FERC) issued an Order on Rehearing upholding the Minimum Offer Price Rule (MOPR) exemption for self-supply entities in PJM's footprint, as vigorously supported by AMP.

The MOPR was implemented in 2006, as part of PJM's capacity auction (the Reliability Pricing Model or RPM) protocols, to address the concern that certain resources seeking to participate in PJM's capacity market auctions might have an incentive to suppress market clearing prices by offering supply at less than competitive levels, which can deter new entry even in parts of the system where it may be required. The original RPM Tariff included a guaranteed clearing in the RPM auctions for self-supply resources, like public power. However, in its February 2011 filing to revise the MOPR, PJM eliminated the guaranteed clearing for self-supply and instead set a price floor (i.e., a minimum bid) and required all new, non-exempted resources to bid at that floor, or higher, unless the resource could demonstrate, through a unit-specific review process, that a lower bid is justified based on the economics of that unit. PJM used this unit-specific review process to assess costs and revenues of a project seeking an exemption from the minimum bid to ensure that any alleged cost advantages are not the result of uncompetitive, discriminatory subsidies or out-of-market payments. PJM employed the unit-specific review process in the 2012 BRA.

The elimination of the self-supply exemption put AMP (and other self-supply entities) at risk for having to pay twice to satisfy the same capacity obligation – once for the resource procured outside of RPM and a second time to procure through RPM capacity to replace self-supply that does not clear the auction. Consequently, AMP joined other self-supply entities and a group of generators in a self-initiated, intensive and lengthy negotiation process to develop a MOPR proposal that balanced the competing interests of generators, multiple types of load-serving entities (LSEs), and ultimate customers. Once a compromise was reached on the new MOPR proposal, an eight-week PJM stakeholder process was completed and, with overwhelming PJM stakeholder support, the new proposal was filed at FERC.

The revisions to the MOPR were designed to provide a better-defined and more transparent process for granting exemptions to the MOPR, in place of PJM's existing unit-specific review process. Most importantly, in lieu of the unit-specific review process, the settling parties agreed to two broad exemptions from the MOPR: one for "competitive entry" and one for self-supply entities, like AMP.

Under the competitive entry option, new units that receive no out-of-market funding or new units that receive outside funds as a result of participating in a competitive

On Peak (16 hour) prices into AEP/Dayton Hub

Week ending Oct. 16

MON	TUE	WED	THU	FRI
\$32.35	\$32.71	\$32.57	\$35.56	\$31.95

Week ending Oct. 9

MON	TUE	WED	THU	FRI
\$35.61	\$34.85	\$31.49	\$34.57	\$32.20

AEP/Dayton 2016 5x16 price as of Oct. 16 — \$39.44

AEP/Dayton 2016 5x16 price as of Oct. 9 — \$39.57



AMP recognizes Hard Hat Safety Award recipient

Matt Rohrer (center) of Wadsworth receives a 2015 AMP Hard Hat Safety Award from Scott McKenzie (right), AMP member safety manager, and Dale Tittle (left), Wadsworth electric distribution superintendent.

The Hard Hat Safety Awards recognize municipal electric system employees who contribute to safety within their community during the past year, show adherence to on-the-job safety procedures, and promote electrical safety within their department and community.

Communities with Hard Hat Safety Award winners were recognized at the 2015 AMP/OMEA Conference in Columbus, but individuals were not announced. They are, and will continue to be, recognized at meetings in their home communities and presented with their awards at that time.

SEPTEMBER OPERATIONS STATISTICS

	Sept. 2015	Sept. 2014
JV6 Wind Output	13%	13%
Belleville Output	39%	47%
Fremont Energy Center Output	37%	38%
Blue Creek Wind Output	17%	15%
Napoleon Solar Output	21%	21%
Prairie State Output	98%	83%
Avg. A/D Hub On-Peak Rate	\$34/MWh	\$39/MWh

*Fremont capacity factor based on 675 MW rating

*Solar capacity factor based on 3.54 MW rating

*PS capacity factor based on 1,582 MW rating

FERC continued from Page 2

auction open to all available resources, both new and existing, are exempt from the price floor.

Under the self-supply option, self-supply LSEs, such as municipalities, cooperatives, single customer entities, and vertically integrated utilities, who have long standing business models and who can meet certain "net-short" or "net-long" thresholds, are exempt from the price floor.

On May 2, 2013, FERC issued an Order approving PJM's proposed tariff change to, among other things, exempt self-supply entities, like public power, from the MOPR. FERC found that a self-supply LSE that owns or contracts for a large portion of the capacity needed to meet its load has no reason to finance uneconomic entry given that such a strategy would not be profitable. Accordingly, FERC agreed that the self-supply exemption will identify those self-supply entities lacking the incentive to exercise buyer-side market power and, thus, FERC approved the self-supply exemption. In other words, so long as the net-short and net-long thresholds are met, any new resources that AMP intends to bid into the PJM capacity auction can bid in as a price taker without having to meet the minimum bid requirement. However, because the market conditions and related assumptions underlying these thresholds are subject to change, FERC required PJM to submit tariff language memorializing an obligation to review and, if necessary, revise the thresholds on a periodic basis.

FirstEnergy and NRG both filed applications for rehearing attacking the self-supply exemption. In its Order on Rehearing, FERC rejected arguments of FirstEnergy and NRG and upheld the MOPR exemptions, finding that with "properly-calibrated net thresholds, PJM's self-supply exemption will not operate in a manner that encourages uneconomic entry and thus will not artificially suppress market clearing prices." FERC also rejected FirstEnergy's contention that entities seeking a MOPR exemption may only apply for either a categorical exception or seek unit-specific review but not both.

In summary, FERC upheld its initial May 2, 2013, Order accepting PJM's proposed categorical exemptions for competitive entry and self-supply, subject to PJM's retention of its unit specific review process. FERC concluded that the MOPR as modified appropriately balances the need for mitigation of buyer-side market power against the risk of over-mitigation.

It is worth noting that AMP engaged in this process and completed its efforts using only in-house personnel to achieve this very good result that allows AMP and other self-supply entities to continue to operate under its long-standing business model and not be subject to the risk of paying twice for capacity required to serve members.



News or Ads?

Call Krista Selvage at 614.540.6407 or email to kbselvage@amppartners.org if you would like to pass along news or ads.

AMP staff members complete Leadership Edge training

By Marc Gerken, PE

As part of our ongoing efforts to retain the best and brightest employees, we are pleased to announce that 11 AMP staff members recently completed the Leadership Edge training program. This new program was tailored to help employees further develop their management and leadership skills to help them be more successful in their roles. The employees began the program earlier this year and focused on key areas that effective leaders and managers must master to succeed.

The Executive Management Team (EMT) followed the progress of the training program and we're confident the results will be a positive for AMP staff and management; that, in turn, will lead to increased value for our members. The employees who completed the training program are:

- Michael Beirne – Assistant Vice President of Government Affairs & Publications
- Tony Belcher – Belleville Operations & Maintenance Supervisor
- Rachel Gerrick – Deputy General Counsel
- Timothy Hooks – IT Director
- Ainslee Johnson – Senior Risk Analyst
- Mike Migliore – Assistant Vice President of Power Supply Planning & Transmission
- Michelle Palmer – Assistant Vice President of Technical Services
- Jared Price – Assistant Vice President of IT & Chief Technology Officer
- Tom Sillasen – Director of Energy Accounting & Reporting
- Derrick Turner – Manager of Hydroelectric Project Accounting
- Jerry Willman – Director of Energy Marketing

Please join the EMT in congratulating this group. We're planning future sessions of the training and will also have an alumni group. If you have questions about the program, please contact Jolene Thompson at jthompson@amppartners.org or 614.540.1111.

Calendar

Oct. 23—AMP 111(d) Webinar, 10-11 a.m.
Email to cdill@amppartners.org to register

Oct. 29—AMP Finance & Accounting Meeting
City of Bryan, Ohio

Nov. 5—AMP Finance & Accounting Meeting
City of Grove City, Pennsylvania

Nov. 17-19—Cooper Industries Regulator Class
AMP Headquarters, Columbus

Crose joins AMP as circuit rider

By Bob Rumbaugh – manager of technical training

Cody Crose joined the AMP technical services team this week as circuit rider. In this position, Crose will serve as a trainer and technical adviser to member communities for the Circuit Rider program, safety programs and special projects, and also assist with the centralized administration of the Mutual Aid program.



Cody Crose

Prior to AMP, Crose was as a journeyman lineworker with the City of Westerville Electric Division and was previously a journeyman lineworker with Davis H. Elliot, a contractor for Dayton Power & Light.

Crose also serves as a volunteer firefighter and paramedic for Mifflin, Ohio.

Please join me in welcoming Cody to AMP.

Monthly NERC call, webinar to be held on Oct. 20

By Art Iler – director of reliability

AMP, in coordination with Utility Services Inc., will host its monthly NERC update call and webinar for members from 1:30 to 2:30 p.m. on Oct. 20. Please note the date this month is a Tuesday.

Topics to be discussed include: (i) Standard Balloting 1: Joining the NERC Ballot Body; (ii) COM-001-3 development; (iii) PRC-027/TOP-009 status; (iv) RF Workshop Notes review; (v) PRC-002-2 (for future TOs). The presentation will be followed by a question and answer session.

Please contact me with questions, and for the dial-in number and webinar instructions, at ailer@amppartners.org or 614.540.0857.

Bryan, Princeton give back to community for Public Power Week

Children dressed up like a lineworker and took a picture with Captain Public Power during the Bryan Municipal Utilities (BMU) open house on Oct. 8 to celebrate Public Power Week. During the event, BMU lineworkers demonstrated their climbing and lineworking skills, and BMU employees served up hot dogs from the grill and refreshments. The utility also gave out more than 300 LED light bulbs to community members in attendance.



Bryan event photos are pictured left and Princeton event photos are pictured right.

Classifieds

Director of electric applications are being accepted in Martinsville

The City of Martinsville, Virginia, is seeking qualified applicants for the position of Director of Electric Utilities. Martinsville is located 40 miles north of Greensboro, North Carolina, and 50 miles south of Roanoke, Virginia. The successful candidate will perform complex professional and difficult administrative work overseeing electric utilities of the city.

Responsibilities: plans, organizes, coordinates, supervises and evaluates programs, plans, services, staffing, equipment, electric facilities and infrastructures of the Electric Department. Evaluates electric utility needs and formulates short and long range plans to meet needs. Drafts and reviews bid documents. Negotiates and administers contracts and ensures compliance with all local, state and federal regulations. Presents agenda items relating to department activities to mayor and city council. Supervises the review of private project development plans for compliance with codes, regulations, and standards, adequacy of application for permits and compliance with approved plans.

Qualifications: Education equivalent to a bachelor's degree in engineering, public or business administration or related field required; master's degree preferred. Ten years extensive experience in electric and utilities business management, preferably in a municipal setting experience in with progressively increasing responsibility including five years supervisory/managerial experience or any combination of experience, training, and education. Valid driver's license required.

Min Salary: \$80,493 DOQ, excellent benefits package. Open until filled. A required city application must be completed online by visiting the city's website at www.martinsville-va.gov. EOE. Women and Minorities are encouraged to apply.

Plant operator needed at Meldahl

The City of Hamilton is seeking qualified applicants for skilled work in the operation and maintenance of a hydroelectric power generation plant located in Foster, Kentucky. Work involves the operation, maintenance inspection and repair of the turbine/generator equipment and associated equipment. Work is performed under the direct supervision of the Meldahl Plant Superintendent. The operator is expected to be able to work with a considerable degree of independence, resourcefulness and initiative. Salary: \$22.41 to \$28.73 hourly.

Candidates should possess mechanical knowledge necessary for the operation of a hydroelectric power generation plant. Knowledge of the operation, maintenance troubleshooting and repair of electrical, mechanical, hydraulic and control equipment and systems is desirable. High school

diploma or GED and valid driver license required.

Selected candidates whose background and work history demonstrate the strongest credentials in relation to position duties will then be invited for an oral interview. Each application or resume should contain sufficient detail regarding work history and relevant background so that a meaningful initial evaluation may be accomplished.

Qualified applicants must submit detailed resume along with required education proof and driver's license in Word or PDF by 5 p.m. Oct. 22, 2015 to: Civil Service Dept., 345 High St.-1st Fl., Hamilton, OH 45011 via email: cspersonnel@ci.hamilton.oh.us or fax: 513.785.7037 or via regular US mail. If necessary, application may be submitted in person. Specify interest in Meldahl Plant Operator. The City of Hamilton is an EEO & AAE. Minorities and women are encouraged to apply.

Hillsdale seeks director of public utilities position

The City of Hillsdale Board of Public Utilities is seeking candidates for Director of Public Utilities. This position is responsible for managing and directing all aspects of engineering, service operations, power production including the operation and maintenance of transmission, distribution and generation facilities. Establishes current and long range goals, objectives, plans and policies, subject to the approval of the Board of Public Utilities and City Manager.

Requirements include a bachelor's degree from a four-year college or university; five years of progressively responsible experience; or equivalent combination of education and experience. Valid driver's license. Municipal experience is not required, but knowledge of electric, water and wastewater utilities will be given weight in considering candidates. Experience in local, state, and federal relations will be a plus.

Salary dependent upon qualifications. Email resumes or direct questions to David Mackie, City Manager, at dmackie@cityofhillsdale.org. Resumes accepted through Oct. 30, 2015. EOE, MFVH

For the complete job posting with additional details, please visit the careers section of the AMP website.

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October 9 , 2015

HEARINGS BEGIN AND RESUME FOR BILLS RELATED TO LOCAL ISSUES

This week, the Ohio legislature ramped-up their committee hearing schedules, diving back into legislative proposals previously considered before adjourning for the summer recess with several of the bills on committee dockets dealing with issues affecting Ohio's local governments.

The Ohio House Insurance committee held a first hearing, sponsor's testimony only on HB 292, legislation recently introduced by Rep. Christine Hagan (R-Canton) which provides that a firefighter who is disabled as a result of specified types of cancer is presumed for purposes of the laws governing workers' compensation and the Ohio Police and Fire Pension Fund to have incurred the cancer while performing official duties as a firefighter. Rep. Hagan said the bill would ensure care for firefighters with certain types of cancer presumed to be caused by carcinogens during the performance of their duties. Committee members peppered the sponsor with questions concerning the cost to rate payers for the expanded coverage while other committee members were concerned with definitions in the bill including a request for greater clarification of what "exposure rates" consist of and what determines an exposure rate to be considered "significant". The sponsor shared with committee members that Ohio BWC has determined the expansion of the proposed coverage to be estimated annually at \$87 million, which is a conservative estimate, and Rep. Hagan shared with committee members that exposure varies wildly from person to person based on the environments the firefighter is working in, whether or not the firefighter properly manages equipment, and the firefighter's physical condition.

The Senate State and Local Government committee held a second hearing on HB 237, Reps. Mike Duffey (R-Worthington) and Bob Hackett (R-London) bill which would among other things, usurp local regulatory authorities by establishing statewide governance of Transportation Network Companies (TNCs), such as Uber or Lyft-style ride sharing businesses, TNC drivers, and the services provided by TNCs. The hearing was held for proponents of the bill and included testimony from a representative of Uber explaining to committee members how the legislation will allow their operations to expand to every city and village in Ohio by streamlining among other things, background check and vehicle inspection processes of people who sign up to be commercial drivers and determine appropriate insurance requirements. One committee member asked the Uber official whether the requirements and provisions of this bill should apply to competitors as well, including taxi drivers. The league would strongly oppose any alteration to the legislation removing current Home Rule authorities provided Ohio municipalities in regulating and inspecting taxi cab, limousine or other commercial passenger ride businesses or services, and handing this consumer protection authority over to the state.

Also on Tuesday, the House Government Accountability & Oversight committee held a third hearing for Rep. Kirk Schuring's HB 233, legislation the league previously testified in support of, authorizing municipal corporations to create downtown redevelopment districts and innovation districts for the purposes of promoting the rehabilitation of historic buildings, creating jobs, encouraging economic development in commercial and mixed-use areas, and supporting grants and loans to technology-oriented and other businesses. We appreciate the local officials who came to the committee hearing to show their support for the proposal and for those that shared with committee members that communities are seeking tools like those in the bill to help foster private sector redevelopment in central business districts. The league would encourage other municipal officials who may have an opinion on the legislation to contact their state Representatives and Senators and share with them your interests.

On Wednesday, the Senate Civil Justice committee held a second hearing, proponents only, on SB 201, a bill introduced by Sen. Jim Hughes (R-Columbus) to expand Ohio's nuisance law to apply to any real property, including vacant land, on which an offense of violence has occurred or is occurring. Specifically, the legislation, would add acts of violence to the list of offenses that allow a property to be declared a nuisance. Much of the discussion in the hearing surrounded concerns that the measure may infringe on the rights of private property owners who may be exposed to circumstances that may be included in the expanded classification. Committee members heard from witnesses including municipal officials who assured committee members that laws and safeguards are currently firmly in place to protect innocent property owners, and SB201 would not alter these laws.

ATTORNEY GENERAL DEWINE ANNOUNCES ROCK SALT SETTLEMENT FUNDS SENT TO 850 OHIO ENTITIES

Ohio Attorney General Mike DeWine announced that his office is sending checks to 850 Ohio public entities as part of the Attorney General's \$11.5 million settlement to resolve an antitrust lawsuit against Cargill Inc. and Morton Salt Inc. over past rock salt prices.

The complete list of award recipients can be found [HERE](#).

Attorney General DeWine's settlement with Cargill and Morton Salt resolved a 2012 lawsuit accusing the companies of dividing up the Ohio rock salt market and agreeing not to compete with each other for public bids during a period ending in 2010. Although Morton and Cargill admitted no wrongdoing, they agreed to pay \$11.5 million to resolve the state's case.

Of the total settlement, about \$6.8 million was available to local governments. Additional payments were allotted to the state's largest single rock salt purchaser — the Ohio Department of Transportation (\$1.7 million), the Ohio Turnpike Commission (\$174,435), and, as required by law, the state's antitrust fund.

The office received eligible claims from 848 Ohio public entities, each of which is receiving a check. Distribution amounts were calculated at a percentage of an entity's total eligible rock salt purchase. To ensure that no entity received a check for just a few dollars, entities were guaranteed at least a minimum distribution of \$500, except for one entity whose total purchase was just \$319.

All public entities in Ohio can receive free help from the Ohio Attorney General's Antitrust Section to detect possible anti-competitive activity. For more information, entities can contact the Ohio Attorney General's Office at www.OhioAttorneyGeneral.gov or 800-282-0515.

NATIONAL CIVIC LEAGUE ANNOUNCES APPLICATIONS FOR 2016 ALL-AMERICAN CITIES AWARD

Since 1949, the National Civic League has designated 10 communities each year as All-America Cities for their outstanding civic accomplishments. All-America Cities are collaborative innovators who are willing to put in the hard work to tackle today's most crucial local issues. To win, each community identifies three local efforts targeting pressing community challenges, together these projects should demonstrate innovation, impact, inclusiveness, civic engagement, and cross sector collaboration. I believe your community embodies the All-America City spirit and I encourage you to consider applying.

The 2016 award will spotlight programs that ensure all children are healthy and supported to succeed in school and life. Unlike any other event, [the All-America City Experience](http://www.nationalcivicleague.org/the-all-america-city-experience), provides participants with lasting connections with community members and peers across the country, in-depth learning opportunities, and fun, energizing events!

Find more information on the award and how to apply at <http://www.nationalcivicleague.org/the-all-america-city-award/>

BILL INTRODUCTIONS AND UPCOMING COMMITTEE SCHEDULE

Below is a list of new bills that have been introduced in the Ohio House and Senate followed by next week's hearing schedule for legislative committees.

Have a safe weekend~

New Bills in the Ohio House:

HB 338

ROAD NAMING (Romanchuk, M.) To designate a portion of I-71 in Richland County as the "Lt. Col. Albert L. Allen, Jr. Memorial Highway." Am. 5534.29

HB 339

FOREIGN LAW (Young, R.) To prohibit courts, administrative agencies, and arbitrators from applying foreign law to the detriment of constitutional rights under the United States and Ohio constitutions. Am. 2701.01

HB 340

INNOVATION COUNCIL (Amstutz, R.) To extend the operation of the Local Government Innovation Council until December 31, 2019, and to declare an emergency. Am. 189.10

HB 341

TRANSPORTATION LAWS (Young, R., Sweeney, M.) To require the Public Utilities Commission to raise the existing statutorily designated towing and storage fees annually by the percentage increase in the consumer price index, to establish a \$35 fee for the retrieval of nonmedical personal items from a motor vehicle, to modify the civil penalties applicable to violations of the towing law, to modify the calculation of the value of an abandoned vehicle to which a towing service or storage facility seeks to take title, and to make other changes to the towing law. Am. 4505.101, 4513.60, 4513.601, 4513.61, 4513.611, 4513.68, and 4921.25 and to enact sections 4505.103 and 4511.044

HB 342

WINERY PERMITS (Young, R.) To create the Ohio Farm Winery Permit. Am. 4301.12, 4301.13, 4301.24, 4301.30, 4301.355, 4301.43, 4301.432, 4301.47, 4301.62, 4301.82, 4301.83, 4303.021, 4303.07, 4303.10, 4303.182, 4303.204, 4303.33, 4303.333, and 5709.55 and to enact section 4303.031

HB 343

TAX EXEMPTION (Young, R., Romanchuk, M.) To exempt employment services and employment placement services from sales and use tax. Am. 5739.01, 5739.02, and 5741.01

HB 344

ADOPTION FILES (Pelanda, D.) Regarding the maintenance of and access to adoption files and social and medical histories. Am. 3107.09, 3107.17, 3107.38, 3107.39, 3705.12, and 3705.126 and to enact section 3107.395

HB 345

PRISON TERMS (Johnson, G.) To eliminate the requirement that a mandatory prison term be imposed for certain types of gross sexual imposition if evidence other than the testimony of the victim was admitted in the case, to specify that an offender who is serving a sentence imposed under that requirement may request a resentencing hearing, and to remove the requirement that a conviction for sexual imposition be supported by evidence other than the victim's testimony. Am. 2907.05 and 2907.06

HB 346

SCHOOL FUNDING (Brenner, A.) To require that each city, local, and exempted village school district receive a per-pupil amount of state funding that is at least as much as the statewide per pupil amount paid for chartered nonpublic schools in Auxiliary Services funds and for administrative cost reimbursement, and to make an appropriation. Am. 3317.022

HB 347

CIVIL FORFEITURES (McColley, R., Brinkman, T.) To eliminate civil asset forfeiture proceedings and to modify the law governing criminal asset forfeitures. Am. 2923.36, 2981.01, 2981.02, 2981.03, 2981.04, 2981.06, 2981.08, 2981.09, 2981.11, 2981.12, 2981.13, and 2981.14 and to repeal section 2981.05

HB 348

ROAD NAMING (Buchy, J.) To designate a portion of State Route 571 within Darke County as the "196th Light Infantry Brigade SP4 Robert L Fowble Jr and PFC Jack E Beam Memorial Highway." En. 5534.24

HB 349

EMISSIONS PLAN (Smith, R., Ginter, T.) To require the Environmental Protection Agency to submit a state plan governing carbon dioxide emissions to the General Assembly prior to submitting it to the United States Environmental Protection Agency, and to declare an emergency. Am. 3704.10

HB 350

AUTISM TREATMENT (Grossman, C., Terhar, L.) To mandate coverage of autism treatment. Am. 1739.05 and to enact sections 1751.84 and 3923.84

HB 351

LIQUOR LAWS (Perales, R., DeVitis, T.) To increase the amount of spirituous liquor that an A-3a liquor permit holder may annually manufacture and to allow an A-3a permit holder to obtain an A-1-A liquor permit. Am. 4303.021 and 4303.041

HB 352

MONTH DESIGNATION (Johnson, T.) To designate April as "Osteopathic Medicine Recognition Month." En. 5.256

HB 353

SEX OFFENDERS (Ruhl, M.) To require a sheriff to mail a notice to every adult member of a household where a person who is required to register as a sex offender resides informing those household members that the person has committed a sexually oriented offense or a child-victim oriented offense. Am. 2950.04, 2950.041, and 2950.99

HB 354

DAY DESIGNATION (Kuhns, C.) To designate the third day of October as Ezzard Charles Day. En. 5.256

HB 355

EMPLOYEE DEFINITION (Retherford, W.) To create a generally uniform definition of employee for specified labor laws and to prohibit employee misclassification under those laws. Am. 1349.61, 4121.01, 4123.01, 4123.026, 4141.01, and 5747.01 and to enact sections 4175.01, 4175.02, 4175.03, 4175.04, 4175.05, 4175.06, 4175.061, 4175.07, and 4175.99

HB 356

ABORTION (Celebrezze, N., Johnson, G.) To permit using state resources to provide abortion care. Am. 109.921, 3701.046, 3727.60, and 5101.55 and to repeal sections 9.04, 3701.511, 5101.56, and 5101.57

HB 357

ABORTION WAITING PERIOD (Johnson, G., Smith, K.) To remove waiting-period restrictions on when a woman can obtain an abortion and to repeal requirements governing the provision of notice to a woman's relative, custodian, or guardian, if the woman is seeking an abortion and is pregnant, unmarried, a minor, and unemancipated. Am. 2317.56, 2919.12, and 2919.192 and to repeal section 2919.122

HB 358

SAVINGS ACCOUNTS (Dever, J., Conditt, M.) To allow an income tax deduction for contributions to ABLE

savings accounts. Am. 5747.01 and to enact section 5747.78

HB 359

ADDRESS CONFIDENTIALITY (Duffey, M., Gonzales, A.) To create the address confidentiality program for victims of domestic violence, menacing by stalking, human trafficking, trafficking in persons, rape, sexual battery and other crimes. Am. 149.43, 2929.18, 2929.28, 3503.13, 3503.16, 3503.21, 3503.23, 3503.24, 3503.26, 3504.02, 3504.04, 3505.181, 3505.182, 3505.183, 3509.03, 3509.04, 3509.05, 3509.06, 3509.07, 3509.09, 3511.02, 3511.05, 3511.11, and 3511.12 and to enact sections 111.41, 111.42, 111.43, 111.44, 111.45, 111.46, 111.47, 111.48, and 111.99

HB 360

ABORTION (Celebrezze, N., Antonio, N.) To repeal the prohibitions against including abortion coverage in insurance plans purchased through the federal health insurance exchange and in health insurance policies, contracts, or plans offered to public officers and employees. Am. 3727.60 and 5101.57 and to repeal sections 9.04 and 3901.87.

HB 361

COMMUNITY EVENT FUNDING (Brenner, A.) To authorize boards of township trustees and boards of park commissioners to expend funds for the public purpose of presenting community events in their parks and at other recreational facilities. Am. 505.261, 511.23, and 755.13.

New bills in the Ohio Senate:

SB 216

TAX EXEMPTION (Burke, D., Gardner, R.) To exempt the first \$500 of prescription eyeglasses, contact lenses, and other optical aids sold by licensed dispensers from sales and use tax.

SB 217

MILITARY SERVICE (Eklund, J.) To permit exemptions for local officials from continuing education requirements of the office for an illness or disability or for out-of-state military service.

SB 218

WAGE LEVELS (Tavares, C.) To enact the "Fair and Acceptable Income Required (FAIR) Act" and to revise the enforcement of the prohibitions against discrimination in the payment of wages. En. 3314.03, 3326.11, 4111.04, 4111.05, 4111.06, 4111.07, 4111.09, 4111.11, 4111.12, 4111.13, 4111.17, 4111.99, and 4112.01

SB 219

TAX REFUNDS (Hughes, J.) To allow taxpayers to contribute all or a portion of their income tax refunds to a Metropark. Am. 5747.113 and to enact section 1545.30

SB 220

DEFERRED COMPENSATION (Hottinger, J.) To authorize the Ohio Public Employees Deferred Compensation Board and local governments to establish designated Roth account features and other tax-

deferred or nontax-deferred features permitted for government deferred compensation plans. Am. 148.04 and 148.06

SB 221

ROAD NAMING (Schiavoni, J.) To designate a portion of State Route 7 in Mahoning County as the "Army Chief Warrant Officer Donald V. Clark Memorial Highway." Am. 5534.25

SB 222

ADDRESS CONFIDENTIALITY (Lehner, P., Williams, S.) To create an address confidentiality program for victims of domestic violence, menacing by stalking, human trafficking, trafficking in persons, rape, sexual battery, and other crimes. Am. 149.43, 2929.18, 2929.28, 3503.13, 3503.16, 3503.21, 3503.23, 3503.24, 3503.26, 3504.02, 3504.04, 3505.181, 3505.182, 3505.183, 3509.03, 3509.04, 3509.05, 3509.06, 3509.07, 3509.09, 3511.02, 3511.05, 3511.11, and 3511.12 and to enact sections 111.41, 111.42, 111.43, 111.44, 111.45, 111.46, 111.47, 111.48, and 111.99.

SB 223

HEALTH BENEFITS (Bacon, K.) To make changes to the health coverage benefit limits and coverage exclusions for life and health insurance guaranty associations. Am. 3956.01 and 3956.04.

SB 224

AGRICULTURE LAWS (Brown, E.) To revise the application and enforcement of the law governing operation and management plans, and to require certain animal feeding facilities to annually report the amount of manure that is applied by or for the facilities. Am. 939.03 and 939.07 and to enact sections 901.80 and 901.81

[Committee Schedule](#)

Past Bulletins:

[2015](#)

[2014](#)

[2013](#)

[2012](#)

[2011](#)